



Snohomish County

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Planning & Development Services

***Final Environmental Impact Statement***  
*Of the Proposed Critical Area Regulations*

*July 2007*



# Fact Sheet

## Project Title

Snohomish County Critical Area Regulations Update

## Lead Agency Information

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## Proposed Action

Pursuant to the requirement in the Growth Management Act (Revised Code of Washington), Snohomish County Planning and Development Services is considering adoption of regulatory and policy changes to critical area regulations and policies to protect wetlands and fish and wildlife habitat and to improve public safety. While these changes are primarily intended to address requirements in the Growth Management Act, they also have some relationship to other state and federal laws, including: the Endangered Species Act, repetitive loss established through the National Flood Insurance Program Community Rating System Program, National Pollutant Discharge Elimination System permit, and portions of the new Washington State Department of Ecology stormwater requirements. Changes also include procedural and administrative improvements for consistency within the County Code.

The Draft Environmental Impact Statement (DEIS), issued last year (April 7, 2006), addressed the environmental impacts of updating the critical area regulations and was prepared pursuant to the State Environmental Policy Act as a programmatic or non-project analysis. The DEIS evaluated two alternatives:

- No Action: Maintains the current critical area regulations
- Proposed Action: Modifies the current critical area regulations consistent with new state requirements

After issuance of the DEIS, the County Council identified several potential amendments to the proposed action alternative during the public review process. These amendments are not expected to result in new adverse environmental impacts beyond the scope of those analyzed in the DEIS. The Final EIS includes responses to the comments received on the DEIS and in a separate addendum, addresses the proposed amendments to the original proposed action alternative.

### **Permits, Certifications, and Licenses and Other Required Actions or Approvals**

Because this proposal is regulatory and programmatic, the action of adopting the critical area regulations does not require individual licenses or permits.

#### **Date of Issuance:**

Draft Environmental Impact Statement: April 7, 2006

Final Environmental Impact Statement and Addendum: **July 23, 2007**

#### **Anticipated Final Action Date**

The County Council will not take action until at least seven days after issuance of the FEIS and Addendum.

#### **Document Availability**

Copies will be available for review at the County Administration Building, 3000 Rockefeller Avenue, 4th Floor Administration Building West, Everett, WA.

The DEIS, FEIS and Addendum will be available on the Snohomish County web site:  
[http://www1.co.snohomish.wa.us/Departments/PDS/Divisions/Code\\_Development/CAR](http://www1.co.snohomish.wa.us/Departments/PDS/Divisions/Code_Development/CAR).

Copies of the DEIS, FEIS and Addendum are available on CD-ROM from Snohomish County for \$2. To obtain copies on CD-ROM, please contact Celia Driver at Snohomish County: <[celia.driver@co.snohomish.wa.us](mailto:celia.driver@co.snohomish.wa.us)> or 425.388.3311 ext. 2490.

A limited number of paper copies are also available for purchase at Snohomish County Planning and Development Services, located at 3000 Rockefeller Avenue, 4th Floor Administration Building West, Everett, WA 98201-4046.

#### **Location of Background Material**

Background material and supporting documents are available for review at Snohomish County Planning and Development Services located at 3000 Rockefeller Avenue, 4th Administration Building West, Everett, WA.

#### **Authors and Principal Contributors**

This EIS has been prepared by Snohomish County Planning and Development Services.

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# Chapter 1 – Introduction

## 1.1 Proposed Action

Pursuant to the requirement in the Growth Management Act (Revised Code of Washington), Snohomish County Planning and Development Services is considering adoption of changes to critical area regulations and policies to protect wetlands and fish and wildlife habitat and to improve public safety related to geologic hazards and groundwater. While these changes are primarily intended to address requirements in the Growth Management Act, they also have some relationship to other state and federal laws, including: the Endangered Species Act, repetitive loss established through the National Flood Insurance Program Community Rating System Program, National Pollutant Discharge Elimination System permit, and portions of the new Washington State Department of Ecology stormwater requirements. Changes also include procedural and administrative improvements for consistency within the County Code.

