

CONSOLIDATED DOCUMENT

STEVENS COUNTY CODE

TITLE 13

CRITICAL AREAS ORDINANCE

**This document contains the Critical Area Regulations adopted under
Resolution #32-2003 on March 4, 2003,
and amendments Resolution #80-2004 on July 6, 2004
and Ordinance #03-2011 on October 18, 2011.**

TABLE OF CONTENTS

ABBREVIATIONS **iv**

CHAPTER 13.001 GENERAL PROVISIONS **1**

 13.00.010 TITLE AND AUTHORITY 1

 13.00.020 PURPOSE AND INTRODUCTION..... 1

 13.00.030 APPLICABILITY AND INTENT 2

 13.00.032 BEST AVAILABLE SCIENCE..... 2

 13.00.034 USE OF QUALIFIED PROFESSIONALS..... 2

 13.00.040 CONFLICT OF REGULATIONS..... 3

 13.00.050 DEFINITIONS..... 3

 13.00.060 MAPS AND RESOURCE INFORMATION 6

 13.00.061 REGULATORY MAPS..... 7

 13.00.062 NON-REGULATORY - RESOURCE MAPS..... 7

 13.00.063 OTHER RESOURCE INFORMATION 7

 13.00.070 SEVERABILITY..... 7

CHAPTER 13.109 PROTECTION REGULATIONS **9**

 13.10.010 REGULATED ACTIVITIES WITHIN CRITICAL AREAS..... 9

 13.10.020 WETLANDS 9

 13.10.021 CLASSIFICATION 10

 13.10.022 DESIGNATION..... 11

 13.10.023 DELINEATION 11

 13.10.024 WETLAND BEST AVAILABLE SCIENCE CRITERIA 11

 13.10.025 WETLAND PROTECTION REQUIREMENTS 12

 (1) Minimum Wetland Buffer Widths..... 12

 DEER LAKE CATEGORIZED WETLANDS 15

 LOON LAKE CATEGORIZED WETLANDS 16

 13.10.030 FISH & WILDLIFE HABITAT CONSERVATION AREAS..... 17

 13.10.031 CLASSIFICATIONS 17

 13.10.032 DESIGNATION..... 18

 13.10.033 RIPARIAN BEST AVAILABLE SCIENCE..... 18

 13.10.034 FISH AND WILDLIFE HABITAT CONSERVATION AREAS PROTECTION
 REQUIREMENTS..... 21

 (1) Waters of the State – Minimum Riparian Buffer Widths 21

 13.10.040 CRITICAL AQUIFER RECHARGE AREAS 22

 13.10.041 CLASSIFICATION 23

 13.10.042 CARA SUSCEPTIBILITY FACTORS 23

 13.10.043 SUSCEPTIBILITY RATING SYSTEM..... 24

 13.10.044 SUSCEPTIBILITY USING WELLHEAD PROTECTION AREAS..... 26

 13.10.045 CARA DESIGNATION..... 26

 13.10.046 CARA PROTECTION REQUIREMENTS 27

 13.10.047 HYDROGEOLOGIC SITE EVALUATION 28

 13.10.050 FREQUENTLY FLOODED AREAS..... 29

 13.10.051 CLASSIFICATION 29

 13.10.052 DESIGNATION..... 29

 13.10.053 PROTECTION REQUIREMENTS..... 29

 13.10.060 GEOLOGICALLY HAZARDOUS AREAS 29

 13.10.061 TYPES OF GEOLOGICALLY HAZARDOUS AREAS 29

**CHAPTER 13.20 BUFFERS, MITIGATION, NONCONFORMING STRUCTURES AND
 REASONABLE USE EXCEPTION** **33**

 13.20.010 BUFFERS 33

 13.20.012 GENERAL BUFFER REQUIREMENTS..... 33

 13.20.014 BUFFER ALTERNATIVES 34

 (1) Increasing Buffer Area..... 34

 (2) Averaging Buffer Area..... 34

 (3) Buffer Reduction 35

13.20.016 ALLOWABLE USES IN BUFFERS	36
13.20.020 MITIGATION	36
13.20.030 REASONABLE USE EXCEPTION	39
13.20.031 REASONABLE USE EXCEPTION APPLICATION REQUIREMENTS	39
13.20.032 PUBLIC NOTICE FOR REASONABLE USE EXCEPTION	39
13.20.033 DECISION CRITERIA	40
13.20.040 NONCONFORMING STRUCTURES	40
13.20.041 NONCONFORMING STRUCTURES – EXPANSION	41
13.20.050 EXISTING AND ONGOING AGRICULTURAL ACTIVITIES.....	42
13.20.052 EXISTING AND ONGOING AGRICULTURAL ACTIVITIES REGULATION	42
13.20.054 AGRICULTURAL BEST MANAGEMENT PRACTICES	43
13.20.056 OTHER PROTECTION MEASURES.....	43
CHAPTER 13.30 CRITICAL AREA REVIEW PROCESS	45
13.30.010 PRELIMINARY CRITICAL AREAS REVIEW.....	45
13.30.020 LIMITATIONS AND EXEMPTIONS	46
13.30.030 ADMINISTRATIVE REVIEW	47
13.30.031 TYPES OF ACTIVITIES	47
13.30.032 ADMINISTRATIVE REVIEW OUTCOMES.....	48
13.30.033 LETTER OF CONSISTENCY (LOC).....	49
13.30.034 TIME LIMITS AND EXTENSIONS	49
13.30.040 PUBLIC REVIEW.....	49
CHAPTER 13.40 ENFORCEMENT	52
13.40.010	52
13.40.012 REQUEST FOR INSPECTION.....	52
13.40.014 COOPERATIVE INVESTIGATION AND ENFORCEMENT	52
13.40.016 NOTICE OF VIOLATION PROCESS.....	53
13.40.018 SERVICE OF A NOTICE OF VIOLATION	54
13.40.020 ENFORCEMENT ACTION IN DISTRICT COURT.....	54
13.40.030 REPORTS TO PLANNING COMMISSION.....	54
CHAPTER 13.50 APPEALS.....	54
BIBLIOGRAPHY OF RESOURCE MATERIALS.....	55
BIBLIOGRAPHY OF STEVENS COUNTY REGULATIONS	56
Appendix “A” Critical Areas Checklist.....	57
Appendix “B” NOMINATION PROCESS FOR ‘HABITATS AND SPECIES OF LOCAL IMPORTANCE’.....	58
Appendix “C” NOTICE OF CRITICAL AREA OR BUFFER.....	59

ABBREVIATIONS USED IN THIS DOCUMENT

BAS	Best Available Science
BOCC	Board of County Commissioners
CAO	Critical Areas Ordinance
CARA	Critical Aquifer Recharge Area
DNR	Department of Natural Resources (State)
DOE	Department of Ecology (State)
EHA	Erosion Hazard Zone
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Maps
LHA	Landslide Hazard Areas
LOC	Letter of Consistency
GMA	Growth Management Act
NETCHD	Northeast Tri-County Health District
NRCS	Natural Resource Conservation Service (Federal)
NWI	National Wetland Inventory
OHWM	Ordinary High Water Mark
PHS	Priority Habitats and Species
RCW	Revised Code of Washington
WAC	Washington Administrative Code
WDFW	Washington State Dept. of Fish & Wildlife
USDA	United States Dept. of Agriculture
USGS	United States Geological Service
USFWS	United Stated Fish & Wildlife Service

CHAPTER 13.00

GENERAL PROVISIONS

13.00.010 TITLE AND AUTHORITY

This document shall be known as Title 13, the Critical Areas Ordinance (CAO) of Stevens County, Washington, and is adopted under the authority of RCW Chapter 36.70A.

13.00.020 PURPOSE AND INTRODUCTION

The purpose of this Title is to comply with the mandate of RCW Chapter 36.70A, the Growth Management Act, and to the extent required by said chapter, to protect the public health, safety and general welfare by providing reasonable and effective regulations to 1) conserve, protect and maintain the functions and values of regulated critical areas, 2) to prevent harm to the public health, safety and general welfare from potential hazards associated with certain critical areas and 3) to support the overall goal of Washington State to assure the protection of wetlands.

Critical areas, as defined in WAC 365-190-080, include wetlands, aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas. Wetlands, aquifer recharge and fish and wildlife habitat areas are considered "critical" due to their value as a public resource. Frequently flooded and geologically hazardous areas are considered "critical" due to the potential hazards they present to public health, safety and general welfare.¹

The purpose of this Title is to:

- Classify, designate and protect critical areas,
- Promote innovative, efficient design of proposed land use and development activities,
- Assist in orderly development, limit incompatible uses, and when appropriate, guide development to more suitable areas.

“Classifying and designating critical areas” does not necessarily imply a change in a landowner’s right to use his or her land. “Limiting incompatible uses” does not mean a prohibition of all development, but means governing new development(s) that could adversely affect designated critical areas.

This Title provides specific protection requirements for each category of critical areas. While preservation and protection of critical areas is of paramount importance, it is not the intent of this Title to totally prohibit alteration or impacts to critical areas or associated buffers. Rather, this Title defines a process and protection requirements intended as a framework to manage the County's critical area lands responsibly, while providing for reasonable and economically viable uses of private property.

¹ WAC 365-190-020.

13.00.030 APPLICABILITY AND INTENT

This Title shall be consistently applied to development proposals, unless specifically exempted, under County jurisdiction within the unincorporated areas of Stevens County. The regulations shall be liberally construed to serve intended purposes. It is the intent that these regulations shall be interpreted to respect constitutionally protected rights of private property to the full extent recognized by the law of the United States of America and the State of Washington.

Any development proposal as defined herein shall require, unless specifically exempted, review under this Title. The Stevens County Planning Department and the Stevens County Building Department shall have responsibility for enforcement of this Title, as specified in Chapter 13.40, Enforcement.

13.00.032 BEST AVAILABLE SCIENCE

In designating and protecting critical areas, RCW 36.70A.172 requires cities and counties to include best available science in development regulations. WAC 365-195-900 outlines the procedural criteria for including best available science in Comprehensive Plans and development regulations.

In order to demonstrate that best available science has been included in the critical area regulations, counties are encouraged to address the following (WAC 365-195-915):

- a) The specific policies and development regulations adopted to protect the functions and values of the critical areas at issue.
- b) The relevant sources of best available scientific information included in the decision making.
- c) Any nonscientific information—including legal, social, cultural, economic and political information—used as a basis for critical area policies and regulations that depart from recommendations derived from the best available science. A county or city departing from science-based recommendations should (i) identify the information in the record that supports its decision to depart from science-based recommendations; (ii) explain its rationale for departing from science-based recommendation; and (iii) identify potential risks to the functions and values of the critical area(s) at issue and any additional measures chosen to limit such risks.

To aid counties and cities in the process of developing regulations reflecting best available science, the Department of Community Trade and Economic Development (CTED) prepared *Citations of Recommended Sources of Best Available Science*, in March 2002. This document references numerous pieces of literature recognized as best available science.

Counties and cities were encouraged to consult with a qualified expert or team of experts to help identify and determine the applicability of the information to their jurisdiction.² To that end, Stevens County has consulted with Bernard L. Kovalchik, a retired US Forest Service Ecologist employee with over 20 years of experience as a wetland/riparian ecologist.

13.00.034 USE OF QUALIFIED PROFESSIONALS (Amended by BOCC Res. #80-2004, July 6, 2004)

(1) In order to adequately assess potential impacts of proposed development to critical areas, the County may require an applicant to submit special reports, studies, surveys, mitigation and management plans, or tests. The reports will provide environmental information and may

² CTED, *Citations of Recommended Sources of Best Available Science*, 2002

contain strategies and recommendations for maintaining critical areas and mitigating unavoidable impacts. Any such report shall be prepared by a qualified professional with documented expertise, as defined in this Title, in the specified field.

(2) Each report shall include the resume of the person or persons preparing the report, including education and a list of any other relevant qualifications that document expertise in the requisite field. Where licensing, registration, or certification is required or available from the state, a federal agency, or a professional organization, such licensing, registration or certification shall be accepted as demonstrating the required expertise. The criteria set forth in WAC 365-195-905(4) shall inform the determination of whether a person is a qualified professional within the meaning of this Title.

(3) The applicant shall pay the costs incurred in the preparation of special reports, studies, surveys, plans or tests. The applicant shall also pay the costs incurred by the County when the County finds it necessary to engage technical consultants or staff for peer review and interpretation of data and findings submitted by or on behalf of the applicant.

(4) When the County determines that a special report or peer review or other technical assistance is required in order to appropriately review and assess impacts to critical areas, the applicant shall be notified and may be required to submit a monetary deposit to cover costs and/or sign a letter agreement ensuring payment of County costs. The County shall withhold issuance of permits or approvals until payment has been made.

(5) An applicant may choose to fund the hiring of a qualified professional by the County to prepare necessary field studies and recommendations regarding an application, rather than submitting a report that must then be peer reviewed at additional cost.

(6) When an applicant submits information or a report prepared by a technical expert employed by a local, state or federal agency, peer review of the report or recommendations for the project shall not be required.

13.00.040 CONFLICT OF REGULATIONS

If more than one Stevens County development regulation applies to any development proposal or land use activity identified in this Title, then the most restrictive regulation shall apply.³

All statutory references to the Revised Code of Washington (RCW) and the Washington Administrative Code (WAC) within this Title are taken from the September 2001 editions. If any referenced RCW or WAC is amended after adoption of this Title, the most current language or intent shall apply.

13.00.050 DEFINITIONS

Words not defined herein shall have their ordinary and common meanings as defined in Webster's 9th New Collegiate Dictionary, copyright 1998. For purposes of this Title, the following definitions shall apply:

Administrator means the Stevens County Planning Director or designee.

Agricultural Land means land primarily devoted to the production of horticultural, viticultural, floricultural, aquacultural, dairy, apiary, vegetable, or animal products, or of berries, grain, hay, straw, cultivated wood or fiber crops, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock, and those lands that have long-term commercial significance for agricultural production.⁴

³ WAC 365-190-020

⁴ WAC 365-190-030

Applicant means a person(s) who file(s) an application for a development proposal and who is either the owner of the land on which the proposed activity would be located, a contract purchaser, a lessee, the person who would control and direct the proposed activity or the authorized agent of such person.

Common-line setback is the average of setback from the OHWM for existing dwelling units within 300 feet of the side property lines of the subject parcel. This is accomplished by an incremental increase of the setback from the OHWM. A minimum setback of 50 feet from the OHWM applies when adjoining residences are not within 300 feet.⁵

Compensatory Mitigation⁶ means replacing project-induced critical area losses or impacts. It is the last step of the preferred mitigation sequence. It shall only be implemented when all other mitigation steps in the preferred sequence have been analyzed and determined not feasible. Compensatory Mitigation shall be implemented in the following sequence:

1. "**Restoration**"- actions performed to reestablish wetland or other critical area functional characteristics and processes.
2. "**Creation**" - Actions performed to intentionally establish a sensitive area/critical area at a site where it did not formerly exist.
3. "**Enhancement**" - Actions performed to improve the condition of existing, degraded, critical areas so that the functions they provide are of a higher quality. Enhancement shall be considered only where "Restoration" and "Creation" are not feasible mitigation solutions.

Critical Aquifer Recharge Area see Chapter 13.10.040 Protection Regulations.

Delineation means the determination of an area's boundaries in the field according to the application of specific methodology by an agency(ies) or qualified professional.

Development proposal means any land use activity that may adversely impact designated critical areas including, but not limited to: the construction or alteration of structures, clearing/grading of land and road construction. (Ordinance #03-2011, effective 10/18/2011)

Documented Expertise refers to the criteria by which a person or agency is considered to be a qualified scientific expert with expertise appropriate to the relevant critical area. This definition shall be interpreted as being applicable to a person, professional, or agency meeting the criteria specified in WAC 365-195-905(4).

Endangered Species means any wildlife species native to the state of Washington that is seriously threatened with extinction throughout all or a significant portion of its range within the state.⁷ These are designated under WAC 232-12-014.

Erosion Hazard Areas (EHA) see Chapter 13.10.061 Protection Regulations.

