



MEMORANDUM

Date: January 12, 2009

To: Board of Okanogan County Commissioners

From: Nathan Wehmeyer

Topic: Critical Areas Ordinance

This memorandum serves to provide the input that was received from a Citizens group that met about the Critical Areas Ordinance on November 5, 2008 along with input from staff.

We used agency data to develop county maps of critical areas. These maps were reviewed by the citizens group that felt they should be adopted as the Counties Critical Areas Maps.

We will integrate Okanogan County Code 15.08 Floodplain Management as a subsection to the Critical Areas Ordinance. The Channel migration studies that were done on both the Methow and Okanogan Rivers will be used as a guide to make more informed decisions on land use in those areas.

Currently this is in the Critical Areas Ordinance as the definition of different water types.

Water Typing System - Waters classified according to WAC 222-16-030 as follows:

Type 1 Water - All waters, within their ordinary high water mark, as inventoried as "shorelines of the state" under chapter 90.58 RCW and the rule promulgated pursuant to Chapter 90.58 RCW, but not including waters' associated wetlands as defined in Chapter 90.58 RCW.

Type 2 Water - Segments of natural waters which are not classified as Type 1 water and have a high fish, wildlife or human use. These are segments of natural waters and periodically inundated areas of their associated wetlands, which:

(a) Are used by substantial numbers of anadromous or resident game fish for spawning, rearing or migration. Waters having the following characteristics are presumed to have highly significant fish population:

(i) Stream segments having a defined channel 20 feet or greater in width between the ordinary high water mark and having a gradient of less than 4 percent.

- (ii) Lakes, ponds or impoundments having a surface area of 1 acre or greater at seasonal low water.
- (b) Are used by salmonids for off-channel habitat. These areas are critical to the maintenance of optimum survival of juvenile salmonids. This habitat shall be identified based on the following criteria:
 - (i) The site must be connected to a stream bearing salmonid and accessible during some period of the year; and
 - (ii) the off-channel water must be accessible to juvenile salmonids through a drainage with less than a 5% gradient.

Type 3 Water - Segments of natural waters which are not classified as Type 1 or 2 water and have a moderate to slight fish, wildlife and human use. These are segments of natural waters and periodically inundated areas of their associated wetlands which:

- (a) Are used by significant numbers of anadromous fish for spawning, rearing or migration. Waters having the following characteristics are presumed to have significant anadromous fish use:
 - (i) Streams segments having a defined channel of 5 feet or greater in width between the ordinary high water marks; and having a gradient of less than 12 percent and not upstream of a falls of more than 10 vertical feet.
 - (ii) Ponds or impoundments having a surface area of less than 1 acre a seasonal low water and having an outlet to an anadromous fish stream.
- (b) Are used by significant numbers of resident game fish. Waters with the following characteristics are presumed to have significant resident game fish use:
 - (i) Stream segments having a defined channel of 10 feet or greater in width between the ordinary high water marks; and a summer low flow greater than 0.3 cubic feet per second; and a gradient of less than 12 percent.
 - (ii) Ponds or impoundments having a surface area greater than 0.5 acres a seasonal low water.
- (c) Are highly significant for the protection of down stream water quality. Tributaries which contribute greater than 20 percent of the flow to a Type 1 or 2 Water are presumed to be significant for 1,500 feet from their confluence with the Type 1 or 2 Water or until their drainage area is less than 50 percent of their drainage area at the point of confluence, whichever is less.

Type 4 Water - This classification shall be applied to segments of natural waters which are not classified as Type 1,2 or 3, and for the purpose of protecting water quality downstream are classified as Type 4 Water upstream until the channel width becomes less than 2 feet in width between the ordinary high water marks. Their significance lies in their influence on water quality downstream in Type 1,2 and 3 waters. These may be perennial or intermittent.

Type 5 Water - This classification shall be applied to all natural waters not classified as Type 1,2,3 or 4; including streams with or without well defined channels, areas of perennial or intermittent seepage, ponds, natural sinks and drainage ways having short periods of spring or storm runoff.

This needs to be updated to the more current symbol water typing system used by the DNR. (WAC 222-16-030)

- Type 1 Water = Type "S" Water
- Type 2 & 3 Water = Type "F" Water
- Type 4 Water = Type "Np" Water
- Type 5 Water = Type "Ns" Water

Currently in the Critical Areas Ordinance there is a list of specific species that are in each level. A suggestion is to delete the specific species list.

Classification / Rating System

Fish and Wildlife Habitat Conservation Areas:

Level I Species	Level II Species	Level III Species
<i>THREATENED OR ENDANGERED SPECIES</i>	<i>SPECIES AND HABITAT OF LOCAL CONCERN</i>	<i>OTHER IMPORTANT SPECIES AND HABITAT</i>
White Pelican	Anadromous/Resident Fish	Chukar
Bald Eagle	Western Bluebird	Blue Grouse (nest/winter range)
Spotted Owl	Common Loon	Long Billed Curlew
Western Gray Squirrel	Sharp-Tailed Grouse (wintering and lek)	Priority Mule Deer Winter Range
	Golden Eagle (nest)	White Tail Deer
	Harlequin Duck	
	Mountain Goat	
	Big Horn Sheep	
	Great Blue Heron (Nest sites)	
	Mule Deer:	
	*Critical Winter Range	
	*Migration Corridors	
	*Spring Range	
	Habitat Types:	Habitat Types:
	*Caves	*Talus Slopes
	*Riparian (Type 1, 2, & 3 Waters)	*Riparian (Type 4 Waters, subject to setback regulation only)
	*Cliffs	
	*Shrub Steppe	

Designation / Mapping

Level I Habitat:

The habitat of Threatened and Endangered Species as identified on the Federal Register and/or the Washington State Listing as designated on the non-regulatory maps on file in the Office of Planning and Development.

Level II Habitat:

Habitat of fish and wildlife of local concern, as designated on the non-regulatory maps on file in the Office of Planning and Development, which is *essential* to sustaining fish and wildlife populations. Habitat may include rare and/or unique features.

Level III Habitat:

Habitat as designated on the non-regulatory maps on file in the Office of Planning and Development, as *important* to fish and wildlife.

Wetlands

The publication of the Washington State Wetland Rating System for Eastern Washington, needs to be changed from (Publication #91-58, Oct. 1991) to Wetland Rating Form – Eastern Washington Version 2 (Publication #04-06-15) as amended.

Currently the wetland section of the Critical Areas Ordinance reads as follows.

“A development permit is required when any alterations are proposed to a Category I wetland. A development permit is required when any alterations are proposed to any Category II, III, and IV wetlands only when in conjunction with other permits that are required by the Office of Planning and Development.”

A suggestion is to establish a mechanism that would review the critical areas of a particular parcel when a non agricultural disturbance is planned on that particular parcel. For example, When a road is being built on a particular parcel that might have an effect on Critical Areas. (Grading ordinance)

If you have any more suggestions please let me know.

**Chapter 14.12
CRITICAL AREAS**

Sections:

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Article III. Fish and Wildlife Habitat Conservation Areas

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Article IV. Frequently Flooded Areas

- 14.12.370 Exemptions.
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Article V. Geologically Hazardous Areas

- 14.12.410 Exemptions.

Article V(A). Erosion Hazard Areas

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Article V(B). Landslide Hazard Areas

- 14.12.450 Classification - Rating system.
- 14.12.460 Designation - Mapping.
- 14.12.470 Regulations.

Article V(C). Mine Hazard Areas

- 14.12.480 Classification - Rating system.
- 14.12.490 Designation - Mapping.
- 14.12.500 Regulations.

Article V(D). Seismic Hazard Areas

- 14.12.510 Classification - Rating system.
- 14.12.520 Designation - Mapping.
- 14.12.530 Regulations.

Article V(E). Volcanic Hazard Areas

- 14.12.540 Classification - Rating system.
- 14.12.550 Designation - Mapping.
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Article VI. Wetlands

- 14.12.570 Exemptions.
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- 14.12.600 Regulated activities - Permit required.
- 14.12.610 Waivers - Wetland delineation requirement.
- 14.12.620 Delineation required.
- 14.12.630 Permit approval - Conditions.
- 14.12.640 Wetland buffers.
- 14.12.650 Compensating for wetlands impacts.
- 14.12.660 Compensatory mitigation.
- 14.12.670 Wetlands restoration, creation, enhancement, or compensation.
- 14.12.680 Wetland type.
- 14.12.690 Location.
- 14.12.700 Timing.
- 14.12.710 Cooperative restoration, creation or enhancement projects.
- 14.12.720 Mitigation plans.

Article I. Administration

14.12.010 Content.

The content of this regulation is, in part, based upon a report "Final Growth Management Committee Report" provided by the Okanogan County growth management committee and adopted by Okanogan County commissioners as Resolution 13-94. The goals, policies, and concepts in the report should be viewed as a nonregulatory guide for interpretation of these critical area regulations. (Ord. 94-2 § 2, 1994).

14.12.020 Purpose – Authority.

A. Pursuant to the requirements of the Growth Management Act of 1990 (as amended), Chapter 36.70A RCW, Okanogan County hereby adopts these critical area regulations to protect wetlands, areas with critical recharging effect on potable water, frequently flooded areas, geologically hazardous areas, and fish and wildlife habitat conservation areas, as defined herein.

B. The purpose of these regulations include, but are not limited to, the following:

1. To protect those areas providing critical recharge to groundwater used for potable supply;
2. To minimize road building in all critical areas to the greatest extent possible;
3. To promote innovative, efficient design of proposed projects wherever possible;
4. To recognize the economic value of wildlife;
5. To look for realistic opportunities to maintain and improve habitat where feasible;
6. To communicate Okanogan County goals, policies, and strategies for critical areas regulation to local, state and federal agencies;
7. To reduce the risk of life and property loss as a result of avoidable flood damage;
8. To reduce the risk of life and property loss as a result of failure to avoid or mitigate development in geologically hazardous areas;
9. To avoid or minimize damage to regulated wetlands wherever possible;
10. To require activities not dependent on wetland location to locate at upland sites;
11. To strive for no net loss of the functions and values of regulated wetlands by requiring restoration and/or enhancement of degraded wetlands. Recommend the creation of new wetlands to offset unavoidable losses due to development.

C. Further, Okanogan County declares that "critical areas" are characterized as either resource critical areas or hazard critical areas, as follows:

1. **Resource Critical Areas.** Wetlands, areas with critical recharging effect on potable water, and fish and wildlife habitat conservation areas are critical areas that are regulated for the purpose of protecting these resources from human activity that would cause undue damage to wetlands, wildlife habitat or wildlife movement; or would endanger public safety or health by adversely affecting aquifer recharge areas. Resource critical areas shall not be altered except as otherwise provided in this chapter or subsequent administrative rules.

2. **Hazard Critical Areas.** Frequently flooded areas and geologically hazardous areas are critical areas that are regulated for the purpose of protecting the public from human activities that would affect public safety because it would place residential or other permanent human structures in the hazard critical areas as further defined in this chapter. Such activity will only be allowed as provided in this chapter. (Ord. 94-2 § 2, 1994).

14.12.030 Administrative implementation.

A. As provided herein, county planning staff and the planning commission are directed to interpret and apply these critical area regulations to accomplish the regulatory intent and purpose stated in this section. All effort shall be made to integrate any procedures required to assure compliance with this chapter with the Okanogan County zoning code, subdivision ordinance, shoreline master program, flood damage prevention ordinance, and State Environmental Policy Act ordinances.

B. When any alteration of a Category I wetland is proposed, a public hearing shall be held pursuant to the public notice and other procedural requirements of Chapter 17.19 OCC.

C. Federal and state agencies consulted for comment on development applications subject to this chapter, shall be allowed 21 days from the postmarked date on the notice from the county in which to comment on the project. The administrator may extend the comment period up to 15 days at the request of a reviewing agency for unique, complex, or unusually large project proposals. (Ord. 94-2 § 2, 1994).