This Final Environmental Impact Statement (FEIS) is intended to address the environmental impacts of updating the critical area regulations and is being prepared pursuant to the State Environmental Policy Act for a programmatic or non-project analysis. The FEIS evaluates two alternatives:

- No Action: Maintains the current critical area regulations
- Proposed Action: Modifies the current critical area regulations consistent with new state requirements

## 1.2 SEPA Procedures

As the lead agency, Snohomish County determined that the above actions to modify existing regulations, may have significant adverse impacts on the environment. The County issued a Scoping Notice on September 26, 2003 announcing a Determination of Significance and a decision to prepare an EIS. The purpose of the scoping process was to provide an opportunity for interested and affected agencies, Tribes, and the general public to comment on proposed actions and alternatives. The Scoping Notice was published in a local newspaper and mailed to selected citizens and affected agencies. Comments were received until October 20, 2003.

After reviewing scoping comments, a Draft Environmental Impact Statement (DEIS) was prepared and issued on April 7, 2006. Comments were received on the DEIS until May 8, 2006.

SEPA requires that the lead agency prepare a FEIS whenever a DEIS has been prepared. The lead agency must consider comments on the proposal and prepare responses by one or more of the means listed below:

- Modify alternatives including the proposed action.
- Develop and evaluate alternatives not previously given detailed consideration by the agency.
- Supplement, improve, or modify the analysis.
- Make factual corrections.
- Explain why the comments do not warrant further agency response, citing the sources, authorities, or reasons that support the agency's response and, if appropriate, indicate those circumstances that would trigger agency reappraisal or further response.

In this FEIS, consideration of the comments has resulted in several minor corrections to the text of the DEIS which are described in section 2.1 below.

## Chapter 2 – Corrections and Changes

### 2.1 DEIS Text Corrections

This section describes corrections to inaccurate information in the DEIS or improves clarity DEIS language in response to comments received. The changes are shown with ~~strikeout~~ and underlined text.

<u>LOCATON IN DEIS</u>	<u>CORRECTION</u>
Page 1-8, Table 1-1, Wetlands Element, 2 <sup>nd</sup> bullet	The proposed adoption of the new (200 <u>4</u> <del>5</del> ) DOE wetland rating system is consistent with BAS.
Page 3-10, paragraph 1.	The potential advantage of these Type 5 RHA increases <u>includes improvements to most functions, particularly water quality.</u> <del>for fish and wildlife habitat is that less sediment may wash downstream into fish habitat.</del>
Page 4-11, 1 <sup>st</sup> bullet	...which could lessen future losses <u>to public infrastructure.</u> ...
Page 3-14, last paragraph	The end result is likely to be a relatively <del>small change in the wetland functions themselves,</del> but a large improvement in the functions of <u>the wetland buffers.</u>

### 2.2 Changes to the Proposed Action Alternative

During the public review process the County Council has considered several amendments to the proposed action alternative. These amendments address:

- Agricultural provisions
- Riparian habitat areas vs. Buffers
- Structural setbacks from buffer edge
- Provisions for Urban Center Transit Pedestrian Villages
- Lot size averaging for rural short plats
- Species added to the definition of “critical species”
- Wetland mitigation measures based on land use intensity
- Monitoring and adaptive management plan

These amendments represent changes to the proposed action which were not discussed in the DEIS. The amendments, along with their potential impacts, are discussed in detail in an addendum to this FEIS. While amendments were not included in the DEIS analysis, they are not expected to result in new significant adverse environmental impacts beyond those discussed in the DEIS. The scope of the potential environmental impacts of each of these amendments either falls between the expected impacts of the no action alternative and the proposed action alternative; are the same as the proposed action alternative; or, actually result in better protection for the environment beyond the level expected from the proposed action alternative.

# **Chapter 3 – Comment Letters and Responses**

## **3.1 Introduction**

The Draft Environmental Impact Statement prepared for the Snohomish County Critical Areas Regulations update was issued on April 7, 2006 and the required 30-day comment period expired on May 8, 2006. Only written comments were solicited and received.

This Chapter of the FEIS responds to written comments regarding the DEIS received during the 30-day comment period. Responses have been prepared for substantive comments pertaining to errors or omissions identified in the DEIS, and for comments that request changes in the Proposed Actions. Where comments appear more than once, a complete response is provided once and all other comments with similar concerns are referred to this response. Some of the responses to comment letters have been amended to reflect more recent proposals under consideration by the Snohomish County Council.