Evapotranspiration is the loss of water from the soil both by evaporation and transpiration from the plants growing thereon.

Existing and Ongoing Agriculture includes activities involved in the preparation, cultivation and production of crops, animal or fiber products, land registered in a federal or state conservation program and lands which have been approved by the County as Open Space Farm and Agricultural Conservation Land pursuant to RCW Chapter 84.34. Existing and ongoing activities include the operation and maintenance of farm and stock ponds, drainage

⁵ Stevens County SMP 6.34

⁶ DOE Model Wetland Ordinance

⁷ WAC 232-12-297

ditches, irrigation ditches or systems including laterals or canals, changes between agricultural activities and the normal maintenance, repair or operation of existing serviceable structures, facilities or improved areas. An operation or activity ceases to be ongoing when the area on which it was conducted is converted to a nonagricultural use. Agriculture includes orchard or Christmas tree operations. Forest practice activities are not included in this definition.

Fish & Wildlife Habitat Conservation Areas see Chapter 13.10.030 Protection Regulations.

Flood means the general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of runoff of surface waters from any source.⁸

Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the “100-year flood”.

Floodplain means a land area adjoining a river, stream, watercourse or lake, which is likely to be inundated by a base flood. The extent of a base flood may vary during flood events.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.⁹

Forest Practice means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting or processing timber, including, but not limited to: 1) road and trail construction; 2) harvesting, final and intermediate; 3) precommercial thinning; 4) reforestation; 5) fertilization; 6) prevention and suppression of disease and insects; 7) salvage of trees and 8) brush control. Forest Practice activities do not include orchard or Christmas tree operations.¹⁰

Frequently Flooded Areas see Chapter 13.10.050 Protection Regulations.

Geologically Hazardous Areas see Chapter 13.10.060 Protection Regulations. They include Erosion Hazard Areas, Landslide Hazard Areas, Mine Hazard Areas, Seismic Hazard Areas and Volcanic Hazard Areas.

Habitats of Local Importance include a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or high vulnerability to alteration, such as cliffs, talus (a sloping pile of rock fragments at the base of a cliff), and wetlands.

Mitigation refers to a dialogue between the applicant, the Planning Department and an agency(ies) or qualified professional whereby potential impacts to a critical area and associated buffer are discussed and solutions proposed. Mitigation solutions in the order of preference include (1) avoiding, (2) minimizing, (3) restoring, (4) reducing or (5) compensating for adverse impacts.

Ordinary High Water Mark (OHWM) means that mark on lakes and streams that will be found by examining the bed and banks and ascertaining where the presence and action of waters are

⁸ FEMA Model Ordinance

⁹ FEMA Model Ordinance

¹⁰ WAC 222-16-010

so common and usual, and so long continued in all ordinary years, as to mark upon the soil, a character distinct from that of the abutting upland, in respect to vegetation. Provided that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water.¹¹

Priority Habitat and Species (PHS) means a habitat type with unique or significant value to many species or a fish and wildlife species requiring protective measures and/or management guidelines to ensure their perpetuation.

RCW is an acronym for the Revised Code of Washington which is the codification and sectionalization of state legislative actions that have been signed into law by the governor.

Riparian refers to lands adjacent to a natural watercourse, such as a stream bank or lake shore.

Sensitive Species are any wildlife species native to the state of Washington that are vulnerable or declining and are likely to become endangered or threatened within the foreseeable future through a significant portion of their range within the state without cooperative management or removal of threats. They are designated under WAC 232-12-011.

Species of Local Importance are those species that have been designated as locally significant by Stevens County pursuant to the nomination process outlined in Appendix 'B'.

Threatened Species are any wildlife species native to the state of Washington that are likely to become endangered within the foreseeable future through a significant portion of their range within the state without cooperative management or removal of threats. They are designated as under WAC 232-12-011.

Vadose: of, relating to, or being water and solutions in the earth's crust above the permanent groundwater level.

WAC is an acronym for the Washington Administrative Code which is the codification of procedural criteria used to implement the RCWs. The criteria are developed by state agencies at the administrative level in a rule making process. A WAC is not a legislative action.

Wetlands see Chapter 13.10.020 Protection Regulations.

13.00.060 MAPS AND RESOURCE INFORMATION

GMA does not specifically require critical areas to be mapped.¹² Performance standards are preferred since attempts to map critical areas will be too inexact for regulatory purposes.

Stevens County recognizes the necessity for accurate geographic information. As new information becomes available on critical areas, resource maps will be updated, as often as resources permit. Stevens County will strive to obtain the most current version of resource maps as distributed by the agency responsible for maintaining the resource.

Resource maps are available for public review at the Stevens County Planning Department, during regular County business hours. Some restrictions apply to the redistributing and display of sensitive fish and wildlife information in order to protect fish and wildlife from inadvertent or malicious harm.

¹¹ RCW 90.58.039 2(b)

¹² WAC 365-190-040(2d)

13.00.061 REGULATORY MAPS

Stevens County currently has no adopted regulatory maps designating critical areas as defined in this Title. Protection requirements have been designed to be applied upon submittal of an application for land use and development activities.

13.00.062 NON-REGULATORY - RESOURCE MAPS

The following maps are used as a guide to evaluate the potential presence of critical areas:

- Department of Fish & Wildlife (WDFW) Priority Habitat and Species (PHS)
- WDFW Wildlife Heritage Point Observations
- Department of Natural Resources (DNR) Water Type
- Federal Emergency Management Agency Flood Insurance Rate Maps (FEMA FIRM)
- USGS Quadrangle Topographical maps
- USDA Natural Resource Conservation Service (NRCS) soils maps
- National Wetland Inventory (NWI) (1987, USFWS)
- Eastern Washington University Wetland Inventory maps

These maps provide only approximate boundaries and locations. Due to their scale and content, the maps are not considered a regulatory standard or substitute for site-specific assessment. The actual location and boundary(ies) of a critical area shall be based upon the presence of the features applicable to each critical area element.¹³

13.00.063 OTHER RESOURCE INFORMATION

The following publications are available for review at the Stevens County Planning Department. Stevens County will utilize this information whenever applicable. *Stevens County Critical Aquifer Recharge Study*, 1993. This study did not come to a conclusion as to location of aquifers within the County. A variety of information regarding soils, water table depths, etc., was gathered and may be able to be utilized in determining likely aquifer locations.

The Washington Lake Book, 1997- Department of Ecology, publication # 97-10. This book identifies guidelines for shoreline and lake management practices that can be implemented by individuals, organizations, or agencies to achieve healthy and usable waters.

13.00.070 SEVERABILITY

If any provisions of these regulations, or its application to any person, or legal entity, or parcel of land or circumstance is held invalid, the remainder of these regulations or application of the provisions to other persons or legal entities or parcels of land or circumstance, shall not be affected.

¹³ WAC 365-190-040(2D)

CHAPTER 13.10

PROTECTION REGULATIONS

RCW 36.70A.060(2) requires the adoption of development regulations that protect critical areas. Critical Areas, as defined in WAC 365-190-080, include:

- Wetlands
- Critical Aquifer Recharge Areas
- Fish and Wildlife Habitat Conservation Areas
- Frequently Flooded Areas
- Geologically Hazardous Areas

13.10.010 REGULATED ACTIVITIES WITHIN CRITICAL AREAS

Unless the protection requirements of this Title have been met, Stevens County shall not grant approval to a development proposal as defined herein. Compliance with the protection requirements of this Title does not remove an applicant's obligation to comply with applicable provisions of other state, federal or local laws or regulations. The following activities, unless specifically exempted, are regulated within a wetland, lake, river, stream or associated buffer.

1. Removal, excavation, grading, clearing, or dredging of soil, sand, gravel, vegetation or materials of any kind.
2. Dumping, discharging or filling with any material.
3. Draining, flooding or disturbing the water table. This does not include residential drilled or dug ground water wells.
4. Construction, reconstruction, expansion or demolition of any structure unless specifically exempted from this Title.

13.10.020 WETLANDS (Amended by BOCC Resolution #80-2004, July 6, 2004)

- (1) Wetlands are defined as areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.¹⁴
- (2) Wetlands help to protect the public health, safety, and welfare by providing the following beneficial functions¹⁵:
 - Flood storage, moderating surface and storm water flows.
 - Erosion control, the reduction of siltation.
 - Prime habitat for aquatic, terrestrial, and avian species.

¹⁴ RCW 36.70A.030(20)

¹⁵ DOE Wetland Buffers: Use and Effectiveness

- Passive Recreation.
- Water quality protection, the reduction of ground and surface waters pollution.
- Water storage.
- Areas of recharge and discharge for lakes and groundwater aquifers.
- Education and scientific research.

13.10.021 CLASSIFICATION

(a) Types

Stevens County uses the Cowardin classification hierarchy¹⁶ found on the NWI maps and described in the Classification of Wetlands and Deepwater Habitats of the United States. This system classifies wetlands as Marine, Estuarine, Palustrine, Lacustrine, and Riverine with modifiers for hydrology, vegetation, soils, and water chemistry.

This classification system is used to identify the wetland type, not to rate or to place a value upon the wetland. Stevens County contains only Palustrine, Lacustrine and Riverine wetlands.

(b) Ratings

Stevens County uses the Washington State Department of Ecology Wetlands Rating System for Eastern Washington. This 'Four-Tier Rating System' separates wetlands into four categories based on their sensitivity to disturbance, rarity, irreplaceability, and the functions and values they provide. The complete definitions for each wetland category are located in the above referenced manual. The following is a summary¹⁷ of the four categories:

Category 1 wetlands generally are not common and make up a small percentage of the wetlands in the state. These are wetlands that: 1) are very valuable for a particular rare species; 2) represent a high quality example of a rare wetland type; 3) are rare within a given region; or, 4) provide irreplaceable functions and values, i.e. they are impossible to replace within a human lifetime, if at all.

Category 2 wetlands are those that: 1) provide habitat for very sensitive or important wildlife or plants; 2) are either difficult to replace; or 3) provide very high functions and values, particularly for wildlife habitat. These wetlands occur more commonly than Category 1 wetlands and need a high level of protection.

Category 3 wetlands are important for a variety of wildlife species and occur more commonly throughout the state than either Category 1 or 2 wetlands. Generally these wetlands will be smaller, less diverse and/or more isolated than Category 2 wetlands. They will occur most frequently, be difficult to replace, and need a moderate level of protection.

Category 4 wetlands are those that are smaller, isolated and have less diverse vegetation. These are wetlands that should be able to be replaced, and in some cases be able to improve from a habitat standpoint. Replacements can not be guaranteed in any specific case. These wetlands provide important functions and values. In some areas these wetlands may be providing important groundwater recharge and water pollution prevention functions, and therefore may be more important from a local point of view. They may also be providing important flood stage capacity, and therefore be important in reducing both the extent and frequency of flood events.

¹⁶ USFWS Classification of Wetlands and Deepwater Habitats of the United States

¹⁷ DOE Wetlands Rating System for Eastern Washington

13.10.022 DESIGNATION

Areas that meet the classification criteria for Categories 1-4, as defined in the *Washington State Department of Ecology, Wetlands Rating System for Eastern Washington* are designated as wetlands in Stevens County. The National Wetlands Inventory maps will be used to determine the approximate distribution and extent of wetlands.

13.10.023 DELINEATION

Wetland delineation shall be in accordance with the *Washington State Wetlands Identification and Delineation Manual for Eastern Washington*. This is the wetland delineation manual to be used in determining wetland areas when applying state and local government regulations under the Shoreline Management Act and the Growth Management Act. This is a revised version of the 1987 US Corps of Engineers manual.¹⁸

13.10.024 WETLAND BEST AVAILABLE SCIENCE CRITERIA

For the purpose of establishing development regulations which protect the functions and values of wetlands within Stevens County, the following scientific literature was determined to be relevant to Stevens County:

Wetland Buffers: Use and Effectiveness (Castelle et al, 1992). This document summarizes buffer literature as of 1992. It evaluates several scientific publications, an agency survey and field studies on buffer use and effectiveness. It surveyed wetland regulations from several states as well as counties and cities within Washington. After reviewing the literature, Castelle et al concluded:

- Buffers less than 50 feet in width are usually ineffective in protecting wetlands.
- Generally, in Eastern Washington, wetlands with important wildlife functions should have a 100-200 foot buffer.
- In order to retain important wetland-dependant wildlife habitat, the plant structure must be retained for 200-300 feet beyond the wetland.

Washington State Wetlands Rating System for Eastern Washington, DOE, 1991. This document develops the rating system that differentiates wetlands according to specific characteristics or functional attributes. Only 4 pieces of literature are cited in the document. However, the buffers presented are similar to those within Castelle’s study. The recommended buffer zones are:

Category 1	200-300 feet
Category 2	100-200 feet
Category 3	50-100 feet
Category 4	25-50 feet

U.S. Army Corps of Engineers, Regulatory Guidance letter, Robert H. Griffin, Director of Civil Works, 2001. This letter was intended to provide guidance for compensatory mitigation for projects under the Corps Clean Water Act, Section 404a and Rivers and Harbors Act, Section 10. The letter states “ normally, vegetated buffers will be 50 feet wide or less on each side of a stream or other open water area. All vegetated buffers should be designed to provide water quality or aquatic habitat functions (e.g. shading, habitat for animals that require aquatic and adjacent upland areas as habitat) and ecological value.” This letter does not cite

¹⁸ DOE Identification and Delineation Manual for Eastern Washington

the specific science used to reach the recommendation of a 50-foot buffer. Mr. Griffin's thoughts are applicable to mitigation scenarios and should be used with caution.

The Science of Wetland Buffers and Its Implications for Management of Wetlands, masters thesis by Andrew McMillan, 2000. This document summarizes the science used for wetland buffers over the past 20-30 years. Mr. McMillan reviews buffer literature in terms of: (1) buffers and water quality, (2) buffers and wildlife habitat, (3) buffer protection, and (4) buffers and wetland functions. This document analyzes several different methodologies for determining buffers. The first and most easily implemented by local government is the basic buffer method. The other methods are more labor intensive or economically burdensome for staff or the applicant. Buffer zones using the basic buffer method are as follows:

Category I	High Intensity land use	300 feet
	Low Intensity land use	200 feet
Category II	High Intensity land use	200 feet
	Low Intensity land use	100 feet
Category III	High Intensity land use	100 feet
	Low Intensity land use	50 feet
Category IV	High Intensity land use	50 feet
	Low Intensity land use	25 feet

High Intensity land uses include those activities that are associated with moderate to high levels of human disturbance including, but not limited to, residential development at greater densities of 1 dwelling unit per 5 acres, all multi-family residential development, commercial and industrial development and active recreational development, such as ball fields.

Low Intensity land uses include those that areas associated with low levels of human use including, but not limited to, residential development at densities of 1 dwelling unit per 5 acres or less, agricultural or silviculture activities, passive recreational development and open space.

The above materials represent a review of scientific information developed over the past 20 years. These documents present a long and consistent history of buffer science, widths and management. In summary, the consensus of these documents is that:

- Buffers need to be at least 200 feet wide in order to adequately protect sensitive species, rare plants or those which may be difficult to replace;
- Buffers containing 100-200 feet are sufficient to maintain good water quality and important wildlife habitat; and
- Buffers containing less than 50 feet wide generally are degraded in width over time and therefore become ineffective.

**13.10.025 WETLAND PROTECTION REQUIREMENTS
(Amended by BOCC Res. #80-2004, July 6, 2004)**

(1) Minimum Wetland Buffer Widths

- A. The goal of this Title is to provide adequate buffers which maintain the water quality, habitat and hydrologic functions of wetlands. The County desires to implement a straightforward method that affords the applicant some level of predictability and that is easy to apply.

B. The following minimum standard wetland buffers shall be required in accordance with the General Buffer Requirements of Section 13.20.012:

Category 1 Wetlands	200 feet
Category 2 Wetlands	150 feet
Category 3 Wetlands	100 feet
Category 4 Wetlands	50 feet

C. Special provisions shall be required for wetlands associated with certain lakes of statewide significance.

1. For purposes of this section and Title 13, the definition of lakes of statewide significance shall be as set forth in RCW 90.58.030(2)(e)(iv), as of the effective date of this ordinance, for shorelines of statewide significance: “Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark.”

