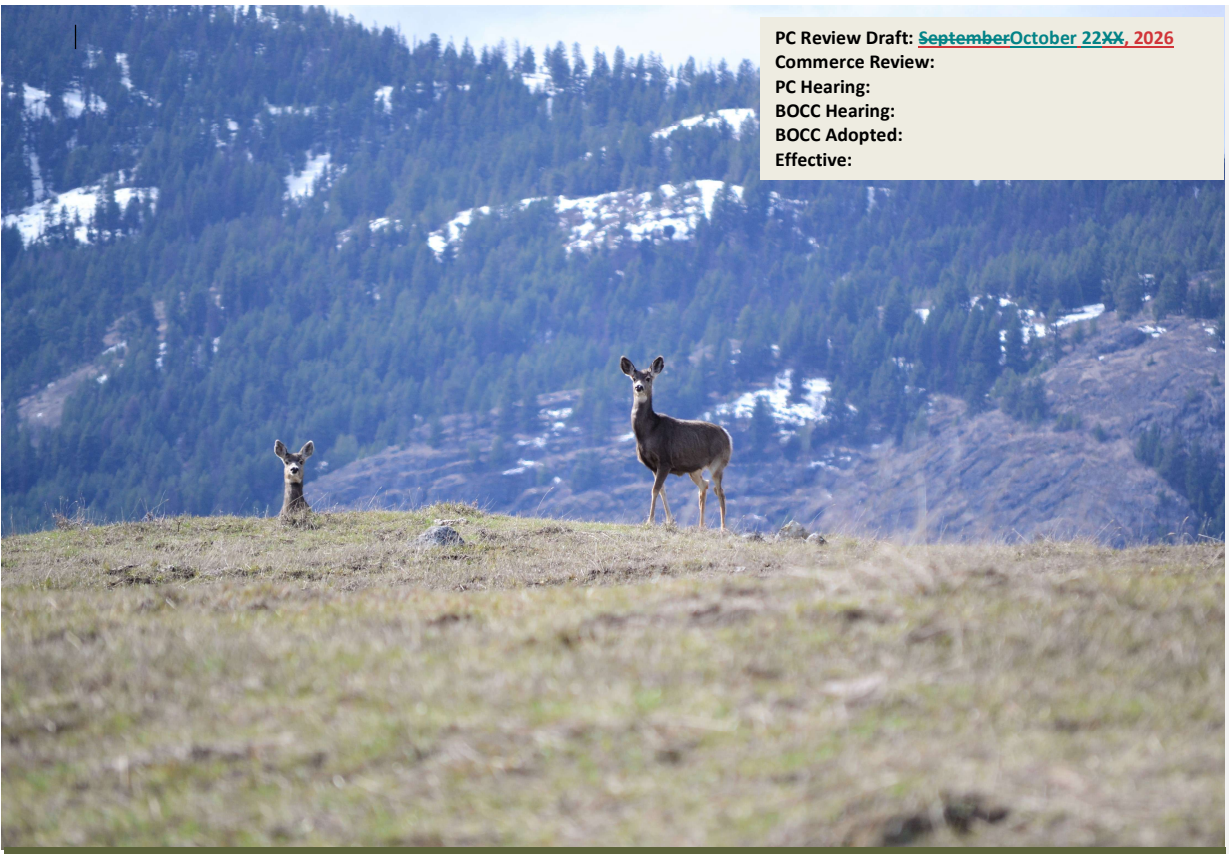


PC Review Draft: ~~September~~October 22~~XX~~, 2026
Commerce Review:
PC Hearing:
BOCC Hearing:
BOCC Adopted:
Effective:

SUBDIVID

Effective TBD, 2027

PREPARED FOR: STEVENS COUNTY

Title 13: Critical Areas Code Update (2027 Working Draft)

Prepared by:
White Bluffs Consulting
AC GEO

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Title 13: Critical Areas Code Update

13.00 General Provisions

113.00.010 Purpose, Goals, and Applicability

Purpose:

1. Define, identify, and maintain the functions and values of critical areas as required by the GMA. Per the GMA, Best Available Science is included in developing policies and regulations in designating and protecting critical areas and associated functions and values.

Goals:

1. Protect the public health, safety, and general welfare by providing reasonable and effective regulations to:

    a. Conserve, protect, and maintain the functions and values of critical areas;

    b. Prevent harm to the public health, safety, and general welfare from potential hazards associated with certain critical areas; and

    c. Support the overall goal of Washington State to ensure the protection of wetlands.

2. Promote innovative, efficient design of proposed land-use and development activities.

3. This Code provides required protections for critical areas. While preservation and protection of critical areas is important, it is not the intent of this Code to prohibit alteration or impacts to critical areas or associated buffers consistent with the requirements of GMA.

~~0.~~

Applicability:

1. This Code shall apply to all development proposals in the unincorporated areas of Stevens County.

~~1.~~2. This Code does not apply to existing and ongoing agricultural activities as defined in RCW 90.58.065. Stevens County has opted-into the Voluntary Stewardship Program (VSP) as an alternate approach for protecting critical areas on agricultural lands. Agricultural activities within the existing footprint of lands previously or currently used for agriculture are managed under the VSP Work Plan developed by the County VSP work

Commented [AE1]: For clarity, we would recommend some mention of designating and protecting critical areas, using BAS, consistent with GMA requirements in your purpose section as well.

Commented [BF1R2]: Update as suggested

Commented [de2]: Maybe move this to #1

Commented [L(3]: We recommend the County establish a procedural mechanism by which landowners claiming this exemption demonstrate that the qualifying agricultural activity was in active production prior to VSP workplan approval, consistent with the intent of the Growth Management Act.

Commented [L(3R2]: Refer to Page 4: https://cdn.prod.website-files.com/5faf8a950cdaa224e61edad9/60b6c0545d431059395634a2_VSP%20SAC%20PA%2006-21%20VSP%20and%20New%20Ag.Final.April%202021.pdf

Commented [BF3R3]: Adam Cares to review these

Commented [AC3R4]: Added wording from the document referenced above.

Commented [BF3R5]: Not including a procedure as Garrett suggested - EJ Sep 30

group and approved by the Washington State Conservation Commission. Any "new" agriculture practices occurring outside the existing footprint of lands previously or currently used for agriculture are subject to the CAO. The VSP Work Plan is being implemented to protect critical areas on agricultural lands and maintain agricultural viability as part of addressing associated agricultural activities.

~~2.~~3. This Code does not apply to critical areas located in designated shoreline environments under ~~to~~ the County's SMP (SCC Chapter 12), as separate protections for critical areas are provided in that County code.

~~3. This Code shall apply to all development proposals, in the unincorporated areas of Stevens County.~~,

4. Approval of a permit or development proposal pursuant to the provisions of this Code does not discharge the obligation of the applicant to comply with the provisions of this Code and other applicable County code requirements.

~~0.~~1. ~~Unless otherwise indicated in this Code, the burden of proof shall be upon the applicant to provide sufficient information and bear the expense of all required reports, assessment(s), studies, plans, reconnaissance(s), peer review(s) by qualified consultants, and other work prepared in support of or necessary to make a decision on the application.~~

~~3~~2~~13~~.00.020 Jurisdiction – Critical Areas

Critical areas include the following areas and ecosystems, as defined in RCW 36.70A.030 (5):

1. Wetlands
2. Critical aquifer recharge areas
3. Fish and wildlife habitat conservation areas
4. Frequently flooded areas
5. Geologically hazardous areas

~~4~~3~~13~~.00.030 Best Available Science

Critical area reports, mitigation plans, and decisions to alter critical areas shall rely on the best available science to ensure the protection of the functions and values of critical areas, and must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish and their habitat. See also Section 13.20, Buffers and Mitigation, for critical area~~s~~ mitigation and review requirements.

Commented [de4]: I might suggest wording this a bit differently. A CAO would never apply to an SMP. The language I most often see is something like it doesn't apply to critical areas located in designated shoreline environments under the SMP, which will instead be regulated under the critical areas provisions in the SMP. Just a slightly different spin. Most often I would see this in the "relationship to other codes" portion rather than here, but I don't think it's wrong being here. (Commerce weigh in?)

Commented [BF4R2]: Updated - verify with Erik

Commented [BF4R3]: EJ OK

Commented [de5]: Good addition lots of folks forget. #5 as a whole doesn't seem like an "applicability" standard though. Should it be relocated within the code, maybe in review process?

Commented [BF5R2]: Discuss with County

Commented [BF5R3]: OK - move to process

Best available science to be considered must be consistent with criteria: The best available science includes scientific information applicable to the critical area prepared by local, state, or federal natural resource agencies, a qualified scientific professional or team of qualified scientific professionals, that is consistent with criteria established in WAC 365-195-900 through WAC 365-195-925.

Characteristics of a Valid Scientific Process. In the context of critical areas protection, a valid scientific process is one that produces reliable information useful in understanding the consequences of a local government's regulatory decisions, and in developing critical areas policies and development regulations that will be effective in protecting the functions and values of critical areas. To determine whether information received during the permit review process is reliable scientific information, the Administrator determines whether the source of the information displays the characteristics of a valid scientific process as described in WAC 365-195-910 (5)(a).

Nonscientific Information. Nonscientific information may supplement scientific information, but it is not an adequate substitute for valid and available scientific information.

Absence of valid scientific information: Where there is an absence of valid scientific information or incomplete scientific information relating to a critical area, leading to uncertainty about the risk to critical area function of permitting an alteration of or impact to the critical area, the Administrator shall:

1. Take a "precautionary or a no-risk approach," that strictly limits development and land use activities until the uncertainty is sufficiently resolved; and

2. Require an effective adaptive management program that relies on scientific methods to evaluate how well regulatory and non-regulatory actions protect the critical area. An adaptive management program is a formal and deliberate scientific approach to taking action and obtaining information in the face of uncertainty. An adaptive management program shall:

    a. Address funding for the research component of the adaptive management program;

    b. Change course based on the results and interpretation of new information that resolves uncertainties; and

    c. Commit to the appropriate timeframe and scale necessary to reliably evaluate regulatory and non-regulatory actions affecting protection of critical areas.

The best available science may include but is not necessarily limited to the following:

1. Anchor QEA, 2021. Best Available Science Review for Riparian Buffers, dated April 7, 2021.

2. Stevens County, 2020. Riparian Canopy Analysis – All Areas. Prepared for the Lands Services Department by Adam Cares, December 18, 2020.

3. Maps, as listed below, are used as a guide to identify and evaluate the potential presence of critical areas and support further investigation, as applicable, and they provide only approximate boundaries and locations. Due to their scale and content, the maps are not considered a regulatory standard or substitute for site-specific assessment. The actual location and boundary(ies) of a critical area shall be based on the presence of the features applicable to each critical area element.

    a. WDFW Priority Habitats and Species maps

    b. WDFW Wildlife Heritage Point Observations

    c. Washington DNR water types

    d. FEMA Flood Insurance Rate Maps (FIRMs)

    e. U.S. Geological Survey topographic quadrangle maps

    f. Soil Survey of Stevens County, Washington, or Soil Survey Geographic Database published by the U.S. Department of Agriculture, ~~Soil~~ Natural Resources Conservation Service (NRCS).

    ~~f.~~g. Washington DNR active, inactive, and abandoned mine sites.

    h. National Wetland Inventory (NWI) maps

    ~~g.~~i. Washington State Department of Health Office of Drinking Water Source Water Assessment Program (SWAP) map and data layers.

    ~~h.~~j. Shoreline Master Program (SMP) Inventory, Analysis, and Characterization Report mapping products and associated GIS dataset

    ~~i.~~k. Aerial imagery

~~5~~413.00.040 Authority and Interpretation

Authority.

Commented [L(6]: Presence of a critical area feature identified on these maps should trigger the need for deeper analysis or firsthand examination of the site.

Commented [BF6R2]: Updated

Commented [BF6R3]: EJ OK

Commented [de7]: For wellhead protection areas, we encourage local jurisdictions to use our SWAP map by reference rather than creating local mapping. Wellhead protection areas can change as systems or sources are added or removed, or as well operating characteristics change. Our map is maintained, & this assures local jurisdictions will be using the most current information.

Commented [BF7R2]: Adam Cares update reference

Commented [AC7R3]: I referenced the map and data layers. Each of the layers within the map can be added and streamed in the County's desktop GIS, so planners can view everything on one map rather than jumping around, but the dynamic data maintained by DOH is there.

Commented [BF7R4]: EJ OK

1. As provided herein, the Administrator and/or the hearing body are given the authority to interpret and apply, and the responsibility to enforce this Code to accomplish the stated purposes.

2. The Administrator may approve, deny, or approve with conditions any permit application for a development proposal within a critical area and/or associated buffer area consistent with the requirements of this Code.

Interpretation. In the interpretation and application of this Code, the provisions of this Title shall be:

1. Considered to be the minimum requirements necessary;

2. Liberally construed to serve the purpose of this Title; and

3. Deemed to neither limit nor repeal any other provisions under state statute.

~~6~~5 13.00.050 Relationship to Other Regulations and Permits

Unless otherwise provided, these critical area regulations shall apply as an overlay and in addition to zoning and other regulations adopted by the County.

This Code does not require any permit in addition to those otherwise required by County Codes. Uses and activities in a critical area or buffer for which no permit or approval is required by any other County Code remain subject to the performance standards and other requirements of this Code.