14.12.040 Applicability.

All development proposals, whether public or private, shall comply with the requirements of this chapter. Responsibility for the enforcement of this chapter shall rest with the director of planning and development or the director's designee. For the purposes of this chapter, "development proposals" shall include proposals which require any of the following:

- A. A building permit;
- B. Any flood plain development permit;
- C. Any shoreline development permit, variance, or redesignation;
- D. Any conditional use permit;
- E. A variance;
- F. A zone reclassification;
- G. A short subdivision;
- H. A subdivision;
- I. A planned development;
- J. A planned destination resort;
- K. A binding site plan;
- L. Any other development or use permit that requires approvals under existing or subsequently adopted Okanogan County codes and/or ordinances, as administered by the office of planning and development, unless expressly exempted from this chapter;
- M. Alteration of a Category I wetland. (Ord. 94-2 § 2, 1994).

14.12.050 Preliminary investigation – Site visit.

- A. Upon the receipt of an application, the administrator or designee shall consult all critical area maps. After referring to the maps, the administrator or designee shall perform a preliminary site visit to determine by visual observation, together with the known scientific evidence, whether or not critical areas may exist on the development site. Before the administrator declares that critical areas do not exist, contrary to information provided on critical area maps, the administrator shall consult the affected agencies of expertise.
- B. If the administrator or designee is unable to confirm the existence or nonexistence of critical areas, a second site visit shall be performed, including the agency of expertise, the administrator or designee, and the applicant.
- C. If a determination concerning critical areas can not be made after a second site visit, the administrator shall specify, with the agency of expertise, the required contents of a special study that will determine the existence or absence of critical areas, as defined in this chapter. Special studies will be circulated to the agencies of expertise during review of the development application. (Ord. 2004-4, 2004; Ord. 94-2 § 2, 1994).

14.12.060 Special studies and map amendments - When required.

- A. When sufficient information to identify the existence of or to evaluate the effects of a development proposal on critical areas is not provided or available, the director shall notify the applicant that special studies are required. A special study shall be prepared by professionals with documented expertise and shall identify, locate, and describe any critical areas contained in the development site, and discuss how the development proposal meets the requirements of this chapter. The cost of a special study shall be the responsibility of the applicant.
- B. A special study or map amendment of any existing regulatory map shall gather information needed to complete the site plan as required by OCC 14.12.160. Special studies shall identify, locate, and describe critical areas contained in the development site or that such critical areas do not exist; amount and type of encroachment or alteration of the critical area; and discuss how the proposed development will meet the requirements of this chapter.
- C. For special studies and map amendments of any existing regulatory map related to fish and wildlife habitat conservation areas, the study shall identify, locate and describe specific fish and wildlife habitat within one-half mile of the proposed development. Off-site study may be accomplished using the best available mapping and data to estimate the location and function of adjacent habitat such as: movement corridors, fawning areas, spring range, riparian areas, etc. The map shall also identify topography and specific vegetative communities present, structures, roads, fences, human activity areas, and lands which have been converted from native vegetation. A written summary of current and historical wildlife use (this shall include a list of species and their seasonal use of the site proposed for amendment) and current residential, recreational, or commercial use of the property. A section of the written summary shall be directed at describing the positive/negative impacts to wildlife of any proposed or anticipated development. (Ord. 94-2 § 2, 1994).

14.12.070 Appeals.

- A. Applicants may appeal any decision to require a special study under this chapter or subsequently adopted rules in writing to the planning commission within 10 calendar days of the date the notice of the special study requirement was mailed. Timely appeals shall be heard by the planning commission within 45 days of its filing, and a decision rendered at that time.

Public notice shall be given in accordance with OCC 17.37.080. Okanogan County shall provide a fee for these appeals in its fee ordinance which shall be paid by the appellant at the time of filing.

B. Administrative appeals regarding any other decisions or actions pursuant to this chapter or subsequently adopted rules shall be consolidated with any administrative appeals on the development proposal or permit, and conducted pursuant to the general requirements for appeals under the Okanogan County zoning code and subdivision ordinance.

C. If no administrative appeal process exists for the requested activity or permit, appeal of the decision shall be only by writ of review in Okanogan County superior court.

D. The planning commission shall give substantial weight to the decision of the director or designee and require that the appellant bear the burden of proof in any appeal. (Ord. 94-2 § 2, 1994).

14.12.080 Maps and inventories.

The known distribution of critical areas in Okanogan County is displayed on the following maps on file in the office of planning and development:

A. Critical Areas Maps - Regulatory. At the adoption of this chapter, no regulatory maps exist designating critical areas as defined in this chapter. The office of planning and development currently refers to wildlife habitat maps developed by the Department of Wildlife. These maps contain inaccuracies in both designating wildlife habitat that does not exist and failing to designate wildlife habitat that does exist. The county will begin a process to develop regulatory maps designating critical areas as defined in this chapter, as soon as practical. The adopted regulatory maps shall be based on scientific evidence gathered or confirmed after the adoption of this chapter.

B. Critical Areas Maps - Nonregulatory. These maps are to be used as a guide and shall be continuously updated as new critical areas are identified in the development review process. However, due to the scale and content of these maps, they are not to be construed as regulatory. The actual presence or absence of a critical area as defined herein shall determine the application of this chapter to the development request or permit.

1. Fish and wildlife habitat maps (Levels I, II, and III habitat). Additional fish and wildlife habitat data and larger scale maps are on file with the office of planning and development. This data is part of the fish and wildlife habitat mapping system and are currently the best available collected data.

2. Department of Natural Resources, official water type reference maps, as amended.

3. National wetlands inventory maps (NWI).

C. Critical areas identified through the development review process

1. Applicants may propose amendments to regulatory maps as they become available, using maps and data resulting from special studies. Map amendments may be processed at any time and shall be processed in accordance with Chapter 17.37 OCC. Agency review shall be accomplished in accordance with OCC 17.19.080(B). (Ord. 94-2 § 2, 1994).

14.12.090 Definitions.

Words not defined in this chapter shall be as defined in the OCC Title 17, Zoning. Words not found in either document shall be as defined in the Webster's Third New International Dictionary, latest edition.

A

Active Fault. A fault that is considered likely to undergo renewed movement within a period of concern to humans. Faults are commonly considered to be active if the fault has moved one or more times in the last 10,000 years, but faults may also be considered active in some cases if movement has occurred in the last 500,000 years.

Alluvial Fans. A cone-shaped deposit of alluvium made by a stream where it runs out onto a level plain or meets a slower stream. The fans generally form where streams issue from mountains upon the lowland.

Alteration. Any human induced change in an existing condition of a critical area or its buffer. Alterations include but are not limited to grading, filling, channelizing, dredging, clearing (vegetation), construction, compaction, excavation or any other activity that changes the character of the critical area.

Applicant. A person who files an application for permit under this chapter and who is either the owner of the land on which that proposed activity would be located, a contract purchaser, or the authorized agent of such a person.

Aquifer Recharge Areas. Areas which, due to the presence of certain soils, geology, and surface water, act to recharge ground water by percolation.

Avalanche Hazard. A large mass of snow or ice, sometimes accompanied by other material, moving rapidly down a mountain slope.

B

Base Flood. A flood event having a one percent chance of being equaled or exceeded in any given year, also referred to as the

100-year flood.

Best Management Practices. Conservation practices or systems of practices and management measures that:

1. Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, and sediment; and
2. Minimize adverse impacts to surface water and groundwater flow, circulation patterns, and to the chemical, physical, and biological characteristics of wetlands.

Bogs. A swamp or tract of wetland covered, in many cases, with peat.

Buffer. An area contiguous to a critical area boundary that is required for the continued maintenance, functioning, and/or structural stability of a critical area.

C

Compensation Project. Actions necessary to replace project-induced wetland and wetland buffer losses, including land acquisition, planning, construction plans, monitoring and contingency actions.

Compensatory Mitigation. Replacing project-induced wetland losses or impacts, and includes, but is not limited to, the following:

1. "Restoration" - Actions performed to re-establish wetland functional characteristics and processes which have been lost by alterations, activities, or catastrophic events within an area which no longer meets the definition of a wetland.
2. "Creation" - Actions performed to intentionally establish a wetland at a site where it did not formerly exist.
3. "Enhancement" - Actions performed to improve the condition of existing degraded wetlands so that the functions they provide are of a higher quality.

Critical Aquifer Recharge Areas. Areas with a critical recharging effect on aquifers used for potable water.

Critical Areas. Critical areas include: aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, and wetlands, as defined in Chapter 36.70A RCW and this chapter.

D

Developable Area. A site or portion of a site that may be utilized as the location of development, in accordance with the rules of this chapter.

Development. Any activity upon the land requiring a construction or use permit by Okanogan County.

E

Endangered. Any fish or wildlife species that is native to the state of Washington and is seriously threatened with extinction throughout all or a significant portion of its range with the state, and is listed in the Federal Register/Endangered Species Act of 1973 and/or State Listing in accordance with WAC 232-12-014 and 232-12-011.

Erosion. The process whereby wind, rain, water, and other natural agents mobilize and transport particles.

Erosion Hazard Areas. Areas that contain soil types which, according to soil conservation service's soil classification system, may experience a severe to very severe erosion process.

Exotic. Any species of plants or animals that are foreign to the planning area.

Existing and Ongoing Agricultural Uses. Farming, horticulture, aquaculture, irrigation or grazing of animals, and those activities involved in the production of crops or livestock, for example:

1. The operation and maintenance of farm and stock ponds or drainage ditches;
2. The operation and maintenance of all irrigation systems and their components;
3. Changes between agricultural activities (i.e., crops to grazing, farming to fallow, etc.);
4. Fencing activity;
5. Normal maintenance, repair, or operation of existing agricultural related structures, facilities, or improved areas;
6. Preparation of the land for agricultural uses.

Activities which bring an area into agricultural use are not part of an ongoing operation. An operation ceases to be ongoing when the area on which it is conducted is converted to a nonagricultural use or has lain idle for more than five years, unless the idle land is registered in a federal or state soils conservation program, or unless the activity is maintenance of irrigation ditches, laterals, canals, or drainage ditches related to an existing and ongoing agricultural activity. Areas where agricultural use has been restricted resulting from inundation and where that inundation is the sole reason that the agricultural use has ceased, is considered an existing and on-going agricultural use, provided that the use is resumed within five years of accessibility of the land. Forest practices are not included in this definition.

F

Fault. A fracture along which there has been displacement of the sides relative to one another parallel to the fracture.

Fault Line. The intersection of a fault surface with the surface of the earth.

Fish and Wildlife Habitat Conservation Areas. Areas of local importance that 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, movement corridors, and areas of limited availability or high vulnerability to alteration, such as cliffs, tales, and wetlands.

Flood or Flooding. A 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.

Flood Plain. The total land area adjoining a river, stream, watercourse or lake subject to inundation by the base flood.

Flood Protection Elevation. The elevation that is one foot above the base flood elevation.

Floodway. The channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the surface water elevation more than one foot. Also known as the "zero rise floodway."

Frequently Flooded Areas. Areas in the floodplain subject to a one percent or greater chance of flooding in any given year (100-year floodplain).

G

Geologically Hazardous Areas. Areas that may not be suited to siting commercial, residential, or industrial development consistent with public health, safety or environmental standards, because of their susceptibility to erosion, sliding, earthquake, or other geological events. Types of geologically hazardous areas include: erosion, landslide, seismic, mine, and volcanic.

Growth Management Act. Chapter 36.70A, RCW, as amended.

H

High Intensity Land Use. Land uses which are associated with moderate or high levels of human disturbance or substantial wetland habitat impacts including, but not limited to, medium and high density residential including lots with greater than one dwelling unit per acre, and planned developments where the density is greater than the underlying zoning density, multifamily residential, active recreation, and commercial and industrial land uses greater than 1,500 square feet, except home industries.

Hydic Soil. A soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands."

I

In-Kind Compensation. To replace wetlands with substitute wetlands whose characteristics closely approximate those destroyed or degraded by a regulated activity. It does not mean replacement "in-category."

Intermittent Streams. A stream which flows only at certain times when it receives water from springs or from some surface source, such as melting snow or rain.

Inter-Rill. Inter-rills are areas subject to sheetwash.