2. Lakes of statewide significance that are wholly contained within the geographic boundaries of Stevens County shall have a two tiered wetland buffering system that distinguishes between high intensity and low intensity uses for Category 1 and Category 2 wetlands. The wetland buffers shall be as follows:

Category I

High Intensity land use	300 feet
Low Intensity land use	200 feet

Category II

High Intensity land use	200 feet
Low Intensity land use	100 feet

3. For purposes of this section and Title 13, high intensity and low intensity uses are defined as follows (See SCC 13.10.024):

(i) High intensity land uses include those activities that are associated with moderate to high levels of human disturbance including, but not limited to, residential development at greater densities of 1 dwelling unit per 5 acres, all multi-family residential development, commercial and industrial development and active recreational development, such as ball fields.

(ii) Low Intensity land uses include those that areas associated with low levels of human use including, but not limited to, residential development at densities of 1 dwelling unit per 5 acres or less, agricultural or silviculture activities, passive recreational development and open space.

(2) Building Setback

A building setback of 10 feet shall be required from the outermost edge of a Category 1 or 2 wetland buffer. The building setback is intended to provide adequate room for construction, use and access without infringing upon the critical area buffer.²⁰

²⁰ CTED Model CAO, Section X.10.390, footnote #7

(3) NWI mapped wetlands

- A. A wetlands rating office data form, in substantially the same form as found in the DOE, Washington State Wetlands Rating System for Eastern Washington, shall be completed for development proposals within 200 feet of a wetland as shown on the NWI maps.
- B. Development proposals within the vicinity of a potential Category 1 or 2 wetland, except those subject to the additional buffer requirements of SCC 13.10.025(C) shall be subject to further review in accordance with Section 13.20.014 to determine whether a buffer increase is deemed necessary.

(4) Deer and Loon Lake Categorized wetlands

The Department of Ecology categorized wetlands associated with Deer and Loon Lakes in 1999. Deer and Loon Lakes are the only lakes with surface areas greater than 1000 acres that are wholly contained within the geographic boundaries of Stevens County. Each lake meets the definition of “lakes of statewide significance” as set forth above and is subject to the additional buffer requirements of SCC 13.10.025(C).

DEER LAKE CATEGORIZED WETLANDS

Illustration of Deer Lake Wetlands

Available at the Stevens County Planning Department

NOTE: Wetland boundaries have not been delineated.

LOON LAKE CATEGORIZED WETLANDS

Illustration of Loon Lake Categorized Wetlands

Available from the Stevens County Planning Department

NOTE: Wetland boundaries have not been delineated.

13.10.030

FISH & WILDLIFE HABITAT CONSERVATION AREAS

Fish and Wildlife Habitat Conservation Areas are defined as land management areas for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean cooperative and coordinated land use planning is critically important.¹⁹

This Title does not attempt to protect the species listed as endangered, threatened or sensitive. The Endangered Species Act provides protection for the species. It is the purpose of this Title to protect, conserve and restore, where practical, natural habitats of those listed species.

13.10.031

CLASSIFICATIONS

The following six areas shall be considered Fish and Wildlife Habitat Conservation Areas:

(1) Areas within which endangered, threatened and sensitive species have a primary association. State listed species are those native fish and wildlife species legally designated as Endangered (WAC 232-12-014), Threatened (WAC 232-12-011) or Sensitive (WAC 232-12-011). (Ordinance #03-2011, effective 10/18/2011)

(2) Habitats and species of local importance. These are habitats or species that due to their declining population, sensitivity to habitat manipulation or other values make them important on a local level. Habitats of local importance may include a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. WAC 365-190-080(5.c.i). State or local agencies, individuals or organizations may submit a petition to nominate an area or species. The nomination process is outlined in Appendix "B".

(3) Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat. This category does not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds and landscape amenities. This category does include artificial ponds intentionally created from dry areas as part of mitigation.

(4) The water type categorization is found in WAC 222-16-030, the Forest Practices Rules and Regulations, administered by the DNR. There are five water types within this classification. These five types include all lakes, rivers and streams within Stevens County. Shorelines under the jurisdiction of the Shoreline Master Program are also included. The following is a summary²⁰ of the five types:

- **Type 1 Water:** All waters, within their ordinary high-water mark, inventoried as "shorelines of the state" under Chapter 90.58 RCW. The Stevens County Shoreline Master Program also applies to these waters.
- **Type 2 Water:** Segments of natural waters that are not classified as Type 1 Waters and have a high fish, wildlife or human use.
- **Type 3 Water:** Segments of natural waters that are not classified as Type 1 or 2 and have a moderate to slight fish, wildlife, and human use.

¹⁹ WAC 365-190-080(5)

²⁰ WAC 222-16-030

- **Type 4 Water:** Segments of natural waters within the bank-full width of defined channels that are not Type 1, 2, or 3 Waters and which are perennial waters of non-fish-bearing streams. Perennial waters means waters downstream from a perennial initiation point.
- **Type 5 Water:** Segments of natural waters within the bank-full width of defined channel that are not Type 1, 2, 3 or 4 Waters and which are seasonal non-fish bearing streams. “Seasonal stream” means those streams that are not perennial but are physically connected by a defined channel system to downstream waters.

(5) Lakes, ponds, streams, and rivers planted with game fish by a governmental entity.

(6) State Natural Area Preserves and Natural Resource Conservation Areas.

There are no designated State natural area preserves or natural resource conservation areas within Stevens County. However, the Little Pend Oreille Wildlife Refuge is one of the largest National Wildlife Refuge in Washington State. This refuge is the only one with a mixed conifer forest and contains a complete set of Northeast Washington’s diverse forest vegetation zones. The Little Pend Oreille Wildlife Refuge was established May 2, 1939 under Presidential Executive Order #8104 as “a refuge and breeding ground for migratory birds and other wildlife”. The refuge is located in the central-eastern portion of the County and consists of 40,177 acres with an additional 21 acres in Pend Oreille County.²¹

13.10.032 DESIGNATION

Habitat areas that meet the above classification criteria, are designated as Fish and Wildlife Conservation Areas. Designation also includes Habitats and Species of Local Importance approved by the Board of Stevens County Commissioners.

13.10.033 RIPARIAN BEST AVAILABLE SCIENCE

For the purpose of establishing development regulations which protect the functions and values of fish and wildlife conservation areas within Stevens County, the following scientific literature was reviewed:

Management Recommendations for Washington’s Priority Habitats, Riparian, WDFW, 1997. This document is an evaluation of numerous pieces of literature on the importance of riparian areas to fish and wildlife. There is agreement in the literature that restricted use of riparian habitat is needed to retain the functions of aquatic and riparian ecosystems. Buffer width is one of the most important variables affecting riparian corridor functions. There is less agreement on the specific width needed to protect riparian and stream habitat. Nor is there agreement on which land use activities might be compatible with fish and wildlife riparian habitat. Seven examples of riparian buffer recommendations were examined. Federal guidelines were not included. The Cederholm (1994) study was chosen as being the one that most closely synthesized the literature. Mr. Kovalchik questions potential bias in this process as the Cederholm study was funded by the state and perhaps gave the results the state desired.

²¹ US FWS Final Comprehensive Plan and EIS, April 2000

The Riparian Habitat Area (RHA) buffers recommended for use within the entire state are as follows:

▪ Type 1 or 2 streams, shorelines of the state, shoreline of statewide significance	250'
▪ Type 3 streams or other perennial or fish bearing streams 5-20 ft. wide	200'
▪ Type 3 streams or other perennial or fish bearing streams less than 5 feet wide	150'
▪ Type 4 & 5 streams or intermittent streams & washes with low mass wasting*	150'
▪ Type 4 & 5 streams or intermittent streams & washes with high mass wasting*	225'

*Mass wasting is a general term for a variety of processes by which large masses of rock or earth material are moved downslope by gravity either slowly or quickly.

Effectiveness of Riparian Management Zones in Providing Habitat for Wildlife Final Report, Margaret A. O’Connell, 2000. The goal of this project was to examine the effectiveness of Riparian Management Zones (RMZ) established in the Forest Practices Act Rules and Regulations in 1998. The objectives of the project were: 1) to determine whether these RMZ habitat specifications provided adequate habitat to maintain wildlife as specified in the Timber Fish and Wildlife goal for wildlife, and if they do not, 2) to identify those habitat conditions created by the RMZ management practices that adversely affect species assemblages, and 3) to provide recommendations for improving RMZ guidelines. The O’Connell project was to monitor wildlife for 2 years prior to and 2 years immediately after timber harvest. The study was conducted on both the East and the West sides of the state. Generally, O’Connell et al concludes that 100-foot RMZs, cut according to forest practice rules, provide sufficient habitat for most small mammals, small birds, snakes, amphibians and bats.

The Forest Practice Act Riparian Management Zones are as follows:

▪ Type 1, 2, 3 waters, greater than 15 feet wide	100-130 feet depending on site index*
▪ Type 1, 2, 3 waters, less than 15 feet wide	75-130 feet depending on site index*
▪ Type 4 & 5 waters	50 feet

*Site index is a designation of the quality of a forest site based on the height of the dominant stand at a chosen age, usually 50 or 100 years.

Narrow Buffer Around Streams Enough Protection, Dr. Steven West, University of Washington Newsletter, 2002. This newsletter summarizes the East-West equivalent of the research conducted by Margaret O’Connell and Steve Hallet. Dr. West says that “50-100 foot buffers could provide enough habitat to safeguard the kinds of animals studied for the 18-20 years it takes before the forest canopy closes once more and they can use the clear cut areas again.” Mr. Kovalchik notes that the O’Connell study may provide a basis for smaller buffer widths next to Type 3, 4 and 5 streams, at least where small mammals and birds, amphibians, snakes and bats are generally the focus species. Landslide prone areas, fish, heron, eagles and other priority species will require wider buffers.

Understanding the Science Behind Riparian Forest Buffers: Effects on Plant and Animal Communities, Julia C. Klapproth and James E. Johnson, Virginia Cooperative Extension Publication Number 420-152, 2000. This publication gives a concise summary and citations for a significant body of riparian buffer “best science” literature. Of note is the following quote about how wide riparian buffers should be: “How wide the buffer must be to provide fish and wildlife habitat is the question of much debate. There is no single “ideal” buffer width, because this will depend on the particular site and the species in question. For example, some animals, particularly “edge species, may require a buffer of 100 to 300 feet (Cronquist and Brooks, 1991, Keller and others, 1993). Forested areas as wide as 600 feet have been recommended where there are heron rookeries, bald eagles, or cavity-nesting birds (USDA Natural Resources Conservation Service 1996). When managing for wildlife, the needs of the animal for food, shelter and certain environmental conditions (for example, cool, moist environments for certain amphibians) will be as important as creating a particular buffer

width.” Mr. Kovalchik notes that “best science” seems to say that one size fits all is not appropriate. Site specific buffer delineation is more appropriate.

Summary of Appendixes B & C from Management Recommendations for Washington’s Priority Habitats, Riparian, WDFW, 1997. The following table illustrates the mean buffer width at which various riparian functions can be maintained.

Function	Buffer width expressed in feet	Function	Buffer width expressed in feet
Nutrient reduction	70	Breeding White-breasted nuthatch	60
Fecal Coliforms	130	Breeding Red-eyed Vireo	135
Most Sediment filtering	80	Breeding Hairy Woodpecker	135
Temperature protection	85	Belted kingfisher roosts	150
60% Shade retention	50	Pheasant/Quail	75
80% Shade Retention	110	Bats	100
100% Shade Retention	115	Amphibians/Reptiles	115
80% Woody debris	50	Salamanders	195
100% Woody debris	140	Mosquito larvae protection	65
General Wildlife habitat	125	Macro-Invertebrate diversity	100
Small Mammals	148	Macro-Invertebrate Density	100
Deer/Elk cover	115	Benthic invertebrate food	100
Beaver foraging	100	Aquatic insects protection	100
Martin food/cover/corridors	150	Trout Habitat Maintenance	100
Wood duck nesting	260	Harlequin duck habitat	130

*Many species, such as bald eagles, heron and osprey, in this category are priority species that utilize big habitat areas.

Some data from Appendix B & C must be looked at with care, the numbers may not indicate buffers, instead, they may show distances from a nest. Several studies indicate the need for 328-foot buffers, Mr. Kovalchik views these with skepticism and wonders if this number reflects protecting all species in a buffer. The O’Connell study indicates a 100-foot buffer is sufficient for most bats, amphibians, snakes, small mammals and small birds. The composite

data from Appendix B & C generally shows that buffers of 100-150 feet is sufficient to protect important wildlife and habitat; that 75-100 feet provides minimal maintenance of most values and functions and the 50 feet is the absolute minimum.

In conclusion, the scientific information regarding riparian buffer areas does not clearly define how science was used to formulate the recommended buffers in relationship to the various stream types. No doubt, this is partially due to the complexity of the habitat needs for wildlife. In order to provide adequate habitat, every site would need to have buffers designed to meet the needs of the wildlife present at the time a development was proposed. This would be far to labor intensive and costly for both the applicant and the County.

13.10.034 FISH AND WILDLIFE HABITAT CONSERVATION AREAS PROTECTION REQUIREMENTS (Amended by BOCC Res. #80-2004, July 6, 2004)

(1) Waters of the State – Minimum Riparian Buffer Widths

It is the goal of this Title to provide buffers that will provide minimum maintenance for most fish and wildlife habitat functions. It is also the goal of the County that buffers be designed to work in harmony with development regulations, such as those pertaining to the installation of on-site sewage disposal systems. The on-site sewage regulations, administrated by the Northeast Tri-County Health District require septic tanks to be located 50 feet from any surface water and drainfields be located 100 feet from any surface water.²² To ensure adequate protection of existing fish and wildlife habitat conservation areas, the County buffer requirements shall apply to all development proposals even when a lesser standard might be approved by another agency.

The following minimum standard riparian buffers shall be required in accordance with the General Buffer Requirements of Section 13.20.012, provided that development proposals within a mapped habitat area for Endangered, Threatened and Sensitive (ETS) species or within 1000 feet of a documented point observation for ETS species may be subject to additional requirements pursuant to SCC 13.10.034 (3) and (4) below:

Type 1 Waters	150 feet
Type 2 Waters	150 feet
Type 3 Waters	100 feet
Type 4 Waters	100 feet
Type 5 Waters	50 feet

(2) Building Setback

A building setback of 10 feet shall be required from the outermost edge of a riparian buffer with which a threatened, endangered or sensitive species has primary association. The building setback is intended to provide adequate room for construction, use and access without infringing upon the critical area buffer.²³

(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

²² NETCHD On-site sewage REGULATIONS, Section X, Location, Table I

²³ CTED Model CAO, Section X.10.390, footnote #7

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. (Ord. #08-2009 – effective 10/20/09)

C. SCC 13.10.034.A and SCC 13.10.034.B shall apply to development proposals within 200 feet of a Fish and Wildlife Habitat Conservation Areas for species designated in SCC 13.10.031(1) and (2) as identified on applicable WA Department of Fish and Wildlife Priority Habitat and Species Maps or other best available science. (Ordinance #03-2011, effective 10/18/2011)

(4) Mapped Point Species Observations

A. Development proposals within 1000 feet²⁴ of documented point observations for endangered, threatened or sensitive species shall be forwarded by the County to the WDFW to validate the point observation.

B. For each development proposal within 1000 feet of a validated point observation for endangered, threatened or sensitive species, 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 and the protected species.

C. The General Buffer Requirements of SCC 13.20.012 shall apply.

13.10.040 CRITICAL AQUIFER RECHARGE AREAS (Amended by BOCC Res. #80-2004, July 6, 2004)

Critical Aquifer Recharge Areas (CARA) are areas with a critical recharging effect on aquifers used for potable water or areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water.²⁵

Potable water is an essential life-sustaining element and much of Washington's drinking water comes from ground water supplies. Once groundwater is contaminated, it is difficult, costly, and sometimes impossible to clean up. Preventing contamination is necessary to avoid exorbitant costs, hardships, and potential physical harm to people. The quality of ground water in an aquifer is inextricably linked to its recharge area.²⁶

²⁴ WDFW PHS data has an accuracy range from within one-quarter mile to general area. WDFW Description of Fish & Wildlife Digital Data, July 1998

²⁵ WAC 365-190-030(2)

²⁶ WAC 365-190-080(2)

It is the purpose of this Title to define a scientifically valid and realistic methodology by which the County will designate areas with a critical recharging effect.²⁷ As information becomes available, the County shall map and designate such areas. In the interim, this chapter provides for review and regulation of land use activities that pose a potential contamination threat to known critical aquifer recharge areas or that could increase the susceptibility of an aquifer to contamination.

