

BEFORE THE BOARD OF STEVENS COUNTY COMMISSIONERS

IN THE MATTER OF GROWTH
MANAGEMENT

Ordinance No. 2016- 04

Adoption of an amendment to the Unified Development Regulations, Title 3 to revise SCC 3.11.225 and SCC 3.16.225, Stormwater and Impervious Surfaces Design Standards,

Revise SCC 3.90 to clarify the definition of "Impervious Surfaces" and to include the definition of "Uncontrolled Stormwater Runoff"

Repeal SCC 3.11.230.H and SCC 3.16.232.H

- 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,** The Stevens County Comprehensive Land Use Plan was adopted on July 11, 2006 pursuant to Resolution 59-2006; and
- WHEREAS,** The Stevens County Development Regulations, SCC Title 3 became effective July 12, 2007, pursuant to Ordinance 2007-001; and
- WHEREAS,** Potential impacts to the functions and values of critical areas from uncontrolled stormwater runoff from impervious surfaces within subdivisions is the subject of a citizen petition for review, under Eastern Washington Growth Management Hearings Board Case #07-1-0013; and
- WHEREAS,** In response to the Eastern Washington Growth Management Hearings Board Third Order on Compliance dated February 22, 2013;

BE IT HEREBY ORDERED AND RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF STEVENS COUNTY, WASHINGTON, AS FOLLOWS:

FINDINGS:

The Board of County Commissioners has made a reasoned decision on the proposed amendment after reviewing and deliberating upon the entire record and that the decision is supported by the following findings:

- . Proper notice and an opportunity to comment on the proposed amendment was given to required agencies and parties of record on January 21, 2016. An Affidavit of Mailing is indexed at Exhibit #6. The comment period extended from January 21, 2016 to May 9, 2016.
- . Legal notice of the proposed amendment was published in the *Chewelah Independent*. An Affidavit of Publication is indexed at Exhibit #10.
- . Notice of the proposed amendment was posted on the Land Services website. Evidence of said posting is indexed at Exhibit #9.

Notice of Intent to Adopt Amendment was given on January 21, 2016, to the Department of Commerce (DOC). This notice satisfied the 60 days prior to adoption requirement of RCW 36.70A.106. Evidence of said notice and DOC acknowledgement are indexed at Exhibit #5.

A SEPA DNS, SEPA Checklist and Environmental Summary were issued for the proposed amendment on January 21, 2016, pursuant to the SEPA/GMA Integrated procedures pursuant to WAC 197-11. These materials are indexed as Exhibit #4. Evidence of the posting of the environmental review on the DOE SEPA Register is indexed at Exhibit #8.

Legal notice of the SEPA Threshold Determination was published in the *Chewelah Independent*. An Affidavit of Publication is indexed at Exhibit #10.

For the proposed amendment to SCC Title 3, the record includes public comments and attachments, County documents and all materials requested to be part of the record.

Agency comments from the Washington Departments of Commerce and Ecology support the County's compliance action (Exhibits #21 and #40).

The County has reviewed and considered the record to ensure the proposed amendment is consistent with the Stevens County Comprehensive Plan and maintains a balance of the competing goals of the GMA.

Based on the record, the County has made a reasoned decision on the proposed amendment to SCC Title 3 and pursuant to RCW 36.70A.3201 the County has considered the record to balance priorities and options of the action in full consideration of local circumstances.

In the February 22, 2013, Third Order on Compliance, the GMA Hearings Board concluded that the County had not enacted performance or design standards or best management practices in SCC 3.11 Subdivisions, and SCC 3.16 Short Subdivisions which protect the functions and values of critical areas from stormwater and impervious surface runoff.

The County engaged an expert in stormwater management to review case history and numerous scientific publications (Indexed at Exhibit #1, #42 and #43) to aid in formulating the appropriate thresholds and design standards for stormwater plans and the construction of stormwater facilities.

To determine the appropriate design standard for stormwater facilities, the County's expert developed a hydrologic analysis for both urban and rural subdivisions (Exhibit #2) which concludes that a design standard of retaining and infiltrating the 10 year, 24 hour storm event would meet the target of "no net increase in stormwater for up to a 100-year storm (the 100 year standard)".

The County's expert concluded that many watershed impact studies evaluate impacts to water quality and habitat based on the historical practice of uncontrolled stormwater runoff rather than the use of modern stormwater flow control (Exhibit #1).