Compliance with the provisions of this Code does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, Hydraulic Project Approval permits and U.S. Army Corps of Engineers [USACE] Section 404 permits). The applicant is responsible for complying with these requirements apart from the process established in this Code.

~~7~~6 13.00.070 Violations, Enforcement, and Penalties

Violations

1. When a critical area or its buffer has been altered in violation of this Code, the County shall have the authority to issue a stop work order to cease all ongoing development work, and order restoration, rehabilitation, ~~or~~ replacement or environmental remediation measures at the owner's or other responsible party's expense to compensate for violation of provisions of this Code.

Enforcement and Penalties

Commented [de8]: In context of CARAs this could potentially be a cleanup action.

Commented [BF8R2]: Updated

Commented [BF8R3]: EJ OK

1. Enforcement of this Code will be pursuant to County Development Regulations, Section 3.40, Enforcement.

~~8~~7.13.00.080 Severability

If any clause, sentence, paragraph, section, or part of this Code or the application thereof to any person or circumstances shall be judged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered. The decision shall not affect or invalidate the remainder of any part thereof and to this end the provisions of each clause, sentence, paragraph, section, or part of this Code are hereby declared to be severable.

13.10 Critical Area Review Process

~~9~~8.13.10.010 General Review Process

The administrative procedures followed during the critical area review process shall conform to the standards and requirements of the County Development Regulations, Section 3.30 through 3.32. This shall include, but not be limited to, timing and appeals, associated with applications covered by this Code.

The Administrator shall follow the process outlined below:

1. Verify the information submitted by the applicant for the applicable permit.

2. Evaluate the project area and proximity to critical areas.

3. Determine whether the proposed project is likely to impact the functions or values of critical areas.

4. Determine if the proposed project adequately addresses the impacts and avoids impacts to the critical area associated with the project.

5. Condition proposed project(s) as necessary to protect the functions, ~~and~~ values, and mitigate for ~~of~~ critical areas in accordance with the performance standards required by this Code.

Critical areas present, but no impact.

1. If the Administrator determines that there are critical areas within or adjacent to the area of project review, but the proposed activity is unlikely to degrade the functions or values of the critical area, the Administrator may waive the requirement for a critical areas report or other applicable information based on the following findings:

    a. There will be no alteration of the critical area or buffer.

b. The development proposal will not impact the critical area in a manner contrary to the purpose, intent, and requirements of this Code.

c. The development proposal is consistent with other applicable regulations and standards. A summary of this analysis and the findings shall be included in any staff report or decision on the underlying permit.

Critical Areas Present and Potential Impact Likely. If the Administrator determines that the proposed project is within, adjacent to, or is likely to impact a critical area, the Administrator shall:

1. Notify the applicant that a critical area report, SEPA checklist, and other applicable information must be submitted prior to further review of the ~~project, and~~project and indicate each of the critical area types that should be addressed.

~~1.~~2. Require a critical area report per Section 13.10.020 prepared by a qualified professional, and/or other applicable information to be submitted prior to further review of the project.

~~2.~~3. Review and evaluate the critical area report per Section 13.10.020 and other applicable information to determine whether the development proposal conforms to the purpose and performance standards of this Code.

~~3.~~4. Assess potential impacts to the critical area and determine if they are necessary and unavoidable.

~~4.~~ Determine appropriate mitigation and associated monitoring to ~~plans and bonding measures proposed by the applicant are sufficient~~ to protect the functions and values of the critical area ~~and public health, safety, and welfare concerns consistent with the goals, purposes, objectives, and requirements of this Chapter~~ ~~to protect the functions and values of any effected critical areas.~~

5. A summary of this analysis and the findings shall be included in any decision on the underlying permit(s). Critical area review findings may result in no adverse impacts to critical area(s), a list of applicable critical area(s) protection conditions for the underlying permit(s), or denial of permit based upon unavoidable impacts to critical area(s) ecological functions and values.

Unless otherwise indicated in this Code, the burden of proof shall be upon the applicant to provide sufficient information and bear the expense of all required reports, assessment(s), studies, plans, reconnaissance(s), peer review(s) by qualified consultants, and other work prepared in support of or necessary to make a decision on the application.

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Commented [de9]: Good addition lots of folks forget. #5 as a whole doesn't seem like an "applicability" standard though. Should it be relocated within the code, maybe in review process?

Commented [BF9R2]: Discuss with County

Commented [BF9R3]: OK - move to process

~~5.~~

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~~10~~9 13.10.020 Critical Area Report

The critical area report shall evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this Code.

Minimum report contents. At a minimum, the report shall contain the following:

1. The report shall be performed by a professional who is licensed or qualified as an expert in the critical resources at issue;

2. Incorporating Best Available Science. The report shall use scientifically valid methods and studies in the analysis of data and field reconnaissance and reference the source of science used, consistent with Chapter 3.13.00.030. The report shall evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this chapter.

3. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;

~~2.~~4. A site plan for the project;

~~3.~~5. Identification and characterization of the critical area and associated buffers ~~and development proposal with dimensions~~;

~~4.~~6. Assessment of any potential hazards associated with the proposed development;

7. Assessment of the ~~cumulative~~ impacts of the development proposal on any critical area;

8. An analysis of ~~development~~ alternatives if mitigation is required;

9. A description of reasonable efforts made to apply mitigation sequencing to avoid, minimize, and mitigate impacts to critical areas;

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~~5.~~

~~6.~~10. Sufficient information to assess potential stormwater effects, including new impervious surface calculations and a depiction of any proposed stormwater management facilities and outlets for the development pursuant to Section 13.10.080;

11. Mitigation and monitoring plan, as applicable, per Section 13.20.020 (C);

a. The impacts of any proposed development within ~~or adjacent to~~ a critical area or buffer on the critical area; and

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b. The impacts of any proposed alteration of a critical area or buffer on the development proposal~~, other properties, and the environment~~;

~~The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed to ensure no net loss of ecological function through either, or a combination of, preservation, rehabilitation, and re-establishment;~~

~~Financial guarantees to ensure compliance, if applicable; and~~

~~8.~~12. Additional information and requirements that may be required within this Code;

~~9.~~13. A statement specifying the accuracy of the report and all assumptions made and relied upon;

~~10.~~14. Documentation of any fieldwork performed on the site; and

Additional specific report requirements are provided in Sections 13.30.040 (Wetlands) and Section 13.40.030 (Fish and Wildlife Habitat Conservation Areas).

~~11~~10 13.10.030 Allowed Uses and Vegetation Management Activities

Allowed uses and vegetation management activities under this Section 13.10.030(B) occurring within required buffers may be conducted without a letter of consistency provided that:

1. The activities shall use reasonable methods (reasonable methods include best management practices [BMPs]) to avoid potential impacts to critical area's functions and values and associated buffers.

2. Being exempt from this Code does not give permission to degrade a critical area or associated buffer.

3. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the allowed activity shall be restored, rehabilitated, or replaced at the responsible party's or property owner's expense.

The following activities may be conducted without review under the provisions of this Code; however, the listed activities may not be exempt from other state or federal regulations or permit requirements:

1. **Emergency Actions.** Those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventative action in a time frame too short to allow for compliance with the requirements of this Code.

Commented [BF10]: Covered in 13.20.020

Commented [BF11]: Compliance ensured through enforcement not through CAO report

a. The person or agency undertaking such action shall notify the Land Services Department within one (1) working day following commencement of the emergency activity. Within thirty (30) days, the Administrator shall determine if the action taken was within the scope of the emergency actions allowed in this Section. If the Administrator determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then enforcement provisions of Section 13.00.070 shall apply.

b. After the emergency, the person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved critical area report and mitigation plan. The person or agency undertaking the action shall apply for review, and the alteration, critical area report, and mitigation plan shall be reviewed by the Administrator in accordance with the review procedures contained herein. Restoration and/or mitigation activities must be initiated within one (1) year of the date of the emergency, and completed in a timely manner.

2. **Operation, Maintenance, or Repair.** Operation, maintenance, or repair of existing structures, infrastructure improvements, utilities, public or private roads, trails, dikes, levees, or drainage systems, that do not require construction permits, if the activity does not further alter or increase the impact to, or encroach further within, the critical area or buffer, and there is no increased risk to life or property as a result of the proposed operation, maintenance, or repair. Operation and maintenance includes vegetation management performed in accordance with BMPs that is part of ongoing maintenance of structures, infrastructure, or utilities, provided that such management actions are part of regular and ongoing maintenance, do not expand further into the critical area, are not the result of an expansion of the structure or utility, and do not directly impact an endangered or threatened species.

3. **Forest Practices.** Forest practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practices regulations, Title 222 WAC, and those that are exempt from the County's jurisdiction.

4. **Minor Utility Projects.** Utility projects which have minor or short-duration impacts to critical areas, as determined by the Administrator in accordance with the criteria below, and which do not significantly impact the function or values of a critical area(s), provided that such projects are constructed with BMPs and additional restoration measures are provided. Minor activities shall not result in the transport of sediment or increased

Commented [AE12]: For clarity, you might consider adding language making it clear that Class IV forestry conversions are not exempted from the CAO.

Commented [BF12R2]: Updated

Commented [BF12R3]: Stevens County does not administer these conversions (Class IV) - EJ SEp 30

stormwater. Such allowed minor utility projects shall meet the following criteria:

a. There is no practical alternative to the proposed activity with less impact on critical areas.

b. The activity involves the placement of a utility pole, street signs, anchor, or vault or other small component of a utility facility.

5. **Invasive Species and Noxious Weed Control**. Invasive species/noxious weed control within established buffers, if the criteria listed below are met:

a. ~~Hand removal~~ Removal of plants by hand or using light equipment, while minimizing soil disturbance and compaction.

~~a.~~b. Selective application of herbicides, fungicides, fertilizers or pesticides in accordance with manufacturer's directions and applicable state or federal law;

~~b.~~c. No area-wide vegetation removal/grubbing;

d. Avoid impacts to existing non-invasive vegetation;

~~c.~~e. Time activities to protect fish and wildlife during sensitive periods; and

~~d.~~f. Where appropriate, r~~R~~eseed and replant with plants that provide similar ecological functions to undisturbed areas.

6. **Wildfire Fuel Reduction.** Trimming of tree branches and vegetation for fire control consistent with DNR's Firewise wildfire fuel reduction and "defensible space" principles (Washington State Department of Natural Resources Fire Prevention *Defend Your Home from Wildfire*).

7. **Removal of Hazardous Trees**. Removal of hazardous trees and vegetation as necessary because they are dead, dying, or diseased or present a danger or impact to property, provided the removed trees are the minimum necessary to address the demonstrated safety hazard. Impacts to ecological functions shall be mitigated. When necessary, implementation of measures to halt the spread of disease or damaging insects consistent with the State Forest Practices Act, RCW 76.09.

~~Documentation from a qualified professional illustrating that the tree to be removed meets the County's definition of a "hazard tree" must be submitted to the County either prior to the work or within the time frame established by subsection (2) of this section.~~

Commented [L(13]: Removal of noxious and invasive plants should minimize the impacts to fish, wildlife, and habitat through the use of hand removal or light equipment, use of only WA Dept. Of Ecology approved aquatic herbicides and when necessary, avoidance of hazardous substances, prevention of soil compaction, and timing restrictions to protect fish and wildlife during sensitive periods. These conditions should apply whether the activity is exempt or permitted

Commented [BF13R2]: Discuss with County

Commented [BF13R3]: ?? - Discuss with Adam and Ben consider options for addressing

Commented [AC13R4]: I made further additions to capture Garretts suggestions within the existing structure.

Commented [de14]: Suggest prefacing this with "where appropriate." We coach water systems to mechanically remove noxious weeds from sanitary control areas associated with wells at an early stage so it doesn't turn into an issue with weed control folks over spraying. But those areas aren't necessarily intended to be planted but more of a "clear zone" associated with wells.

Commented [BF14R2]: Updated

Commented [BF15]: Unnecessary process - EJ

Commented [BF15R2]: And requirements

~~The hazard tree must remain within the critical area or buffer. Creation of a snag tree is preferred. If this is not feasible then the felled tree shall remain in place as large woody debris.~~

~~Native replacement trees are planted at a ratio of 2:1 in locations that maintain or enhance the functions of the critical area.~~

~~7.~~8. **Artificial Wetlands.** ~~**Normal and routine maintenance** A~~Aactivities involving artificially created wetlands or streams intentionally created from non-wetland sites, including, but not limited to, grass-lined swales, irrigation and drainage ditches, detention facilities, and landscape features, except those features that were created as mitigation for projects or alterations subject to the provisions of this section.

~~8.~~9. **Public and Private Pedestrian Trails.** Public and private pedestrian trails, may encroach upon any required buffers, subject to the following:

a. Trials open for public use, the total width of trails, including shoulders shall be 10 feet maximum or as required by Americans with Disabilities Act (ADA) regulations and shall minimize and mitigate impacts within buffers, as applicable.

~~9.~~10. Trails on private properties and not open for public use may be up to 5 feet wide or the minimum required for private ADA access, as applicable, and shall minimize and mitigate impacts within buffers, as applicable. For wetland buffers, trails should be in the outer 25% of the wetland area buffer.

b. Pervious surfaces are encouraged for all trails.

c. All Trails should make use of an existing constructed grade when feasible.

d. All Trails shall be located, constructed, and maintained so as to avoid, to the maximum extent possible, removal and other impacts to existing non-invasive vegetation.

e. Trails proposed to be located in landslide or erosion hazard areas shall be constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report.