13.10.041 CLASSIFICATION

WAC 365-190-080(2) requires Counties to classify recharge areas for aquifers according to the vulnerability of the aquifer. Generally, there is insufficient information to determine an aquifer's vulnerability.

RCW 36.70A.050 authorized the Department of Ecology to develop minimum classification guidelines for Washington State while allowing for regional differences. DOE published these guidelines in July, 2000, as the *Guidance Document to the establishment of Critical Aquifer Recharge Area Ordinances*.

These guidelines suggest that jurisdictions attempt to determine an aquifer's susceptibility rather than determine vulnerability. A susceptibility determination allows a jurisdiction to designate CARAs using a conservative approach, which provides a worst case scenario for contaminant movement in the subsurface.²⁸

Two methods of determining susceptibility are established in the DOE guidelines; one is a *ratings system* and the other is based upon *wellhead protection areas*. The *ratings system* uses existing information which allows a County to make preliminary designations. *Wellhead protection areas* formulated for Class A water systems can be used to further refine the degree of susceptibility of an aquifer.

Stevens County hereby incorporates the ratings system as the first step in ranking the susceptibility of an aquifer to surface contamination. When applicable, Stevens County will use wellhead protection areas developed for Class A water systems to further refine the degree of susceptibility.

13.10.042 CARA SUSCEPTIBILITY FACTORS (Amended by BOCC Resolution #80-2004, July 6, 2004)

The three following factors²⁹ shall be considered in determining susceptibility of an underlying aquifer to contamination:

1. The overall permeability of vadose zone material (this includes both the permeability of the soil and permeability of material underlying);
2. The thickness of the vadose zone (this may also be considered as the depth to water in unconfined conditions); and,
3. The amount of recharge available (either natural precipitation or artificial irrigation).

²⁷ DOE Guidance Document to the establishment of Critical Aquifer Recharge Area Ordinances.

²⁸ DOE Guidance Document to the establishment of Critical Aquifer Recharge Area Ordinances

²⁹ DOE Guidance Document to the establishment of Critical Aquifer Recharge Area Ordinances

13.10.043 SUSCEPTIBILITY RATING SYSTEM

(1) Permeability of Vadose Zone

The vadose zone (area between the top soil and the groundwater level) is composed of both the soil and the geologic materials underlying the soil. To adequately determine the overall ease with which water will travel from the land surface to the aquifer it is necessary to determine the overall permeability of both soil and geologic media.

Soil permeability can be determined through use of the NRCS Soil Survey data. Permeability for each soil type can be found in tables describing the physical and chemical properties of soils. Generally, these values are given in the inches per hour water moves downward through a saturated soil. The extent of the various soil permeabilities can be found in maps that accompany each Soil Survey.

Table One: Soil Permeability Designations Based On Soil Survey (NRCS Soil Survey)

Condensed Description	Soil Survey Description	Permeability (in/hr)	Permeability (cm/sec)	Rating
Very Slow	Very Slow	<0.06	<.00453	0
Slow	Slow	0.06 - .20	.00453 - .0141	1
	Moderately Slow	0.20 - 0.60	.0141 - .0423	
Moderate	Moderate	0.60 - 2.0	.0423 - .1411	2
	Moderately Rapid	2.0 - 6.0	.1411 - .4233	
Rapid	Rapid	6.0 - 20	.4233 - 1.411	3
	Very Rapid	>20	>1.411	

A determination of the permeability of geologic material underlying the soil is more problematic. Permeability of underlying material can be estimated by conducting a review of well logs existing for the area(s) of concern. These logs contain a description of the geologic material (or matrix) through which a well was installed.

Permeability can be estimated using the following table by determining the material type and assigning the appropriate permeability range for the material(s) overlying the uppermost aquifer. In cases where heterogeneous material are encountered, the least permeable layer with a thickness of not less than 5 feet shall determine the overall permeability to be applied to the entire vadose zone, excluding the soil layer.

It is recommended that a well density of at least 2-3 wells per square mile be used to determine geologic matrix and depth to water. Well logs are available from the Department of Ecology Eastern Regional office.

Table Two: Geologic Matrix Designations (from Fetter, 1980 – Freeze and Cherry, 1979)

Condensed Description	Geologic Matrix	Permeability (cm/sec)	Rating
Very Slow	Unfractured Igneous or Metamorphic Bedrock, Shale	10-9 – 10-13	0
	Marine clay, Clay, Dense Sandstone, Hardpan	10-7 – 10-9	
Slow	Loess, Glacial Till, Fractured Igneous or Metamorphic Bedrock	10-5 – 10-8	1
	Silt, Clayey Sands, Weathered Basalt	10-3 – 10-7	
Moderate	Silty Sands, Fine Sands, Permeable Basalt	10-1 – 10-4	2
	Clean Sands, Karst Limestone	100 – 10-1	
Rapid	Sand and Gravel	101 – 100	3
	Gravel	102 – 10-1	

(2) Infiltration

Infiltration or the degree to which water moves through the vadose zone into the uppermost aquifer (excluding direct injection) can be estimated using information provided in the following table. Infiltration is determined by taking into account all available moisture (rainfall, snowfall, irrigation, etc.) and subtracting the moisture lost due to evapotranspiration (the loss of water from the soil both by evaporation and transpiration from the plants growing thereon).

Approximate precipitation is obtained by locating the rainfall station nearest to the area of concern and subtracting the potential evaporation, again, from the nearest station. The determination of infiltration should always be viewed as an approximation and subject to modification as additional data is collected. In Eastern Washington, it is important to include any artificial irrigation in the total precipitation amount. This is vital in areas where evapotranspiration exceeds precipitation.

Rainfall Station*	Precipitation	Potential Evapotranspiration (PET)
Chewelah	19.5	23.7
Colville	17.5	24.4
Northport	19.2	25.6

*NOTE: Other rainfall stations in Washington are listed on the Western Regional Climate Center website at www.wrcc.dri.edu/summary/mapwa.html.

Table Three: Infiltration (Precipitation minus PET)

Condensed Description	Infiltration (inches)	Rating
Very Low	0 – 1	0
Low	1 – 3	1
Moderate	3 – 9	2
High	>9	3

(3) Depth to Water

Depth to water is the distance between the land surface and the uppermost aquifer. This distance is also defined as the vadose zone or unsaturated zone. Depth to water is estimated using well logs for wells, which have been previously drilled, within the area of concern. The density of wells for which information exists should be no less than that used to determine the geologic matrix. The use of wells logs will not provide for an exact determination of the depth to the uppermost aquifer, rather they are to be used as a basis for estimating that depth across a relatively large area of one-half to one square mile.

Table Four: Depth to Water

Condensed Description	Depth to Water (Feet)	Rating
Very Low	Confined Aquifer	0
	>50	
Low	25 – 50	1
Moderate	10 – 25	2
High	0 – 10	3

13.10.044 SUSCEPTIBILITY USING WELLHEAD PROTECTION AREAS

The determination of Wellhead Protection Areas is required for all Class A water systems in the State of Washington. The determination of a wellhead protection area is based upon the time of travel of a water particle from its source to the wellbore. The time of travel is based on several factors including the permeability of the vadose and saturated zone, whether the aquifer is confined or unconfined, the pumping rate of the well, and construction of the well itself. Concurrent with the wellhead mapping, water purveyors are also required to collect site specific information to determine the susceptibility of the water source to surface sources of contamination. Water sources are ranked by the Washington State Department of Health as either a high, moderate or low susceptibility to surface contamination.

Use of wellhead protection area boundaries and accompanying susceptibility ratings can be used to refine local aquifer susceptibility within critical aquifer recharge areas, and/or differential priority areas within a larger critical aquifer recharge area. Wellhead protection areas which have been derived using either analytical or numerical modeling techniques based on acquired geologic and hydrogeologic data, will yield a technically valid local susceptibility and (in some cases) a local vulnerability. Modeling can include defining a wellhead protection area using a calculated fixed radius, per Appendix E of *Department of Health Washington State Wellhead Protection Program Guidance document, publication #331-018, April 1995*.

As wellhead protection area delineation methods are refined (either at the state or federal level), and those methods become accepted standards, modifications to previously defined classified areas are recommended.

**13.10.045 CARA DESIGNATION
(Amended by BOCC Resolution #80-2004, July 6, 2004)**

- (1) Stevens County Action. In conjunction with adoption of a Growth Management Act Comprehensive Plan or subarea plan, and in any update to such plans, the County shall review all available information regarding susceptibility of known aquifer recharge areas. The County shall determine to the degree feasible the scores from Tables One through Four in SCC 13.10.043 for known aquifer areas. Areas identified as having a

'High Susceptibility' rating according to 13.10.045(2) shall be forwarded to the Board of County Commissioners for review and possible designation as Critical Aquifer Recharge Areas.

- (2) The following scale shall be used to determine the overall susceptibility to contamination of an aquifer. This scale may be modified by the Administrator, in consultation with the Stevens County Public Utility District (PUD), the Northeast Tri-County Health District or any affected water purveyor, for specific sites based on the findings and recommendation of a qualified professional hydrologist, hydrogeologist, geologist, or soils scientist with demonstrated experience in surface water and groundwater analysis. Whenever possible, Wellhead Protection Areas shall be used to further refine the rating system.

Low Susceptibility	Moderate Susceptibility	High Susceptibility
0 – 3	4 – 7	8 – 12

- (3) At any time prior to action by Stevens County to designate critical aquifer recharge areas, the Administrator may require that a development site be reviewed and classified according to the susceptibility rating scale above. Such review and classification may be required for any use, but shall be required for uses identified in SCC 13.10.046(5) and (6).
- (4) In deciding whether a development proposal requires additional review, the WRIA 59 map showing aquifer areas shall be reviewed by the Administrator.
- (5) Whenever the question of additional review is not clearly answered based on readily accessible information, the Administrator shall require additional review.

**13.10.046 CARA PROTECTION REQUIREMENTS
(Amended by BOCC Resolution #80-2004, July 6, 2004)**

- (1) Regulations adopted under SCC 13.10.040 through 13.10.047 shall not affect uses legally existing on any parcel prior to the effective date of this Title; neither shall these regulations affect any right to use or appropriate water as allowed under state or federal law.
- (2) These CARA Protection Requirements shall apply only to new development projects subject to SEPA and located in a designated Critical Aquifer Recharge Area, provided that until such time as Stevens County takes action to designate Critical Aquifer Recharge Areas, the requirements of this Section shall apply in "High Susceptibility" areas as determined pursuant to SCC 13.10.045(3).
- (3) When a hydrogeologic site evaluation is required, the applicant shall document potential impacts on an aquifer and provide a discussion of approaches under which the impacts could be avoided, reduced, mitigated or remediated.
- (4) The county shall impose conditions to avoid, reduce, mitigate or remediate impacts to an aquifer, as appropriate for the project and may require monitoring and bonding or other security to ensure that conditions of approval are met. An approval based on compliance with federal, state, or local, but non-County, regulations shall not shift the burden of enforcement from the federal, state, or other local agency to the County.
- (5) The following uses require CARA review and a hydrogeologic site evaluation pursuant to 13.40.047:
- A. Chemical manufacturing or reprocessing;
 - B. Commercial, industrial, institutional, or other facilities or activities that include storage, use, handling, or production of hazardous substances or waste products as defined by WAC 173-303;
 - C. Creosote and asphalt manufacture and treatment;
 - D. Electroplating;
 - E. Petroleum transmission facilities;

- F. Sawmills producing over 10,000 board feet per day;
- G. Solid waste landfills;
- H. Any septic or sewage disposal system with design flows of more than 3,500 gallons per day;
- I. Surface mining operations requiring a permit from the State Department of Natural Resources; and
- J. Type II and Type V Injection Wells.

- (6) The following uses may require CARA review and a hydrogeologic site evaluation pursuant to SCC 13.40.047. The administrator shall waive this requirement if an applicant provides documentation showing that compliance with federal, state, and local laws, along with BMPs designed for the specific project, are sufficient to protect potentially affected aquifers.
- A. Aircraft, automobile and boat repair and servicing;
 - B. Dry cleaners;
 - C. Funeral services;
 - D. Furniture stripping;
 - E. Gas stations and petroleum storage tanks (underground or aboveground) regulated and inspected by the Department of Ecology;
 - F. Golf courses;
 - G. Junkyards and auto wrecking
 - H. Other projects or activities including septic or sewage disposal systems serving commercial and industrial projects as determined by the Administrator on recommendation from the Stevens County PUD, the Tri-County Health District or an affected water purveyor.

13.10.047 HYDROGEOLOGIC SITE EVALUATION
(Amended by BOCC Resolution #80-2004, July 6, 2004)

- (1) A hydrogeologic site evaluation is a report prepared by a qualified hydrologist, hydrogeologist, geologist or soils scientist with demonstrated experience in surface water and groundwater analysis. The report shall address the impact the proposed land use will have on the quality and quantity of water transmitted to an aquifer and shall include the following:
- A. A description of surficial soil types and the geologic and hydrogeologic setting including soil texture, permeability and contaminant attenuation properties, characteristics of the vadose zone and geologic material including permeability and attenuation properties, and depth to groundwater and/or an impermeable soil layer;
 - B. The location and identification of wells within 1,000 feet of the site;
 - C. The location and identification of surface water bodies and springs with recharge potential within 1,000 feet of the site;
 - D. A description of underlying aquifers, including water level, gradients, and flow direction;
 - E. Any available data on surface water and groundwater quality;
 - F. An assessment of the effects of the proposed development on water quality, quantity, and on the long-term viability of the groundwater resource;
 - G. Alternatives to avoid, reduce, mitigate or remediate any substantial impact to the groundwater resource;
 - H. A summary of other local, state and federal requirements that apply to protect surface and ground water quality;
 - I. Recommendations for appropriate BMPs (Best Management Practices), monitoring, or other mitigation; and
 - J. Other information as required by the Administrator in consultation with the Stevens County PUD, the Northeast Tri-County Health District, or an affected water purveyor.

- (2) The cost of preparing a hydrogeologic site evaluation and any County costs incurred to review and evaluate the report shall be paid by the project applicant pursuant to SCC 13.00.034.

13.10.050 FREQUENTLY FLOODED AREAS

Frequently Flooded Areas are defined as those floodways and associated floodplains that have a one (1%) percent or greater chance of flooding in any given year.³⁰ These lands perform important hydrologic functions. It is the purpose of this regulation to promote the public health, safety and welfare and to minimize public and private losses due to flood conditions.

13.10.051 CLASSIFICATION

Frequently flooded areas are identified by FEMA on Flood Insurance Rate Maps (FIRM). These are the official map(s) on which the Federal Insurance Administration has identified areas of potential flood hazards and the risk premium zones.

13.10.052 DESIGNATION

Areas identified on the FEMA FIRM are designated as Frequently Flooded Areas.

13.10.053 PROTECTION REQUIREMENTS

Development proposals that require a permit from Stevens County shall comply with the Stevens County Flood Damage and Prevention regulations, the Stevens County Shoreline Master Program and the Uniform Building Code with regard to structural safeguards to reduce risk to life, health and property from flooding.

13.10.060 GEOLOGICALLY HAZARDOUS AREAS

Geologically Hazardous Areas are areas that because of their susceptibility to erosion, sliding, earthquake or other geological events are not suited to siting development consistent with public health or safety concerns.³¹

Some geologic hazards can be reduced or mitigated by engineering, design or modified construction practices so that risk to health and safety are acceptable. When technology cannot reduce risks to acceptable levels, building in geologically hazardous areas shall be avoided.³²

The NRCS soils maps will be used to help identify those soils with limiting factors that may affect development.