L

Landslide Hazard Areas. Areas that are potentially subject to risk of mass movement due to a combination of geologic landslide resulting from a combination of geologic, topographic, and hydrologic factors. These areas are typically susceptible to landslides because of a combination of factors including: bedrock, soil, slope gradient, slope aspect, geologic structure, ground water, or other factors.

Lek. An area where sharp-tailed grouse gather to perform their courtship displays.

Low-Intensity Land Use. Land uses which are associated with low levels of human disturbance or low wetland habitat impacts including, but not limited to, passive recreation, planned developments where the density is less than or equal to the underlying zoning density, open space, or agricultural or forest management uses. The lowest residential density requirement for any given district qualifies as low-intensity use; provided, that the density requirement does not exceed one du/acre. Commercial and industrial uses smaller than 1,500 square feet in size are also considered low-intensity land uses.

Low-Intensity Recreation Activities. Recreation activities that are compatible with the natural environment, are contoured and compatible with the land, contain no paved surfaces and accommodate wildlife usage. Activities that result in large concentrations of people are not considered recreational activities that are compatible with the natural environment.

M

Mine Hazard Areas. Areas that are directly underlain by, adjacent to, or affected by mine workings such as adits, tunnels, drifts, or air shafts with the potential for creating large underground voids susceptible to collapse, tailings piles, and waste rock. In addition, tailings and waste rock piles have the potential for being mine hazard areas.

Mitigation. Avoiding, minimizing or compensating for adverse critical areas impacts. Mitigation, in the following order of preference is:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
3. Rectifying the impact by repairing, rehabilitating or restoring the affected environment;
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;
6. Monitoring the impact and the compensation project and taking appropriate corrective measures. Mitigation for individual actions may include a combination of the above measures.

N

Native Vegetation. Plant species which are indigenous to the area in question.

Nonconformity. An existing use or structure that is not in compliance with current regulations.

O

Off-Site Compensation. To replace wetlands away from the site on which a wetland has been impacted by a regulated activity.

On-Site Compensation. To replace wetlands on the site on which a wetland has been impacted by a regulated activity.

P

Porous Soil Types. Soils, as identified by the Soil Conservation Service, that contain voids, pores, interstices or other openings which allow the passing of water.

Private Wildlife Open Space. Land retained in an open condition in perpetuity for fish and wildlife conservation or enhancement purposes. Lands within this type of open space dedication may include, but are not limited to, portions and combinations of forest habitats, grasslands, shrub steppe, on-site watersheds, 100-year floodplains, county shorelines or shorelines of state-wide significance, riparian areas and wetlands. Activities having minimal adverse impacts, are allowed in wildlife open space, such as but not limited to: low-intensity recreation activities, such as properly designed golf courses, volleyball courts, croquet courses, unpaved trails, wildlife watching blinds, short-term scientific or educational activities and sports fishing or hunting, and agricultural lands that are consistent with wildlife use. Any structures associated with an unpaved trail system where an easement or deed has been granted to a public entity, must blend with the natural surroundings and be minimal in size.

R

Repair or Maintenance. An activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter additional regulated wetlands are not included in this definition.

Rills. Steep-sided channels resulting from accelerated erosion. A rill is generally a few inches deep and not wide enough to be an obstacle to farm machinery. Rill erosion tends to occur on slopes, particularly steep slopes with poor vegetative cover.

Riparian. Areas that have vegetation requiring water year-round and seasonally. The width of these areas depends upon slope and vegetation cover, but for the purposes of this regulation, includes a maximum of 200 feet, measured on the slope of the land, from the ordinary high water mark on each side of the perennial streams, rivers, lakes, ponds, marshes, wetlands, Type 15 waters, etc.

S

Seeps. A spot where water oozes from the earth, often forming the source of a small stream.

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

Seismic Zone 2B. The area identified in the 1991 Uniform Building Code on Figure No. 23-2, Seismic Zone Map of the United States. This zone determines the structural requirements for buildings constructed in the county.

Serviceable. Presently usable.

Significant Portion of its Range. That portion of a species range likely to be essential to the long term survival of the population in Washington.

Species. Any group of animals classified as a species or subspecies as commonly accepted by the scientific community.

T

Threatened. Any fish or wildlife species that is native to the state of Washington and is likely to become an endangered species within the foreseeable future throughout a significant portion of its range within the state without cooperative management or removal of threats, and/or is listed in the Federal Register as a threatened species.

U

Unavoidable and Necessary Impacts. Impacts to regulated wetlands that remain after a person proposing to alter regulated wetlands has demonstrated that all reasonable economic use is being denied.

V

Variance. An adjustment in the application of the regulations of a zoning ordinance to a particular piece of property, in a situation where the property, because of special circumstances found to exist on the land, is deprived as a result of the imposition of the zoning regulations of privileges commonly enjoyed by other properties in the same vicinity and zone. A variance shall be limited to only that adjustment necessary to remedy the disparity in privilege. A variance shall not be used to convey special privileges not enjoyed by other properties in the same vicinity and zone and subject to the same restrictions. Economic hardship is not grounds for a variance.

Volcanic Hazard Areas. Areas that are subject to inundation by pyroclastic flows, lava flows, debris flows, mud flows, or related flooding resulting from volcanic activity.

W

Water Typing System. Waters classified according to WAC 222-16-030 as follows:

A. Type 1 Water. All waters, within their ordinary high water mark, as inventoried as "shorelines of the state" under Chapter 90.58 RCW and the rule promulgated pursuant to Chapter 90.58 RCW, but not including waters' associated wetlands as defined in Chapter 90.58 RCW.

B. Type 2 Water. Segments of natural waters which are not classified as Type 1 water and have a high fish, wildlife or human use. These are segments of natural waters and periodically inundated areas of their associated wetlands, which:

1. Are used by substantial numbers of anadromous or resident game fish for spawning, rearing or migration. Waters having the following characteristics are presumed to have highly significant fish population:

a. Stream segments having a defined channel 20 feet or greater in width between the ordinary high water mark and having a gradient of less than four percent.

b. Lakes, ponds or impoundments having a surface area of one acre or greater at seasonal low water.

2. Are used by salmonids for off-channel habitat. These areas are critical to the maintenance of optimum survival of juvenile salmonids. This habitat shall be identified based on the following criteria:

a. The site must be connected to a stream bearing salmonid and accessible during some period of the year; and

b. The off-channel water must be accessible to juvenile salmonids through a drainage with less than a five percent gradient.

C. Type 3 Water. Segments of natural waters which are not classified as Type 1 or 2 water and have a moderate to slight fish, wildlife and human use. These are segments of natural waters and periodically inundated areas of their associated wetlands which:

1. Are used by significant numbers of anadromous fish for spawning, rearing or migration. Waters having the following characteristics are presumed to have significant anadromous fish use:

a. Streams segments having a defined channel of five feet or greater in width between the ordinary high water marks; and having a gradient of less than 12 percent and not upstream of a falls of more than 10 vertical feet.

b. Ponds or impoundments having a surface area of less than one acre at seasonal low water and having an outlet to an anadromous fish stream.

2. Are used by significant numbers of resident game fish. Waters with the following characteristics are presumed to have significant resident game fish use:

a. Stream segments having a defined channel of 10 feet or greater in width between the ordinary high water marks; and a summer low flow greater than 0.3 cubic feet per second; and a gradient of less than 12 percent.

b. Ponds or impoundments having a surface area greater than 0.5 acres at seasonal low water.

3. Are highly significant for the protection of downstream water quality. Tributaries which contribute greater than 20 percent of the flow to a Type 1 or 2 water are presumed to be significant for 1,500 feet from their confluence with the Type 1 or 2 water or until their drainage area is less than 50 percent of their drainage area at the point of confluence, whichever is less.

D. Type 4 Water. This classification shall be applied to segments of natural waters which are not classified as Type 1, 2 or 3, and for the purpose of protecting water quality downstream are classified as Type 4 water upstream until the channel width becomes less than two feet in width between the ordinary high water marks. Their significance lies in their influence on water quality downstream in Type 1, 2 and 3 waters. These may be perennial or intermittent.

E. Type 5 Water. This classification shall be applied to all natural waters not classified as Type 1, 2, 3 or 4; including streams with or without well defined channels, areas of perennial or intermittent seepage, ponds, natural sinks and drainage ways having short periods of spring or storm runoff.

Wetlands. 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. However, wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversions of wetlands, if permitted by the county or city. (Washington State Wetlands Rating System for Eastern Washington as amended by Okanogan County).

Wetland Buffers/Wetland Buffer Zones. Those areas that surround and protect a wetland from adverse impacts to the functions and values of a wetland.

Wetland Categories, Categories of Wetlands or Wetland Types. Descriptive categories of the wetlands taxonomic classification system of the United States Fish and Wildlife Service (Cowardin, et al. 1978).

Wetland Edge. The boundary of a wetland as delineated, based on the definitions contained in this chapter.

Wetland Functions and Values. The beneficial roles served by wetlands may include, but are not limited to: water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage, conveyance and attenuation; groundwater recharge and discharge; erosion control; historical, archaeological and aesthetic value protection; and recreation. These beneficial roles are not listed in order of priority.

Wetland Rating System. The system of evaluating wetlands functions and values.

Wetlands, Regulated. All Category I and II wetlands, Category III wetlands larger than 2,500 square feet, and Category IV wetlands larger than 10,000 square feet. (Ord. 94-2 § 2, 1994).

14.12.100 Exemptions.

The provisions of this chapter do not apply to the following circumstances when determined applicable by the director or designee:

A. Emergencies that threaten public health and safety and that require remedial or preventative action in a time frame too short to allow for compliance with the requirements of this chapter.

B. Public agency proposals for maintenance, repair, or development when the county commissioners determine that no reasonable alternative exists; provided, that repair, maintenance, improvement, etc., of public roads within existing public rights-of-way shall not require subsequent county review and approval. (Ord. 94-2 § 2, 1994).

14.12.110 Reasonable use - Exception.

A. If an applicant for a development proposal demonstrates that application of this chapter would deny all reasonable economic use of the subject property, reasonable economic development of the property will be allowed if the applicant also demonstrates:

1. That no reasonable economic use with materially less impact on critical areas is feasible; and

2. That there will be no material damage to nearby public or private property and no material threat to the health and/or safety of people on or off the property as a result of the proposed development.

B. Requests for reasonable use exceptions shall be heard by the planning commission which shall make a recommendation for approval, modification, or disapproval to the board of county commissioners, who shall issue a final decision.

C. This chapter shall be interpreted to respect constitutional rights to property to the full extent recognized by the law of the United States and the state of Washington. (Ord. 94-2 § 2, 1994).

14.12.120 Nonconforming uses and structures.

All issues relevant to nonconforming uses or structures shall be processed pursuant to Chapter 17.36 OCC. (Ord. 94-2 § 2, 1994).

14.12.130 Amendments.

Amendments to this chapter shall be authorized and processed in the same manner and under the same statutory authority as amendments to any other portion of the Okanogan County Zoning Code. (Ord. 94-2 § 2, 1994).

14.12.140 Variances.

Requests for variance, as defined herein and in the Chapter 17.34 OCC, shall be processed in the same manner and under the same statutory authority as provided for variances in Chapter 17.34 OCC. (Ord. 94-2 § 2, 1994).

14.12.150 Conflict of regulations.

If more than one Okanogan County development regulation applies to any lands identified in this chapter or a particular development application, then the most restrictive regulation shall apply. (Ord. 94-2 § 2, 1994).