~~10.~~11. **Navigational Aids and Boundary Markers.** Construction or maintenance of navigational aids and boundary markers.

~~11.~~12. **Minor Site Investigative Work**. Work necessary for land use submittals, such as surveys, soil logs, test holes, and other related activities, where such activities do not require construction of new roads

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Commented [L(16]: This is a very common standard among many jurisdictions, some do 3:1, some do 2:1

Commented [BF16R2]: Discuss with County

Commented [BF16R3]: EJ - not necessary

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Commented [AE18]: For wetlands Ecology's guidance also recommends that trails are also located only in the outer twenty-five percent (25%) of the wetland buffer area to reduce risk of impacts to the wetland.

Commented [BF18R2]: Updated

or significant amounts of excavation. In every case, impacts to the critical area shall be minimized and disturbed areas shall be immediately restored.

~~12~~11 13.10.050 Non-conforming Uses

A lawful use of land that exists that is made no longer permissible under the provisions of this Code may be continued as a nonconforming use subject to the following:

1. No such activity shall be expanded, changed, enlarged, or altered in any way that increases the extent of its nonconformity without a permit issued pursuant to the provisions of this Code.

2. If a non-conforming activity is discontinued for period of twelve consecutive months, any resumption of the activity shall conform to this Code.

~~13~~12 13.10.060 Non-conforming Structures

Structures that were lawfully established but that do not meet the standards for setbacks or buffers may be continued and maintained as a nonconforming structure.

Structures that were lawfully established but that do not meet the standards for setbacks or buffers may be modified or expanded subject to the following:

a. May not encroach any further towards wetlands, fish and wildlife habitat conservation areas, or waterward into the buffer.

b. Any expansion proposal may not increase new impervious surfaces within a critical area or any required buffer by more than 20% and to the degree feasible, the expansion shall occur on areas already disturbed or developed by driveways, patios, decks, or other appurtenant structures.

c. Approve expansions in the buffer that are parallel to or landward of a shoreline or delineated wetland.

d. Parallel or landward expansion into an undisturbed area within a buffer shall enhance or restore a portion of the buffer with riparian vegetation at a minimum 1:1 area ratio to offset the potential adverse impact.

e. Approve expansions in the buffer when a critical areas report demonstrates that the provisions for a buffer modification pursuant to Section 13.20.010(D) through (G), have been met.

f. Nothing in this section will prohibit vertical expansion up to the height limitation in the applicable development regulations.

Structures that were lawfully established but that do not meet the standards for setbacks or buffers may be reconstructed or replaced subject to the following: May be reconstructed or replaced as a total replacement provided that the new structure is comparable to the original structure, including, but not limited to size, shape, configuration, location and the replacement does not increase potential adverse impacts the functions and values of the affected critical area as demonstrated by a critical areas report prepared by a qualified professional.

May be reconstructed or replaced as a total replacement with an expansion pursuant to the provisions of 13.10.060(B).

~~14~~13.10.070 Variances

Variances from the standards of this Code may be authorized by the Administrator in accordance with the procedures set forth in the County's Development Regulations Chapter 3.30 – Procedures, Notices, and Appeals.

1. Conditions May Be Required: In granting any variance, the Administrator may prescribe such conditions and safeguards as are necessary to secure adequate protection of critical areas from adverse impacts and to ensure conformity with this Code.

2. Time Limit: The Administrator may prescribe a time limit within which the action for which the variance is required shall be begun, completed, or both. Failure to begin or complete such action within the established time limit may void the variance.

Frequently Flooded Areas Variance Criteria and Procedure

1. Frequently Flooded Areas Variance Criteria. Upon consideration of the variance criteria set forth as follows, the Administrator shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:~~may attach such conditions to the granting of variances as is deemed necessary to further the purposes of this Code for frequently flooded areas:~~

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

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

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

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

Commented [LA19]: Recommended language brings this section more in line with the state model ordinance and the CFR

Commented [BF19R2]: Good with these updates - Adam review as well

Commented [AC19R3]: These look good to me.

~~c.~~d. The necessity to the facility of a waterfront location, where applicable;

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

~~e.~~f. The compatibility of the proposed use with existing and anticipated development;

~~f.~~g. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

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

i. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site~~.~~; and

~~h.~~j. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical, water system, and streets and bridges.

2. Conditions for Frequently Flooded Areas Variances

a. Generally, ~~the only condition under which a variance from the elevation standard may be issued is~~ variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size and~~small or irregularly shaped lot~~ contiguous to and surrounded by lots with existing structures constructed below the base flood elevation~~level~~, providing items in Sections 13.60.020, 13.60.030, and 13.60.040 ~~13.10.060 (C)(1)~~ have been fully considered. As the lot size increases beyond one-half acre 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, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure;~~without regard to the procedures set forth in this section.~~

Commented [LA20]: My recommendations to this section would align the language here with the CFR.

Commented [BF20R2]: Thanks for all these updates Lisa - Adam review also

Commented [AC20R3]: These look good to me.

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

iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public health or safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

Commented [de21]: This would address CARAs variances so they don't threaten drinking water sources & is common language in CAOs.

Commented [BF21R2]: EJ ok

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 floodproofing than watertight or dry floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except Section 13.10.060 (C)(2)(a), and otherwise complies with Sections 13.60.040 (A)(1)(a) and 13.60.040 (A)(1)(b) of the General Standards.~~

g. Any applicant to whom a variance is granted shall be given written notice that:

i. The issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance; and

~~h.~~ii. Such construction below the BFE increases risks to life and property. ~~the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and~~

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~~that the cost of flood insurance will be commensurate with the increased risk.~~

~~15~~14 13.10.065 Appeals

Those aggrieved by the decision of the Administrator, may appeal such decision to the Hearing Examiner, in accordance with the procedures set forth in the County's Development Regulations Chapter 3.30 – Procedures, Notices, and Appeals.

In reviewing such appeals, the Hearing Examiner shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Code.

1. The Land Services Department shall maintain the records of all appeal actions and report any frequently flooded areas variances to the Federal Insurance Administration upon request.

~~16~~15 13.10.070 Exceptions

Public Agency and Utility Exceptions

1. If the application of this Code would prohibit a development proposal by a public agency or public/private utility, the agency or utility may apply for an exception pursuant to this section as outlined below.

2. Exception Request and Review Process:

   a. An application for a public agency and utility exception shall be made to the Administrator and shall include a critical area report (including mitigation plan, if necessary) and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to SEPA (Chapter 43.21C RCW).

   b. The Administrator shall prepare an administrative decision based on review of the submitted information, a site inspection, and the proposal's ability to comply with public agency and utility exception review criteria in this section. The administrative decision shall provide an appeal process available to aggrieved parties.

3. Public Agency and Utility Review Criteria: The criteria for review and approval of public agency and utility exceptions as follows:

   a. There is no other practical alternative to the proposed development with less impact on the critical areas;

Commented [de22]: Keep in mind that public water systems can be privately as well as publicly owned. Stevens Co. does have some that are plats or manufactured home parks, for example.

Commented [BF22R2]: Good point - thx!

b. The application of this Code would unreasonably restrict the ability to provide utility services to the public; and

c. The alteration is the minimum necessary to accommodate the proposed development.

Reasonable Use Exception:

1. If the application of this Code would deny all reasonable economic use of the subject property, the property owner may apply for an exception pursuant to this Section and as outlined below.

2. Exception Request and Review Process:

   a. An application for a reasonable use exception shall be made to the Administrator and shall include a written explanation stating the reason(s) for an exception, critical area report, including mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to SEPA.

   b. The Administrator shall prepare an administrative decision based on review of the submitted information, a site inspection, and the proposal's ability to comply with reasonable use exception criteria in this section. The administrative decision shall provide an appeal process available to aggrieved parties.

3. Reasonable Use Review Criteria: The criteria for review and approval of reasonable use exceptions are as follows:

   a. The application of this Code would deny all reasonable use of the property;

   b. No other reasonable use of the property has less impact on the critical area;

   c. Any alteration is the minimum necessary to allow for reasonable use of the property; ~~and~~

   d. The inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant after the effective date of this Code, or its predecessor; and.

   e. A determination that the granting of an exception will not result in increased flood heights, additional threats to public health or safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

Commented [de23]: I encourage you to carry over criterion e.iii. from variances (the health & safety clause etc.)- typically I see that type of thing repeated in RUEs

Commented [BF23R2]: Updated - County verify

Commented [BF23R3]: EJ OK

Commented [L(24]: I can find you specific code for what other jurisdictions are using as a reasonable square footage. Skagit County's CAO specifies that RUEs apply only to sites without at least 4,000 square feet of developable area outside the standard buffer (newest draft of SCC 14.24.140). But I think Spokane and Walla Walla have different numbers

Commented [BF24R2]: Discuss with County

Commented [BF24R3]: Were good

~~d.~~

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~~17~~16.13.10.080 Water Quality, Stormwater and Nonpoint Pollution

A. The location, design, construction, and management of all development proposals shall protect water quality and stormwater quantity on-site and adjacent to the site.

B. Potentially harmful materials and sediment shall be prohibited from entering any body of water or wetland, or discharged onto the land. Potentially harmful materials shall be maintained in safe and leak-proof containers.

C. All development proposals shall include sufficient information to satisfy requirements of Section 13.10.020 (B)6 and shall be reviewed for potential stormwater impacts consistent with the latest version of Ecology's Stormwater Management Manual for Eastern Washington (SWMMEW). All such development proposals shall implement SWMMEW required Core Elements including appropriate BMPs.

D. All materials that may come in contact with water shall be constructed of untreated wood, concrete, plastic composites, steel or other materials that will not adversely affect water quality or aquatic plants or animals. Materials used for decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants from wave or boat wake splash, rain or runoff.

E. Wood treated with creosote, copper chromium arsenic or pentachlorophenol is prohibited in riparian waterbodies.

F. Stormwater management facilities. A wetland or its buffer can be physically or hydrologically altered to meet the requirements of a Low Impact Development (LID) methodology or Flow Control BMP if all of the following criteria are met:

Commented [BF25]: This new item F is provided for County consideration. Gives some additional flexibility if desired

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a. The wetland is classified as a Category IV or a Category III wetland with a habitat score of 3-5 points.
b. There will be no net loss of functions and values of the wetland.
c. The wetland does not contain a breeding population of any native amphibian species.
d. The hydrologic functions of the wetland can be improved as outlined in questions 3, 4, and 5 of Chart 4 and questions 2, 3, and 4 of Chart 5 in Selecting Mitigation Sites Using a Watershed Approach, [Eastern Washington] (Ecology Publication [#09-06-032 or #10-06-007], or as revised); or the wetland is part of a

restoration plan intended to achieve restoration goals identified in a shoreline master program or a local or regional watershed plan.

e. The wetland lies in the natural routing of the runoff, and the discharge follows the natural routing.

f. All regulations regarding stormwater and wetland management are followed, including but not limited to local and state wetland and stormwater codes, manuals, and permits.

g. Modifications that alter the structure of a wetland or its soils will require permits. Existing functions and values that are lost will need to be compensated.

~~E.~~G. Stormwater LID BMPs required as part of new and redevelopment projects may potentially be authorized within wetlands and their buffers. However, these areas may contain features that render LID BMPs infeasible. A site-specific characterization is required to determine whether an LID BMP is feasible at the project site.

13.20 Buffers and Mitigation

Commented [L(26]: It might be helpful to move this up under Section 13.10.020 Critical Area Report. since they have a lot of overlap - but that is just a stylistic suggestion

Commented [BF26R2]: Thanks - considering this suggestion

~~18~~17 13.20.010 Buffers

General Buffer Requirements:

1. Wetland buffers (buffers) and riparian ~~buffers~~ management zones (~~hereinafter referred to as 'buffers'~~RMZs) shall be required for all development proposals within or adjacent to designated wetlands or waterbodies, as defined in Table 13.30.020 (C), Wetland Buffer Widths and Table 13.40.020 (B), Riparian ~~Buffer Widths~~Management Zones.

2. Buffers shall be measured on a horizontal plane in a landward direction from the wetland edge and/or the OHWM as delineated in the field.

Buffer Protection Criteria. The following criteria shall apply to all buffers:

1. Vegetation in designated buffer areas shall be maintained to protect existing critical area functions and values.

2. Allowed vegetation management activities occurring within required buffers are described in Section 13.10.040 (B) (7 through 9).

3. The outer perimeter of the buffer shall be marked and maintained in the field during construction with temporary "clearing limits" in such a way as to minimize potential for buffer disturbance.

Buffer Alternatives Increasing Buffer Areas

1. Standard buffer widths shall be increased on a site-by-site basis when a Critical Areas Report prepared by a qualified professional indicates that an

increase is necessary based on the following to ensure protection of critical area functions and values:

a. A larger buffer is needed to maintain critical habitat for existing, documented federal- or state-listed endangered, threatened, or sensitive species or a species of local importance; or

b. The buffer area or adjacent land has minimal vegetative cover or is susceptible to severe erosion and standard erosion-control measures will not effectively prevent adverse impacts.