13.10.061 TYPES OF GEOLOGICALLY HAZARDOUS AREAS

The five types of Geologically Hazardous Areas considered under this section are, (1) Erosion Hazard Areas, (2) Landslide Hazard Areas, (3) Mine Hazard Areas, (4) Seismic Hazard Areas and (5) Volcanic Hazard Areas

³⁰ WAC 365-190-030(7)

³¹ WAC 365-190-030(8)

³² WAC 365-190-080(4)

(1)-(2) Erosion Hazard Areas (EHA) and Landslide Hazard Areas (LHA)

(a) Classification

Erosion Hazard Areas are defined as areas containing soils identified by the NRCS Soil Classification System, having “severe” rill and “inter-rill” erosion hazard.³³ A rill is a channel made by a small stream, similar to a rivulet or grooves or furrows formed by moving water.

Landslide Hazard Areas are defined as areas potentially subject to risk of mass movement due to a combination of geologic, topographic and hydrologic factors.³⁴ LHAs generally include one or more of the following:

- Areas that have historically been prone to landslides.
- Areas that have a 30% slope or greater.
- Areas containing soil types as unstable and prone to landslide hazard.
- Areas potentially unstable as a result of rapid stream incision or stream bank erosion.
- Areas of uncompacted fill.³⁵

Note: The NRCS hazard ratings are interpretations of the potential for erosion, applied to broadly generalized map units. The NRCS maps will be used to identify areas of erosion and landslide potential. *The NRCS Soil Survey of Stevens County* (Table 14) identifies the soil types that have Erosion and Landslide Hazard potential.

(b) Designation

Lands that meet either of the classification criteria of an Erosion or Landslide Hazard Area are designated as Potential Erosion or Landslide Hazard Areas. Areas adjacent to Lake Roosevelt may be potentially unstable as a result of shoreline erosion, over steepened banks, fluctuating reservoir elevations or adverse groundwater conditions.

(c) Protection Requirements

- (i) Areas identified as an EHA or LHA shall not be developed unless the applicant demonstrates that the project is structurally safe from the potential hazard and that the development will not increase the hazard risk.
- (ii) A setback for development near an EHA or LHA shall be established on a site-by-site basis, based on the type of development proposed, the type and extent of hazard present and pursuant to the Uniform Building Code.
- (iii) A run-off management plan or an erosion control plan to reduce sedimentation problems may be required of anyone proposing to develop within an EHA or LHA.
- (iv) Disturbance of an EHA or LHA requires reseeding or replanting with native vegetation to assist in stabilization of the area and to discourage the infiltration of invasive species.

(3) MINE HAZARD AREAS

(a) Classification

Mine Hazard Areas are defined as areas that are directly underlain by, adjacent to, or affected by mine workings such as adits (an almost horizontal passageway into a mine), tunnels, drifts, or air shafts.³⁶ Factors to be considered shall include: Proximity to development, depth from ground surface to the mine working, and geologic material.³⁷

³³ WAC 365-190-080(4c)

³⁴ WAC 365-190-030(10)

³⁵ WAC 365-190-080(4d)

³⁶ WAC 365-190-030(13)

³⁷ WAC 395-190-080 (4)(f)(ii)

These areas have the potential for creating large underground voids susceptible to collapse. In addition, steep and unstable slopes created by open mines, tailings and waste rock piles, have the potential for being mine hazard areas. Mine hazard areas are based upon the identification of active or historic mining activity and site-specific information regarding topography and geology.

(b) Designation

Lands that meet the above classification criteria are designated as Mine Hazard Areas.

(c) Protection Requirements

In the event that a development is proposed in the vicinity of a mine hazard area and the development requires County approval, the following protection requirements shall apply:

- i. The locations of obvious mining activities shall be noted on site plans.
- ii. The applicant shall comply with any known, previously prepared and approved site reclamation plan.
- iii. Structures and impervious surfaces shall not be developed on any tailings pile unless the applicant has demonstrated that the project is safe and that the development will not increase the hazard risk. If the tailings pile is known to be hazardous, a setback for development will be determined based on an industry standard for safety distance from the specific mineral/chemical content.
- iv. Setbacks from mine workings shall be determined on a site-by-site basis. If necessary, a geo-technical report may be required to determine appropriate setbacks, or for the preparation of a reclamation plan for the site.
- v. Applicants may be required to prepare a reclamation plan for restoration of a site, or portion thereof, with previous mining activity.

(4) SEISMIC HAZARD AREAS

Seismic Hazard Areas are defined as areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement or soil liquefaction.

(a) Classification

The majority of Stevens County is located within Seismic Zone 2B according to the 1997 Uniform Building Code. There are no known active faults in Stevens County.

(b) Designation

There is little or no risk of seismic hazard within Stevens County.

(c) Protection Requirements

Development activities shall be required to conform to applicable provisions of the Uniform Building Code with respect to structural safeguards to reduce the risks from seismic activity.

(5) VOLCANIC HAZARD AREAS

Volcanic hazard areas are defined as areas subject to pyroclastic flows, lava flows and inundation by debris flows, mudflows or related flooding resulting from volcanic activity.

(a) Classification

No Volcanic Hazard Areas are known to exist in Stevens County. There are active volcanoes in the region that could impact Stevens County.

(b) Designation

There is little or no risk of volcanic hazard from pyroclastic action within Stevens County. Minimal impact may occur from fall-out of ash.

(c) Protection Requirements

No specific protection requirements are identified for volcanic hazard areas.

CHAPTER 13.20

BUFFERS, MITIGATION, NONCONFORMING

STRUCTURES AND REASONABLE USE EXCEPTION

13.20.010 BUFFERS

The term "buffer" in the most general sense refers to a vegetated area that separates land uses. Buffers may surround wetlands or be adjacent to riparian areas with the intent of protecting these areas from adverse impacts. Fish and wildlife take advantage of the diversity of resources provided by buffers for habitat, breeding and movement. Healthy buffers typically consist of:

- A moist microclimate (warmer in the winter and cooler in the summer) when compared to adjacent uplands.
- Signs of disturbance due to natural events such as flooding, broken trees, snags, etc.
- Structural diversity consisting of:
 - A canopy layer with a variety of coniferous and deciduous trees
 - A shrub/brush understory
 - A grass/herb ground cover
- Higher vegetation productivity than the adjacent uplands.

The goal of this Title is to provide adequate buffers to maintain the functions and values of wetlands or riparian areas, using the best site-specific science rather than to rely on large buffer widths. Categorically requiring large buffer widths may needlessly encumber large quantities of private property, when it may be that buffers of smaller size and high quality would offer adequate protection. A buffer width should take into account both the sensitivity of the critical area being buffered, and the level of intensity of the adjacent land use.

13.20.012 GENERAL BUFFER REQUIREMENTS (Amended by BOCC Res. #80-2004, July 6, 2004)

Wetland and riparian buffers (hereinafter referred to as 'buffers') and/or development setbacks shall be required for all regulated development proposals in or adjacent to designated wetlands or water bodies. The following criteria shall apply to all buffers:

1. Buffers shall be measured on a horizontal plane in a landward direction from the wetland edge and/or the Ordinary High Water Mark (OHWM) as delineated in the field.
2. Required buffers shall retain existing vegetation in a natural condition, provided that an applicant may submit a vegetation management plan prepared by a qualified professional that allows ongoing maintenance and re-vegetation, particularly when enhancement of the buffer with native species is proposed.
3. Fertilizer, pesticides and herbicides should be used in required buffers only according to appropriate and specific labeling and directions, as provided by state and federal law, and in conjunction with a vegetation management plan.
4. Where buffer disturbance has or will occur in conjunction with regulated activities, re-vegetation with plants, shrubbery or trees which will maintain the functions and values of the buffer area shall be required as mitigation.
5. Any wetland created, restored, or enhanced as compensation for approved wetland alterations shall also include as part of mitigation, a buffer appropriate to the category of the wetland being created, restored or enhanced.

6. An applicant may be required to record a notice or deed restriction of the presence of the critical area or associated buffer in a form substantially set forth in Appendix 'C'.
7. The applicant may be required to install permanent edge markers or signs along the boundary of the critical area or associated buffer. These markers may be made of a variety of materials such as fences, rocks, trees, hedgerows or other permanent vegetation.

13.20.014 BUFFER ALTERNATIVES
(Amended by BOCC Resolution #80-2004, July 6, 2004)

(1) Increasing Buffer Area

Standard buffer widths *shall* be increased on a site-by-site basis when the Administrator determines that a larger buffer is necessary to protect the functions and values of a wetland or riparian area. This determination shall be supported by appropriate documentation prepared by a qualified professional, DOE or WDFW showing that an increase is necessary based on *one* or more of the following:

- A. A larger buffer is needed to maintain critical habitat for existing, documented federal or state listed endangered, threatened or sensitive species or a species of local importance, or
- B. The buffer area or adjacent land is susceptible to severe erosion and standard erosion control measures will not effectively prevent adverse impacts, or
- C. The buffer area has minimal vegetative cover or slopes greater than 15 percent, or
- D. The proposed development has a density of greater than 1 dwelling unit per five acres.

(2) Averaging Buffer Area

Averaging buffer widths may modify standard buffer widths. Averaging may be allowed by the Administrator where the applicant successfully demonstrates through a report prepared by a qualified professional, the DOE or the WDFW, that either:

- A. Averaging is necessary to avoid an extraordinary hardship caused by circumstances peculiar to the property; or
- B. The character of the buffer varies in slope, soils or vegetation and it would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places.
- C. In addition to meeting the standard described in subsection A or B above, all of the following shall be met:
 - (i) Averaging will not adversely impact the riparian or wetland functions and values, and
 - (ii) The total area contained within the buffer after averaging is not less than that contained within the buffer prior to averaging. In no instance shall the buffer width be reduced by more than 50% of the standard buffer or be less than 50 feet, and
 - (iii) That low intensity land uses would be located adjacent to areas where the buffer width is reduced, and
 - (iv) The presence of a critical area and associated buffer has been documented by the recordation of a notice or deed restriction of the presence of a buffer area, and
 - (v) Permanent edge markers along the boundary of the buffer area have been installed, and
 - (vi) A mitigation plan has been prepared by a qualified professional, approved by the Administrator, and incorporated into the proposal.

(3) Buffer Reduction

- A. The standard buffer width may be reduced on a site-by-site basis when it is determined that a smaller area is adequate to protect the functions and values based on site-specific characteristics. All applications for buffer reduction shall be reviewed under "Public Review" pursuant to Section 13.30.040.
- B. Best available science indicates that buffers less than 50 feet are usually ineffective in protecting wetlands over a period of time (Castelle et al, 1992, McMillan, 2000), extreme caution should be taken in further reducing smaller buffers.
- C. Buffer reductions shall be based upon best available science appropriate for the site. Buffer reductions should be used on a limited basis and should be granted only when it has been determined that the functions and values of the wetland or riparian habitat can be maintained.

D. Application Requirements

The applicant shall submit a critical area report prepared by a qualified professional with documented expertise. At a minimum the report shall contain:

- (i) A description of the proposed development, including a site plan.
- (ii) A description and illustration of the relationship between the proposed development and the critical area, associated buffer and applicable setbacks.
- (iii) An assessment and illustration of the existing condition of the critical area and buffer within and adjacent to the project area. This assessment must include when appropriate, a wetland delineation, categorization and acreage.
- (iv) An analysis based upon best available science, of how the reduced buffer area will provide protection that is equal to or better than the administratively determined buffer.
- (v) A discussion of whether any other alternative with less impact on the critical area and associated buffer is possible.
- (vi) Any proposed buffer enhancement using native vegetation, artificial habitat features, buffering, vegetative screen, barrier fencing, grass-lined swales or other enhancement tools as appropriate to site conditions and the wetland, river or stream functions.

E. Decision Criteria

Buffer reductions shall be granted only when the following criteria are met.

- (i) The critical area report provides a sound rationale for a reduced buffer based upon best available science;
- (ii) A decrease is necessary to accomplish the purposes of the proposal and no reasonable alternative is available
- (iii) No direct or indirect, short-term or long-term, adverse impacts to the specific critical area will result from the proposed activity.
- (iv) The need for a reduced buffer is not the result of segregating, subdividing or adjusting a boundary line after the effective date of this Title.
- (v) The applicant has successfully demonstrated that the reduced buffer will provide protection for the wetlands functions equal to or better than the administratively determined buffer.
- (vi) A mitigation plan has been prepared by a qualified professional, approved by the Administrator, and has been incorporated into the proposal.

13.20.016 ALLOWABLE USES IN BUFFERS

Low impact uses and activities, which are consistent with the purpose and function of the buffer, and which do not detract from its integrity, may be permitted within the buffer, depending on the sensitivity of the habitat involved. Activities shall not impact the functions or value of the buffer beyond its ability to recover. The following may be permitted within a buffer:

- Removal of invasive or noxious weeds
- Pedestrian trails, less than 4 feet in width, unpaved and with no bark or fill
- Non-permanent wildlife-watching/hunting blinds
- Scientific or educational activities
- Swales planted with native plants
- Hunting
- Wildfire fuel reduction
- Existing agriculture and forest practice activities
- Existing water wells and existing surface water withdrawals

13.20.020 MITIGATION (Amended by BOCC Resolution #80-2004, July 6, 2004)

- (1) Mitigation is the process to lessen the impact from a proposed activity. This process consists of an evaluation of the current state of a critical area, an analysis of the potential impacts from the proposed development, formulation of solutions to offset impacts and the creation of a required mitigation plan and an implementation schedule. The applicant, Planning Department, a qualified professional, and oftentimes, agencies with expertise will be involved in the mitigation process.
- (2) The reasonable and economically viable use of the property shall be considered as a part of mitigation. Subject to the Reasonable Use provisions of this Title, any proposed development or land use activities resulting in a critical area alteration, that cannot adequately mitigate its impacts to a critical area or its associated buffer, shall be denied.

(3) Preferred mitigation sequence

Mitigation may include development setbacks, limits on clearing and grading, best management practices for erosion control and maintenance of water quality. Mitigation of one critical area impact should not result in unmitigated impacts to another critical area. The following is the preferred mitigation sequence:

- A. **Avoid** the impact altogether by not taking a certain action or parts of an action.
- B. **Minimize** the impacts by limiting the degree or magnitude of the action and its implementation with appropriate technology.
- C. **Restore** the impact by repairing or rehabilitating the affected environment.
- D. **Reduce** or eliminate the impact over time by preservation and maintenance operations during the life of the action.
- E. **Compensate** for the impact through the preferred compensation sequence: first, restoration; second; creation; or third, enhancement.

(4) Mitigation

- A. When a development proposal includes land disturbance within 300 feet of the edge of a critical area, the Administrator shall determine whether adverse impacts to the critical area are likely.
- B. If the Administrator determines that adverse impacts are likely, a mitigation plan shall be incorporated into the proposal. The plan shall include the following:

- (i) A description of expected impacts to the critical area or associated buffers from the development proposal;
 - (ii) A detailed plan for mitigation measures following the preferred mitigation sequence set forth in subsection 3 above. If avoidance and minimization are not the main techniques used to mitigate impacts, the plan must include an explanation and justification for using less preferable mitigation approaches.
 - (iii) An implementation schedule for the mitigation plan and a two-year monitoring program; and
 - (vi) Performance and/or warranty or maintenance bonds or other forms of surety to ensure the plan achieves its goals and objectives.
- C. Each mitigation plan shall include monitoring inspections at least annually. These inspections shall be the responsibility of the applicant and shall be provided for in the mitigation plan. The Administrator may hold an assignment of savings from the applicant, or other surety, to be used to hire a qualified professional to complete the monitoring inspections if the applicant fails to do so.
- D. If the mitigation plan is not achieving its goals, the Administrator shall require appropriate changes to the mitigation plan, based on the recommendations of a qualified professional. The County may collect the proceeds of the mitigation plan bonds or surety and use those proceeds to install or complete the recommended changes when necessary.