## **3.2 Comment letters received**

Snohomish County received comment letters from the following agencies or individuals:

1. Washington State Department of Fish and Wildlife – dated May 3, 2006
2. Skagit River System Cooperative – dated May 4, 2006
3. City of Arlington Community Development – dated May 5, 2006
4. The Tulalip Tribes – dated May 8, 2006
5. Snohomish County PUD – received May 8, 2006
6. Emma Dixon – received May 8, 2006
7. Phyllis Gustafson – received April 24, 2006
8. Mick Burch – received May 8, 2006

Copies of the original comment letters can be found in the Appendix to this FEIS.

## **3.3 Response to comments**

The responses below are organized first by the individual letter submitted and then by each comment within the letter. Each comment has each been assigned an alphabetic character in the right margin of the original letter (refer to the Appendix to review original letters) which corresponds to the responses below.

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**Letter 1 – Washington State Department of Fish and Wildlife**

Comments related to draft ordinance only, no specific comments on the DEIS. Comments were forwarded to the Planning Commission and the County Council for consideration during the public review process for the ordinance.

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**Letter 2 – Skagit River System Cooperative****Response to Comment A**

The proposed buffer widths reflect the moderate land use intensity from Alternative 3 in Wetlands in Washington State Volume 2: Guidance for Protecting and Managing Wetlands, Appendix 8-C Guidance on Buffers and Ratios, April, 2005, pg. 6-8. The guidance indicates that buffers greater than 100 feet are generally only necessary for wetlands with special characteristics like bogs, forests, estuaries, coastal lagoons and estuaries. The function that increases buffer widths beyond 100 feet is related primarily to wildlife habitat. The buffers necessary to protect wildlife habitat, as with the other functions, occurs on a continuum. The buffers recommended by the Guidance provide only partial protection for a subset of wetland associated wildlife. Buffers for certain amphibians and larger mammals, for example, extend significantly beyond 300 feet. In summary, neither the States' Guidance nor the County's draft regulations provide full protection for all of the common wetland associated species.

*Currently under consideration are wetland buffers based on low, moderate and high land-use intensities. High land-use intensity buffers could be reduced to moderate when certain mitigation measures are employed, including; the use of habitat corridors to connect wetlands with moderate to high wildlife habitat scores and the measures from Table 8C-8 of the Department of Ecology Guidance document. This change to the proposed action alternative is discussed in a separate addendum to this FEIS.*

**Response to Comment B**

The proposal to use the NRCS agricultural BMPs on farms is consistent with similar approaches to critical areas protection taken by many other counties in Washington. The state Department of Community, Trade and Economic Development has expressed support for the reliance upon these scientifically-based best management practices. The fact that there is some lack of certainty about the effectiveness of the BMPs is understood by the County. As a consequence, the County is developing a monitoring and adaptive management program to determine the effectiveness over time of agricultural BMPs.

**Response to Comment C**

The primary objective of the DEIS is to analyze potential *adverse* environmental impacts.

**Response to Comment D**

All spraying is required to comply with state statutes related to the application and use of herbicides and pesticides (see Chapters 15.54 RCW and 17.21 RCW). The proposed critical area regulations apply to clearing of vegetation by any means and require that maintenance in the road right-of-way be performed in compliance with best management practices.

**Response to Comment E**

While there is no proposal to change existing flood hazard regulations, there are new restrictions proposed that will significantly limit development in channel migration zones, and limit the use of bank hardening other than for the protection of existing primary structures, roads and utilities, agricultural lands or habitat enhancement projects. Under the proposed action alternative new development should be located and designed such that new bank stabilization or flood control structures will not be needed. Further, all actions are required to mitigate adverse impacts to functions and values using best available science.

**Response to Comment F**

The numbers of reasonable use requests that are approved are very low, less than 10 per year. Where mitigation cannot be fully accomplished on-site there are opportunities for off-site mitigation. In addition, County restoration and enhancement programs can help offset impacts at a sub-basin or watershed scale.