Buffer Modification – Averaging Buffer Areas

1. Averaging buffer widths may modify standard buffer widths where the applicant successfully demonstrates through a report prepared by a qualified professional that either:

   a. Averaging is necessary to avoid an extraordinary hardship caused by circumstances peculiar to the property; or

   b. The character of the buffer varies in slope, soils, or vegetation and it would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places.

2. In addition to meeting the standard described in Section 13.20.010 (D)(1), all the following shall be met:

   a. Averaging will not result in a loss of riparian or wetland functions and values, and

   b. The total area contained within the buffer after averaging is not less than that contained within the buffer prior to averaging, and

   c. In no instance shall the buffer width be reduced by more than 35% of the standard buffer, and

   d. A mitigation plan has been prepared by a qualified professional, approved by the Administrator, and incorporated into the proposal.

Buffer Modification –Buffer Reduction

1. Buffer Reduction for functional enhancement. The standard buffer may be reduced by no more than 25% of the standard buffer, if the applicant demonstrates a mitigation plan developed by a qualified professional pursuant to Section 13.20.020 indicates:

   a. That enhancing the buffer (by removing invasive plants or impervious surfaces, planting vegetation that enhances ecological

Commented [L(27]: WDFW does not recommend buffer width averaging for RMZs. Buffer averaging does not align with WDFW's scientific recommendations (Vol. 2) because the RMZ represents the minimum width required to ensure no net loss of all ecological values and functions, including water quality, wildlife habitat, and flood mitigation. Reducing the buffer in any area below the RMZ will result in a net loss of these critical functions, as the RMZ is based on the best available science to fully protect all riparian ecosystem values and functions. See RMZ widths via WDFW's mapping resource.

Commented [BF27R2]: Discuss with Erik

Commented [BF27R3]: Thanks - EJ - valuable tool for working with landowners

Commented [AE28]: In Ecology's wetland guidance we recommend that the width of the buffer at any given point after averaging should be no narrower than 75 percent of the standard buffer, and the total area of the buffer after averaging should be equal to that of the standard buffer before averaging. This means that part of the buffer will be wider to account for the area lost where the buffer was narrowed.

Commented [BF28R2]: Discuss with County

Commented [BF28R3]: Discussed with ECY during last SMP update and want to maintain consistency between the two codes

Commented [AE29]: Ecology doesn't recommend buffer reductions and instead suggests using buffer averaging as a way to provide flexibility while retaining the ability of the buffer to protect wetlands. Even if providing an enhancement of the buffer through planting this wouldn't align with our suggested standard buffer widths for wetlands since the buffer widths already assume a well vegetated buffer. We would recommend using buffer averaging for wetlands and making it clear that buffer averaging and any kind of reductions may not be combined.

Commented [BF29R2]: Discuss with County

Commented [BF29R3]: Noted - keep the flex in the code - EJ

functions, installing habitat features, or other means) will result in a reduced buffer that functions at a higher level than the existing standard buffer.

b. Functional analysis of the buffer before and after the reduction shall be conducted demonstrating that the overall function is increased.

2. Buffer reductions shall be based on the best available science appropriate for the site. Buffer reductions should be used on a limited basis and should be granted only when it has been determined the functions and values of the wetland or riparian habitat will be improved.

Buffer Modification – In-fill development

1. In an effort to facilitate in-fill development on existing lots, the Administrator may approve requests to reduce the standard ~~riparian buffers~~RMZs up to a maximum of 50% for a new development proposal including appurtenant structures in accordance with the following criteria:

a. Where there is existing development within 150 feet on either side of the proposed development, the buffer shall be determined as the greater of one of the following three options: 1) a common line drawn between the nearest corners of the nearest structure, 2) a common line calculated by the average of the nearest structure's existing buffer, or 3) a 50% reduction of the standard buffer.

2. Where there is only one structure located within 150 feet on one side of the proposed development, the standard buffer shall be determined as the greater of a common line drawn between nearest corner of the nearest structure and the proposed development.

Buffer Modification – Functional Break

1. Where a legally established road or railway, or other type of continuous development crosses or extends along a stream or critical area buffer and is wider than 20 feet, the Administrator may approve a modification of the minimum required buffer width to the waterward edge of the improved continuous development provided the upland side of the continuous development area:

a. Does not provide additional protection of the waterbody or stream; and

b. Provides little (less than 20%) to no biological, geological, or hydrological buffer functions (stability, shade, pollution control, contribution of detrital nutrients, wildlife habitat corridor

Commented [L(30]: Please refer to language in the following ordinances for examples on how to enhance this section: Example Regulation from Covington CAR ; Woodinville CAR 21.51.120 6.c (adopted Oct 7, 2025) Chapter 21.51 CRITICAL AREAS REGULATIONS

Commented [BF30R2]: Thanks for the references - considering and discuss with County

connection or recruitment of large woody debris) relating to the riparian and upland portions of the buffer.

~~To the extent feasible, the remaining areas within the riparian management zone are restored or enhanced to achieve a net gain in ecological functions~~

2. ~~Evaluation Criteria when evaluating potential disconnections, the director shall consider the following:~~

~~a. Whether the interruption will affect the entirety of the buffer~~

~~b. Whether the disconnected portion protects the wetland/critical area or supports functions such as wildlife movement, hydrology, or vegetation.~~

~~c. Whether individual structures, such as single-family homes or outbuildings, effectively sever function. Individual structures may not fully interrupt buffer function and do not automatically qualify the area for exclusion;~~

~~d. Whether the proposed exclusion is limited only to the portion of the buffer demonstrably affected by the interruption; and~~

~~e. Whether hydrologic or habitat functions are impacted~~

Commented [BF31]: WDFW language added

Commented [BF31R2]: Not required - EJ Sep 30

Buffer Modifications – Decision Criteria:

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

   a. A decrease is necessary to accomplish the purposes of the proposal and no reasonable alternative is available.

   b. The need for a reduced buffer is not the result of segregating, subdividing, or adjusting a boundary line after the effective date of this Code.

   c. The applicant has successfully demonstrated the modified buffer will provide protection for the critical area functions equal to or better than the administratively determined buffer.

   d. A mitigation~~, monitoring, and protection~~ plan has been prepared by a qualified professional, approved by the Administrator, and has been incorporated into the proposal.

~~19~~18.13.20.020 Mitigation (excluding Critical Aquifer Recharge Areas, as addressed in Chapter 13.50)

General Mitigation Standards:

Commented [de32]: The compensatory mitigation provisions of WAC 365-196-830 do *not* extend to CARAs (not included in WAC 365-190-100). When placed in general standards, these provisions imply that some degree of degradation to an aquifer is acceptable, while allowing even a limited degree of harm to an aquifer could result in lost potability.

Commented [BF32R2]: Good point - will qualify/clarify

1. Proposed alterations to critical areas or associated buffers shall require mitigation sufficient to provide for and maintain the existing functions and values of the critical area or to prevent risk from a critical area hazard, such as steep slopes, and shall give adequate consideration to the reasonable economically viable use of the property. Mitigation of one critical area impact should not result in unmitigated impacts to another critical area.

2. Mitigation may include development setbacks, limits on clearing and grading, BMPs for erosion control and maintenance of water quality, and compensation ratios for creation or restoration.

3. Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.

4. Mitigation shall not be implemented until after county receipt of a report or other applicable information that includes a mitigation plan, and mitigation shall be in accordance with County provisions in the underlying permit(s).

5. Mitigation monitoring shall be required for a minimum of three years. The project mitigation plan shall include monitoring elements that ~~ensure certainty o~~track the~~f~~ success for the project critical area value and functions. If the mitigation goals are not obtained within the initial ~~five~~three year period, the applicant remains responsible for restoration of the critical area values and functions until the mitigation goals agreed to in the mitigation plan are achieved.

~~Mitigation sites shall be protected in perpetuity. This protection shall be through conservation easement, deed restriction, donation to WDFW, or other legally binding method.~~

Commented [BF33]: WDFW language added

Commented [BF33R2]: Erik OK

Mitigation Sequencing:

1. Mitigation includes avoiding, minimizing, or compensating for adverse impacts to critical areas or their buffers, unless part of a restoration plan for significantly degraded wetland or stream buffer.

2. Applicants shall apply the following mitigation sequencing steps in order of priority to maintain the existing functions and values of a critical area (with a. being top priority):

    a. Avoid the adverse impact altogether by not taking a certain action or parts of an action;

b. Minimize adverse 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;

c. Rectify the adverse impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project;

d. Reduce or eliminate the adverse impact over time by preservation and maintenance operations;

e. Compensate for the adverse impact by replacing, enhancing, or providing substitute resources or environments; and

f. Monitor the adverse impact and the compensation projects and taking appropriate corrective measures.

3. Mitigation Timing. Mitigation shall be completed immediately following disturbances and prior to use or occupancy of the activity or development or when seasonally appropriate. Construction of mitigation projects shall be timed to reduce impacts on existing fisheries, wildlife, and water quality.

Mitigation Plan:

1. All proposed mitigation components shall be included in the critical area report. In addition to applicable mitigation plan requirements included in Sections 13.30 to 13.40, proposed mitigation components shall include:

a. The proposed construction sequence, timing, and duration;

b. Grading and excavation details;
c. Erosion and sediment control features;
d. A vegetation planting plan specifying native plant species, quantities, locations, size, spacing, and density; and
e. Measures to protect and maintain plants until established.
~~a.~~f. A description of specific proposed mitigation, including a delineation of critical areas lost and critical areas gained;

~~b.~~g. An analysis of avoidance, minimization, reduction, and compensation of impacts to maintain critical area function;

~~c.~~h. An analysis of how the proposed mitigation will maintain the critical area function and values;

~~d.~~i. A statement of any ongoing monitoring and/or inspection measures and schedule that may be required, including specification of

Commented [BF34]: WDFW added language

method and frequency of submittal of reports on results to the Administrator;

~~e.~~j. A statement of any required critical area expertise necessary to install, monitor, or inspect the proposed mitigation;

~~f.~~k. A listing of any other security required to ensure performance and/or maintenance of the proposed mitigation; and

~~g.~~l. The Administrator shall make the final determination regarding required mitigation. Required mitigation shall be included in an approved mitigation plan.

2. Monitoring and Adaptative Management ~~Program~~

a. The mitigation plan shall include an implementation schedule for the mitigation plan and a 3~~2~~-year monitoring program with annual monitoring report or recommended amount according to relevant BAST. The monitoring report shall document milestones, successes, problems, if the performance standards are being met, and contingency actions of the compensation project. If the mitigation plan is not achieving its goals, the Administrator shall require appropriate changes to the mitigation plan, based on the recommendations of a qualified professional and the need for ecological uplift. The County may collect the proceeds of the mitigation plan bonds or surety and use those proceeds to install or complete the recommended changes when necessary.

b. Contingency Plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

~~Financial Guarantees. The mitigation plan shall include financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the compensation project, monitoring program, and any contingency measures shall be posted in accordance with Section 18.08.120.~~

~~Other Permits. Other local, state, and federal regulatory jurisdictions may require permits for habitat mitigation projects. The applicant shall comply with all other appropriate regulatory permits, agreements, and authority, as required by each respective jurisdiction.~~

~~Preservation and Protection Plan: This protection shall be through conservation easement, deed restriction, donation to WDFW, or other legally binding method.~~

~~a.~~

Commented [L(35]: This is confusing. A Monitoring and Adaptative Management PROGRAM is different from monitoring an individual project site. A MAM "Program" involves monitoring and improving multiple permits, regulations, and programs to ensure the protection of critical areas. Suggest deleting the word "Program" here. See the WA Department of Commerce's Critical Areas Handbook - Chapter 7 for MAM.

Commented [de35R2]: Good point, this is typically a project-specific endeavor.

Commented [BF35R3]: Update as suggested

Commented [de36]: Both monitoring & adaptive management are difficult to apply to CARAs because it's hard to establish a baseline against which to measure, or to establish direct causality, except in case of something emergent like a spill, if contamination occurs.

Commented [BF36R2]: Recognized - title update above should cover this

Commented [L(37]: Some of our BAS, like the wind and solar guidelines require more than 2 years of monitoring.

Commented [BF37R2]: Discuss with County - 3 yr suggested above

Commented [BF38]: Erik confirm - delete all 3?

Commented [BF38R2]: EJ yes

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~~13.20.030 – Notice on Title~~

~~DA. In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of any property containing a critical area or buffer on which a development proposal is submitted shall file a notice with the county auditor according to the direction of the county. The notice shall state the presence of the critical area or buffer on the property, the application of this chapter to the property, and the fact that limitations on actions in or affecting the critical area or buffer may exist. The notice shall "run with the land." Presence of critical areas and/or buffers shown on development permits recorded with the auditor need not be recorded separately.~~

~~B. This notice on title shall not be required for a development proposal by a public agency or public or private utility:~~

~~1. Within a recorded easement or right-of-way;~~

~~2. Where the agency or utility has been adjudicated the right to an easement or right-of-way; or~~

~~3. On the site of a permanent public facility.~~

13.30 Wetlands

~~20~~19~~13~~.30.010 Classification and Designation

Wetlands shall be identified and delineated using the methods and standards set forth in the currently approved 1987 USACE Federal Wetlands Delineation Manual, as amended, and its regional applicable regional supplements, as amended. Wetland delineations are valid for five years; after such date the County shall determine whether a revision or additional assessment is necessary.

Classification and rating of wetlands will be done using the current version of the Washington State Wetlands Rating System for Eastern Washington (hereinafter referred to as the Ecology Wetlands Rating System).