(5) Wetland Restoration, Creation and Enhancement

Any person who alters wetlands shall restore, create or enhance equivalent or greater areas of wetlands than those altered, in order to compensate for wetland loss. All wetland restoration, creation or enhancement projects required pursuant to this Title must receive County written approval of the mitigation plan prior to commencement of the wetland restoration, creation or enhancement activity.

The following standard ratios shall apply to creation or restoration:

Category 1		6:1
Category 2 or 3	Forested	3:1
	Scrub-Shrub	2:1
	Emergent	1.5:1
Category 4		1.25:1

The first number specifies the acreage of replacement wetlands for mitigation, and the second specifies the total acreage of wetlands that have been altered or degraded.

(A) Increased Replacement Ratio

The standard replacement ratio may be increased under any of the following circumstances:

- High degree of uncertainty as to the success of the proposed restoration or creation;
- Significant period of time between destruction and replication of wetland functions;
- Projected losses in functions;
- Off-site compensation.

(B) Decreased Replacement Ratio

The standard replacement ratio may be decreased under the following circumstances:

- Findings of special studies coordinated with agencies and/or a qualified professional, which demonstrates that no net loss of wetland function or value is attained under the decreased ratio.
- In all cases, a minimum acreage replacement ratio of 1:1 shall be required.

(C) Wetland Enhancement

An applicant proposing to alter wetlands may propose to enhance existing, significantly degraded wetlands as compensation for wetland losses. Applicants proposing enhancement shall identify how the proposal conforms to the overall goal of “no net loss” and the wetland protection requirements of this Title.

(6) Location

(A) On-site Compensation

On-site and in-kind compensation is the preferred location for mitigated wetlands. ‘On-site’ means to replace wetlands at or adjacent to the site on which a wetland has been or will be impacted by a proposed development. ‘In-kind’ means to replace or restore wetlands with substitute wetlands whose characteristics resemble those impacted by the proposed development. ‘In-kind’ does not necessarily mean that the replacement is of the same category as the altered wetland.

(B) Off-site Compensation

Off-site compensation means to replace wetlands away from the site on which a wetland has been or will be impacted by a proposed development. The preferred location for off-site compensation is the same drainage basin of the same watershed as the impacted wetland. Off-site compensation will only be allowed when the applicant demonstrates that one or more of the following applies:

- On-site compensation is not scientifically feasible due to hydrology, soils or other factors;
- On-site compensation is not practical due to potentially adverse impacts from surrounding land uses or would conflict with a federal, state or local public safety directive;
- Existing functional values at the site of the proposed location are significantly greater than the lost wetland functional values;
- There is a clear potential for a higher degree of success at the proposed compensation site than at the impacted site;
- The end result of the proposed compensation is the creation or restoration of one or more larger or higher category wetlands as opposed to many small wetlands.

(C) In selecting a **compensation site**, the following siting criteria, in order of preference, shall be pursued:

1. Upland sites which were formerly wetlands,
2. Idle upland sites having bare or minimal vegetative cover consisting primarily of exotic introduced species, weeds or emergent vegetation,
3. Other disturbed upland areas.

**13.20.030 REASONABLE USE EXCEPTION
(Amended by BOCC Resolution #80-2004, July 6, 2004)**

- (1) If all reasonable and economically viable use of a property is eliminated after application of the requirements of this Title and other applicable development standards, an applicant may seek a reasonable use exception.
- (2) A reasonable use exception is intended as a last resort. A Pre-Application Meeting is strongly encouraged and may be required pursuant to SCC 6.06.020.
- (3) A reasonable use exception shall only apply to legal lots established prior to the effective date of this Title.
- (4) The Administrator shall decide an application for a reasonable use exception using the Full Administrative Review procedure set forth in SCC 6.08.040. The appeal provisions of SCC Chapter 6.10 shall apply.

**13.20.031 REASONABLE USE EXCEPTION APPLICATION REQUIREMENTS
(Amended by BOCC Resolution #80-2004, July 6, 2004)**

- (1) The application for a reasonable use exception shall include the following information:
 - A. A description of the proposed development or use, including a site plan;
 - B. A description and illustration of the relationship between the proposed development and the critical area(s), associated buffer(s) or setbacks required under this Title;
 - C. A description and illustration of setbacks as required by other standards, including but not limited to, the Zoning Code or Building Ordinance;
 - D. An analysis, based upon best available science of the impact(s) that the development, as proposed, would have on the critical area(s) or associated buffer(s);
 - E. An analysis, including economic viability, of whether any other reasonable use with less impact on the critical areas(s) and associated buffer(s) is possible;
 - F. An analysis of the modifications needed to the standards of this Title to accommodate the proposed development;
 - G. Recommendations to minimize impacts and mitigate any unavoidable adverse impacts to the affected critical area(s) and buffer(s);
 - H. Such other information as the Administrator determines is necessary to evaluate the issue of reasonable use.
- (2) The analyses and recommendations related to impacts on critical areas and buffers shall be prepared by a qualified professional in accordance with SCC 13.00.034.
- (3) The applicant shall pay all County costs associated with reviewing and evaluating an application for a reasonable use exception, including costs for peer review of any material prepared by a qualified professional working for the applicant.

**13.20.032 PUBLIC NOTICE FOR REASONABLE USE EXCEPTION
(Amended by BOCC Resolution #80-2004, July 6, 2004)**

- (1) The Administrator shall conduct a review for completeness in accordance with Title 6, Local Project Review and when an application has been determined to be complete, shall provide public notice according to the provisions of SCC 6.06.070(2).
- (2) A comment period of 21 days from the date of first publication of the notice in the official county newspaper shall be provided for all reasonable use exceptions.
- (3) The Administrator shall forward a copy of a request for Reasonable Use Exception to the DOE and WDFW for review and recommendation.

13.20.033**DECISION CRITERIA****(Amended by BOCC Resolution #80-2004, July 6, 2004)**

- (1) The Administrator shall grant a Reasonable Use Exception only when the following criteria are met:
 - A. There is no feasible on-site alternative(s), including reduction in size, shape, configuration, location, type of use or density which would have significantly less impact on the critical area or buffer than that proposed; and
 - B. The proposed development does not pose a threat to the public health, safety or general welfare; and
 - C. Any proposed modification will be the minimum alteration or impairment to the critical area's functional characteristic and existing contours, vegetation and hydrological, or other conditions of concern; and
 - D. The continued existence of endangered, threatened or sensitive species or habitat will not be jeopardized by the proposed development; and
 - E. The inability to derive reasonable use of the property is not the result of segregating, subdividing or adjusting a boundary line, thereby creating the undevelopable condition after the effective date of this Title; and
 - F. The disturbance of a critical area or buffer has been minimized by locating the proposed development as far away from the critical area or buffer as possible.
- (2) The Administrator shall specify mitigation measures or impose conditions of approval, which may include restoration or enhancement of the critical area or buffer, or modifications to the size and placement of structures and facilities to avoid, minimize, or mitigate impacts to critical areas or the associated buffers. The mitigation plan shall be based on the recommendations of a qualified professional and shall include annual monitoring of the mitigation measures for a three year period.
- (3) The Administrator may also establish an expiration date or time period within which construction on the proposed development must begin. No extension of a specified expiration date or time period shall be permitted without completion of a new Full Administrative Review process..
- (4) The Administrator shall have the authority to deny a reasonable use exception, when, in the opinion of the Administrator, the criteria established in this Section have not been met.

13.20.040**NONCONFORMING STRUCTURES****(Amended by BOCC Resolution #80-2004, July 6, 2004)**

- (1) A nonconforming structure is an existing structure located in a critical area or associated buffer that was lawfully established prior to the adoption of this Title, but which is not in compliance with this Title. Nonconforming structures are permitted to remain in their current form and location, but shall not be expanded or changed in any way that increases the nonconformity except as authorized by this Title.
- (2) Restoration or reconstruction of a nonconforming structure destroyed by fire, flood, or other calamity is allowed, provided that reconstruction is commenced within two years of such damage. Any request to expand a nonconforming structure that has been damaged by fire, flood, or other calamity shall be evaluated according to the provisions of SCC 13.20.041.
- (3) Routine maintenance, including but not limited to repair or replacement in kind of roofs, porches, accessory structures, septic tanks, and drainfields is allowed.

13.20.041**NONCONFORMING STRUCTURES – EXPANSION
(Amended by BOCC Resolution #80-2004, July 6, 2004)**

- (1) Nonconforming structures located in a critical area or required buffer may be expanded only as set forth herein. The following general standards apply:
 - A. In no case shall an expansion of a structure toward the shoreline or other relevant critical area be allowed.
 - B. Any expansion proposal shall be designed to minimize new impervious surface. To the degree feasible the expansion shall occur on areas already disturbed or developed by driveways, patios, decks, or other appurtenant structures.
 - C. For purposes of this section, impervious surface shall include the footprint of all structures and the area of patios, decks, and walkways, as well as driveways and parking areas whether paved, graveled, or of compacted earth.
 - D. Each proposed expansion, except as set forth in 13.20.041(4), shall be evaluated by a qualified professional in a report that assesses the impact of the proposal and provides recommendations for mitigation, including but not limited to reductions in structure size or other impervious surfaces to offset the expansion of the structure, and a restoration, enhancement, or maintenance plan for vegetation on site, particularly at or near shoreline, riparian, or wetland areas. Opportunities for off-site mitigation in the immediate vicinity and within the same watershed sub-basin may be suggested.
 - E. The applicant shall pay all costs associated with review by a qualified professional in accordance with SCC 13.00.034.
- (2) A minor expansion of a nonconforming structure shall be reviewed under the Limited Administrative Review provisions of SCC chapter 6.08. A minor expansion is defined as any expansion of the structure footprint of no more than 250 square feet. In addition, to qualify as a minor expansion, an equal amount of other impervious surface on the site shall be permanently removed and restored to a permeable condition.
- (3) A major expansion of a nonconforming structure shall be reviewed under the Full Administrative Review provisions of SCC chapter 6.08 and is appealable according to the provisions of SCC chapter 6.10. Public notice of an application proposing a major expansion of a nonconforming structure shall be provided as set forth in SCC 6.06.070.
 - A. A major expansion is any proposed expansion that does not qualify as a minor expansion.
 - B. A major expansion shall be limited so that total impervious surface within the buffer is no greater than 2100 square feet or 35% of the buffer area, whichever is less.
- (4) For minor expansion proposals, Stevens County may, at its discretion, adopt a set of standard conditions, best management practices, and mitigation requirements that avoid, reduce and mitigate impacts, including construction impacts, on critical areas. These standard conditions shall be based on recommendations from a qualified professional. If the County provides these standard conditions, a report from a qualified professional is not required for minor expansion projects.
- (5) The Administrator shall approve an application to expand a nonconforming structure only when the requirements of this section are met. Conditions of approval to reduce and mitigate impacts to the critical area, and which may include reductions in the size of the proposed structure, reductions in other impervious surfaces to offset the expansion of the structure, or a restoration, enhancement, or maintenance plan for vegetation on site shall be imposed.

- (6) Replacement of a manufactured, mobile or modular home is allowed. Expansion shall be evaluated according to the provisions of this section as set forth above.

Section 13.20.042, adopted by Resolution # 32-2003, is repealed. (BOCC Resolution #80-2004, July 6, 2004.)

Chapter 13.20 is amended to delete the diagram entitled "Expansion of Nonconforming Lots". (BOCC Resolution #80-2004, July 6, 2004.)

**13.20.050 EXISTING AND ONGOING AGRICULTURAL ACTIVITIES
(Amended by BOCC Resolution #80-2004, July 6, 2004)**

- (1) The purpose of the provisions in SCC 13.20.050 through 13.20.056 is to balance two competing mandates of the Growth Management Act: to protect existing functions and values of critical areas and to conserve and protect agricultural lands of long term commercial significance.
- (2) It is the goal of Stevens County to administer these provisions consistent with local, state, and federal programs and regulations to protect the health, welfare, and safety of the community and to protect agriculture, natural resources, and natural resource industries, while also protecting existing functions and values of fish and wildlife habitat areas regulated by this Title.
- (3) For purposes of SCC 13.20.050 through 13.20.056, existing functions and values of fish and wildlife habitat conservation areas that include riparian corridors shall be determined in reference to the following:
 - A. Existing water quality as measured against water quality standards identified in WAC Chapter 173-201A;
 - B. Existing presence or absence of large woody debris within a watercourse;
 - C. Existing riparian buffer characteristics including but not limited to the existing quality and composition of vegetation in the existing riparian buffer; and
 - D. Existing channel structure and form.
- (4) The provisions in SCC 13.20.050 through 13.20.056 are intended, to the maximum extent practicable, to rely on and coordinate with, but not substitute for or duplicate other local, state or federal programs and regulations that address agricultural activities to protect water quality and fish and wildlife habitat.
- (5) Any references to other agencies or to other local, state and federal programs and regulations shall not be interpreted as replacing or superseding the other local, state or federal jurisdiction and responsibility for implementing and enforcing their own rules and programs.
- (6) Stevens County acknowledges a responsibility and an intention to cooperate, coordinate, and communicate with other local, state, and federal agencies to achieve the purposes of these provisions.

**13.20.052 EXISTING AND ONGOING AGRICULTURAL ACTIVITIES SUBJECT TO
REGULATION (Amended by BOCC Res. #80-2004, July 6, 2004)**

- (1) Existing and ongoing agricultural activities are *allowed* uses in critical areas and their associated buffers when the activities comply with the standards set forth in this section and SCC 13.20.056.
- (2) Existing and ongoing agricultural activities in or adjacent to critical areas and their associated buffers shall be conducted in accordance with Best Management Practices (BMPs) to prevent adverse impacts to existing functions and values of critical areas.

- (3) The implementation of Best Management Practices shall be presumed when applicable state and federal water quality standards, including but not limited to those required by Chapter 90.48 RCW, the Water Pollution Control Act (WAC 173-201A), are met.
- (4) When a site is in violation of a state or federal water quality standard, the state or federal agency that imposed the standard shall be responsible for enforcement of its own regulations. In addition, the County shall require a new or updated BMP plan for the site.
 - A. The BMP plan shall be developed by or in consultation with a qualified professional.
 - B. The BMP plan shall include practices to prevent adverse impacts to critical areas and shall provide an implementation schedule and a two-year annual monitoring plan.
 - C. If a state or federal agency imposes a requirement or practice directed at correcting a water quality impairment, that requirement or practice shall qualify as an updated BMP plan for a site.

**13.20.054 AGRICULTURAL BEST MANAGEMENT PRACTICES
(Amended by BOCC Resolution #80-2004, July 6, 2004)**

- (1) Owners or operators regulated under these provisions are required to implement Best Management Practices to ensure the existing functions and values of critical areas are maintained.
- (2) BMPs approved by a state or local agency or included in a Certified Dairy Nutrient Management Plan or Farm Plan can be used to demonstrate compliance with the requirements of this Title.
- (3) Assistance from the Stevens County Conservation District, the Natural Resource Conservation Service (NRCS), NRCS technical service providers, the Washington State University Extension Service, or other qualified professionals can be obtained to determine what combinations of BMPs are most effective given specific site conditions and agricultural activities. The County shall give substantial weight to guidance documents or reports and recommendations prepared by these agencies and professionals.

**13.20.056 OTHER PROTECTION MEASURES FOR EXISTING AND ONGOING
AGRICULTURAL ACTIVITY
(Amended by BOCC Resolution #80-2004, July 6, 2004)**

A wide range of protection measures are required pursuant to state and federal law under programs administered by the State Department of Agriculture, WDFW, the State DOE, the Stevens County Conservation District, the NRCS, and others. In addition to the Best Management Practices required in SCC 13.20.052, Stevens County relies on standards, as administered and applied by other agencies and generally described below, to ensure the goals of this Title are met.

- (1) Livestock and dairy operations are regulated by the State Department of Agriculture as well as other agencies. Many Department of Agriculture programs and requirements are designed to ensure that state water quality standards are met. These programs promote some or all of the following:
 - A. The development of voluntary off-stream watering facilities and improved stream crossings to protect against nutrient and sediment contamination.
 - B. The voluntary maintenance of vegetative cover in pasture areas adjacent to streams to meet NRCS standards.
 - C. Constructing new and maintaining existing livestock confinement areas so that sediment and nutrient runoff does not reach adjacent streams.
 - D. Complying with the requirements of Chapter 90.64 RCW, the Dairy Nutrient Management Act.