**Response to Comment G**

An analysis has been conducted by the County on the amount of impervious surface by subbasin. The proposed action alternative requires that effective impervious surface be limited within 300 feet of salmonid-bearing waters and wetlands with high water quality improvement scores. Review of the best available science indicates that there is correlation between increasing amounts of impervious surfaces within 300 feet of streams and declines in ecologic health in streams as measured by aquatic invertebrate richness. The proposed action alternative would reduce the impacts of impervious surfaces by requiring that they be limited to 0% effective impervious surface within 150 feet, and to 10% within the 300 feet of salmonid bearing waters.

The County is also required to update its stormwater regulations this year to comply with NPDES requirements that will address many of the impacts associated with impervious surfaces. This may include additional limitations on clearing and impervious surfaces.

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**Letter 3 – City of Arlington Community Development****Response to Comment A**

Comment noted for the record.

**Response to Comment B**

Comment noted for the record.

**Response to Comment C**

Correction made.

**Response to Comment D**

Correction made.

**Response to Comment E**

To be a Prior Converted Cropland, the Natural Resource Conservation Service must make a formal determination.

**Response to Comment F**

The information contained in Table 3-16 comes from a GIS analysis developed by Snohomish County. The objective of the table is simply to show the total area of riparian habitat (buffer) with the overlay of the proposed riparian areas on the different types and categories of aquatic critical areas. It is not intended to provide an assessment of the potential or quality of habitat.

**Response to Comment G**

Comment noted.

**Response to Comment H**

The objective of this section is to describe impacts in terms of the net change in area protected only, not to describe specific impacts to the various functions.

*Note however that the latest version of the proposed critical area regulations includes measures to mitigate for impacts on habitat from lighting. This change to the proposed action alternative is discussed in a separate addendum to this FEIS.*

**Response to Comment I**

Comment noted.

**Response to Comment J**

The objective of this paragraph is to provide a general overview of what and where landslides are, not to give a detailed description of all known causes and locations of landslides in the county.

**Response to Comment K**

The building official delegates responsibilities for making such determinations to the county engineers.

**Response to Comment L**

Comment noted.

**Response to Comment M**

The areas proposed for designation as critical aquifer recharge areas are based on the minimum guidelines contained in WAC 365-190(2). Also, all surface and groundwaters are further protected by existing county, state and federal water quality laws.

**Response to Comment N**

The proposed action alternative designates critical aquifer recharge areas (CARA) as sole source aquifers, the 10-year travel zones of Group A wellhead protection areas, and areas with low, moderate or high sensitivity to groundwater contamination. The aquifers from which rural private wells get their water are included within these CARA designations. The requirements in the proposed action alternative are more stringent where sensitivity is the highest such as in sole source aquifers, Group A wellhead protection areas and other recharge areas rated as highly sensitive.

**Response to Comment O**

The County's CARA designation criteria have been applied to all lands under County jurisdiction. All unincorporated areas have been ranked according to the level of sensitivity to contamination (high, moderate, low). Sole source aquifers and Group A wellhead protection areas overlay the sensitivity designations. Thus, the proposed code does apply to some extent to all recharge areas.

**Response to Comment P**

The purpose of this paragraph is to provide a general overview of the major landuses in the county.

*Recent actions by the state restrict the County's ability to adopt critical area regulations applicable to agricultural activities. This change in the proposed action alternative is discussed in the separate addendum to this FEIS. Where applicable, the latest version of the proposed action alternative would require compliance with the United State Department of Agriculture Natural Resource Conservation Service's best management practices (BMPs), contained in the Field Office Technical Guide.*

**Response to Comment Q**

The County's definition of agricultural activities is very broad and includes such activities as hobby farms.

**Response to Comment R**

Where they can be applied, the new regulations in the proposed action alternative would require that hobby farms comply with best management practices when the agricultural activities have the potential to impact critical areas.

*Recent actions by the state restrict the County's ability to adopt critical area regulations applicable to agricultural activities. This change in the proposed action alternative is discussed in the separate addendum to this FEIS.*

**Response to Comment S**

There has been no analysis to date of the potential effects to land capacity of an in-stream flow rule.

**Response to Comment T**

All of the criteria for reasonable use are contained in the draft regulations.

**Response to Comment U**

Provisions for mitigation of the encroachment are contained in the draft regulations. For the purpose of protecting water quality, on-site sewage disposal is also regulated by the health district.

**Response to Comment V**

Comment noted.