14.12.160 Application requirements.

A. A site plan, drawn to scale, showing critical areas must be submitted with each application for development approval. For parcels greater than five acres, the site plan may be limited to the area within 330 feet of proposed structures (adjacent properties need not be mapped). The site plan may be combined with or accompany site plan requirements for other county approvals, and, unless the administrator waives one or more of the following information requirements, site plans shall include the following:

1. An aerial photograph at a scale no smaller than one inch = 400 feet showing the entire parcel of land owned by the applicant;
2. A site plan at one inch = 50 feet showing existing improvements and natural features (such as rivers, cliffs, streams, ponds, etc.), including critical areas (such as specific wildlife habitat or wetland areas), within 330 feet of the proposed structures;
3. Boundaries and dimensions of the site(s);
4. The location of proposed sites and specifications for all development activities;
5. The purposes of the project and an explanation why the proposed activity cannot be located at another location on-site, that is not impacted by critical areas;
6. Location and identification of all existing and proposed roads, easements, driveways, and parking areas on or abutting the parcel;
7. A description of the vegetative cover around wetlands and streams, and identification of dominant species. Identification of existing vegetation in general, which would include identification of all evergreen trees greater than eight inches in diameter and all deciduous trees greater than 12 inches in diameter, as measured four- and-one-half feet above ground level, to be retained after completion of the development;
8. Location of existing vegetation and vegetation to be removed;
9. Proposed revegetation, including location, species and maintenance plan;
10. Approximate elevations of the site and adjacent lands within the critical area and its buffer;
11. Sketch of existing and proposed changes to topography which would include steep slopes, ravines, grading, etc.;
12. Open space: amount, location, function and maintenance plan for contiguous private wildlife open space or other open space;
13. Mitigation: show the extent to which measures to lessen potential adverse impacts to critical areas are incorporated into the project design, including but not limited to enhancement of habitat, provision of replacement habitat, public education, consideration of remaining open space areas for viable functional habitat, migration corridors etc.; and
14. A list of all property owners within 300 feet of a Category I wetland and all properties contiguous to the parcel to be developed, if a public hearing is required. If the owner of the parcel to be developed owns another parcel or parcels of real property which lies contiguous to the parcel to be developed, notice shall be given to owners of real property located within 300 feet of any portion of the boundaries of such contiguously located parcels.

B. The applicant and the administrator or designee shall visit the site together during the application process. (Ord. 94-2 § 2, 1994).

14.12.170 Emergency permit.

A. Notwithstanding the provisions of this chapter or any other laws to the contrary, the administrator may issue an emergency permit if:

1. The administrator determines that an unacceptable threat to life or severe loss of property will occur if an emergency permit is not granted; and
2. The anticipated threat or loss may occur before a permit can be issued or modified under the procedures otherwise required by this chapter and other applicable laws.

B. Any emergency permit granted shall incorporate, to the greatest extent practicable and feasible but not inconsistent with the emergency situation, the standards and criteria required for nonemergency activities under this act and shall:

1. Be limited in duration to the time required to complete the authorized emergency activity; and
2. Require the restoration of any wetland altered as a result of the emergency activity.

C. Issuance of an emergency permit by the administrator does not preclude the necessity to obtain necessary approvals from appropriate federal and state authorities.

D. Notice of the issuance of the emergency permit and request for public comments shall be published at least once a week on the same day of the week for two consecutive weeks in a newspaper having a general circulation in Okanogan County no later than 10 days after issuance of the emergency permit.

E. The emergency permit may be terminated at any time without process upon a determination by the administrator that the action was not or is no longer necessary to protect human health or the environment. (Ord. 94-2 § 2, 1994).

14.12.180 Enforcement.

A. Noncompliance with any section of this chapter may result in enforcement actions.

1. Civil and/or criminal penalties.
2. Orders and penalties issued pursuant to this subsection may be appealed as provided for by in the appeals section.

B. All enforcement shall be conducted pursuant to this chapter and Chapter 17.38 OCC. (Ord. 94-2 § 2, 1994).

14.12.190 Performance bonds.

A. The administrator shall require the applicant of a development proposal to post a cash performance bond or other security acceptable to the administrator in an amount and with surety and conditions sufficient to fulfill the requirements of this code. The amount and the conditions of the bond shall be consistent with the purposes of this chapter. In the event of a breach of any condition of any such bond, the administrator may institute an action in a court of competent jurisdiction upon such bond and prosecute the same to judgment and execution. The administrator shall release the bond upon determining that:

1. All activities, including any required compensatory mitigation, have been completed in compliance with the terms and conditions of the permit and the requirements of this chapter; and
2. Upon the posting by the applicant of a maintenance bond.

B. Until such written release of the bond, the principal or surety cannot be terminated or canceled. (Ord. 94-2 § 2, 1994).

14.12.200 Maintenance bonds.

The administrator shall require the holder of a development permit issued pursuant to this chapter to post a cash performance bond or other security acceptable to the administrator in an amount and with surety and conditions sufficient to guarantee that structures, improvements, and mitigation required by the permit or by this chapter perform satisfactorily for a minimum of two years after they have been completed. The administrator shall release the maintenance bond upon determining that performance standards established for evaluating the effectiveness and success of the structures, improvements, and/or compensatory mitigation have been satisfactorily met for the required period. For compensation projects, the performance standards shall be those contained in the mitigation plan developed and approved during the permit review process pursuant to OCC 14.12.720, Mitigation plans. The maintenance bond applicable to a compensation project shall not be released until the administrator determines that performance standards established for evaluating the effect and success of the project have been met. (Ord. 94-2 § 2, 1994).

Article II. Aquifer Recharge Areas

14.12.210 Exemptions.

This section shall not apply to:

- A. Artificially diverted or stored water;
- B. The construction of a single-family house;
- C. Any land use that has less than 50 percent of the aquifer recharge area on the parcel, covered with nonporous surfaces;

D. Structures and activities that currently and legally exist within aquifer recharge areas at the time of adoption of this chapter. (Ord. 94-2 § 2, 1994).

14.12.220 Classification - Rating system.

To date, no specific aquifer recharge studies have been performed in the county. It is generally acknowledged that the following areas have the potential to be aquifer recharge areas: rivers and creeks especially at their headwaters, forests, wetlands, lakes and ponds, alluvial fans, and areas within the 100-year floodplain. These areas are only considered aquifer recharge areas if certain porous soil types as identified by the Soil Conservation Service, 1980 Soil Survey of Okanogan County Area, Washington, are found to be present. (Ord. 94-2 § 2, 1994).

14.12.230 Designation - Mapping.

As no aquifer recharge areas have been mapped within the county, the county shall rely on existing soil and surficial geologic information in conjunction with the above classification list of potential aquifer recharge areas, to determine where unmapped aquifer recharge areas are in the county. As aquifer recharge areas are identified, the county shall use the location to develop the aquifer recharge base map for the county. (Ord. 94-2 § 2, 1994).

14.12.240 Regulations.

These regulations apply to all activities that require a permit from the county office of planning and development and are only imposed on areas of aquifer recharge.

Critical Aquifer Recharge Protection.

A. Parcels requiring septic systems shall be subject to the minimum lot size requirement of the Okanogan County health district, in order to protect against ground water contamination.

B. Commercial and industrial uses involving the processing, use, storage, or production of hazardous, toxic, or dangerous materials shall meet applicable federal, state, and local regulations within critical aquifer recharge areas because of the potential for introduction of those materials to ground water.

C. Agricultural and forest practices shall adhere to all applicable local, state, and federal laws regarding feedlots, pesticide and fertilizer application, forest conversions, and shall be conducted in a manner so as to limit introduction of contaminants to ground water.

D. All new developments/construction must comply with the requirements and recommendations of the Washington State Department of Health and the Department of Ecology, as they pertain to groundwater protection.

E. The county health district shall comply with any state or federally required well-head protection program for the county's public water supplies.

F. Any application for a county permit for a use that utilizes or generates hazardous or toxic materials, shall be required to comply with state and federal regulations (the Clean Drinking Water Act and the Clean Water Act) that pertain to hazardous or toxic materials.

G. All household hazardous waste shall be disposed of according to the county's moderate risk waste management plan, adopted August, 1992.

H. All new development activity shall comply with the maximum lot coverage required in that zone. When no maximum lot coverage is specified, and the proposed development is in an area identified as a critical aquifer recharge area, then a maximum of 50 percent of the land area within the boundaries of the aquifer recharge area shall be maintained in impervious surfaces. This allows for the continued recharging of the aquifer. (Ord. 94-2 § 2, 1994).

14.12.250 Second opinion process.

In the event that staff has determined that a site potentially contains a critical aquifer recharge area (see classification section), the applicant, at their own expense, shall have an aquifer recharge site evaluation performed. The site evaluation shall be conducted by a qualified, licensed engineer or geologist with appropriate hydrological background and experience and shall characterize the site and its relationship to the aquifer. Such testing and analysis shall include, but not be limited to, the following:

A. Depth to groundwater and/or impermeable soil layer:

B. Aquifer properties such as hydraulic conductivity and gradients;

C. Soil texture, permeability, and contaminant attenuation properties;

D. Characteristics of the vadose zone (the unsaturated top layer of soil and geologic material) including permeability and attenuation properties, and other relevant facts;

E. The degree to which the aquifer is usable as a potable water source; the feasibility of protective measures to preclude further degradation, the practicability of treatment measures to maintain potability, and availability of alternative potable water sources.

The scope of the study shall be in direct relationship to the scope of the proposed development. (Ord. 94-2 § 2, 1994).

Article III. Fish and Wildlife Habitat Conservation Areas

14.12.260 Exemptions.

- A. Removal of riparian vegetation within 30 feet of an existing structure, for the purposes of fire separation.
- B. Removal of riparian vegetation within 30 feet of permitted additions that will be attached to an existing structure.
- C. Structures and activities that currently and legally exist within fish and wildlife habitat conservation areas at the time of adoption of this chapter.
- D. Clearing of riparian vegetation for community trail system where an easement or deed is granted to a public entity. Maximum clearing width shall be 14 feet. (Ord. 94-2 § 2, 1994).

14.12.270 Classification - Rating system.

A. Level I Species - Threatened or Endangered Species.

1. White Pelican;
2. Bald Eagle;
3. Spotted Owl;
4. Western Gray Squirrel.

B. Level II Species - Species and Habitat of Local Concern.

1. Anadromous/Resident Fish;
2. Western Bluebird;
3. Common Loon Long;
4. Sharp-Tailed Grouse (wintering and lek);
5. Golden Eagle (nest);
6. Harlequin Duck;
7. Mountain Goat;
8. Big Horn Sheep;
9. Great Blue Heron (nest sites);
10. Mule Deer:
 - *Critical Winter Range,
 - *Migration Corridors,
 - *Spring Range;
11. Habitat Types:
 - *Caves;
 - *Riparian (Type 1, 2, & 3 waters);
 - *Cliffs;
 - *Shrub Steppe.

C. Level III Species - Other Important Species and Habitat.

1. Chukar;
2. Blue Grouse (nest/winter range);
3. Log Billed Curlew;
4. Priority Mule Deer Winter Range;
5. White Tail Deer;
6. Habitat Types:
 - *Talus Slopes,
 - *Riparian (Type 4 waters, subject to setback regulation only). (Ord. 94-2 § 2, 1994).

14.12.280 Designation - Mapping.

- A. Level I Habitat. The habitat of threatened and endangered species as identified on the Federal Register and/or the Washington State Listing as designated on the nonregulatory maps on file in the office of planning and development.

B. Level II Habitat. Habitat of fish and wildlife of local concern, as designated on the nonregulatory maps on file in the office of planning and development, which is essential to sustaining fish and wildlife populations. Habitat may include rare and/or unique features.

C. Level III Habitat. Habitat as designated on the nonregulatory maps on file in the office of planning and development, as important to fish and wildlife. (Ord. 94-2 § 2, 1994).

14.12.290 Development applications.

The following standards apply to land division and/or new construction of single and multifamily residences, structures for commercial or recreational purposes, but do not apply to accessory or agricultural structures. Structures exempt from building permit or land division requirements are also exempt from this regulation. (Ord. 94-2 § 2, 1994).

14.12.300 Land division applications.

Applications for land division are subject to the following requirements:

A. All division of land creating five lots or more, subject to Title 16 OCC, shall be accomplished by planned development, planned destination resort, or binding site plan, as set forth in Okanogan County land use codes, when a threatened or endangered species is verified to be present and mapped as Level I habitat by Okanogan County.

B. All division of land creating five lots or more, subject to Title 16 OCC, shall be accomplished by planned development, planned destination resort, or binding site plan, as set forth in Okanogan County land use codes, when 25 percent or more of the site falls within Level II habitat as mapped by Okanogan County. (Ord. 94-2 § 2, 1994).

