



Department of Commerce

Critical Areas Handbook

Chapter 6

Non-regulatory Incentive Programs: Opportunities for Critical Areas Protection and Restoration

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Introduction

Regulations are just one tool to protect the many functions of critical areas. Along with regulations, there are many non-regulatory tools important to critical areas protection. These include voluntary stewardship actions taken by landowners, private groups, and the community; and market-based programs such as transfer of development rights. A complete critical areas program should educate and inform the public about the value of critical areas protection and help them understand best management practices on their property.

Protecting some critical areas may require both regulatory and non-regulatory measures. When impacts to critical areas are from development beyond jurisdictional control, counties and cities are encouraged to use regional approaches to protect functions and values. It is especially important to use a regional approach when giving special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries. Conservation and protection measures may address land uses on any lands within a jurisdiction, and not only lands with designated critical areas.¹

Non-regulatory programs provide incentives for restoration, in addition to protection. The GMA requires local governments to adopt regulations to protect critical areas, but there is no duty on local governments to enhance critical areas.² Non-regulatory incentive programs allow local government to take advantage of opportunities for enhancement or restoration of critical areas. And they provide resources for landowners, private groups and the community to pursue restoration opportunities.

In pursuing the environmental protection and open space goals and requirements of the GMA, comprehensive plan policies should identify non-regulatory measures for protecting critical areas in addition to regulatory approaches. Non-regulatory measures include incentives, public education, public recognition, and innovative programs, such as transfer of development rights.³ This chapter addresses programs local government can adopt, state-provided programs available to landowners or local government, and federally-provided programs available to landowners or local government.

Local Government Non-regulatory Incentive Programs

Local governments have a variety of tools available to them for creating non-regulatory incentive programs to protect or restore critical areas. Local governments can determine which tools meet their needs.

Counties can adopt a Public Benefit Rating System Open Space Tax Program⁴ to allow property owners a tax incentive to protect open space and critical areas on their property. The county legislative authority

¹ WAC 365-196-830(7)

² *Swinomish Indian Tribal Community v. Western Washington Growth Management Hearings Board*, 161 Wn.2d 415 (2007)

³ WAC 365-196-485(1)(f)

⁴ RCW 84.34.055

can direct the planning commission to set open space priorities and adopt an open space plan and public benefit rating system. Priority consideration must go to lands used for buffers that are planted with or primarily contain native vegetation. Qualifying property owners can then have their open space, farm and agricultural, and timber lands valued at their current use rather than at their highest and best use.⁵

Counties can also adopt a Conservation Futures property tax levy⁶ of 6.25 cents to secure funds for acquisition of right and interests in real property. Counties have used these funds to acquire property in fee or to acquire conservation easements to protect open space and habitat.

Local [conservation districts](#)⁷ offer a range of voluntary services, including help with erosion control, habitat restoration, manure management, wildfire prevention/mitigation, stormwater management, forest plans, irrigation efficiency, noxious weed control, fish barrier removals, livestock stream crossings, and more. The Washington State Conservation Commission web site provides a [conservation district map and directory](#)⁸.

Counties and cities are also encouraged to use innovative land use techniques, such transfer or purchase of development rights or other conservation easement programs to encourage retention of appropriate agriculture, resources and programs around Puget Sound on the [Regional Transfer of Development Rights web site](#).⁹

State Government Grant Programs

Grant programs for riparian habitat conservation and restoration projects on public and private lands are available through the [Recreation and Conservation Office](#)¹⁰ (RCO) and Salmon Recovery Funding Board. To access these funds, contact the Recreation and Conservation Office. Grant funds include:

- [Aquatic Lands Enhancement Account](#)¹¹ for the acquisition, improvement, or protection of aquatic lands for public purposes, or to provide or improve public access to the waterfront.
- [Washington Wildlife and Recreation Program](#)¹² for a broad range of land protection and outdoor recreation. Relevant funding categories are Riparian Protection, Critical Habitat, Natural Areas, and Urban Wildlife Habitat.
- [Salmon Recovery Grants](#)¹³ to protect and restore salmon habitat.
- [Estuary and Salmon Restoration Program](#)¹⁴ to protect and restore of the Puget Sound near-shore. WDFW created the program to support the emerging priority of the Puget Sound Nearshore Ecosystem Restoration Program.

⁵ For more information, see https://dor.wa.gov/sites/default/files/legacy/Docs/Pubs/Prop_Tax/OpenSpace.pdf.