**Response to Comment W**

The comparison of resource lands is based on the designations in the County’s comprehensive plan. Where hobby farming is a use on designated agricultural lands it is included as resource land. Where hobby farming is occurring on rural designated lands it was not included in this part of the analysis of resource lands

**Response to Comment X**

Comment noted.

**Response to Comment Y**

Comment noted.

**Response to Comment Z**

Comment noted.

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**Letter 4 – The Tulalip Tribes**

**Response to Comment A**

Comment noted.

**Response to Comment B**

Comment noted.

**Response to Comment C**

Comment noted.

**Response to Comment D**

Comment noted.

**Response to Comment E**

Comment noted.

**Response to Comment F**

The 2<sup>nd</sup> sentence of the 3<sup>rd</sup> paragraph addresses the benefits to other species.

**Response to Comment G**

Comment noted.

**Response to Comment H**

The Best Available Science document, the DEIS and the proposed alternative are all based on both local and non-local research literature. The effectiveness of the County's approach to critical area protection will be monitored and an adaptive management strategy employed should the results indicate that net loss of critical area functions and values is occurring.

*Monitoring and adaptive management are included in the latest version of the proposed action alternative discussed in a separate addendum to this FEIS.*

**Response to Comment I**

Comment noted.

**Response to Comment J**

The intention here is to point out that the relationships between function and distance is not a linear one.

**Response to Comment K**

Comment noted.

**Response to Comment L**

Currently, all marine shorelines receive 150 buffers based on the presence of Chinook and bulltrout, therefore the table correctly cites the net difference in buffer area as zero.

**Response to Comment M**

The County is proposing to adopt by reference all of the Critical Areas Regulations in the Shoreline Management Program. As stated in the last bullet on page 3-23, CAR will provide the regulations for geologic hazard areas.

**Response to Comment N**

It's not uncommon for the dykes on the lower Snohomish to overtop and breach with subsequent movements in the channel.

**Response to Comment O**

Comment noted.

**Response to Comment P**

Comment noted.

**Response to Comment Q**

Comment noted.

**Response to Comments R through GG**

Comments related to draft ordinance only, no specific comments on the DEIS. Comments were forwarded to the Planning Commission and the County Council for consideration during the public review process for the ordinance.

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**Letter 5 - Snohomish County PUD**

Comments related to draft ordinance only, no specific comments on the DEIS. Comments were forwarded to the Planning Commission and the County Council for consideration during the public review process for the ordinance.

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**Letter 6 – Emma Dixon**

**Response to Comment A**

Comment noted.

**Response to Comment B**

Comment noted.

**Response to Comment C**

Comment noted.

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**Letter 7 – Phyllis Gustafson**

Comments noted for the record

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**Letter 8 – Mick Birch**

Comments noted for the record

# Chapter 4 – Distribution List

## Federal Agencies

U.S. Natural Resource Conservation  
U.S. Environmental Protection Agency  
U.S. Fish and Wildlife Service  
National Marine Fisheries

U.S. Army Corps of Engineers  
U.S. Dept. of Housing and Urban Development  
U.S. Department of Agriculture, Forest Service

## State Agencies

Department of Ecology  
Department of Natural Resources  
Department of Community Trade & Econ. Dev.  
Department of Agriculture  
Department of Social and Health Services  
Utilities & Transportation Commission  
Department of Fish & Wildlife

Department of Health  
Department of Transportation  
WA State Energy Office  
Office of Archaeology and Historical Preservation  
Parks and Recreation Commission  
Department of Transportation, Northwest Region

## Regional Agencies and Interest Groups

Puget Sound Action Team  
Puget Sound Clean Air Agency

Puget Sound Regional Council  
Regional Transit Authority

## Snohomish County Agencies and Interest Groups

Snohomish County Department of Public Works  
Snohomish County Sheriff  
Snohomish County Surface Water Mgmt. Division  
Economic Development Council of Snohomish County  
Snohomish County/Camano Island Board of Realtors  
Master Builders Assoc. of King and Sno Co  
Community Transit  
1000 Friends of Snohomish County  
So. Co. Preservation Assn.  
Snohomish Arlington Trail Coalition  
Canyon Firs Homeowners Assn.  
Everett Chamber of Commerce  
So. Sno. Co. Chamber of Commerce  
Wandering Creek Homes  
152nd St. Neighborhood Coalition  
Jordan Road Citizens  
Little Bear Cr. Protective Assn.  
Martha Lake Community Club  
McKee's Evergreen Beach  
Silver Lake Action Comm.  
Possession Bay Association  
196th Neighborhood Alliance  
Lund's Creek Water Watchers  
Newberg Organization  
Crestline Estates Action  
Swamp Creek Locust Way  
Stillaguamish Flood Control District  
League of Women Voters  
Barclay's North