~~21~~20~~13~~.30.020 Minimum Wetland Buffer Widths

The width of the wetland buffer shall be determined according to the proposed land use per Table 13.30.020 (B) and wetland category per Table 13.30.020 (C). The minimum standard wetland buffers shall be required in accordance with the General Buffer Requirements of Section 13.20.010.

The Land Use Intensity table (Table 13.30.020 [B]) describes the types of proposed land use that can result in high, moderate, and low levels of impacts to adjacent wetlands.

Commented [L(39]: Many CAOs are starting to incorporate this section into their updates. The hope is that this will increase transparency for property owners and alleviate any confusion. This is sample language taken from Walla Walla County's Draft CAO (2026-05).

Commented [BF39R2]: Discuss with County

Commented [BF39R3]: EJ - no thank you

Commented [CC40]: Discuss in WDFW meeting

Commented [BF40R2]: Not a requirement - Delete language - County working a different plan with GIS tool to flag Cas. Mtg with WDFW on Sep 15, 2026

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Commented [de41]: DOH only reviews general & CARAs provisions so have skipped the other types of critical areas from this point forward.

Commented [BF41R2]: Thanks for the detailed review and comments!

Table 13.30.020 (B) Land Use Intensity Table

Level of Impact from Proposed Change in Land Use	Types of Land Use Based on Common Zoning Designations
High	• Commercial • Urban • Industrial • Institutional • Residential (more than one unit/acre) • High-intensity recreation
Moderate	• Residential (1 unit/acre, up to 1 unit/ 4.99 acres) • Moderate-intensity recreation • Paved driveways and high usage gravel driveways • Paved trails
Low	• Residential (1 unit/ 5 or more acres) • Low-intensity recreation • Vegetation management • Gravel driveways • Unpaved trails • Utility corridor without a maintenance road and little or no vegetation management

Wetland buffer widths are described in the Wetland Buffer Widths table.

Table 13.30.020 (C) Wetland Buffer Widths

Wetland Characteristics	Buffer Width by Impact of Proposed Land Use
Category IV Wetlands (For wetlands scoring less than 16 points for all functions)	
Score for all 3 basic functions is less than 16 points	Low – 25 feet Moderate – 40 feet High – 50 feet
Category III Wetlands (For wetlands scoring 16 to 18 points or more for all functions)	
Moderate level of function for habitat (score for habitat 5~~6~~ to 7 points) *If wetland scores 8 to 9 habitat points, use Category II buffers	Low – 75 feet Moderate – 110 feet High – 150 feet
Score habitat for 3 to 4~~ 5~~ points	Low – 40 feet Moderate – 60 feet High – 80 feet
Category II Wetlands (For wetlands that score 19 to 21 points or more for all functions or having the "Special Characteristics" identified in the rating system)	
High level of function for habitat (score for habitat 8 to 9 points)	Low – 100 feet Moderate – 150 feet High – 200 feet

Commented [AE42]: The land use intensity table has higher residential densities for moderate and low than Ecology's guidance recommends (as noted by the County below). Ecology uses a moderate-risk approach to protecting wetlands and this could have a higher risk of loss of functions and values. Ecology recommends that residential use (1 unit/acre or less) as moderate use and does not include residential in low use. Please see the tables in 2022 Wetland Guidance for Critical Area Ordinance (CAO) Updates: Western and Eastern Washington in Appendix D for more information.

Commented [BF42R2]: Discuss

Commented [BF42R3]: Leave as is - consistency with SMP and adapted to Stevens Co zoning

Commented [BF43]: Ecology guidance for E WA https://apps.ecology.wa.gov/publications/documents/2206014.pdf

Includes mixed use developments , Roads (fed and state highways) and local roads with high impact uses - and Ag with high intensity like dairies, nurseries.

Commented [BF43R2]: No suggesting we change, as this matches what is in SMP but noting we may get comments back from ECY to match their guidance

Commented [AE44]: The table appears to be using Buffer Alternative 3 from Appendix 8-D of the Wetlands in Washington State-Volume 2: Guidance for Protective and Managing Wetlands and is updating to the 2018 update with modified habitat score ranges which is appreciated. It is missing one habitat score update which we noted below.

Commented [AE45]: To align with the 2018 wetland rating system updates made to wetland habitat function scores, a low habitat score is now 3 to 5. Please update this to 3 to 5 to be consistent with the wetland rating system and the changes made elsewhere in your tables.

Commented [BF45R2]: Good catch - updated - thx!

Commented [BF45R3]: EJ good

Wetland Characteristics	Buffer Width by Impact of Proposed Land Use
Moderate level of function for habitat (score for habitat ~~5~~ 6 to 7 points)	Low – 75 feet Moderate – 110 feet High – 150 feet
High level of function for water quality improvement and low for habitat (score for water quality 8 to 9 points; habitat less than ~~5~~ 6 points)	Low – 50 feet Moderate – 75 feet High – 100 feet
Riparian forest	Buffer width to be based on score for habitat functions or water quality functions
Not meeting above characteristic	Low – 50 feet Moderate – 75 feet High – 100 feet
Vernal pool	Low – 100 feet Moderate – 150 feet High – 200 feet Or develop a regional plan to protect the most important vernal pool complexes – buffers of vernal pools outside protection zones can then be reduced to: Low – 40 feet Moderate – 60 feet High – 80 feet
Category I Wetlands (For wetlands that score 22 points or more for all functions or having the "Special Characteristics" identified in the rating system)	
Wetlands of High Conservation Value	Low – 125 feet Moderate – 190 feet High – 250 feet
High level of function for habitat (score for habitat 8 to 9 points)	Low – 100 feet Moderate – 150 feet High – 200 feet
Moderate level of function for habitat (score for habitat ~~6~~5 to 7 points)	Low – 75 feet Moderate – 110 feet High – 150 feet
High level of function for water quality improvement (8 to 9 points) and low for habitat (less than ~~5~~ 6 points)	Low – 50 feet Moderate – 75 feet High – 100 feet
Not meeting above characteristics	Low – 50 feet Moderate – 75 feet High – 100 feet

~~22~~21 13.30.030 Protection Standards

Wetlands shall be protected based on their quality established from the rating system and from alterations, which may create adverse impacts. The greatest protection shall be provided to Category I and II Wetlands.

The Administrator will participate in coordination of wetland preservation strategies and efforts, as applicable, with appropriate state and federal agencies and private conservation organizations to take advantage of both technical and financial assistance and to avoid duplication of efforts.

Criteria for Wetland Alterations

1. A wetland or its required buffer can only be altered if the wetlands critical area report pursuant to Section 13.10.020 shows that the proposed alteration does not degrade the quantitative and qualitative functioning of the wetland, or any degradation can be adequately mitigated to protect the wetland function, and maintain wetland ecological functions and values as a result of the overall project. See also exempt uses and activities per Section 13.10.030 and allowed activities per Section 13.10.040.

~~23~~22 13.30.040 Wetlands Critical Area Report

If the Administrator determines that the site of a proposed development includes, is likely to include, or is within 250 feet of a wetland indicator, a wetland report prepared by a qualified professional shall be required.

Minimum Standards for Wetland Reports. The wetland report and the accompanying site plan shall contain the following information, in addition to the critical area report requirement per Section 13.10.020:

1. An evaluation of the functions of the wetland and adjacent buffer. A description of the methodologies used to conduct the wetland delineations, wetland ratings, or impact analyses, and references.

2. Identification and characterization of all critical areas, wetlands, water bodies, floodplains, and buffers on or adjacent to the proposed project area. Wetland delineations will be documented on a ground-verified map using either professional surveying methods or an equivalent professional method using GPS with sub-meter accuracy. For areas off site of the project site, estimate conditions within 250 feet of the project boundaries using the best available information.

3. A description of the proposed actions and an estimation of acreages of impacts to wetlands and buffers based on the field delineation.

4. An assessment of the probable cumulative impacts to the wetlands and buffers resulting from the proposed development.

5. A description of reasonable efforts made to apply mitigation sequencing pursuant to Mitigation Sequencing (Section 13.20.020 [B]) and measures proposed to preserve existing wetlands.

6. A conservation strategy for habitat and vegetation that addresses methods to protect on-site habitat and wetland functions.

7. A site plan for the project which includes, at a minimum:

   a. Maps (preferably drawn to scale) depicting delineated wetland(s) and required buffers on-site, including buffers for off-site critical areas that extend onto the project site; the development proposal; other critical areas; grading and clearing limits; areas of proposed impacts to wetlands and/or buffers (include square footage or acreage estimates).

~~24~~23.30.050 Wetland Mitigation

Wetland Creation, Restoration, and Enhancements. In addition to the mitigation plan requirements per Section 13.20.020, the following standards apply for wetland restoration, creation, and enhancement:

1. Mitigation ratios shall be consistent with those provided in Table 13.30.050 (A)(3).

Table 13.30.050 (A)(3) Mitigation Ratios

Category and Type of Wetland	Creation or Re-establishment	Rehabilitation	Preservation	Enhancement
Category I: Bog, Natural Heritage site	Not considered possible	Case by case	24:1	Case by case
Category I: Mature Forested	6:1	12:1	24:1	24:1
Category I: Based on functions	4:1	8:1	16:1	16:1
Category II	3:1	6:1	12:1	12:1
Category III	2:1	4:1	8:1	8:1
Category IV	1.5:1	3:1	6:1	6:1

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Note:

1 These ratios are based on the assumption the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, and less-effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement.

~~3.~~2. Increased Replacement Ratio. The standard replacement ratio may be increased under any of the following circumstances consistent with:

a. High degree of uncertainty as to the success of the proposed restoration or creation;

b. Significant period of time between destruction and replication of wetland functions;

c. Projected losses in functions; and

d. Off-site compensation.

~~4.~~3. Decreased Replacement Ratio. The standard replacement ratio may be decreased under the following circumstances:

a. Findings of special studies coordinated with agencies and/or a qualified professional, which demonstrate protection of wetland function or value is attained under the decreased ratio.

b. Advance Mitigation. The proposed actions for compensation are conducted in advance of the impact and are shown to be successful. Mitigation for projects with pre-identified impacts to wetlands may be constructed in advance of the impacts, if the mitigation is implemented according to federal rules.

~~5.~~4. In all cases, a minimum replacement ratio of 1:1 shall be required.

~~6.~~5. Mitigation requirements may also be determined using the credit/debit tool described in "*Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Eastern Washington: Final Report* (Ecology Publication #11-06-015, August 2012).

Compensating for Lost or Affected Functions. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions to achieve no net loss of ecological functions. Compensatory mitigation shall address the functions affected by the proposed project, with an intention to achieve functional equivalency or improvement of functions. The goal shall be for the compensatory mitigation to ~~provide similar wetland functions as~~ achieve no net function loss ~~those lost~~, except when either:

1. The lost wetland provides minimal functions, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be documented within a watershed; or

2. Out-of-kind replacement of wetland type or functions will best meet watershed goals.

Compensatory mitigation plans shall be consistent with *Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10. March 2006. Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance (Version 1). Washington State Department of Ecology Publication #06-06-011a. Olympia, Washington. Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans--Version 1,* (Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as revised), and *Selecting Wetland Mitigation Sites Using a Watershed Approach (Eastern Washington)* (Publication #10-06-07, November 2010).

Mitigation for lost or diminished wetland and buffer functions shall rely on the approaches listed below when it is demonstrated the mitigation would provide appropriate compensation for the proposed impacts:

1. Wetland mitigation banks. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within a specified mitigation bank.

2. In-Lieu Fee Mitigation. Credits from an approved in-lieu-fee program when demonstrated the mitigation would provide environmentally appropriate compensation for the proposed impacts.

3. Permittee-responsible mitigation. Mitigation is performed by the applicant after the permit is issued at the development site or at an off-site location within the same watershed. Mitigation plans shall demonstrate by a qualified wetland professional that the compensation offsets the proposed impacts.

4. Advance Mitigation. Mitigation for projects with pre-identified impacts to wetlands may be constructed in advance of the impacts if the mitigation is implemented according to federal rules, state policy on advance mitigation, and state water quality regulations consistent with *Interagency Regulatory Guide: Advance Permittee-Responsible Mitigation* (Ecology Publication #12-06-015, Olympia, WA, December 2012)

Location:

1. In selecting a compensation site, the following siting criteria, in order of preference, shall be pursued:

    a. On-site or adjacent to the site;

    b. Upland sites that were formerly wetlands;

    c. Idle upland sites having bare or minimal vegetative cover consisting primarily of exotic introduced species, weeds, or emergent vegetation; and

d. Other disturbed upland areas.

13.40 Fish and Wildlife Habitat Conservation Areas

~~25~~24 13.40.010 Classification

The following ~~six~~ eight areas shall be considered fish and wildlife habitat conservation areas:

1. State priority habitats and ~~A~~areas within which federal and state designated endangered, threatened, and sensitive species have a primary association. State-listed species are those native fish and wildlife species legally designated as Endangered (WAC 220-610-010), Threatened (WAC 220-200-100), or Sensitive (WAC 220-200-100).

2. Habitats and species of local importance that have been designated by the County.

3. Naturally occurring ponds less than 20 acres and their submerged aquatic beds that provide fish or wildlife habitat. This category does not include ponds deliberately designed and created from dry sites. This category does include artificial ponds intentionally created from dry areas as part of mitigation.