⁶ RCW 84.34.230

⁷ http://scc.wa.gov/about_conservationdistricts/

⁸ <http://scc.wa.gov/conservation-district-map/>

⁹ <http://www.commerce.wa.gov/serving-communities/growth-management/growth-management-topics/development-rights/>

¹⁰ <https://www.rco.wa.gov/grants/index.shtml>

¹¹ <https://www.rco.wa.gov/grants/alea.shtml>

¹² <https://www.rco.wa.gov/grants/wwrp.shtml>

¹³ <https://www.rco.wa.gov/grants/salmon.shtml>

¹⁴ <https://www.rco.wa.gov/grants/esrp.shtml>

- [Land and Water Conservation Fund](#)¹⁵ to preserve and develop outdoor recreation resources, including parks, trails, and wildlife lands.
- [Puget Sound Acquisition and Restoration Fund](#)¹⁶ to support projects that recover salmon and protect and recover salmon habitat in Puget Sound.
- [Floodplains by Design](#)¹⁷ grants for projects in the floodplain that combine flood risk reduction, ecosystem restoration, agricultural viability, and other benefits.

State Technical Assistance Programs

Washington State Conservation Commission

- [Voluntary Stewardship Program for Counties](#)¹⁸ uses a watershed-based, incentive-based process to protect critical areas, promote viable agriculture, and encourage cooperation among diverse stakeholders.
- Technical assistance through other [programs and services](#)¹⁹.

State and Federal Landowner Programs

Agricultural Property Owner Programs

Agricultural property owners can take advantage of a host of financial incentives to expand and maintain critical areas. Property owners can contact their [local conservation district](#), the [Washington State Conservation Commission](#)²⁰ (SCC), or the [Recreation and Conservation Office](#)²¹. Programs include:

- [Conservation Reserve Enhancement Program](#)²², SCC and U.S. Department of Agriculture (USDA)
- [Natural Resource Investments](#)²³, SCC
- [Environmental Quality Incentives Program](#)²⁴, USDA
- [Conservation Stewardship Program](#)²⁵, USDA
- [Conservation Reserve Program](#) (CRP)²⁶, USDA

¹⁵ <https://www.rco.wa.gov/grants/lwcf.shtml>

¹⁶ <http://psp.wa.gov/PSAR.php>

¹⁷ <https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Floodplains-by-design>

¹⁸ <http://scc.wa.gov/vsp/>

¹⁹ <http://scc.wa.gov/>

²⁰ <http://scc.wa.gov/>

²¹ <https://rco.wa.gov/>

²² <http://scc.wa.gov/crep/>

²³ <http://scc.wa.gov/nri/>

²⁴ <https://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/financial/eqip/>

²⁵ <https://Conse/www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/financial/csp/>

²⁶ <https://www.fsa.usda.gov/programs-and-services/conservation-programs/conservation-reserve-program/index>

- [CRP State Acres for Wildlife Enhancement](#)²⁷
- [Regional Conservation Partnership Program](#)²⁸, SCC and USDA
- [Agricultural Conservation Easement Program](#)²⁹, USDA
- [Washington Wildlife and Recreation Program, Farmland Preservation Grants](#)³⁰, RCO

Forest Landowner Programs

Forest landowners have four state programs available from the Washington Department of Natural Resources (DNR) and RCO, and two federal programs, for conserving forest land and health:

- [Forestry Riparian Easement Program](#)³¹, Washington Department of Natural Resources (DNR)
- [Rivers and Habitat Open Space Program](#)³², DNR
- [Family Forest Fish Passage Program](#)³³, DNR
- [Washington Wildlife and Recreation Program, Forestland Preservation Grant Program](#)³⁴, RCO
- [Forest Legacy](#)³⁵, U.S. Forest Service
- [Healthy Forests Reserve Program](#), USDA

Department of Defense Conservation Programs for Landowners

The Department of Defense provides two incentive programs to landowners to conserve open space, wilderness, and working lands (including agricultural and forest lands):

- The [Readiness and Environmental Protection Integration](#) (REPI)³⁶ Program works through partnerships with willing property owners to establish conservation easements to reduce the likelihood of ESA species retreating to military lands as a last refuge. Properties need not be near a base or active training area.
- The [Army Compatible Use Buffer](#) (ACUB) Program provides incentives for some areas near active bases or ranges, such as Joint Base Lewis-McChord and the Yakima Training Center.

²⁷ https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdfiles/FactSheets/archived-fact-sheets/safe2015_jul2015.pdf

²⁸ <http://scc.wa.gov/rcpp-in-wa/>

²⁹ <https://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/easements/acep/>

³⁰ <https://rco.wa.gov/grants/farmland.shtml>

³¹ <https://www.dnr.wa.gov/programs-and-services/forest-practices/small-forest-landowners/forestry-riparian-easement-program>

³² <https://www.dnr.wa.gov/programs-and-services/forest-practices/small-forest-landowners/rivers-and-habitat-open-space>

³³ <https://www.dnr.wa.gov/fffpp>

³⁴ <https://www.rco.wa.gov/grants/ForestlandPreservation.shtml>

³⁵ <https://www.fs.fed.us/managing-land/private-land/forest-legacy>

³⁶ [Readiness and Environmental Protection Integration \(REPI\) Program](#)

Non-governmental Programs

[Local land trusts](#)³⁷ can also help landowners conserve their property, often leveraging funds from foundations and other non-government sources.

³⁷ <https://walandtrusts.org/>