14.12.310 Map amendments.

Applicants for land division or other development permit completing special studies may apply for critical areas map amendment pursuant to OCC 14.12.080. (Ord. 94-2 § 2, 1994).

14.12.320 General standards.

A. Land division and/or new construction within Levels I and II habitat shall be subject to all of the use restrictions and development standards of the underlying zoning district.

B. Land division and/or new construction within Levels I and II habitat are potentially subject to SEPA procedural requirements.

C. Land division and/or new construction within Levels I and II habitat shall be subject to the county shoreline master program as officially mapped and Chapter 15.08 OCC. (Ord. 94-2 § 2, 1994).

14.12.330 Habitat standards - Level I.

A. All development proposals shall follow the Bald Eagle Protection Rules (RCW 77.12.655 and WAC 232-12-92) when the proposal is likely to have a direct impact on the habitat of the bald eagle.

B. Where the boundary of a parcel proposed to be developed or divided lies contiguous to the habitat of a threatened or endangered species, the proposal shall be modified or conditioned as necessary to avoid significant adverse impacts to such habitat.

C. All development proposals in Level I habitat shall follow the performance standards for Level II habitat, unless waived by the director. (Ord. 94-2 § 2, 1994).

14.12.340 Habitat standards - Level II.

Development Requirements. The provisions of this section apply to all development proposed in Level I and Level II habitat.

A. Native Revegetation Standards.

1. Revegetation shall be required to re-establish desirable native plants or plants that enhance local fish and wildlife population in all areas disturbed by construction outside of the primary outdoor use areas of a development. Plantings shall consist primarily of a combination of native grasses, forbs, shrubs, trees and/or ground cover. Note: To reduce noxious weed invasion and increase recovery of native vegetation, revegetation should be accomplished within the first growing season following disturbance of the site.

2. All proposed plant material shall conform to the American Association of Nurserymen Standards (ANSI 2601-1973).

3. Installation and Maintenance.

a. Plantings required in this section shall be installed to the satisfaction of the county in conformance with the approved site plan, and scheduled to avoid seasonal conflicts which could affect plant survival.

b. Property owners shall keep all required planting areas maintained, watered and free of noxious weeds as necessary to assure their long-term survival.

4. Performance Assurance and Enforcement. Performance bonds will be required, except for single-family dwellings, in accordance with OCC 17.19.080(D)(3).

B. Riparian Vegetation Protection.

1. Riparian vegetation buffer requirements are intended to provide habitat for fish and wildlife for the long-term (e.g., breeding, rearing, escape cover, important travel corridors, streamside shade, foraging, spawning etc.). They are also intended to mitigate impacts from development along shorelines and to enhance shoreline habitat for water quality, fish, and wildlife. Note: Riparian vegetation should not be removed unless there is no other alternative. Riparian vegetation protection measures help prevent erosion, slows flood waters and helps filter contaminants, water storage and release and aquifer recharge.

a. Roads. Roads shall be kept to a minimum. Roads within riparian areas shall not run parallel with the water body and, where crossings are necessary, shall cross riparian areas at as near right angles as possible.

b. Vegetation Removal Standards.

Type 1, 2, and 3 Waters.

Lots or parcels with shoreline frontage:

i. A view/access corridor to the ordinary high water mark may be cleared of riparian vegetation, as long as the view/access corridor does not exceed a width of 25 feet; or

ii. An equal amount of riparian vegetation, as in subsection (1)(b)(i) above, may be removed, in no more than two areas, to meet other development needs, i.e., trails, picnic sites, etc.; and

iii. Remaining vegetation shall be maintained as riparian habitat. Noxious weeds in riparian areas are not considered native vegetation and should be controlled.

2. Riparian setback requirements in riparian areas are intended in part to mitigate the impacts of construction near riparian areas and to protect riparian areas so that fish and wildlife may flourish. Water bodies classified by the Water Typing System (WAC 222-16-030) have the following required building setbacks where riparian areas occur:

Setback (Measured on the horizontal, from the ordinary

Water Type high water mark)

Type 1 & 2 Waters 200 feet

Type 3 Waters 150 feet

Type 4 Waters 50 feet

Type 5 Waters Not regulated

Note: When the placement of a structure does not remove riparian vegetation, shoreline master program setbacks apply.

C. Fencing Standards. The intent of this section is to identify the type of fencing that is necessary and appropriate to protect the deer migration in the county while providing for the operation and protection of livestock or other agriculturally related land uses. Fencing shall conform to the following types:

1. Type "A" Fence. Where fencing is proposed for residential development in designated migration corridors, Type A fencing shall be required. Type A fence shall consist of no more than four horizontal, well-stretched, evenly spaced wires, placed so that the top wire is no more than 42 inches above the ground and the bottom wire is at least 17 inches from the ground and all other wires at intervals evenly spaced no less than eight inches, 16 inches and 24 inches below the top wire. If posts are set more than 16 feet apart, the wires shall be supported by stays, placed not more than eight feet from each other or from the posts. All other fences as strong and as well calculated as the fence described above shall be allowed.

2. Type "B" Fence. Type B fence may be permitted for dog kennels, garden fences, corrals, sheep pastures, agricultural crops, etc. Type B fence shall consist of braided mesh fabric or any other combination of materials that will create a continuous solid enclosure. Fence material shall be securely fastened to substantial posts.

D. Access Standards. Proposed roads and/or access routes shall be kept to a minimum and shared whenever practical. Structures shall be built as close to existing access routes as practical. (Ord. 94-2 § 2, 1994).

14.12.350 Planned development requirements.

Planned Developments are subject to Level I habitat standards, if applicable, and are subject to the requirements of OCC 14.12.340, Development Requirements.

A. Common open space within planned developments in Level I and II habitat shall be dedicated private wildlife open space.

B. Private Wildlife Open Space. The common open space percentage required by Title 17 OCC shall be designated private wildlife open space. One of the following methods shall be used to protect and manage such open space:

1. Establishment of an association or non-profit corporation of all property owners and corporations within the project area to

ensure perpetual maintenance of private wildlife open space.

2. Retention of ownership, control and maintenance of private wildlife open space by a single owner. Appropriate restrictions shall be placed in all deeds for privately owned private wildlife open space to assure that such open space shall continue in perpetuity to conform to its intended use. Deed restrictions run with the land and may contain a prohibition against future divisions of land without further county approvals.

C. Vegetative Screening. The function of establishing vegetation screens is to enhance wildlife use of "private wildlife open space" by reducing human and dog harassment occurring where easy visual contact is made. Where topographic features of a site do not obscure use of "private wildlife open space" or lack of native vegetative is anticipated to impact fish and wildlife movement or use in the immediate area, a vegetative screen may be required. During site plan review the county, in consultation with the Washington Department of Wildlife, will determine what, if any, vegetative screening should be incorporated in development design. If a vegetative screen is recommended by the county, screen specifications will be provided by the county following consultation with the Washington Department of Wildlife.

1. Installation and Maintenance.

a. Plantings required in this section shall be installed to the satisfaction of the county in conformance with the approved site plan, and scheduled to avoid seasonal conflicts which could affect plant survival.

b. Property owners shall keep all required planting areas maintained, watered and free of noxious weeds as necessary to assure their long-term survival.

2. Performance Assurance and Enforcement. Performance bonds will be required in accordance with OCC 17.19.080(D)(3).

D. Dog Control. The following statement shall appear on the face of all planned development plats: "All dogs belonging to residents, occupants, guests, or any other person lawfully on the property shall be kenneled, leashed, or under direct human supervision at all times and not allowed to roam freely, in order to protect the wildlife." (Ord. 94-2 § 2, 1994).

14.12.360 Planned destination resort requirements.

Applications for planned destination resorts are subject to Level I habitat standards, if applicable, and the requirements of OCC 14.12.340, Development Requirements, in this chapter. Special studies will be required by the administrator. Density reduction in identified Critical areas may be recommended at the discretion of the planning commission. See Chapter 17.20 OCC for complete requirements. (Ord. 94-2 § 2, 1994).

Article IV. Frequently Flooded Areas

14.12.370 Exemptions.

Exemptions include those structures and activities that currently and legally exist within the 100-year floodplain, at the time of adoption of this chapter. (Ord. 94-2 § 2, 1994).

14.12.380 Classification - Rating system.

Frequently flooded areas are lands within the flood plain (including the floodway) that are subject to a one percent or greater chance of flooding in any given year. These areas shall be consistent with all designations of the Federal Emergency Management Agency (FEMA) and the National Flood Insurance Program. These are designated on the FEMA flood insurance rate maps set by the Federal Insurance Administration. (Ord. 94-2 § 2, 1994).

14.12.390 Designation - Mapping.

The county shall use the FEMA flood insurance rate maps prepared by the Federal Insurance Administration, a portion of the National Flood Insurance program, to identify the 100-year flood plain in the county. These maps are subject to update based on new information. Elevation surveys stamped by a licensed surveyor are adequate proof of true elevation for development purposes. (Ord. 94-2 § 2, 1994).

14.12.400 Regulations - Protection standards.

A. All development shall conform to the provisions of the Okanogan County Flood Hazard Ordinance, the zoning code, and the Uniform Building Code, all of which contain safeguards to reduce the risk of damage from flooding.

B. Any use or development shall maintain the predevelopment movement (volume and velocity) of surface water and prevent or minimize the unnatural diversion of flood water to otherwise flood-free areas which could necessitate expensive and environmentally disruptive flood control methods.

C. All development applications shall clearly delineate the 100-year floodplain boundary. (Ord. 94-2 § 2, 1994).

Article V. Geologically Hazardous Areas

14.12.410 Exemptions.

Exemptions include those structures and activities that currently and legally exist in geologically hazardous areas, at the time of adoption of this chapter. (Ord. 94-2 § 2, 1994).

Article V(A). Erosion Hazard Areas

14.12.420 Classification - Rating system.

Erosion hazard areas are those areas that contain all three of the following characteristics:

- A. A slope of 30 percent or greater;
- B. Soils identified by the Soil Conservation Service (SCS) as unstable and having a high potential for erosion; and
- C. Areas that are exposed to the erosion effects of wind or water. (Ord. 94-2 § 2, 1994).

14.12.430 Designation - Mapping.

SCS soil erosion-hazard ratings are interpretations of the potential for erosion, applied to broadly generalized map units. They do not pinpoint erosion sites, but rather areas which because of soil properties, availability of water, etc., are more susceptible to severe erosion than others. The SCS maps will be used to identify areas of erosion potential. The soil information needs to be combined with site-specific information (rills, inter-rills, and wind erosion) to determine if erosion hazard is present on the site. The SCS has identified the soil types that have erosion hazard potential in Okanogan County. (Ord. 94-2 § 2, 1994).

14.12.440 Regulations.

- A. Areas identified as erosion hazard areas shall not be developed unless it is demonstrated that the project is structurally safe from the potential hazard, and that the development will not increase the hazard risk.
- B. A reasonable setback or design considerations for development on or next to an erosion hazard area shall be established on a case-by-case basis.
- C. Existing uses legally established in erosion hazard areas shall be allowed to continue. Expansion of any existing use shall meet structural standards that ensure the safety of the project.
- D. A runoff management plan or an erosion control plan may be required of anyone proposing to develop in an erosion hazard area, to reduce sedimentation problems.
- E. If an applicant disagrees with the staff recommendation for setbacks or the extent of the hazard present, and could not mitigate the hazard to the point of precluding development of the site, the applicant has the option of hiring a structural geologist with expertise in erosion hazards, to study the area and prepare a report detailing findings and recommendations for the potential for site development. The report shall conform to OCC 14.12.060, Special Studies.
- F. Disturbance of an erosion hazard area requires reseeded with native vegetation, to assist in stabilization of the area and to discourage the infiltration of knapweed. (Ord. 94-2 § 2, 1994).

Article V(B). Landslide Hazard Areas

14.12.450 Classification - Rating system.

Landslide hazard areas may include:

- A. All areas in the county that have historically been prone to landsliding (check geologic maps).
- B. All areas containing soil types identified by the Soil Conservation Service as unstable and prone to landslide hazard.
- C. All areas in the county that show evidence of or are at risk from snow avalanches.
- D. All areas in the county that are potentially unstable as a result of rapid stream incision or stream bank erosion. (Ord. 94-2 § 2, 1994).