~~3.~~4. Waters of the state. Waters of the state includes lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington, as classified in WAC 222-16-031

~~4. The water type categorization is found in WAC 222-16-030, the Forest Practices Rules and Regulations, administered by the DNR. There are four water types within this classification, as provided in Table 13.40.010 (A)(4).~~

~~**Table 13.40.010 (A)(4) Water Type Designations**~~

~~Type~~	~~Description~~
~~Type "S"= Shoreline~~	~~Streams and waterbodies that are designated "shorelines of the state" as defined in RCW 90.58.030. (formerly type 1)~~
~~Type "F" = Fish~~	~~Streams and waterbodies that are known to be used by fish, or meet the physical criteria to be potentially used by fish. Fish streams may or may not have flowing water all year; they may be perennial or seasonal. (formerly type 2 or 3)~~
~~Type "Np"= Non-Fish~~	~~Streams that have flow year-round and may have spatially intermittent dry reaches downstream of perennial flow. Type Np streams do not meet the physical criteria of a Type F stream. This also includes streams that have been proven not to contain fish using methods described in Forest Practices~~

~~Type~~	~~Description~~
	~~Board Manual Section 13.~~ ~~(formerly type 4)~~
~~Type "Ns"= Non-Fish Seasonal~~	~~Streams that do not have surface flow during at least some portion of the year, and do not meet the physical criteria of a Type F stream.~~ ~~(formerly type 5)~~

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

6. State Natural Area Preserves and Natural Resource Conservation Areas, as designated.

7. Priority habitats and species as identified by WDFW.

~~Land useful or essential for preserving connections between rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness and open spaces.~~

~~7.~~

~~26~~25.13.40.020 Minimum Riparian ~~Buffer Widths~~Management Zone Widths

Waters of the State:

1. To ensure adequate protection of existing fish and wildlife habitat conservation areas, the buffer requirements in Table 13.40.020 (B) shall apply to all development proposals, even when a lesser standard might be approved by another agency.

~~Riparian Buffers~~Riparian Management Zone:

1. ~~Fish and Wildlife Habitat Conservation Area Buffers~~RMZs shall be as provided in Table 13.40.020 (B) (1)~~a) and (1b)~~ unless modified by the provisions in this Code.

Table 13.40.020 (B)(1a) Riparian ~~Buffer~~ Management Zone Widths ~~for Agricultural and Rural Zoned Lands~~

Stream Type	Recommended Buffer Width[1, 2, 3]
Type S	See Shoreline Master Program
~~Type F~~All Other Streams	~~85 feet/~~100[1] ~~(> 10% slope)~~ [4]

[1] AC Geo Spatial Analysis of Stevens County Tree Canopy Cover and Height Analysis, May 2026.

Commented [BF46]: Garrett to double-check the basis for this addition and help explain how we went from 6 to 8. Mtg with WDFW on 9/15/2026

Commented [BF46R2]: Better fit for Comp plan - EJ confirms move to comp plan V 2 - and policy in V1?

Commented [BF46R3]: Show as resolved once Comp plan docs updated

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Commented [L(47]: Our BAS recommends SPTH (Guidelines for Determining Site Potential Tree Height from Field Measurements | Washington Department of Fish & Wildlife)

Commented [BF47R2]: WDFW mtg on 9/15/2026 - WAC for protection of critical areas - preserve functions and values. No net loss. Is there a net loss? If so then mitigation can compensate - and can be very broad. If not a net loss, then you can use local standards that vary from BAS if demonstrated. 140 vs 100 feet. Erik - County GIS analysis conducted over the last several years includes: areas unlikely to develop (slope, CAs, etc), areas where future development would occur - 695 housing units projected.

Commented [BF47R3]: From Garrett - here is the Critical area WAC: https://app.leg.wa.gov/wac/default.aspx?cite=365-196-830#:~:text=WAC%20365%2D196%2D830%20is%20about...

and generally I have focused on point 4: Although counties and cities may protect critical areas in different ways or may allow some localized impacts to critical areas, or even the potential loss of some critical areas, development regulations must preserve the existing functions and values of critical areas. Avoidance is the most effective way to protect critical areas. If development regulations allow harm to critical areas, they must require compensatory mitigation of the harm. Development regulations may not allow a net loss of the functions and values of the ecosystem that includes the impacted or lost critical areas.

Commented [CC48]: Discuss in WDFW meeting

Commented [BF48R2]: WDFW conducting Stevens Co NNL analysis using HRCD and should have analysis findings available within the next month or so

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Stream Type	Recommended Buffer Width[1, 2, 3]
~~Type Np and Ns~~	~~65 feet[5]~~

~~**Table 13.40.020 (B)(1b) Riparian Buffer Widths for Forest Zoned Lands**~~

~~Stream Type~~	~~Recommended Buffer Width[1, 2, 3]~~
~~Type S~~	~~See Shoreline Master Program~~
~~Type F~~	~~100 feet~~
~~Type Np and Ns~~	~~100 feet~~

1 = Measured landward and perpendicular from the ordinary high water mark (OHWM) WAC 173-22-030 (5).
2 = Except where roadway, paved trail, or parking area encroaches, providing an ecological functional break, and then to the waterward edge of the ecological break, as applicable.
~~3 = Common impacts to riparian buffer functions within the County include impacts to water quality from timber harvest, forest roads, wildfires, and impervious surfaces resulting in increased sedimentation and water temperatures and altered stream hydrology. Existing riparian habitat functions have also been impacted by noxious weed infestations competing with native vegetation and alterations to habitat from construction activities.[2]~~

~~27~~26 13.40.030 Habitat Critical Area Report

Fish and Wildlife Habitat Conservation Areas:

1. Development proposals within a fish and wildlife habitat conservation area designated under Section 13.40.010 shall be subject to review by the Administrator pursuant to Section 13.10.

Mapped Point Species Observations:

1. For development proposals within 300 feet of documented point observations for endangered, threatened, or sensitive species, the Administrator shall require a critical area report from a qualified professional to validate the point observation. If the point observation is validated, the report shall also set forth management recommendations specific to the site and the proposed development.

    a. The Administrator shall forward the report and proposal to WDFW for a 14-day comment period, and if no comment is received, concurrence with proposal is assumed.

~~[2] Anchor QEA, 2016. Stevens County Partnership Shoreline Master Program Update: Final Draft Shoreline Inventory, Analysis, and Characterization Report. Prepared for Stevens County. May 2016. Anchor QEA BAS…~~

~~28~~27.13.40.040 Compensatory Habitat Mitigation Plan

A habitat management and mitigation plan is required for all proposed developments determined per Section 13.10.010.D to have an impact on a Fish and Wildlife Habitat Conservation Area per Section 13.20.020 (C).

When required, a habitat management and mitigation plan shall be prepared by a qualified professional who is knowledgeable of fish and wildlife habitat.

Compensating for Lost or Affected Functions and Values. Compensatory mitigation for alterations to Fish and Wildlife Habitat Conservation Areas shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions to achieve no net loss of ecological functions. Compensatory mitigation shall address the functions affected by the proposed project, with an intention to achieve functional equivalency or improvement of functions.

The habitat management and mitigation plan shall demonstrate, when implemented, that the protection and/or compensatory mitigation of habitat ~~functions~~ impact is addressed to achieve no net loss of ecological functions and values. When compensatory mitigation is required, the applicant shall submit a compensatory mitigation plan with sufficient information to demonstrate that the proposed activities are logistically feasible, constructible, ecologically sustainable, and likely to succeed. In addition to the requirements of Section 13.20.020, specific information to be provided in the plan shall include, but not be limited to:

1. General description and scaled drawings of the activities proposed including, but not limited to, clearing, grading/excavation, drainage alterations, planting, invasive plant management, installation of habitat structures, irrigation, and other site treatments associated with the development activities and proposed mitigation action(s);

2. A description of the functions and values that the proposed mitigation area(s) shall provide, together with a description of required and an assessment of factors that may affect the success of the mitigation program; and

3. A description of known management objectives for the species or habitat.

4. ~~A plan for long-term viability and protection of mitigation sites.~~ All mitigation areas shall be protected and managed to prevent degradation and ensure protection of critical area functions and values in perpetuity. If additional development is proposed that impacts a mitigation area and those impacts are accounted for under a new, approved mitigation plan,

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Commented [L(49]: Many jurisdictions and agencies (like Ecology for Shoreline and Wetlands) are doing this through deed restrictions, easements, or mitigation banks. Whatcom County, Walla Walla, and Spokane County all have example code.

Commented [BF49R2]: Discuss

Commented [BF49R3]: EJ - no

such protection may be removed so long as the final plan meets the requirements of this chapter for all cumulative impacts.

~~Financial Guarantees: WDFW POL-M5002 requires mandatory financial assurance for significant impacts.~~

E. Disturbance to vegetation within riparian buffers, including disturbance associated with development of access trails, in accordance with mitigation requirements in the General Buffer and Mitigation Requirements of Section 13.20.

F. Required mitigation shall be completed as soon as possible following activities that will disturb fish and wildlife habitat conservation areas and during the appropriate season. Mitigation shall be completed prior to use or occupancy of the activity or development. Construction of mitigation projects shall be timed to reduce impacts to existing wildlife and flora.

G. The director shall have authority to require monitoring of mitigation activities and submittal of annual monitoring reports to ensure and document that the goals and objectives of the mitigation are met. The frequency and duration of the monitoring shall be based on the specific needs of the project as determined by the director and the use of best available science.

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13.40.050 ~~Subdivisions~~

~~The subdivision and short subdivision of land in fish and wildlife habitat conservation areas and associated buffers is subject to the following:~~

~~A. Land that is located wholly within a habitat conservation area or its buffer may not be subdivided.~~

~~B. Land that is located partially within a habitat conservation area or its buffer may be divided provided that the developable portion of each new lot and its access is located outside of the habitat conservation area or its buffer.~~

~~C. Land that contains stream or associated buffers, and within 200 feet of either a priority habitat and/or species of local importance on or adjacent to the site, or another stream or wetland with moderate to high habitat functions, a fish and wildlife habitat corridor shall be set aside and protected as follows:~~

~~1. Provide a minimum fish and wildlife habitat corridor width of 100 feet that forms one contiguous tract that connects on-site high value habitat areas to other on-site or off-site high value habitat areas. The Director may approve a modified width if supported by an approved habitat management plan; and~~

~~2. Locate the corridor within a permanent open space tract with all developable lots sited on the remaining portion of the project site, or design lots so that conservation easements on individual lots collectively create a contiguous corridor.~~

~~D. Access roads and utilities serving the proposed may be permitted within the habitat conservation area and associated buffers only if the county determines that no other feasible alternative exists and when consistent with this chapter.~~

13.50 Critical Aquifer Recharge Areas

~~29~~28.13.50.010 Susceptibility Factors, Rating Systems and Classification

Aquifer recharge areas shall be rated and determined by the criteria established by Ecology (Publication #05-10-028, March ~~2005~~2021) to determine. ~~The County hereby incorporates the ratings system as the first step in ranking~~ the susceptibility of an aquifer to surface contamination. When applicable, the County will use wellhead protection areas developed for ~~Class~~Group A public water systems to further refine the degree of susceptibility.

Aquifer recharge areas shall be classified as m~~M~~oderately, highly vulnerable, or highly susceptible aquifer recharge areas. Aquifer recharge areas that are moderately, highly vulnerable, or highly susceptible to degradation or depletion due to hydrogeologic characteristics are those areas delineated by a hydrogeologic study prepared in accordance with the Ecology guidelines or meeting the criteria established by Ecology.

~~following:~~

Commented [L(50]: many jurisdictions are adding this section into their FWHCA section, or into the general requirements of their CAO. This is sample text from Walla Walla County CAO (2026). If you would like other examples please refer to Thurston County's CAO Chapter 24.55 - SUBDIVISION IN CRITICAL AREAS https://library.municode.com/wa/thurston_county/codes/code_of_ordinances?nodeId=TIT24CRAR_CH24.55SUCRAR

Commented [AE50R2]: Ecology also recommends very similar language for wetlands in our sample ordinance in the Appendix A (page A-5) of the 2022 Wetland Guidance for Critical Area Ordinance (CAO) Updates: Western and Eastern Washington.

Commented [BF50R3]: Discuss

Commented [BF50R4]: Too broad - deleted per EJ

Commented [CC51]: Discuss in WDFW meeting

Commented [BF51R2]: Not required change - suggestion. WDFW mtg on 9/15/2026.

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Commented [de52]: Ecology's CARAs guidance has been completely overhauled twice since this earlier publication. Here is the current version: https://apps.ecology.wa.gov/publications/documents/0510028.pdf . It still has the same publication # but should be cited as March 2021 . If the County still has that old-old one, time to get rid of it! (Note: Although GMHB regards Ecology as having primary responsibility for CARAs BAS, the staff person associated with this is currently missing. The longtime staffer retired during COVID & there have been a couple of others since then. I haven't seen the position reposted since the last person left & don't know the status- they could be holding it open because of budget/hiring freeze. If there are any questions suggest working thru your regional staff for now.)

Commented [BF52R2]: Erik - FYI

Commented [de53]: Please check the accuracy of this as I believe that 2005 doc was based on soils. That isn't a wrong or bad approach, but referring back to the document as the basis for ratings when it has been significantly changed might not be useful.