The County's expert reviewed available rural area stormwater regulatory programs and concluded that they were applicable in jurisdictions with much greater precipitation than Stevens County and that no eastern Washington County had adopted enhanced stormwater management standards for rural areas.

The County has demonstrated through Best Available Science and using data unique to Stevens County that the Sheep Creek Sub-basin (which contains Loon and Deer Lakes) currently has an impervious surface coverage of less than 5% and that during the 20-year planning horizon impervious surface coverage is unlikely to increase above 6%. In addition, given the current zoning of the Sheep Creek sub-basin, total impervious surface coverage at

full build out, which would take hundreds of years, would be approximately 6.5% and will never reach 10% (Exhibit #44).

No evidence in the record before the County indicates that functions and values of critical areas within Stevens County are adversely affected by the approval of subdivisions under the existing County Code.

In response to the Third Compliance Order, the County has set clear, specific review guidelines or thresholds to be used by Qualified Professionals to develop a stormwater runoff plan for subdivisions and to establish appropriate best management practices for the continued operation and maintenance of stormwater facilities to protect the functions and values of critical areas.

In the Third Order on Compliance, the Hearings Board determined that the County did not provide a standard of review or threshold to prevent arbitrary and discretionary application.

In response to the Third Compliance Order, the County has established a standard of review based upon Best Available Science to be used by County staff and prospective applicants to determine when additional measures in the form of a stormwater management plan are required to protect the functions and values of critical areas.

In the Third Order on Compliance, the Hearings Board determined that the County had failed to conduct a SEPA review for the adoption of Stevens County Ordinance #2012-05.

In response to the Hearings Board Order, a SEPA DNS, SEPA Checklist and Environmental Summary were issued for the proposed amendment on January 21, 2016, pursuant to the SEPA/GMA Integrated procedures pursuant to WAC 197-11.

No written comments have been received regarding any potential deficiency in the January 21, 2016, DNS, SEPA checklist and Environmental Summary in connection with the proposed amendment. Pursuant to WAC 197-11-545, lack of comment is interpreted as lack of objection to the environmental analysis.

NOW, THEREFORE BE IT ORDAINED:

That the Board of County Commissioners, after due deliberation, hereby adopt an amendment, the full text of which is attached as Exhibit "A", to the Unified Development Regulations, Title 3, summarized as follows:

1. Revise Section 3.11.225, Stormwater and Impervious Surfaces Design Standards
2. Revise Section 3.16.225, Stormwater and Impervious Surfaces Design Standards
3. Revise Section 3.90 to clarify the definition of "Impervious Surfaces"
4. Revise Section 3.90 to include the definition of "Uncontrolled Stormwater Runoff"
5. Repeal Section 3.11.230.H
6. Repeal Section 3.16.232.H

BE IT FURTHER ORDAINED that should any section, paragraph, sentence, clause or phrase of this resolution, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this resolution 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.

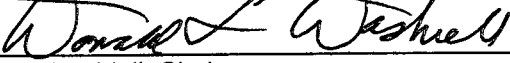
BE IT FURTHER ORDAINED this Ordinance shall be published in the official newspaper of the County.

BE IT FURTHER ORDAINED that this ordinance shall take effect and be in full force on the date as signed hereon.

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 this 6th day of June, 2016.

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

BOARD OF COUNTY COMMISSIONERS
OF STEVENS COUNTY, WASHINGTON



Don Dashiell, Chairman



Wes McCart, Commissioner



Steve Parker, Commissioner

ATTEST:



Polly Coleman
Clerk of the Board

EXHIBIT "A"

SCC 3.11.225 and SCC 3.16.225 Stormwater and Impervious Surfaces Design Standards

- A. In order to protect critical areas, short plats and subdivisions are required to retain and infiltrate stormwater runoff on-site in accordance with this section, unless it is deemed infeasible by a qualified professional, in which case alternative stormwater management approaches may be approved if they are shown to provide an equivalent level of critical areas protection.
- B. A qualified professional shall determine if uncontrolled stormwater runoff from proposed impervious surfaces and construction activities would directly or indirectly discharge to critical areas when any of the following thresholds are met:
- 1) Proposed new impervious surface from subdivision within Urban Growth Areas, LAMIRDS, or Critical Aquifer Recharge Areas (CARAs), equals or exceeds 10,000 square feet of the land being subdivided; or
 - 2) Proposed new impervious surface from subdivision within Rural or Resource Lands equals or exceeds 20,000 square feet of the land being subdivided.