14.12.460 Designation - Mapping.

Lands that meet the classification criteria are hereby designated as landslide hazard areas and will be mapped by Okanogan County as resources become available. (Ord. 94-2 § 2, 1994).

14.12.470 Regulations.

- A. Areas identified as landslide hazard areas shall not be developed unless it is demonstrated that the project is structurally safe from the potential hazard, and that the development will not increase the hazard risk.
- B. A reasonable setback for development near a landslide hazard area shall be established on a case-by-case basis, based on the type of development proposed and the type and extent of landslide hazard present.
- C. If an applicant disagrees with the staff recommendation for setbacks or the extent of the hazard present, and could not

mitigate the hazard to the point of precluding development of the site, the applicant has the option of hiring a qualified professional with experience in landslide hazards, to study the area and prepare a report detailing findings and recommendations for the potential for site development. The report shall conform to OCC 14.12.060, Special studies. (Ord. 94-2 § 2, 1994).

Article V(C). Mine Hazard Areas

14.12.480 Classification - Rating system.

Mine Hazard Areas include: Areas that are directly underlain by, adjacent to, or affected by mine workings such as adits, tunnels, drifts, or air shafts with the potential for creating large underground voids susceptible to collapse, tailings piles, and waste rock. 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. (Ord. 94-2 § 2, 1994).

14.12.490 Designation - Mapping.

Lands that meet the classification criteria are hereby designated as mine hazard areas and will be mapped by Okanogan County as resources become available. (Ord. 94-2 § 2, 1994).

14.12.500 Regulations.

In the event that a development is proposed within 25 feet of one of the above classified areas, and a development approval is required by the county, the following regulations shall apply:

A. The locations of obvious previous mining activities and workings shall be noted on all site plans submitted to the county for any development requiring a permit from the county.

B. The applicant shall comply with any known, previously prepared and approved site reclamation plan.

C. The applicant should attempt to avoid development directly on any tailings pile. A setback for development may be suggested by the office of planning and development. If the content of the tailings pile is known to be hazardous, a setback for development will be determined based on the known hazard of the type and mineral/chemical content of each tailings pile, and an industry standard for safety distance from that specific mineral/chemical, based on the proposed use of the site.

D. Setbacks from obvious mine workings shall be determined and suggested on a case-by-case basis.

E. Development that affects the portion of a site that contains previous mining activities may require the applicant to prepare a reclamation plan for restoration of the site, if the hazard is determined to be one constituting a significant hazard to health and life and is a clear and present danger to human health and the environment.

F. If necessary, a geotechnical report may be required to determine safety distances for any development of a site containing mine hazards, or for the preparation of a reclamation plan for the site. The report shall conform to OCC 14.12.060, Special studies. (Ord. 94-2 § 2, 1994).

Article V(D). Seismic Hazard Areas

14.12.510 Classification - Rating system.

The majority of Okanogan County is located within Seismic Zone 2B in accordance with the Uniform Building Code (1991 Edition, as amended). (Ord. 94-2 § 2, 1994).

14.12.520 Designation - Mapping.

There are no known active faults in Okanogan County. (Ord. 94-2 § 2, 1994).

14.12.530 Regulations.

A. All development activities shall be required to conform to the applicable provisions of the Uniform Building Code which contains structural safeguards to reduce the risks from seismic activity.

B. No development shall occur on any known active fault line that has the potential to cause severe damage to structures. A reasonable setback for development shall be required on a case-by-case basis (based on the type and recent activity of the particular fault and the proposed development). (Ord. 94-2 § 2, 1994).

Article V(E). Volcanic Hazard Areas

14.12.540 Classification - Rating system.

No volcanic hazard areas are known to exist in Okanogan County. There are, however, several active volcanoes that could have impacts on areas of Okanogan County. The impacts would include the fallout of ash. There is no way to prevent the

impacts of fallen ash, but there are ways to respond to the ash that could lessen its impacts. (Ord. 94-2 § 2, 1994).

14.12.550 Designation - Mapping.

No mapping is necessary. (Ord. 94-2 § 2, 1994).

14.12.560 Regulations.

The county shall consider updating its "Emergency Response Program" to address the affects of fallen ash and how citizens could help minimize that impact. (Ord. 94-2 § 2, 1994).

Article VI. Wetlands

14.12.570 Exemptions.

All Category II and III wetlands with a total area less than 2,500 square feet and all Category IV wetlands with a total area less than 10,000 square feet are not regulated by this chapter, and therefore, are exempt from regulations. In addition, the following uses shall be allowed within a wetland or wetland buffer:

- A. Conservation or preservation of soil, water, vegetation, fish, and other wildlife;
- B. Outdoor recreational activities including, but not limited to, fishing, bird watching, hiking, hunting, boating, horseback riding, Nordic skiing, swimming, canoeing, and bicycling provided the activity does not alter the wetland by changing existing topography, water conditions or water sources;
- C. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, or alteration of the wetland by changing existing topography, water conditions or water sources;
- D. Existing and ongoing agricultural activities;
- E. Existing and ongoing commercial and agricultural operations in wetland areas that are legally conducted activities at the time of the adoption of wetlands regulations;
- F. The maintenance (but not construction) of drainage ditches;
- G. Education, scientific research, and use of nature trails;
- H. Navigation aids and boundary markers;
- I. Boat mooring buoys;
- J. Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities. In every case, wetland impacts shall be minimized and disturbed areas shall be immediately restored;
- K. Normal maintenance, repair, or operation of existing serviceable structures, facilities, or improved areas;
- L. Minor modification of existing serviceable structures within a buffer zone shall be allowed to expand a maximum of 25 percent of the square footage existing at the time of the adoption of this chapter (the expansion maximum shall include decks, room additions, second floor areas and the like, where modification does not adversely impact wetland functions; and
- M. Structures and activities that currently and legally exist within wetlands buffer areas at the time of adoption of this chapter. (Ord. 94-2 § 2, 1994).

14.12.580 Classification - Rating system.

Wetlands shall be classified and rated according to the "four category" criteria and procedures contained in the "Washington State Wetland Rating System for Eastern Washington," (Publication #91-58, October 1991), as amended by Okanogan County. (Ord. 94-2 § 2, 1994).

14.12.590 Designation - Mapping.

The approximate location and extent of wetlands in the county are displayed on the national wetlands inventory map and the Okanogan County wetlands inventory map, as it is developed. The wetland maps, along with other supportive documentation, are to be used as a guide to the general location and extent of wetlands. There may be wetlands that are not shown on the wetlands inventory maps. However, each potential wetland must be evaluated by the administrator to determine the applicability of these requirements. In the event that any of the wetland designations shown on the maps conflict with the criteria set forth in this chapter, the criteria shall take precedence. (Ord. 94-2 § 2, 1994).

14.12.600 Regulated activities - Permit required.

A development permit is required when any alterations are proposed to a Category I wetland. A development permit is required when any alterations are proposed to any Category II, III, and IV wetlands only when in conjunction with other permits that are required by the office of planning and development.

The following activities are regulated in Category I, II, and certain Category III and IV wetlands and their buffers, unless specifically listed as an exemption:

- A. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;
- B. The dumping, discharging, or filling with any material;
- C. The draining, flooding, or disturbing of the water level or water table;
- D. The driving of pilings;
- E. The placing of obstructions;
- F. The construction, reconstruction, demolition, or expansion of any structure;
- G. The destruction or alteration of native wetlands vegetation (including clearing, harvesting, shading through chemicals, intentional burning, or planting of vegetation that would alter the character of a wetland; provided, that these activities are not part of a forest practice governed under Chapter 76.09 RCW and its rules; or
- H. Activities that result in a significant change of water temperature, a significant change of physical or chemical characteristics of wetlands water sources, including quantity, or the introduction of pollutants. (Ord. 94-2 § 2, 1994).

14.12.610 Waivers - Wetland delineation requirement.

The requirement for a complete wetland delineation will be waived for any proposed low-intensity activity that, after a field investigation by county staff, indicates the following:

- A. Sufficient information exists for staff to estimate the boundaries of a wetland without delineation; and
- B. The proposed activity and all structures are not proposed to be located within the following distances from the estimated wetland boundary:

Category I	250 feet
Category II	125 feet
Category III	75 feet
Category IV	75 feet

(Note: These are not standard wetland buffers; these are an option provided for cases when a delineation is not made. If a single-family residence is proposed to be closer to the wetland than the distance identified above, a wetland delineation shall be performed.)

- C. The proposed activity is more than 300 feet from the estimated wetland boundary, if the category of wetland is unknown. (Ord. 94-2 § 2, 1994).

14.12.620 Delineation required.

- A. A wetland delineation and categorization shall be performed on property containing wetlands where development activities are planned within the wetland or wetland buffer.
- B. The delineation shall be performed by a qualified individual or firm and be prepared according to the most recent State Wetlands Rating System for Eastern Washington (Publication #91-58) and the 1989 Federal Wetlands Manual (Rating System). Either the applicant shall be responsible to provide a delineation, or, as an alternative, the administrator may engage a qualified individual or firm at the expense of the applicant before a permit can be issued.
- C. The location of the outer extent of the wetland buffer and the areas to be disturbed pursuant to an approved permit shall be marked in the field, and such field marking shall be approved by the administrator prior to the commencement of permitted activities. Such field markings shall be maintained throughout the duration of the permit. (Ord. 94-2 § 2, 1994).

14.12.630 Permit approval - Conditions.

Conditions attached to the granting of a wetlands permit shall assure the protection of the functions and values of the affected regulated wetlands.

Development applications shall consider and/or incorporate the following provisions, if applicable:

- A. Limiting the degree or magnitude of the regulated activity;
- B. Limiting the implementation of the regulated activity;
- C. Using appropriate and best available technology;
- D. Taking affirmative steps to avoid or reduce impacts;
- E. Sensitive site design and siting of facilities and construction staging areas away from regulated wetlands and their buffers;
- F. Involving resource agencies early in site planning; and

G. Providing protective measures such as siltation curtains, hay bales and other siltation prevention measures, scheduling the regulated activity to avoid interference with wildlife and fisheries rearing, resting, nesting or spawning activities. (Ord. 94-2 § 2, 1994).

14.12.640 Wetland buffers.

A. Standard Buffer Zone Widths. Wetland buffer zones shall be required for all activities contiguous to wetlands. Any wetland created, restored or enhanced as compensation for approved wetland alterations shall also include the standard buffer required for the category for the created, restored, or enhanced wetland. All buffers shall be measured from the wetland boundary as surveyed in the field during delineation. The width of the wetland buffer zone shall be determined according to wetland category and the proposed land use.

Category I	Buffers
High Intensity	300 feet
Low Intensity	200 feet
Category II High Intensity	200 feet
Low Intensity	75 feet
Category III High Intensity	75 feet
Low Intensity	50 feet
Category IV High Intensity	50 feet
Low Intensity	50 feet

B. Standard Wetland Buffer Width Averaging. Standard wetland buffer zones may be modified by averaging buffer widths. Wetland buffer width averaging shall be allowed only where the applicant demonstrates all of the following:

1. That the wetland and its buffer contain variations in sensitivity due to existing physical characteristics;
2. That low intensity land uses would be located adjacent to areas where buffer width is reduced, and that such low intensity land uses are guaranteed in perpetuity by covenant, deed restriction, easement, or other legally binding mechanism to not be converted to a high intensity use; and
3. That width averaging will not materially degrade the wetland functional values.

In no instance shall the buffer width be reduced by more than 50 percent of the standard buffer or be less than 25 feet.

C. Buffer Integrity. Except as otherwise specified, wetland buffer zones shall be retained in their natural condition. Where buffer disturbance has occurred during construction, revegetation with native vegetation may be required.