Snohomish County Parks and Recreation Dept.  
Snohomish County Solid Waste Division  
Snohomish Health District  
Housing Authority of Snohomish County  
Snohomish County Conservation District  
Cavalero Residents for Responsible Growth  
Snohomish Wetlands Alliance  
Pilchuck Audubon Society  
Kayak Pt. Citizens Group  
North Marysville Citizens  
Agriculture Tomorrow  
Action Council for Esperance  
Professional Consultants  
Everett Transit  
Smartgrowth Campaign  
Friends of Florence Acres  
Arlington Heights Comm.  
Martha Lake Homeowners  
Picnic Point Community  
Silver Lake Homeowners  
Kennard Corner Homeowners  
Stillaguamish Citizens Alliance  
1000 Friends of Washington  
Alderwood Community Council  
Edmonds Chamber of Commerce  
Thomas Lake Homeowners  
North Creek Rural Areas  
Sound Transit  
Tom Ehrlichman

## **Neighboring Planning Departments**

Island County Planning Dept.  
Skagit County Planning Dept.

Dept. of Dev. & Environ. Services (King Co.)  
Chelan County Planning Dept.

## **Tribes**

Muckleshoot Tribes  
Sauk/Suiattle Tribe

Tulalip Tribes  
Stillaguamish Tribe

## **Utilities**

Alderwood Water District  
Lake Stevens Sewer District  
Olympic View Water and Sewer District  
Silver Lake Water and Sewer  
Olympus Terrace Sewer District  
Highland Water Assn.  
Seven Lakes Water Assn.  
Sky Meadow Water Assn., Inc.  
Puget Sound Energy

Cross Valley Water District  
METRO  
Mukilteo Water District  
Diking District #2  
Cascade Natural Gas  
Roosevelt Water Assn.  
Three Lakes Water Assn.  
Snohomish County PUD No. 1  
King County Wastewater Treatment Division

## **Cities**

City of Arlington  
City of Brier  
City of Edmonds  
City of Gold Bar  
Town of Index  
City of Lynnwood  
City of Mill Creek  
City of Mountlake Terrace  
City of Snohomish  
City of Sultan

City of Bothell  
Town of Darrington  
City of Everett  
City of Granite Falls  
City of Lake Stevens  
City of Marysville  
City of Monroe  
City of Mukilteo  
City of Stanwood  
Town of Woodway

## **Newspapers**

The Herald  
Citizen Newspaper  
Arlington Times  
Snohomish County Tribune  
Mukilteo Beacon  
Monroe Monitor  
Marysville Globe  
Bothell-Kenmore Reporter

Lake Stevens Journal  
Seattle Times-North Bureau  
Seattle PI  
Mill Creek Enterprise  
Woodinville Weekly  
Enterprise Newspaper  
The Edmonds Beacon

## **Libraries**

Arlington Library  
Brier Public Library  
Edmonds Public Library  
Granite Falls Library  
Lynnwood Public Library  
Mill Creek Library  
Mountlake Terrace Library  
Sno-Isle Regional Library  
Stanwood Library  
Woodinville Library

Bothell Library  
Darrington Library  
Everett Public Library  
Lake Stevens Library  
Marysville Public Library  
Monroe Library  
Mukilteo Public Library  
Snohomish Public Library  
Sultan Library

## **Diking and Drainage Districts**

Diking District #1  
Diking District #2  
Diking District #3  
Diking District #4  
Drainage Improvement District 4 & 4a  
Dike Improvement District #5  
Dike & Drainage District #6  
Dike & Drainage District #7  
Drainage Improvement District #8  
Dike & Drainage District #12  
Drainage Improvement District #13

Biringer Dike  
French Slough Flood Control  
Marshland Flood Control  
Stillaguamish Flood Control  
Lundvall Dike  
Snohomish Iron Works Dike