Commented [BF53R2]: Updated

Commented [de54]: Designate & classify are 2 separate things. Typically this would be designation while H-M-L susceptibility would be classification. See https://app.leg.wa.gov/WAC/default.aspx?cite=365-190-100

Commented [de55]: This is more the classification aspect, as applied to all designated lands.

Commented [BF55R2]: Updated

~~2. Wellhead protection areas. Wellhead protection areas as defined hereinmay be defined by the boundaries of the 10-year time of groundwater travel or boundaries established using alternate criteria approved by the Washington State Department of Health in those settings where groundwater time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290-135.~~

~~3. Sole-source aquifers. Sole-source aquifers are areas designated by the U.S. Environmental Protection Agency pursuant to the Federal Safe Water Drinking Act.~~

~~4.~~ Susceptible groundwater management areas. Susceptible groundwater management areas are areas that have been designated as moderately or highly vulnerable or susceptible in an adopted groundwater management program developed pursuant to WAC 173-100.

~~0. Special protection areas. Defined pursuant to WAC 173-200-090.~~

~~0. Moderately, highly vulnerable, or highly susceptible aquifer recharge areas. Aquifer recharge areas that are moderately, highly vulnerable, or highly susceptible to degradation or depletion due to hydrogeologic characteristics are those areas delineated by a hydrogeologic study prepared in accordance with the Ecology guidelines or meeting the criteria established by Ecology.~~

~~32~~29~~13~~.50.020 ~~Susceptibility Factors, Rating Systems, and~~ Designations

Aquifer recharge areas shall be designated as:

1. Wellhead protection areas for Group A public water systems within the County. Wellhead protection areas as defined herein.

~~Sole-source aquifers. Sole-source aquifers are areas designated by the U.S. Environmental Protection Agency pursuant to the Federal Safe Water Drinking Act.~~

2. Susceptible groundwater management areas. Susceptible groundwater management areas are areas that have been designated as moderately or highly vulnerable or susceptible in an adopted groundwater management program developed pursuant to WAC 173-100.

3. Special protection areas. Defined pursuant to WAC 173-200-090.

4. ~~Aquifer recharge areas designations include t~~The Sheep Creek Subbasin (Loon/Deer Lake area) ~~and wellhead protection areas for Group A public water systems within the County.~~

Commented [de56]: A definition was added to WAC in 2023- added to definitions section below.

Commented [BF56R2]: Thanks for the update

Commented [BF56R3]: Ben - follow up with Erik on this

Commented [de57]: Please review the SSA map to determine if a portion of Stevens Co. is in the Spokane-Rathdrum SSA (at SE corner, I can't quite tell). If it isn't in, it isn't really necessary to designate.

Commented [BF57R2]: Adam Cares to follow up

Commented [BF57R3]: Share results with Erik

Commented [AC57R4]: The EPA SSA map does not show the SVRP within Stevens County.

Other publications by USGS show the boundaries of the SVRP extending very slightly into Stevens County, as documented here: https://pubs.usgs.gov/sir/2005/5227/pdf/sir20055227.pdf.

However, because the EPA and the Federal Safe Drinking Water Act are driving these protections, and their map doesn't show the SSA in Stevens County, I don't think this applies.

Commented [de58]: Does Stevens Co. have any of these?

Commented [BF58R2]: Adam Cares to verify

Commented [AC58R3]: Yes. Stevens County designated a CARA based on groundwater susceptibility study completed in the early 2000(?) and made moderate, high, very high susceptibility ratings within it. Will confirm with Erik. It matches the Sheep Ck. Subbasin referenced below.

Commented [de59]: This is more the classification aspect, as applied to all designated lands.

Commented [de60]: Again this seems to be mashing up delineation & classification, but it also doesn't relate to what it says below which seems like(?) delineation?

Commented [BF60R2]: Updated to clarify

Commented [de61]: Designate & classify are 2 separate things. Typically this would be designation while H-M-L susceptibility would be classification. See https://app.leg.wa.gov/WAC/default.aspx?cite=365-190-100

Commented [de62]: Please review the SSA map to determine if a portion of Stevens Co. is in the Spokane-Rathdrum SSA (at SE corner, I can't quite tell). If it isn't in, it isn't really necessary to designate.

Commented [AC62R2]: The EPA SSA map does not show the SVRP within Stevens County.

... [1]

Commented [de63]: Does Stevens Co. have any of these?

Commented [BF63R2]: Adam Cares to verify

Commented [de64]: Was this intended to mean delineation?

Commented [BF64R2]: Updated

~~33~~30 13.50.030 Protection Requirements

Regulations adopted under this section shall not affect any right to use or appropriate water as allowed under state or federal law.

The following uses require aquifer recharge areas review and a hydrogeologic site evaluation pursuant to Section 13.50.040:

1. Chemical manufacturing or reprocessing;
2. Commercial, industrial, institutional, or other facilities or activities that include storage, use, handling, or production of hazardous substances or waste products as defined by WAC 173-303;
3. Creosote and asphalt manufacture and treatment;
4. Electroplating;
5. Petroleum transmission facilities;
6. Sawmills producing more than 10,000 board feet per day;
7. Solid waste landfills;
8. Any septic or sewage disposal system with design flows of more than 3,500 gallons per day;
9. Surface mining operations requiring a permit from the State DNR; and
10. Type II and Type V ~~Injection Wells~~injection wells used for the disposal of industrial or commercial process wastewater or other non-stormwater waste streams, including Class V industrial process water and waste disposal wells (5A/5W20), automobile service station disposal wells (5K/5X28), and cesspools (5E/5W10), as classified by the Washington State Department of Ecology. This subsection does not apply to on-site sewage systems regulated under subsection [X] or to stormwater infiltration facilities designed, operated, and maintained in accordance with applicable County stormwater requirements, the Stormwater Management Manual for Eastern Washington, and Chapter 173-218 WAC..

The following uses may require aquifer recharge areas review and a hydrogeologic site evaluation pursuant to Section 13.50.040. The Administrator shall waive this requirement if an applicant provides documentation showing compliance with federal, state, and local laws, along with BMPs designed for the specific project, are sufficient to protect potentially affected aquifers.

1. Aircraft, automobile, and boat repair and servicing;

Commented [de65]: I don't recall seeing this type of threshold before. What is the relationship between board-foot production & water?

Commented [BF65R2]: Discuss with County

Commented [de66]: This is problematic in a couple of ways. First, septic systems are a subset of Type V so even though you've included a septic threshold above, it would include them all by this reference. Plus, stormwater handling often involves Type V devices & this can get sideways with the Ecology stormwater manual (assuming County has adopted the Eastern one) & Co-level stormwater code. Please check if you want to include just specific subsets https://ecology.wa.gov/getattachment/5512590c-f132-45dd-89a3-fffc662ffd97/UIC-Class-V-well-types_2017.pdf

Commented [BF66R2]: Adam or Cara -review and update

Commented [AC66R3]: See my addition

Commented [de67]: I like this approach, it avoids overregulation.

2. Dry cleaners;

3. Funeral services;

4. Furniture stripping;

5. Gas stations and petroleum storage tanks (underground or aboveground) regulated and inspected by the Ecology;

6. Golf courses;

7. Junkyards and auto wrecking; and

8. Commercial and industrial projects as determined by the Administrator on recommendation from the Stevens County PUD, the Tri-County Health District, or an affected water purveyor.

The Administrator shall impose conditions to avoid, reduce or ~~, or remediate~~ impacts to an aquifer, as appropriate for the project and may require monitoring and bonding or other security to ensure conditions of approval are met. An approval based on compliance with federal, state, or local, but non-County, regulations shall not shift the burden of enforcement from the federal, state, or other local agency to the County.

Commented [de68]: If impacts are so significant as to involve remediation, a project should not advance.

Commented [BF68R2]: We agree

~~34~~31~~13~~.50.040 Hydrogeologic Site Evaluation

A hydrogeologic site evaluation is a report prepared by a qualified professional ~~(hydrogeologist)~~ with demonstrated experience in surface water and groundwater analysis. The report shall address the impact the proposed land use will have on the quality and quantity of water transmitted to an aquifer and shall include the following:

Commented [de69]: Here it specifies hydrogeo, but your qualified professional definition is broader. In urban areas with abundant professional resources, we encourage use of a qualified professional definition that's limited to hydrogeos; but in more rural areas where it might be more onerous to find one, I don't include that comment. Really it's up to the County- but just note that here it's narrower than the definition if you want to change that.

Commented [BF69R2]: Discuss with County

Commented [BF69R3]: Updated EJ

1. A description of surficial soil types and the geologic and hydrogeologic setting including soil texture, permeability, and contaminant attenuation properties; characteristics of the vadose zone and geologic material including permeability and attenuation properties; and depth to groundwater and/or an impermeable soil layer;

2. The location and identification of wells within 1,300 feet of the site;

3. The location and identification of surface waterbodies and springs with recharge potential within 1,300 feet of the site;

4. A description of underlying aquifers, including water level, gradients, and flow direction;

5. Any available data on surface water and groundwater quality;

6. An assessment of the effects of the proposed development on water quality, quantity, and on the long-term viability of the groundwater resource;

7. Alternatives to avoid, reduce or, mitigate, ~~or remediate~~ any substantial impact to the groundwater resource;

8. Recommendations for appropriate BMPs, monitoring, or other mitigation; and

9. Other information as required by the Administrator in consultation with the Stevens County PUD, the Northeast Tri-County Health District, or an affected water purveyor.

13.60 Frequently Flooded Areas

~~35~~32 13.60.010 Findings of Fact, Purpose, And Objectives

Findings of Fact

1. The flood hazard areas of Stevens County are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

2. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

Statement of Purpose

1. It is the purpose of this Section to promote the public health, safety, and general welfare, and to minimize 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;

Commented [de70]: same comment as above

Commented [BF70R2]: agree

Commented [BF71]: Adam Cares - review and verify Lisa Adair's edits

Commented [AC71R2]: I have reviewed these edits and I'm good with them.

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 ensure that potential buyers are notified 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.

Methods of Reducing Flood Losses

1. In order to accomplish its purposes, this Section includes methods and provisions for:

a. Restricting or prohibiting development~~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 development ~~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 flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

d. Controlling filling, grading, dredging, and other development which may increase flood damage; and

e. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

~~36~~33.60.020 General Provisions

Lands to Which This Section Applies

1. This Section shall apply to all areas of special flood hazards within the jurisdiction of Stevens County.

Commented [LA72]: Recommend using the word "development" rather than "uses" to better align with the NFIP definition. Same recommendation to the next subsection as well.

Basis for Establishing the Areas of Special Flood Hazard

1. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Stevens County, Washington" dated October 1989, as amended, with an accompanying Flood Insurance Rate Maps (FIRM), as amended, are hereby adopted by reference and declared to be a part of this Code. The Flood Insurance Study and amendments are on file at the Stevens County Land Services Department.

2. The best available information for flood hazard area identification as outlined in Section 13.60.030 (B)(1)(b) shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under Section 13.60.030 (B)(1)(b).

Compliance

1. All development within special flood hazard areas is subject to the terms of this ordinance and other applicable regulations.

Penalties for Noncompliance

1. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Section and other applicable regulations.

2. Violations of the provisions of this Section by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions), shall constitute a misdemeanor.

3. Any person who violates this Section or fails to comply with any of its requirements shall upon conviction thereof be fined not more than one thousand dollars or imprisoned for not more than ninety days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case.

4. Nothing herein contained shall prevent the Board of County Commissioners from taking such other lawful action as is necessary to prevent or remedy any violation.

Abrogation and Greater Restrictions

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

Interpretation

1. In the interpretation and application of this Section, all provisions shall be:

   a. Considered as minimum requirements;

   b. Liberally construed in favor of the governing body; and,

   c. Deemed neither to limit nor repeal any other powers granted under State statutes.

Warning and Disclaimer of Liability

1. The degree of flood protection required by this Section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions.

2. Flood heights may be increased by man-made or natural causes. This Section does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

3. This Section shall not create liability on the part of Stevens County, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this Section or any administrative decision lawfully made hereunder.

~~37~~34.60.030 Administration—Frequently Flooded Areas

Establishment of Development Permit

1. Development Permit Required

   a. A development permit or approval shall be obtained before construction or development begins within any area of special flood hazard established in Section 13.60.020 (B). The permit or approval shall be for all structures including manufactured homes, as set forth in Section 13.80: Definitions, and for all development including fill and other activities, also as set forth in Section 13.80: Definitions.

2. Application for Development Permit

   a. Application for a development permit within a special flood hazard area shall be made on forms furnished by Stevens County and may include, but not be limited to, plans in duplicate 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. Specifically, the following information is required:

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. When a structure is to be floodproofed, ~~C~~certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 13.60.040 (B)(1)(b); ~~and~~

~~iii.~~iv. Where development is proposed in a floodway, an engineering analysis indicating no rise of the Base Flood Elevation;

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

~~iv.~~vi. Any other such information that may be reasonably required by the Floodplain Administrator in order to review the application.

Designation of the Floodplain Administrator

1. The ~~{job title of the appropriate administrative official}~~Administrator is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accordance with its provisions. The ~~Floodplain~~ Administrator may delegate authority to implement these provisions.

Duties and Responsibilities of the Administrator

1. Duties of the Administrator or designee shall include, but not be limited to:

   a. Permit Review– Review all development permits to determine that:

      i. ~~Review all applicable development proposals to determine that t~~The requirements of this Section have been satisfied.

      ii. All other required state and federal permits have been obtained.