- (2) Nutrient and farm chemical use and management requirements are imposed through state and federal law and include the following.
 - A. Prohibitions against placing manure in a watercourse or in locations where wastes are likely to be carried into a watercourse.
 - B. Requirements for dairy operations to have certified Dairy Nutrient Management Plans as described in Chapter 90.64 RCW.
 - C. Crop nutrients must be applied at agronomic grow-out rates specific for particular crops.
 - D. Farm chemicals must be applied in a manner consistent with all requirements stated on the chemical container labels and all applicable federal and state regulations, including but not limited to the Pesticide Control Act, RCW 15.58, the Pesticide Application Act, RCW 17.21, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), USC 136 et seq.
- (3) The Washington Department of Fish and Wildlife administers requirements for hydraulics permits under sections 77.55.100 and 77.55.110 RCW that limit impacts to streams and other waters of the state and that provide specifically for agricultural irrigation, stock watering, and streambank stabilization.

CHAPTER 13.30

CRITICAL AREA REVIEW PROCESS

13.30.010 PRELIMINARY CRITICAL AREAS REVIEW (Amended by BOCC Resolution #80-2004, July 6, 2004)

- (1) Each development proposal application shall include a completed Critical Areas Checklist or the report of a qualified professional assessing critical areas on or immediately adjacent to the development site, provided that residential remodels and commercial tenant improvement projects that result in no added floor area or change to a structure's footprint are exempt from this requirement:
- (2) Upon receipt of a completed development proposal application and a completed Critical Areas Checklist (in substantially the form as shown on Appendix A) or report from a qualified professional, the Administrator shall, within the time limits as provided by law, consult available reference material and maps to make a preliminary assessment of whether or not a critical area exists on or within approximately 200 feet of the development proposal site.
- (3) All applications that involve a development proposal within the boundaries of the Spokane Indian Reservation, shall be referred to the Spokane Tribe of Indians, Department of Natural Resources, for review and comment. A comment period of 14 days shall be provided.
- (4) It is the applicant's responsibility, to the best of their ability, to disclose the presence of critical area(s) on their property by completion of a Critical Area Checklist, land use application, site plan or by obtaining the services of a qualified professional.
- (5) If, after preliminary review, the Administrator determines that a critical area is not on or immediately adjacent to the development proposal site, further review under this Title is required.
- (6) If, after preliminary review, the Administrator determines that a critical area is on or immediately adjacent to the development proposal site, the requirements of this Title shall apply.
- (7) If, after preliminary review, the Administrator is unable to determine whether a critical area is on or immediately adjacent to the development proposal site, then one or more of the following shall be required:
 1. Additional information from the applicant;
 2. A site visit by County staff qualified to provide a basic assessment of critical areas;
 3. A site visit by a qualified professional under contract with the County to provide a basic critical areas site assessment; or,
 4. An applicant may be requested to provide a report prepared by a qualified professional. The report should:
 - Document that a critical area does not exist on the development site or immediately adjacent to the site, or
 - Identify, locate/delineate, and describe, in text and on a site plan, the critical area(s) on or adjacent to the development site;
 - Describe and map the amount and type of encroachment into the critical area(s) or associated buffer;
 - Describe how protection requirements for the specific critical area will be implemented and monitored;
 - The report may contain or consist of a site evaluation by appropriate agency(ies) of expertise, including but not limited to the DOE and WDFW.

13.30.020

LIMITATIONS AND EXEMPTIONS

(Amended by BOCC Resolution #80-2004, July 6, 2004)

Certain types of development or land use activities are currently outside the jurisdiction of the County or are exempt from review by the Planning Department. These types of exemptions, including those listed below in subsections (1) through (9) remain in place under this Title, subject to the limitation that any disturbance in or adjacent to a critical area avoids or mitigates adverse impacts. For information related to non-conforming structures and uses and existing and ongoing agricultural activities see SCC 13.20.040 et seq. and 13.20.050 et seq. Activities that do not require building permits or planning department review are not subject to regulation pursuant to this Title except as specifically described.

- (1) Emergency Actions** - Emergency actions shall be exempt from the requirements of this Title, subject to the following:

 - A. An 'emergency' is an unanticipated and imminent threat to public health, safety or the environment, which requires immediate action within a time too short to allow full compliance with this Title.
 - B. The Administration shall determine when an emergency situation exists.
 - C. Where new protective structures are determined by the Administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation any new structure shall be removed or any permit which would have been required, absent an emergency, shall be obtained.
 - D. Any emergency construction shall recognize to the fullest extent practicable the policies and requirements of this Title, other generally applicable development standards enforced by Stevens County, and the Stevens County Shoreline Master Program.
 - E. Flooding or other seasonal events that can be anticipated may occur but that are not imminent are not an emergency.
 - F. The Stevens County Planning Department shall be notified within five working days, of any impact to a critical area or associated buffer following resolution of the emergency situation, in order to evaluate the need for mitigation or restoration measures.
- (2) Forest practices** - Forest practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW, Forest Practices Act and Title 222 WAC, Forest Practice Rules and Regulations are not subject to additional review by the County.
- (3) Government agencies** - Any development undertaken by a federal, state or tribal agency on lands owned by the agency or tribe and not subject to county jurisdiction is exempt from additional review by the County, unless the government grants or reserves to Stevens County substantial jurisdiction over land use and development activities on those lands.
- (4) Navigational Aids** - Construction or modification of navigational aids, channel markers and buoys are exempt from County review. These types of projects must avoid adverse impacts to critical areas or their associated buffers.
- (5) Passive Outdoor Recreation** - Passive outdoor recreational activities, such as fishing, bird watching, hiking, boating, horseback riding, hunting, swimming, boating, canoeing, bicycling, or other similar minimum impact activities are not regulated by this Title.
- (6) Site Investigations** - Site work such as surveys--including the marking of property lines or corners--activities necessary for land use applications, soil logs, percolation tests or other similar work is exempt from regulation under this Title provided that unavoidable impacts to critical areas and associated buffers shall be minimized and disturbed areas shall be restored to the maximum extent practical.
- (7) Wild Crop Harvest** - The harvesting of wild crops in a manner that is not injurious to the natural reproduction of such crops is exempt from regulation under this Title provided that the harvesting does not require tilling soil, planting, changing existing topography, water conditions or sources and provided that the activity does not adversely impact critical areas or their associated buffers.

- (8) Maintenance and Repair** - Normal and routine maintenance or repair of existing structures, utilities, sewage disposal systems, potable water systems, drainage facilities, ponds, or public and private roads and driveways is exempt from regulation under this Title, provided that any such maintenance or repair activities shall use reasonable methods to avoid impacts to critical areas. Any impact to a critical area or its buffer shall be mitigated to the extent feasible.
- (9) Removal of noxious weeds** in compliance with state or local law is allowed in critical areas and their associated buffers and shall be undertaken in a manner that prevents or minimizes long-term adverse impacts to the functions and values of the critical area and buffer. Hand pulling of aquatic weeds to help promote stream viability is allowed.

13.30.030 ADMINISTRATIVE REVIEW

Administrative Review occurs when the Administrator determines a regulated critical area exists within the vicinity of a proposed development and that the development proposal is not Exempt.

This process is used when the proposed development is subject to clear, objective and subjective standards that require the exercise of professional judgment about technical and non-technical issues. The Administrative Review process shall be in accordance with Stevens County Code Title 6, Local Project Review.

13.30.031 TYPES OF ACTIVITIES

The following types of development proposals are subject to Administrative Review, and when applicable, shall be consistent with the Stevens County Shoreline Master Program:

- (1) **Bulkhead for a Single-Family Residence** - A normal protective bulkhead is to be constructed at or near the ordinary high water mark (OHWM) of a water body to protect a single-family residence and is to protect land from erosion, and is not for the purpose of creating land. The construction shall be in a manner consistent with the Stevens County Shoreline Master Program.
- (2) **Construction of a Single-Family Residence** - "Single family residence" means a detached dwelling designed for one family including normal appurtenances. A "normal appurtenance" includes: a garage, deck, private storage structures, driveway, installation of an on-site sewage disposal system and grading which does not exceed 250 cubic yards and which does not involve placement of fill in a critical area.
- (3) **Dock Construction** - Construction of a fresh water dock, the cost or fair market value of which is equal to \$10,000 or less, designed for pleasure craft only, for the private noncommercial use of the property owner. It shall be constructed in a manner consistent with the Stevens County Shoreline Master Program.
- (4) **Enhancement Activities** - for fish, wildlife, riparian area or wetlands not required as mitigation, provided that USFWS, WDFW, DOE, the Department of Interior and/or the NRCS approve the project.
- (5) **Maintenance and Repair** - Normal maintenance, repair and operation of any of the following existing facilities:
 - Single family residence occupied by one family, including normal appurtenance.
 - Commercial structure, provided that no expansion of the original footprint occurs.
 - Utilities, sewage or water systems.
 - Public or private roads or driveways.
 - Drainage ditches and associated facilities.

- Noncommercial private dock.
 - Nonconforming structures, provided that the use does not change and that no expansion of the original footprint occurs.
 - ‘Normal maintenance’ includes those usual acts to prevent a decline, lapse or cessation from a lawfully established condition. ‘Normal repair’ means to restore a development to a state comparable to its original condition, including but not limited to, its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shorelines or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.
- (6) **Modification of Existing Residence** - Modification of an existing single family residence that does not change the existing use from residential, does not expand the original building footprint and does not increase the nonconformity.
- (7) **Modification of Existing Nonconforming Residence** - see “Nonconforming Structures” Section 13.20.00.
- (8) **Modification of Other Existing Structures**- Modification of other existing structures that does not change the existing use, does not expand the original footprint and does not increase the nonconformity.
- (9) **Replacement of Manufactured Home** – replacement of a manufactured, mobile or modular home provided that the expansion does not exceed a total combined structure footprint of 30% of the square footage of that portion of the lot within the buffer area.
- (10) **Other** – Development proposals where the affected critical area is one of the following: Category 3 or 4 Wetland, Water Type 2, 3, 4 or 5 or Geologically Hazardous Areas or Frequently Flooded Area. Frequently Flooded areas are included because they are reviewed under the Flood Protection Regulations. Geologically hazardous areas are included because they are reviewed under the Uniform Building Code.

13.30.032 ADMINISTRATIVE REVIEW OUTCOMES

Upon review of all available information, the Administrator shall determine whether the proposed project is consistent with the protection requirements of this Title. The outcome of the Administrative Review is generally one of the following:

1. The critical area or associated buffer is not impacted by the development proposal. No further review under this Title is required.
2. The critical area or associated buffer is impacted by the development proposal, however, as submitted, the proposal is consistent with the protection requirements for the identified critical area or associated buffer. The development proposal can be approved without further conditions.
3. The critical area or associated buffer is impacted by the development proposal, however, the identified impact(s) can be avoided or minimized through mitigation.
4. The critical area or associated buffer is unacceptably impacted by the development proposal and no obvious mitigation measures will successfully abate the unacceptable impacts. The development proposal cannot be approved as submitted.

13.30.033 LETTER OF CONSISTENCY (LOC)

If the development proposal is found to be consistent with the critical area protection requirements, then the Administrator shall prepare a Letter of Consistency addressed to the applicant and a copy submitted to WDFW and/or DOE. The LOC shall indicate the specific administrative provisions and appropriate protection regulations that are being applied to the proposed development.

Note: Stevens County Planning Department reserves the right to review the development through completion to:

- assure compliance with proposal as submitted,
- require additional review or permitting in the event that applicant substantially changes the proposed development, or
- require additional review or permitting when new circumstances or information warrant a higher and more comprehensive evaluation of the impact(s) to a critical area or its associated buffer.

13.30.034 TIME LIMITS AND EXTENSIONS

The Stevens County Planning Department may issue a LOC with an expiration date of up to five years from the date of issuance. Completion or substantial progress toward completion must begin within two years after the date of issuance.

One extension of time may be granted upon written request, received prior to the expiration date, to the Stevens County Planning Department. The Administrator may extend the time limit for up to one year, provided that the applicant or the successor successfully demonstrates that extenuating circumstances have prevented completion of the project.

Prior to the granting of an extension, the Administrator may require updated studies and/or additional hearings.

13.30.040 PUBLIC REVIEW

Development proposals or land use activities not meeting the criteria for “Exemption” or “Administrative Review”, shall be reviewed under this Section. “Public Review” consists of a Preliminary Application Review followed by either a Full Administrative Review or a Quasi-Judicial Review under Stevens County Code Title 6, Local Project Review, which may include SEPA, public comment or a public hearing.

When more than one application is required for a development proposal, all applications may be submitted for review at one time. When more than one application is submitted, and the applications are subject to different types of review procedures, all of the applications shall be reviewed at the highest applicable level or most comprehensive type of review.

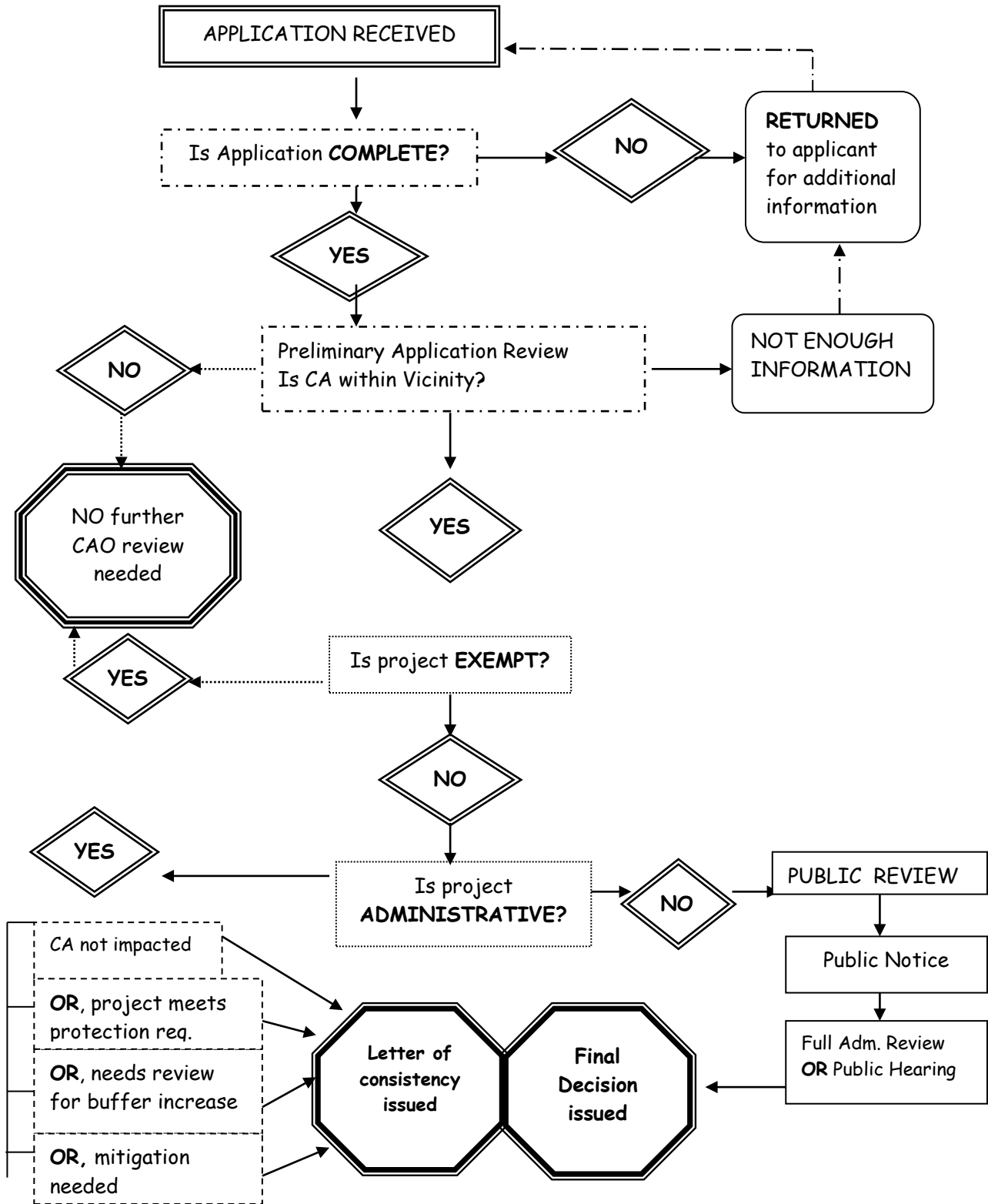
(1) Hearing Scope

Within the time limits specified in Stevens County Code 6.08.050, the Hearing Examiner shall issue a written “Quasi-Judicial Final Decision”. The decision shall meet the requirements of Stevens County Code 6.08.050 and may include findings of fact regarding the following:

- a) The critical area or associated buffer is not impacted by development proposal pursuant to the requirements of this Title;

- b) The critical area or associated buffer is impacted by the development proposal, however, as submitted, the proposal is consistent with the protection requirements for the identified critical area or associated buffer under this Title;
- c) The critical area or associated buffer is impacted by the development proposal, however, the identified impact(s) can be avoided or minimized through mitigation pursuant to the Mitigation and Critical Area Protection Requirement sections of this Title;
- d) The critical area or associated buffers is unacceptably impacted by the development proposal and no obvious mitigation measures can be successfully implemented. The development proposal cannot be approved as submitted.
- e) The proposed development does not pose a threat to the public health, safety or general welfare.
- f) Locating the proposed development as far away from the wetland as possible has minimized the disturbance of a wetland.
- g) The Hearing Examiner may specify mitigation measures or issue conditions of approval including modifications to the size and placement of structures and facilities to minimize impacts to critical areas or the associated buffers.
- h) The Hearing Examiner has the authority to establish an expiration date or time period within which the proposed development must be constructed. No extension of a specified expiration date or time period shall be permitted without an additional public hearing.

