

BEFORE THE BOARD OF STEVENS COUNTY COMMISSIONERS

IN THE MATTER OF GROWTH)
MANAGEMENT)
) Ordinance No. 8-2009
) Amending Stevens County Code Title 13
)
)
)

WHEREAS, RCW 36.70A.040 directs counties to adopt development regulations that implement their Comprehensive Land Use Plan; and

WHEREAS, Stevens County opted in to the Growth Management Act (GMA), RCW 36.70A on September 28, 1993 pursuant to Resolution 112-1993; and

WHEREAS, Stevens County adopted a Comprehensive Land Use Plan pursuant to Resolution 59-2006 on July 11, 2006; and

WHEREAS, Stevens County adopted Stevens County Code, Title 13, by Resolution 32-2003 on March 4, 2003 and Resolution 80-2004 on July 6, 2004; and

WHEREAS, On January 13th, 2006, The EWGMHB issued a Final Decision and Order (FDO) finding SCC 13.10.034(3)(C) non-complaint with the requirements of the Growth Management Act; and

WHEREAS, The County is making the following changes to SCC 13.10.034(3) in response to the FDO that resolve the sole remaining issue in EWGMHB Case No. 05-1-0006:

1. Removal of 13.10.034(3)(C) which was the reason for the finding of non-compliance by the EWGMHB.
2. Modification to 13.10.034(3)(A) to require that development proposals located within a mapped Fish and Wildlife Habitat Conservation Area designated under 13.10.031 (1) and (2) be subject to County review to determine if the development proposal will impair the functions and values of the habitat area. The County shall require the applicant to complete an approved checklist prepared by a qualified professional and may require additional information as needed. The County's determination shall be based on the best available science for the development proposal site. If it is determined that the development proposal will impair the functions and values of the habitat area, subsection B shall apply.
3. Modification to 13.10.034(3)(B) to require that each development proposal located in a mapped Fish and Wildlife Habitat Conservation Area where it is determined to have an impact on the functions and values of the habitat, the County shall require a report from a qualified professional setting forth management recommendations specific to the site and the proposed development. This requirement will also require coordination with the Washington State Department of Fish and Wildlife.

- WHEREAS, The proposed changes to SCC 13.10.034(3) are consistent with and employ the Best Available Science (BAS) requirements of RCW 36.70A.172; and
- WHEREAS, Stevens County utilized the public participation process in SCC 3.31.070 to respond to the Hearings Board FDO. Pursuant to SCC 3.31.070(E), this process was utilized because of the limited amount of time given to respond to a FDO issued by the Growth Management Hearings Board; and
- WHEREAS, Stevens County submitted its notification for 60-day review of development regulations amendment to the Department of Commerce on August 13, 2009. The Department of commerce confirmed receipt of the proposed amendment the same day; and
- WHEREAS, A Notice of Application and Optional DNS on proposed changes was issued on August 20, 2009 and published in the official county paper of record on August 27 and September 3, 2009; and
- WHEREAS, The Notice of Application and Optional DNS was mailed to required and interested parties and posted on the Land Services website; and
- WHEREAS, A Notice of SEPA Determination of Non-Significance was issued on September 14, 2009. The SEPA DNS was published in the county paper of record on September 24 and October 1, 2009; and
- WHEREAS, No negative comments about the Optional DNS were received during the SEPA comment period; and
- WHEREAS, The Department of Commerce provided comments into the record that the proposed changes to Title 13 appear consistent with the requirements of the Growth Management Act for protecting critical areas; and
- WHEREAS, The Department of Fish and Wildlife provided comments into the record that the proposed changes to Title 13 appear consistent with the requirements of the Growth Management Act for protecting critical areas; and
- WHEREAS, The public participation process utilized to evaluate these changes met the requirements of SCC 3.31.070; and
- WHEREAS, The Board held an open record public hearing on October 12, 2009 to accept public comment; the Board closed the record to further written or oral comments at the hearing to review and consider the record. The hearing was continued was to October 20, 2009 for Board deliberations at which time the Board considered the proposed changes to Title 13 and responded to written and oral comments received; and
- WHEREAS, The regulations in Title13, with changes, are consistent with the goals and policies contained in the Stevens County Comprehensive Plan and respond the EWGMHB Final Decision and Order in Case 05-1-0006 ; and

Having fully considered the record,

BE IT ORDAINED THAT:

1. Title 13 Adopted. Stevens County hereby amends Stevens County Code (SCC), Title 13, chapters 13.10.034(3) attached hereto as exhibit A and by this reference.

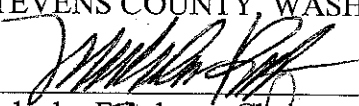
2. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

3. Effective Date. This Ordinance shall be published in the official newspaper of the County, and shall take effect and be in full force on the first date of publication, October 29, 2009.

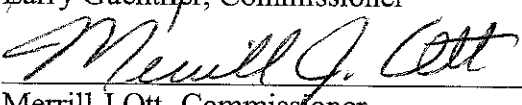
Adopted by the Board of Stevens County Commissioners meeting in regular session at Colville, Washington, by the following vote, then signed by its membership and attested to by its Clerk in authorization of such passage the 20th day of October, 2009.

3 YEA; 0 NAY; 0 ABSTAIN; and 0 ABSENT

BOARD OF COUNTY COMMISSIONERS
STEVENS COUNTY, WASHINGTON


Malcolm Friedman, Chairman


Larry Guenther, Commissioner


Merrill J Ott, Commissioner

ATTEST:
CLERK OF THE BOARD

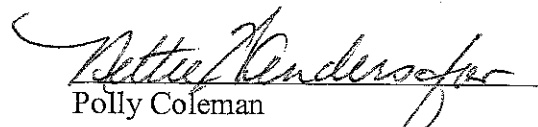

Polly Coleman

Exhibit A

13.10.034(3)

(3) Mapped Fish and Wildlife Habitat Conservation Areas

A. Development proposals within a mapped Fish and Wildlife Habitat Conservation area designated under 13.10.031 (1) and (2) will be subject to County review to determine if the development proposal will impair the functions and values of the habitat area. The County shall require the applicant to complete an approved checklist prepared by a qualified professional and may require additional information as needed. The County's determination shall be based on the best available science for the development proposal site. If it is determined that the development proposal will impair the functions and values of the habitat area, subsection B shall apply.

B. For each development proposal located in a mapped Fish and Wildlife Habitat Conservation Area that is determined to have an impact on the functions and values of the habitat, the County shall require a report from a qualified professional setting forth management recommendations specific to the site and the proposed development.

(i) The County shall forward each such report and proposal to the WDFW for comment.

(ii) The County shall require a Habitat Management Plan for the proposed development based upon the report of the qualified professional and the best available science appropriate for the site.