The qualified professional making the determination called for in this section shall, at a minimum, consider the natural topography of the development area and the presence of manmade or natural drainage conveyances such as slopes, pipes, ditches, culverts, intermittent or perennial streams, gullies, arroyos, washes, swales, and similar characteristics that would serve to collect and transport runoff to critical areas.

- C. If the qualified professional determines that uncontrolled stormwater runoff from proposed impervious surfaces or construction activities would directly or indirectly discharge to critical areas, a stormwater and impervious surface management plan shall be submitted to and approved by Stevens County Land Services prior to commencing development activities. Required stormwater treatment and/or flow control devices shall be constructed, operated, and maintained in accordance with the approved stormwater and impervious surface management plan.
- D. Stormwater and impervious surface management plans required under this section shall be prepared by a qualified professional and shall address the following design standards:
- 1) The preparation procedure and content for each stormwater and impervious surface management plan shall be consistent with the Stormwater Management Manual for Eastern Washington. When structural stormwater treatment and/or flow control devices are required to be constructed, an operation and maintenance (O&M) plan shall be prepared consistent with the Stormwater Management Manual for Eastern Washington. All O&M plans required under this section shall provide for access by successor owners of the property being subdivided to allow for maintenance, repair and replacement of structural devices and facilities.
 - 2) The subdivision shall result in no net increase of stormwater runoff into critical areas for storm events up to the 100 year recurrence interval by retaining runoff on-site from storm events up to the 10 year, 24 hour recurrence interval. Proposed subdivisions in Urban Growth Areas and LAMIRDS shall retain and infiltrate the 10 year, 24 hour storm event runoff from contributing areas including new impervious surfaces, lawns, and landscaped areas. Proposed subdivisions within Rural or

Resource Lands shall retain and infiltrate the 10 year, 24 hour storm event runoff from contributing areas composed of new impervious surfaces.

- 3) The subdivision shall protect critical areas from stormwater/impervious surface pollution by applying post-construction stormwater treatment Best Management Practices (BMPs). The treatment BMPs shall treat the 6 month, 24 hour storm event runoff from pollutant generating surfaces of the contributing areas described in paragraph D.2 and be selected, sized and designed in accordance with the Stormwater Management Manual for Eastern Washington, current Underground Injection Control and Infiltration Trench design standards, Eastern Washington Low Impact Development (LID) Guidance Manual, or Washington State Department of Transportation Highway Runoff Manual. Pollutant generating surfaces shall have the meaning given in the Stormwater Management Manual for Eastern Washington.
- 4) Stormwater flow control BMPs, including retention BMPs, shall be selected, sized, and designed consistent with the guidance listed in paragraph D.3.
- 5) Subdivisions requiring a stormwater and impervious surface management plan within a Critical Aquifer Recharge Area (CARA) shall protect aquifer recharge by retaining and infiltrating stormwater runoff on-site for the 10 year, 24 hour storm event. The subdivision areas requiring retention shall be determined based on subdivision type according to paragraph D.2 above. The method of infiltration shall also protect groundwater quality by applying permanent stormwater controls. The need for post-construction stormwater treatment BMPs shall be addressed.
- 6) Apply temporary stormwater control methods to protect critical areas from pollutants that enter stormwater due to subdivision construction activities in accordance with state or federal construction stormwater permitting requirements. When applicable, a Construction Stormwater Pollution Prevention Plan (SWPPP) must select, size, and apply BMPs, and subject to inspection requirements, in accordance with the Eastern Washington Erosion Prevention and Sediment Control Field Guide or the Stormwater Management Manual for Eastern Washington.

Revise SCC 3.90, Definitions

Clarify the definition "Impervious Surfaces" to read:

"IMPERVIOUS SURFACES": "A hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. Hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention or detention facilities shall not be considered as impervious surfaces. Open, uncovered retention or detention facilities shall be considered impervious surfaces for purposes of runoff modeling."

Include the definition of "UNCONTROLLED STORMWATER RUNOFF" to read: "Rainfall or snowmelt runoff that would drain from the proposed subdivision in the absence of stormwater best management practices (BMPs).