APPLICATION PROCESS FLOWCHART



CHAPTER 13.40

ENFORCEMENT

(Amended by BOCC Resolution #80-2004, July 6, 2004)

13.40.010

- (1) It shall be the duty of the Planning Department to enforce the provisions of this Title. In cases where building permits have been issued or would be required, the Stevens County Building Official shall assist in enforcement of the provisions of this Title.
- (2) Any person or entity who violates, disobeys, omits, neglects or refuses to comply with, or who unlawfully resists the enforcement of any provisions of this Title shall be guilty of a misdemeanor, provided that the Administrator may choose to pursue voluntary compliance with this Title through a cooperative process and may ask for assistance or recommendations from other local, state, or federal agencies with expertise or jurisdiction.

13.40.012 REQUEST FOR INSPECTION

- (1) Whenever a person believes a violation of SCC Title 13 has occurred or is occurring, he or she may file a written request for inspection (RFI). Stevens County shall provide a form which may be used for this request. Whether the form is used or not, an RFI shall include the following information:
 - A. The location, address, parcel number or other information sufficient to identify the site in question;
 - B. The name of the property owner, if known;
 - C. The condition or activity believed to be in violation of this Title;
 - D. Reference to the specific section of Title 13, if known, that applies to the condition, development or activity; and
 - E. Contact information for the person requesting an investigation if a response is requested.
- (2) The Administrator shall record the receipt of an RFI and shall begin investigation and enforcement, if appropriate, as set forth in this chapter.

13.40.014 COOPERATIVE INVESTIGATION AND ENFORCEMENT

- (1) The Administrator may seek assistance from local, state and federal agencies including but not limited to the Stevens County Conservation District, the NRCS, the Washington Department of Fish and Wildlife (WDFW), the state Department of Ecology, and the state Department of Agriculture in order to complete an investigation.
- (2) In cases where other agencies have jurisdiction over a condition, development or activity, enforcement may consist of a referral to the other agency with jurisdiction. Such referrals may include, but are not limited to cases involving the following issues:
 - A. Water quality problems involving violations of the State Water Pollution Control Laws, Chapter 90.48 RCW and the Washington State Water Quality Standards, WAC Chapter 173-201A, may be referred to the Department of Ecology;
 - B. Violations or permit problems involving the Hydraulics Code, Chapter 77.55 RCW, may be referred to WDFW;

- C. Violations occurring on a site for which a Resource Management System Farm Plan or Dairy Nutrient Management Plan approved under RCW Chapter 90.64 exists may be referred to the agency responsible for enforcement of the applicable farm plan.
- (3) The County may seek assistance, including education, problem assessment, and development of best management practices, from the Stevens County Conservation district for violations of this Title related to existing and ongoing agricultural activities.
- (4) A referral to another agency with jurisdiction shall not prohibit the County from pursuing additional county enforcement remedies as appropriate, in consultation with the other agency, to ensure compliance with the requirements of this Title.

13.40.016 NOTICE OF VIOLATION PROCESS

- (1) Whenever a condition, development or activity is found by the Administrator to be in violation of this Title, the Administrator may order the activity or any work on a development stopped, or may order that the condition be remediated, by serving written notice on any person causing or responsible for the actively, development or condition. In cases where the person responsible is not the property owner, the property owner shall also be included. The notice shall be in the form of a "Notice of Violation " which shall include:
 - A. A description of the condition, development or activity that is in violation of this Title;
 - B. A citation to the code section or sections being violated;
 - C. A statement of the action required to cure or correct the violation;
 - D. A date by which the corrective action shall be completed or by which a work plan or permit application shall be submitted. Any work plan or permit application shall include a schedule showing when the corrective work will begin and be completed;
 - E. A statement that failure to comply with the directives for corrective action shall result in enforcement action in Stevens County District Court;
 - F. A statement that any person cited in the notice of violation may request review by the Administrator within 14 days from receipt of the notice.
- (2) If a person requests review by the Administrator, the Administrator shall determine a time and place for a meeting to be held within 14 days of receipt of the request. At the meeting with the Administrator, the person cited in the Notice of Violation may bring qualified professionals or any person familiar with the activity, development, or condition to speak about compliance, scheduling, and questions related to interpretation of the relevant code sections. The Administrator may invite other county or agency personnel in order to fully understand the issues and develop reasonable solutions.
- (3) Following the review meeting, the Administrator shall send a written communication to all parties who were present at the meeting and any other person cited on the notice of violation. The communication shall:
 - A. Affirm the notice of violation as written;
 - B. Modify the notice of violation;
 - C. Withdraw the notice of violation; or
 - D. Modify the notice of violation to include an agreement regarding steps that will be taken to bring an activity, development, or condition into compliance with this Title. In this case, the Administrator shall include two copies of the communication and the person agreeing shall sign and date and return one to the Administrator. In any case where the property owner is not the person responsible, copies of any proposed agreement and any signed agreement shall be forwarded to the property owner.

13.40.018 SERVICE OF A NOTICE OF VIOLATION

A Notice of Violation shall be served upon the person(s) or entity to whom it is directed either personally, or in the manner provided for personal service of notices or summons in Stevens County District Court, or by mailing a copy of the Notice of Violation by certified mail, postage prepaid, return receipt requested, to such person or entity at the address as listed in the records of the Stevens County Assessor or Treasurer. In case of immediate hazards, service shall be by personal service with proof of service by written declaration or affidavit.

13.40.020 ENFORCEMENT ACTION IN DISTRICT COURT

- (1) If the Administrator determines that all reasonable efforts to achieve voluntary compliance through agreement with a person cited or through referrals to other agencies with jurisdiction have failed, the Administrator may refer the violation to the Stevens County Prosecuting Attorney for enforcement action in Stevens County District Court.
- (2) In cases where a person has been cited more than once for the same violation, the Administrator may choose to refer the violation immediately to the Stevens County Prosecuting Attorney for enforcement action in Stevens County District Court.

13.40.030 REPORTS TO PLANNING COMMISSION

The Planning Department shall file a report with the Planning Commission twice per year (at roughly six-month intervals) providing the number and status of written requests for investigation received by the Department.

CHAPTER 13.50

APPEALS

Any person(s) standing as specified in RCW 36.70C.060, may appeal any decision of the County or Hearing Examiner within the time limits provided by and in accordance with Stevens County Code Section 6.10.

BIBLIOGRAPHY OF RESOURCE MATERIALS

At Home with Wetlands, A Landowner's Guide, August, 1990, by Joy P. Michaud, for the Washington State Department of Ecology, Publication #90-31

Classification of Wetlands and Deepwater Habitats of the United States, December 1979, U.S. Department of the Interior, Fish and Wildlife Service

Final Comprehensive Conservation Plan and Environmental Impact Statement, Little Pend Oreille National Wildlife Refuge, April 2000, U.S. Fish and Wildlife Service, Region 1

Guidance Document for the Establishment of Critical Aquifer Recharge Area Ordinances, July 2000, Washington State Department of Ecology, Publication #97-30

Guide to Healthy Streams, Lakes and Wetlands for Small Farms and Rural Landowners in Eastern Washington, Washington State Department of Ecology, Water Quality Program, Publication #01-10-014

Management Recommendations for Washington's Priority Habitats, Riparian, December 1997, Washington State Department of Fish and Wildlife

Policy of Washington Department of Fish and Wildlife and Western Washington Treaty Tribes Concerning Wild Salmonids, Adopted by Washington Fish and Wildlife Commission, December 5, 1997.

Report Hydrogeologic Services Wellhead Protection and Well Feasibility Study, April, 1997, prepared by GeoEngineers for the City of Colville

The Science of Wetland Buffers and Its Implication for the Management of Wetlands, June 2000, Andrew McMillan, Masters Thesis.

Soil Survey of Stevens County, Washington, 1982, U.S. Department of Agriculture in cooperation with the Soil Conservation Service (now known as the Natural Resource Conservation Service)

Washington Climate, WSU Cooperative Extension Service, May, 1972.

Washington State Wellhead Protection Program Guidance Document, April 1995, Washington State Department of Ecology, Publication #331-018

Washington State Wetlands Identification and Delineation Manual, March 1997, Washington State Department of Ecology, Publication #96-94

Washington State Wetlands Rating System for Eastern Washington, October 1991, Washington State Department of Ecology, Publication #91-58

Webster's 9th New Collegiate Dictionary, copyright 1998.

Wetland Buffers: Use and Effectiveness, February 1992, Washington State Department of Ecology, Publication #92-10

BIBLIOGRAPHY OF STEVENS COUNTY REGULATIONS

Flood Damage and Protection Regulations, August 13, 1996, Resolution #107-1996, as updated by Resolution 78-2003.

Hazardous Waste Siting Criteria, October 5, 1992, Ordinance #3-1992

Shoreline Master Program, July 27, 1999, Resolution #78-1999

Title 1, Public Participation Policy, January 28, 2002, Resolution #20-2002

Title 4, Short Plat Regulations, December 26, 2000, Resolution #140-2000

Title 5, Long Plat Regulations, December 26, 2000, Resolution #141-2000

Title 6, Local Project Review, August 17, 1999, Resolution #87-1999

Title 8, Timber and Forest Practices, July 14, 1998, Resolution #80-1998

Appendix "A" Critical Areas Checklist

NOTE: If a qualified professional has performed a site assessment, you may skip this checklist and include that assessment with your permit application.

1. Are you aware of any environmental documentation that has been prepared related to critical areas that includes the subject area, such as wetland reconnaissance or delineation, environmental impact statements, subdivisions, short plats, special use permits, forest practice applications? *(If yes, please attach)*
 Yes No Unknown
2. Is there any surface water on or within 200 feet of the project area? *(including year-round and seasonal streams, lakes, ponds, bogs, fens, swamps, marshes)*
 Yes No Unknown
3. Is there vegetation that is associated with wetlands growing on or within 200 feet of the project area?
 Yes No Unknown
4. Are you aware of any wetlands that have been identified on or within 200 feet of the project area?
 Yes No Unknown
5. Are there areas on or within 200 feet of the project area where the ground is consistently inundated or saturated with water?
 Yes No Unknown
6. Have you observed any State or Federally listed sensitive, endangered or threatened species (i.e. Bald Eagle nests) on or within 200 feet of the project area?
 Yes No Unknown
7. Is the project area on or within 200 feet of an area having an elevation change with gradients exceeding 30%? *(30% gradient means a 15 foot change over 100 feet of horizontal distance.)*
 Yes No Unknown
8. Are you aware of any old mines on or within 200 feet of the proposed activity?
 Yes No Unknown
9. Is there any indication or suspected risk of a landslide hazard area on or within 200 feet of the subject property? *(Landslide hazard means an area potentially subject to risk of mass movement due to a combination of geologic, topographic and hydrologic factors.)*
 Yes No Unknown

Dated this _____ day of _____, 20____.

Signed: _____

Appendix “B”

NOMINATION PROCESS FOR ‘HABITATS AND SPECIES OF LOCAL IMPORTANCE’

These habitats and species may be identified or nominated by state or local agencies, individuals, or organizations. The petition shall be accompanied by the appropriate fees in accordance with the fee schedule established by the board of county commissioners. The Petition to nominate an area or a species to this category shall contain all of the following:

A completed environmental checklist which includes the following:

1. Demonstrate a need for special consideration based on declining population, sensitivity to habitat manipulation, commercial or game value, or other special value, such as public appeal;
2. Propose specific and relevant protection regulations that meet the goals of this Title;
3. Propose relevant, feasible, management strategies considered effective and within the scope of this Title;
4. Provide species habitat location(s) on a map that works in concert with other County maps;

And supplemental information showing the following

1. Documentation of reasonable public notice methods that the petitioner(s) have used to inform the affected area. Examples of reasonable methods are:
 - Posting the property
 - Publishing a paid advertisement in a newspaper or newsletter of circulation in the general area of the proposal, where interested persons may review information on the proposal. Information in the notice must contain a description of the proposal, general location of the affected area and where comments on the proposal may be sent.
 - Notification to public or private groups in the affected area which may have an interest in the petition.
 - News media articles that have been published concerning the proposal
 - Notices placed at public buildings or bulletin boards in the affected area
 - Mailing of informational flyers to property owners within the affected area.
2. Contain signatures of all petitioners.

Items 1 through 4 shall be prepared by an agency or qualified professional. Supplemental information may be prepared by the petitioner(s).

The Administrator will review submitted proposals for completion. Completed proposals will be reviewed under the full administrative review process in Stevens County Code Title 6, Local Project Review (the SEPA process). Copies will be forwarded to WDFW, DOE, DNR or other State or local agencies of expertise for comments and recommendations regarding accuracy of data, stated need and the effectiveness of proposed management and protection strategies.

Upon completion of the SEPA review, the Stevens County Board of County Commissioners shall hold a public hearing for proposals found to be complete, accurate, feasible, potentially effective and within the scope of this Title. The petitioner(s) shall be responsible for advertising costs of all public notices.

Approved nominations will become designated “Habitats and Species of Local Importance”, and will be subject to the provisions of this Title. Habitats and species nominated and afforded protection under the category Habitats and Species of Local Importance” shall then be subject to review under this Title.

Appendix “C”

NOTICE OF CRITICAL AREA OR BUFFER

Property Owner:

Legal Description:

Tax Parcel Number:

NOTICE is hereby given that the above described property contains a (*insert type of critical area*) as defined by Section _____ of the Stevens County Code Title 13, Critical Areas Ordinance.

This property was the subject of a development proposal for (*insert type of permit*), vested on (date). A copy of the site plan showing the critical area and its associated buffer is attached hereto.

Restrictions on use or alteration of the (*Critical Area*) may exist due to natural conditions of the property and/or the protection requirements identified in Section _____ of the Stevens County Code Title 13, Critical Areas Ordinance.

Dated _____.

Property Owner

Property Owner

NOTARY ACKNOWLEDGEMENT

STATE OF WASHINGTON)
) SS
COUNTY OF STEVENS)

I certify that I know or have satisfactory evidence that, _____, is/are the person(s) who appeared before me, and said person(s) acknowledged that he/she/they signed this instrument and acknowledged it to be his/her/their free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this ____ day of _____.

Notary Public in and for the
State of Washington
Residing at _____