D. Permitted Uses in a Wetland Buffer Zone. Activities shall not be allowed in a buffer zone except for the following:

1. Activities having minimal adverse impacts on buffers and no adverse impacts on regulated wetlands. These may include but are not limited to: low intensity, passive recreational activities such as unpaved trails, wildlife watching blinds, short term scientific or educational activities, and sports fishing or hunting;
2. With respect to Category III and IV wetlands, stormwater management facilities having no reasonable alternative on-site location; or
3. With respect to Category II, III, and IV wetlands, low-intensity development having no feasible alternative location. (Ord. 94-2 § 2, 1994).

14.12.650 Compensating for wetlands impacts.

As a condition of any permit allowing alteration within wetlands and/or wetland buffers, or as an enforcement action pursuant to OCC 14.12.180, Enforcement, the administrator shall require that the applicant engage in the restoration, creation or enhancement of wetlands and their buffers in order to offset the impacts resulting from the applicant's or violator's actions. The applicant shall develop a plan that provides for land acquisition, construction, maintenance and monitoring of replacement wetlands that recreate, as nearly as possible, the original wetlands in terms of function, geographic location and setting, and that are larger than the original wetlands. The overall goal of any compensatory project shall be no net loss of regulated wetlands functions and values. Compensation shall be completed prior to wetland destruction, where possible. All wetlands restored, created or purchased shall be maintained as a wetland in perpetuity. (Ord. 94-2 § 2, 1994).

14.12.660 Compensatory mitigation.

Compensatory mitigation shall follow an approved mitigation plan pursuant to OCC 14.12.720, Mitigation plans, and shall meet the following minimum performance standards:

- A. Given the uncertainties in scientific knowledge and the need for expertise and monitoring, wetland compensatory projects

may be permitted only when the administrator finds that the compensation project is associated with an activity or development otherwise permitted and that the restored, created, or enhanced wetland will be as persistent as the wetland it replaces. Additionally, every mitigation plan shall require and include the following aspects:

1. Scientific expertise, supervisory capability, and financial resources to carry out the project;
2. Capability for monitoring the site and to make corrections during a two-year period if the project fails to meet projected goals; and
3. Protection and management of the compensation area to avoid further development or degradation and to provide for long-term persistence of the compensation area. (Ord. 94-2 § 2, 1994).

14.12.670 Wetlands restoration, creation, enhancement, or compensation.

A. Wetlands mitigation shall be accomplished by any one or combination of the following five methods, at the choice of the applicant:

1. Restoration of an existing wetland on-site;
2. Creation of a new wetland on-site;
3. Purchase of a wetland, off-site;
4. Compensation by payment to be used to purchase existing wetlands, off-site; or
5. Enhancement of an existing degraded wetland.

B. Any applicant who alters wetlands shall restore wetlands, create wetlands, contribute for the purchase of wetlands, enhance an existing wetland, or purchase wetlands for wetlands preservation in order to compensate for wetland losses.

C. The restored, created, enhanced or purchased wetlands shall be a higher category than the altered wetland.

D. Restored wetlands, created wetlands, and wetlands purchased for preservation shall be determined according to function, acreage, type, location, time factors, ability to be self-sustaining and projected success. Wetland functions and values shall be calculated using the best professional judgment of a qualified wetland ecologist using the best available techniques. Multiple compensation projects may be proposed for one project in order to best achieve the goal of no net loss of the function and value of the wetland.

E. The following ratios apply to creation of new wetlands, restoration of wetlands, or wetlands purchased for preservation which is in-kind, on-site, timed prior to or concurrent with alteration, and has a high probability of success. These ratios do not apply to remedial actions resulting from illegal alterations. The first number specifies the acreage of wetlands requiring replacement and the second specifies the acreage of wetlands altered.

Note: Replacement ratios do not apply to wetlands purchased through the wetland preservation fund. The wetlands fee paid by the applicant is based on the replacement ratios noted below.

Replacement Ratios

Category I 6.00:1

Category II and III

Forested 3.00:1

Scrub-Shrub 2.00:1

Emergent 1.50:1

Category IV 1.25:1

F. When the applicant chooses to contribute to the wetland preservation fund established by Okanogan County, fees shall be paid at the ratios listed above, and according to the adopted Okanogan County land use fee schedule.

In all cases, a minimum acreage replacement ratio of 1.25:1 shall be required. (Ord. 94-2 § 2, 1994).

14.12.680 Wetland type.

In-kind compensation shall be provided except where the applicant can demonstrate that:

A. The wetland system is already significantly degraded and out-of-kind replacement will result in a wetland with greater functional value;

B. Scientific problems such as exotic vegetation and changes in watershed hydrology make implementation of in-kind compensation impossible;

C. Out-of-kind replacement will best meet identified regional goals (e.g., replacement of historically diminished wetland types);

D. Where out-of-kind replacement is accepted, greater acreage replacement ratios may be required to compensate for lost functional values. (Ord. 94-2 § 2, 1994).

14.12.690 Location.

A. On-site compensation shall be provided except where the applicant can demonstrate that:

1. The hydrology and ecosystem of the original wetland and those who benefit from the hydrology and ecosystem will not be substantially damaged by the on-site loss; and
2. On-site compensation is not scientifically feasible due to problems with hydrology, soils or other factors; or
3. Compensation is not practical due to potentially adverse impact from surrounding land uses; or
4. Existing functional values at the site of the proposed restoration are significantly greater than lost wetland functional values; or
5. That established regional goals for flood storage, flood conveyance, habitat or other wetland functions have been established and strongly justify location of compensatory measures at another site.

B. Off-site compensation shall occur within the same watershed as the wetland loss occurred; provided, that Category IV wetlands may be replaced outside of the watershed when there is no reasonable alternative.

C. In selecting compensation sites, applicants shall pursue siting in the following order of preference:

1. Upland sites which were formerly wetlands;
2. Idled upland sites generally having bare ground or vegetative cover consisting primarily of exotic introduced species, weeds, or emergent vegetation;
3. Other disturbed upland. (Ord. 94-2 § 2, 1994).

14.12.700 Timing.

Where feasible, compensatory projects shall be completed prior to activities that will disturb wetlands, and immediately after activities that will temporarily disturb wetlands. In all other cases, except for Category I wetlands, compensatory projects should be completed prior to use or occupancy of the activity or development which was conditioned upon such compensation. Construction of compensation projects shall be timed to reduce impacts to existing wildlife and flora. (Ord. 94-2 § 2, 1994).

14.12.710 Cooperative restoration, creation or enhancement projects.

A. The administrator may encourage, facilitate, and approve cooperative projects wherein a single applicant or other organization with demonstrated capability may undertake a compensation project with funding from other applicants under the following circumstances:

1. Restoration, creation or enhancement at a particular site may be scientifically difficult or impossible; or
2. Creation of one or several larger wetlands may be preferable to many small wetlands.

B. Persons proposing cooperative compensation projects shall:

1. Submit a joint permit application;
2. Demonstrate compliance with all standards;
3. Demonstrate the organizational and fiscal capability to act cooperatively; and
4. Demonstrate that long term management can and will be provided. (Ord. 94-2 § 2, 1994).

14.12.720 Mitigation plans.

All wetland restoration, creation and/or enhancement projects required pursuant to this chapter either as a permit condition or as the result of an enforcement action shall follow a mitigation plan prepared by qualified wetland professionals approved by the administrator. The applicant or violator shall receive written approval of the mitigation plan by the approval authority prior to commencement of any wetland restoration, creation or enhancement activity. Mitigation plans shall contain the following components:

A. Baseline Information. A written assessment and accompanying maps of the:

1. Impacted wetland including, at a minimum, wetland delineation; existing wetland acreage; vegetative, fauna and hydrologic characteristics; soil and substrate conditions; topographic elevations; and
2. Compensation site, if different from the impacted wetland site, including at a minimum: existing acreage; vegetative, faunal and hydrologic conditions; relationship within watershed and to existing waterbodies; soil and substrate conditions, topographic elevations; existing and proposed adjacent site conditions; buffers; and ownership.

B. Environmental Goals and Objectives. A written report shall be provided identifying goals and objectives and describing:

1. The purposes of the compensation measures including a description of site selection criteria, identification of compensation goals; identification of target evaluation species and resource functions, dates for beginning and completion, and a complete description of the structure and functional relationships sought in the new wetland. The goals and objectives shall be related to the functions and values of the original wetland or if out-of-kind, the type of wetland to be emulated; and
2. A review of the available literature and/or experience to date in restoring or creating the type of wetland proposed shall be

provided. An analysis of the likelihood of success of the compensation project at duplicating the original wetland shall be provided based on the experiences of comparable projects, if any. An analysis of the likelihood of persistence of the created or restored wetland shall be provided based on such factors as surface and ground water supply and flow patterns, dynamics of the wetland ecosystem; sediment or pollutant influx and/or erosion, periodic flooding and drought, etc., presence of invasive flora or fauna, potential human or animal disturbance, and previous comparable projects, if any.

C. Performance Standards. Specific criteria shall be provided for evaluating whether or not the goals and objectives of the project and for beginning remedial action or contingency measures. Such criteria may include water quality standards, survival rates of planted vegetation, species abundance and, diversity targets, habitat diversity indices, or other ecological, geological or hydrological criteria.

D. Detailed Construction Plans. Written specifications and descriptions of compensation techniques shall be provided including the proposed construction sequence, grading and excavation details, erosion and sediment control features needed for wetland construction and long-term survival, a planting plan specifying plant species, quantities, locations, size, spacing, and density; source of plant materials, propagules, or seeds; water and nutrient requirements for planting; where appropriate, measures to protect plants from predation; specification of substrate stockpiling techniques and planting instructions; descriptions of water control structures and water-level maintenance practices needed to achieve the necessary hydrocycle/hydroperiod characteristics, etc. These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome. The plan shall provide for elevations which are appropriate for the desired habitat type(s) and which provide sufficient tidal prism and circulation data.

E. Monitoring Program. A program outlining the approach for monitoring construction of the compensation project and for assessing a completed project shall be provided. Monitoring may include, but is not limited to:

1. Establishing vegetation plots to track changes in plant species composition and density over time;
2. Using photo stations to evaluate vegetation community response;
3. Sampling surface and subsurface waters to determine pollutant loading, and changes from the natural variability of background conditions (pH, nutrients, heavy metals);
4. Measuring base flow rates and storm water runoff to model and evaluate water quality predictions, if appropriate;
5. Measuring sedimentation rates, if applicable; and
6. Sampling fish and wildlife populations to determine habitat utilization, species abundance and diversity.

A protocol shall be included outlining how the monitoring data will be evaluated by agencies that are tracking the progress of the compensation project. A monitoring report shall be submitted annually, at a minimum, documenting milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five years.

F. Contingency Plan. Identification of potential courses of action, and any corrective measures to be taken when monitoring or evaluation indicates project performance standards are not being met.

G. Permit Conditions. Any compensation project prepared pursuant to this section and approved by the administrator shall become part of the application for the permit.

H. Performance Bonds and Demonstration of Competence. Demonstration of financial resources, administrative, supervisory, and technical competence and scientific expertise of sufficient standing to successfully execute the compensation project shall be provided. A compensation project manager shall be named and the qualifications of each team member involved in preparing the mitigation plan and implementing and supervising the project shall be provided, including educational background and areas of expertise, training and experience with comparable projects. In addition, bonds ensuring fulfillment of the compensation project, monitoring program, and any contingency measure shall be posted in the amount of 120 percent of the expected cost of compensation.

I. Compensatory mitigation is not required for regulated activities, for which a permit has been obtained, that occur only in the buffer or expanded buffer and which have no adverse impacts to regulated wetlands. (Ord. 94-2 § 2, 1994).

**Chapter 15.08
FLOODPLAIN MANAGEMENT**

Sections:

- 15.08.010 Statutory authorization.
- 15.08.020 Purpose and intent.
- 15.08.030 Methods of reducing flood losses.
- 15.08.040 Sources and definitions of terms.
- 15.08.050 General provisions.
- 15.08.060 Administration.
- 15.08.070 Provisions for flood hazard reduction.
- 15.08.080 Exemptions.
- 15.08.090 Severability.

15.08.010 Statutory authorization.

The state of Washington has authorized, in Chapter 86.12 RCW, county governments to adopt comprehensive flood control management plans for any drainage basin that is located wholly or partially within the county. Chapter 86.16 RCW requires counties to adopt floodplain management ordinances. Furthermore, the state of Washington has given, in RCW 86.16.020, local governments the authority to exercise state-wide floodplain management regulations through the administration of the National Flood Insurance Program by adoption of regulations designed to promote the public health, safety, and general welfare of its citizenry. RCW 86.16.045 authorizes the county to adopt floodplain management ordinances or requirements that exceed the minimum federal requirements of the National Flood Insurance Program without following the procedures provided in RCW 86.16.031(8). (Ord. 2006-1, 2006; Ord. 97-2 § 2, 1997).

15.08.020 Purpose and intent.

It is the purpose and intent of this chapter to promote the public health, safety, and general welfare by ensuring that development activities in or around floodplains, riverine flood areas and lacustrine flood areas do not negatively affect the lands' ability to reduce flood and storm drainage and to minimize and eliminate public and private losses due to flood conditions in specific areas by provisions designed:

- A. To protect human life and health;
- B. To minimize expenditure of public money and costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. To provide a method to notify potential buyers that property is in an area of special flood hazard; and
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 2006-1, 2006; Ord. 97-2 § 2, 1997).

15.08.030 Methods of reducing flood losses.

To accomplish its purpose and intent, this chapter includes the following methods and provisions for reducing flood losses:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- D. Controlling filling, grading, dredging, and other development in floodways which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers in floodways which will unnaturally divert floodwaters or

may increase flood hazards in other areas. (Ord. 2006-1, 2006; Ord. 97-2 § 2, 1997).

15.08.040 Sources and definitions of terms.

A. Sources.

1. Federal Emergency Management Agency, Guide to Flood Insurance Rate Maps, FIA-14, May 1988, or any additions or revisions which supersede such publication.
2. Merriam Webster's Collegiate Dictionary, 10th Edition, 1984.
3. Okanogan County GMA Critical Areas Regulations, Ordinance No. 94-2 (adopted February 2, 1994, and codified in Chapter 14.12 OCC) and subsequent amendments thereto.
4. Master Program for Okanogan County Shoreline Management adopted July 7, 1987, and subsequent amendments thereto.

B. Definitions. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. "Appeal" means a request for review of the administrator's interpretation of any provisions of this chapter.
2. "Area of shallow flooding" means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.
3. "Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letter A.
4. "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." Designation on maps always includes the letters A or V.
5. "Base flood elevation (BFE)" means the height of the base flood in relation to the National Geodetic Vertical Datum of 1929 (or other datum where specified).
6. "Basement" means any area of the building having its floor sub-grade (below ground level) on all sides.
7. "Critical facility" means a facility for which even the slight chance of flooding might be too great. Critical facilities include, but are not limited to, churches, schools, day care centers, prisons and detention facilities, group care facilities, sewage treatment facilities, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use, or store hazardous materials or hazardous waste.
8. "Day care center" means any licensed or nonlicensed child care facility that provides care during part of the 24-hour day in a facility other than the family abode of the person or persons under whose direct care children are placed.
9. "Detailed study areas" means those areas covered by the current Flood Insurance Study (FIS) for unincorporated areas of Okanogan County that have been studied by detailed methods, including areas so identified in the FIS, any area for which a letter of map amendment (LOMA) or letter of map revision (LOMR) has been issued, and any areas studied in detail at the request of the Federal Emergency Management Agency (FEMA) since publication of the current FIS. Detailed study entails the use of hydrologic and hydraulic study methods to determine flood hazard data.
10. "Detention facility" means any establishment dedicated to the incarceration of those members of a society deemed punishable for unlawful acts committed against property and/or against any individual or group member of the general public.
11. "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard, to include those associated areas relevant to flood management.
12. "Effective FIRM" means the latest FIRM issued by FEMA, which is in effect as of the date shown in the title box of the FIRM as "EFFECTIVE DATE," "REVISED," or "MAP REVISED."
13. "Encroachment" means the construction, placement of fill, or similar alteration of topography in the floodplain that reduces the area available to convey floodwaters.
14. "FIRM" means Flood Insurance Rate Map (see "effective FIRM").
15. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overland flow of inland or tidal waters; and/or
 - b. The unusual and rapid accumulation of runoff of surface waters from any source.
16. "Flood damage" means harmful inundation, water erosion of soil, stream banks and beds, harmful deposition by water of eroded and shifting soils and debris upon property or in the beds of streams, or other bodies of water, damages by high water to public roads, highways, bridges, utilities and to works built for protection against floods or inundation, the interruption by floods of travel, communication and commerce, and all other high water influences and results which

adversely affect the public health and safety of property. (RCW 86.16.120)

17. "Flood Insurance Rate Map" means the insurance and floodplain management map issued by FEMA that identifies, based on detailed or approximate analysis, areas of 100-year flood hazard in a community. Also shown on the FIRM are actuarial insurance rate zones. In areas studied by detailed analysis, the FIRM also shows BFEs and 500-year floodplain boundaries.
18. "Flood Insurance Study" means the engineering study performed by FEMA to identify flood-prone areas and other flood data within a community.
19. "Floodplain" or "flood-prone area" means any land area subject to inundation by water from any source (see definition of "flooding").
20. "Floodplain management" means the operation of a program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works, and floodplain management regulations.
21. "Floodplain management regulations" means those zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
22. "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 one foot.
23. "Group care facility" means an agency, other than a foster-family home, which is maintained and operated for the care of a group of children on a 24-hour basis.
24. "Lacustrine flood hazard area" means those areas subject to inundation by flooding from lakes or ponds.
25. "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.
26. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. "Manufactured home" does not include a "recreational vehicle."
27. "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land having two or more manufactured home sites for sale, rent, lease or transfer of ownership.
28. "Meander belt" means the area within which a stable river channel can be expected to move back and forth in the present climate. Instability resulting from land use changes or channel constraint can cause erosion beyond the meander belt. Riparian wetlands and related features such as oxbows and sloughs occur within the meander belt.
29. "New construction" means structures for which the start of construction commenced on or after the effective date of the ordinance codified in this chapter.
30. "Nondetailed study areas" means those areas covered by the current Flood Insurance Study (FIS) for unincorporated areas of Okanogan County that have been studied by approximate methods. Study by approximate methods entails extrapolation of data computed for detailed study areas.
31. "Recreational vehicle" means a vehicle which is:
 - a. Built on a single chassis;
 - b. Four hundred square feet or less when measured at the largest horizontal projection;
 - c. Designed to be self-propelled or permanently towable by a light duty truck; and
 - d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
32. "Regulatory floodway" means the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 100-year flood discharge can be conveyed without increasing the base flood elevation more than a specified amount.
33. "Riverine flood hazard area" means those areas related to, formed by, or resembling a river (including tributaries), streams, creeks, etc., subject to inundation by flooding.
34. "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit issuance date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or

foundation or the erection of temporary forms.

35. "Structure" means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

36. "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- a. Before the improvement or repair is started; or
- b. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not include:

- a. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places;
- b. Any project for improvement and/or of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living.

37. "Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

38. "Water surface elevation" means the height, in relation to NGVD of 1929 (or other datum where specified), of floods of various magnitudes and frequencies in lacustrine (lake) and riverine flood hazard areas. (Ord. 2006-1, 2006; Ord. 97-2 § 2, 1997).

15.08.050 General provisions.

A. **Lands to Which This Chapter Applies.** This chapter shall apply to all areas of special flood hazard within the jurisdiction of Okanogan County, identified on Flood Insurance Rate Maps as 100-year floodplains and maps associated with other special flood studies.

B. **Basis for Establishing the Areas of Special Flood Hazard.** The basis for establishing local floodplain management regulations shall be the areas designated as special flood hazard areas on the most recent maps provided by the Federal Emergency Management Agency for the National Flood Insurance Program. Best available information shall be used if these maps are not available or sufficient. (RCW 86.16.051)

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the Okanogan County Area" (revised May 2, 1994, and its subsequent revisions) with accompanying Flood Insurance Rate Maps is hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at the Okanogan County office of planning and development.

C. **Penalties for Noncompliance.** No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements including violations of conditions and safeguards established in connection with conditions shall constitute a gross misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$300.00 or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent Okanogan County from taking such other lawful action as is necessary to prevent or remedy any violation.

D. **Abrogation and Greater Restrictions.** This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. **Interpretation.** In the interpretation and application of this chapter, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

F. **Warning and Disclaimer of Liability.** The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of Okanogan County, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 2006-1, 2006; Ord. 97-2 § 2, 1997).

15.08.060 Administration.

A. **Establishment of Development Permit.**

1. Development Permit Required. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in OCC 15.08.050(B). The permit shall be for all structures including manufactured homes, as set forth in OCC 15.08.040(B), Definitions, and for all development including fill and other activities, also as set forth in OCC 15.08.040(B).

2. Application for Development Permit.

a. Application for a development permit shall be made on forms furnished by the Okanogan County office of planning and development and may include but not be limited to: two copies of plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

b. The following specific information is required on plan drawings:

i. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;

ii. Elevation in relation to mean sea level to which any structure has been floodproofed;

iii. Certification by a registered professional engineer that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in OCC 15.08.070(B)(2);

iv. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development;

v. Certified topographic data; and

vi. Hydrologic and hydraulic analyses (applicable for nondetailed study areas only).

c. Information required by this chapter for a detailed study area shall be provided by a professional licensed surveyor or a professional licensed engineer.

d. Information required by this chapter for a nondetailed study area shall be provided by a professional licensed engineer on a stable base mylar.

B. Designation of the Administrator.

1. The director of the Okanogan County office of planning and development is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

2. The director may at his/her discretion delegate the administrative requirements of this chapter.

C. Duties and Responsibilities of the Administrator. Duties of the administrator shall include, but not be limited to:

1. Permit Review.

a. Review all development permits to determine that the permit requirements of this chapter have been satisfied.

b. Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.

c. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of OCC 15.08.070 are met.

2. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with OCC 15.08.050(B), Basis for Establishing the Areas of Special Flood Hazard, the administrator may obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer OCC 15.08.070.

3. Information to Be Obtained and Maintained.

a. Where base flood elevation data is provided through the Flood Insurance Study or required as in subsection (C)(2) of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

b. For all new or substantially improved floodproofed structures:

i. Verify and record the actual elevation (in relation to mean sea level); and

ii. Maintain required floodproofing certifications.

c. Maintain for public inspection all records pertaining to the provisions of this chapter.

4. Alteration of Watercourses.

a. Notify adjacent communities and the Washington State Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

5. Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in subsection (D) of this section.

D. Appeal and Variance Procedures and Variance Conditions.

1. Procedures.

a. The Okanogan County board of adjustment/hearings examiner as established by Okanogan County commissioners shall hear and decide appeals and requests for variances from the requirements of this chapter.

b. The Okanogan County board of adjustment/hearings examiner shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the administrator in the enforcement or administration of this chapter.

c. Those aggrieved by the decision of the Okanogan County board of adjustment/hearings examiner, or any taxpayer, may appeal such decision to Okanogan County superior court.

d. In passing upon such applications, the Okanogan County board of adjustment/hearings examiner shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

i. The danger that materials may be swept onto other lands to the injury of others;

ii. The danger to life and property due to flooding or erosion damage;

iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

iv. The importance of the services provided by the proposed facility to the community;

v. The necessity to the facility of a waterfront location, where applicable;

vi. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

vii. The compatibility of the proposed use with existing and anticipated development;

viii. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;

x. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

xi. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

e. Upon consideration of the factors of subsection (D)(1)(d) of this section and the purposes of this chapter, the Okanogan County board of adjustment/hearings examiner may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

f. The administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

2. Conditions for Variances.

a. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i) through (xi) in subsection (D)(1)(d) of this section have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

b. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.

c. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

e. Variances shall only be issued upon:

i. A showing of good and sufficient cause;

ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant;

iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense; create nuisances; cause fraud on or victimization of the public as identified in subsection (D)(1)(d) of this section or conflict with existing local laws or ordinances.

f. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

g. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of