Commented [LA73]: The recommended additions below are required by 44 CFR 60.3(b)(1)

Commented [LA74]: The WA Model Ordinance uses the following language for this subsection:

"Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures recorded on a current elevation certificate with Section B completed by the Floodplain Administrator."

Elevation Certificates are the recommended method for documenting elevation information, however, it's not required.

Commented [AC75]: Could add application requirement to reflect the requirements under 13.60.040C (1) for development in a floodway. "v. Where development is proposed within a designated regulatory floodway, the engineer's certification required under Section 13.60.040(C)(1)(a) "

Commented [LA75R2]: Agreed! I've included some recommended language from the WA model ordinance under bullet iv.

Commented [LA76]: Insert title of floodplain administrator

Commented [BF76R2]: Be consistent - verify

Commented [LA77]: Recommendations below bring the language more inline with the state model ordinance and CFR

~~i.~~iii. The site is reasonably safe from flooding.

iv. ~~Review all development permits to determine if t~~The proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 13.60.040 (C) are met.

~~ii.~~v. Notify FEMA when annexations occur in the Special Flood Hazard Area.

b. Use of Other Base Flood Data

i. When base flood elevation data has not been provided in accordance with Section 13.60.020 (B), Basis for Establishing the Areas of Special Flood Hazard, the Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Sections 13.60.040 (B), Specific Standards, and 13.60.040 (C) Floodways.

c. Information to be Obtained and Maintained

i. Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in Section 13.60.030 (B)(1)(b), obtain and record the actual (as-built) 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 recorded on a current Elevation ~~certificate~~ Certificate ~~(FF 81-31)~~ with Section B completed by the local official.

Commented [LA78]: Recommend removing the form number as it may change when FEMA updates the Elevation Certificate form.

ii. For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in Section 13.60.030 (B)(1)(b):

- Verify and record the actual elevation (in relation to mean sea level) to which the structure was floodproofed, and
- Maintain the floodproofing certifications required in Section 13.60.030 (A)(2)(a)(iii).

iii. Certification required by Section 13.60.04(1)(a) Floodways.

iv. Records of all variance actions, including justification for their issuance.

v. Improvement and damage calculations.

~~iii.~~vi. Maintain for public inspection all records pertaining to the provisions of this Section.

d. Alteration of Watercourses

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

ii. Assure that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained.~~Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished~~.

e. Interpretation of FIRM Boundaries

i. 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 Section 13.10.070 (B).

f. Review of Building Permits

i. Where elevation data is not available either through the FIS, FIRM, or from another authoritative source (Section 4.3-2), applications for floodplain development shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available.

g. Changes to Special Flood Hazard Area

i. If a project will alter the BFE or boundaries of the SFHA, then the project proponent shall provide the community with engineering documentation and analysis regarding the proposed change. If the change to the BFE or boundaries of

Commented [LA79]: WA Model Ordinance uses the following language:

"Assure that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained."

The language used hear appears to be an equivalent and is fine but consider using language aligned with the CFR.

Commented [BF79R2]: UPdated

Commented [AC80]: Suggested addition to clarify CLOMR/LOMR requirements (we may need to discuss further with MJ & Erik) f. Changes to the Special Flood Hazard Area i. Where a project would alter the base flood elevation, the regulatory floodway, or the boundaries of the area of special flood hazard, the proponent shall obtain an approved Conditional Letter of Map Revision (CLOMR) from FEMA before the development permit is approved, shall construct the project consistent with the approved CLOMR, and shall submit the data required for a final Letter of Map Revision (LOMR) upon completion.

ii. Where a CLOMR application is made, the proponent shall supply the full CLOMR documentation package, including all required property-owner notifications, to be attached to the floodplain development permit.

Commented [LA80R2]: Agree with Adam. I have recommended some language in subsection g that comes directly from the state model ordinance and aligns with CFR requirements.

Commented [BF80R3]: Ej good

the SFHA would normally require a Letter of Map Change, then the project proponent shall initiate, and receive approval of, a Conditional Letter of Map Revision (CLOMR) prior to approval of the development permit. The project shall be constructed in a manner consistent with the approved CLOMR.

~~i.~~ii. If a CLOMR application is made, then the project proponent shall also supply the full CLOMR documentation package to the Floodplain Administrator to be attached to the floodplain development permit, including all required property owner notifications.

~~38~~35.13.60.040 Provisions for Flood Hazard Reduction

General Standards

1. In all areas of special flood hazards, the following standards are required.

a. Anchoring

i. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

ii. All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's " FEMA P-85, Protecting Manufactured Homes from Floods and Other Hazards~~Manufactured Home Installation in Flood Hazard Areas~~" guidebook for additional techniques).

b. Construction Materials and Methods

i. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

ii. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

iii. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to

prevent water from entering or accumulating within the components during conditions of flooding.

c. Storage of Materials and Equipment

~~iii.~~i. The storage or processing of materials that could be injurious to human, animal, or plant life if released due to damage from flooding is prohibited in special flood hazard areas.

~~e.~~d. Utilities

i. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

ii. The proposed water well shall be located on high ground that is not in the floodway (WAC 173-160-171);

iii. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and

iv. On-site waste disposal systems shall be located to avoid Impairment to them or contamination from them during flooding.

~~d.~~e. Subdivision Proposals

i. All subdivision proposals shall be consistent with the need to minimize flood damage;

ii. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

iii. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,

iv. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

~~. Review of Building Permits~~

Commented [LA81]: This is not a requirement of the CFR but is recommended by the state model ordinance. I would recommend adding it in, but again, it's not required.

Commented [BF81R2]: Discuss with County

Commented [BF81R3]: EJ concur

Commented [AC82]: Suggest: v. All subdivision proposals and final plats shall depict on the face of the plat the boundaries of the area of special flood hazard, the regulatory floodway where designated, and applicable base flood elevations;

Commented [LA82R2]: Would also recommend including the FIRM panel number and effective date on the face of the plat as well as a condition or language that the most recent effective maps will be used at the time of development. This will help ensure that the most recent flood maps are being used for all future development in that subdivision.

Commented [BF82R3]: Floodways change - EJ says better to avoid confusion in future

Commented [LA83]: Recommend moving this language to the above section "Duties and Responsibilities of the Floodplain Administrator"

~~. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (Section 13.60.030 (B)(1)(b)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.~~

Specific Standards

1. In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 13.60.020 (B), Basis for Establishing the Areas of Special Flood Hazard or Section 13.60.030 (B)(1)(b), Use of Other Base Flood Data, the following provisions are required:

   a. Residential Construction

      i. In AE and A1-30 zones or other A zoned areas where the BFE has been determined or can be reasonably obtained, ~~N~~new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation. Mechanical equipment and utilities shall be waterproofed or elevated at least one foot above the base flood elevation.

      ii. New construction and substantial improvement of any residential structure in an Unnumbered A zone for which a BFE is not available and cannot be reasonably obtained shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest Adjacent Grade.

      ~~ii.~~iii. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

         - A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

Commented [LA84]: Recommended language here and in subsection ii below is from the state model ordinance. It provides different standards for zones with base flood elevation data and those without.

Commented [BF84R2]: EJ good

Commented [AC85]: Based on FEMA model ordinance. https://static.spokanecity.org/documents/projects/2021-floodplain-management-update/wa-model-ordinance-2019.pdf. Applicable to HVAC and other equipment that may not be in the basement.

- The bottom of all openings shall be no higher than one foot above grade.

- Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

- A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of flood waters.

b. Nonresidential Construction

i. In AE and A1-30 zones or other A zoned areas where the BFE has been determined or can be reasonably obtained, nNew construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot or more above the base flood elevation, with mechanical equipment and utilities waterproofed or elevated to one foot or more above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- Be floodproofed so that below one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

- Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

- Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 13.60.030 (B)(1)(c)(ii); and

- Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section 13.60.040 (B)(1)(a)(ii).

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ii. If located in an Unnumbered A zone for which a BFE is not available and cannot be reasonably obtained, the structure shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest Adjacent Grade.

c. Manufactured Homes

i. All manufactured homes to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. This applies to manufactured homes:

- Outside of a manufactured home park or subdivision,
- In a new manufactured home park or subdivision,
- In an expansion to an existing manufactured home park or subdivision, or
- In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood.~~: shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.~~

Commented [LA87]: Recommend moving this language to the beginning of this section. If left in this location, it appears to only apply to the last bullet when it should apply to all instances.

ii. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the above manufactured home provisions be elevated so that either:

- The lowest floor of the manufactured home is elevated one foot or more above the base flood elevation, or
- The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

d. Recreational Vehicles

i. Recreational vehicles placed on sites are required to either:

- Be on the site for fewer than 180 consecutive days;
- Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- Meet the requirements of Section 13.60.040 (B)(1)(c) above and the elevation and anchoring requirements for manufactured homes.

e. Enclosed Area Below the Lowest Floor

i. If buildings or manufactured homes are constructed or substantially improved with fully enclosed areas below the lowest floor, the areas shall be used solely for parking of vehicles, building access, or storage.

f. Appurtenant Structures (Detached Garages & Small Storage Structures)

i. Appurtenant structures used solely for parking of vehicles or limited storage may be constructed such that the floor is below the BFE, provided the structure is designed and constructed in accordance with the following requirements:

- Use of the appurtenant structure must be limited to parking of vehicles or limited storage;
- The portions of the appurtenant structure located below the BFE must be built using flood resistant materials;
- The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement;
- Any machinery or equipment servicing the appurtenant structure must be elevated or floodproofed to or above the BFE;
- The appurtenant structure must comply with floodway encroachment provisions in Section 5.4-1;

Commented [LA88]: Recommend adding to align with state model ordinance and requirements of the CFR

Commented [LA89]: This language is recommended by the state model ordinance but is not required to be adopted.

Commented [BF89R2]: Discuss these comments with County

Commented [BF89R3]: EJ good

- The appurtenant structure must be designed to allow for the automatic entry and exit of flood waters in accordance with Section 5.2-1(5).
- The structure shall have low damage potential,
- If the structure is converted to another use, it must be brought into full compliance with the standards governing such use, and
- The structure shall not be used for human habitation.

ii. Detached garages, storage structures, and other appurtenant structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 5.2-1

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AE and A1-30 Zones with Base Flood Elevations but No Floodways

Commented [LA90]: Recommended language to better align with the state model ordinance and CFR requirements

Commented [BF90R2]: EJ good

1. In areas with BFEs (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Floodways

1. Located within areas of special flood hazard established in Section 13.60.020 (B) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

   a. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that proposed encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

   b. Construction or reconstruction of residential structures is prohibited within designated floodways, except for:

i. Repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and

ii. Repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either:

- Before the repair, or reconstruction is started, or
- If the structure has been damaged, and is being restored, before the damage occurred.

Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or to structures identified as historic places shall not be included in the 50 percent.

c. If Section 13.60.040 (C)(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 13.60.040, Provisions for Flood Hazard Reduction.

~~Repairs, reconstruction, replacement, or improvements to existing farmhouse structures located in designated floodways and that are located on lands designated as agricultural lands of long-term commercial significance under RCW 36.70A.170 may be permitted subject to the following:~~

~~The new farmhouse is a replacement for an existing farmhouse on the same farm site;~~

~~There is no potential building site for a replacement farmhouse on the same farm outside the designated floodway;~~

~~Repairs, reconstruction, or improvements to a farmhouse shall not increase the total square footage of encroachment of the existing farmhouse;~~

~~A replacement farmhouse shall not exceed the total square footage of encroachment of the farmhouse it is replacing;~~

~~A farmhouse being replaced shall be removed, in its entirety, including foundation, from the floodway within ninety days after occupancy of a new farmhouse;~~

Commented [LA91]: Farmhouse standards are recommended by the state but are not required. The community may want to consider adding these in.

Commented [BF91R2]: Discuss

- For substantial improvements and replacement farmhouses, the elevation of the lowest floor of the improvement and farmhouse respectively, including basement, is a minimum of one foot higher than the BFE;

- New and replacement water supply systems are designed to eliminate or minimize infiltration of flood waters into the system;

- New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of flood water into the system and discharge from the system into the flood waters; and

- All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.

- Substantially Damaged Residences in Floodway

  - For all substantially damaged residential structures, other than farmhouses, located in a designated floodway, the Floodplain Administrator may make a written request that the Department of Ecology assess the risk of harm to life and property posed by the specific conditions of the floodway. Based on analysis of depth, velocity, flood-related erosion, channel migration, debris load potential, and flood warning capability, the Department of Ecology may exercise best professional judgment in recommending to the local permitting authority repair, replacement, or relocation of a substantially damaged structure consistent with WAC 173-158-076. The property owner shall be responsible for submitting to the local government and the Department of Ecology any information necessary to complete the assessment. Without a favorable recommendation from the department for the repair or replacement of a substantially damaged residential structure located in the regulatory floodway, no repair or replacement is allowed per WAC 173-158-070(1).

  - Before the repair, replacement, or reconstruction is started, all requirements of the NFIP, the state requirements adopted pursuant to 86.16 RCW, and all applicable local regulations must be satisfied. In addition, the following conditions must be met:

    - There is no potential safe building location for the replacement residential structure on the same property outside the regulatory floodway.

    - A replacement residential structure is a residential structure built as a substitute for a legally existing residential structure of equivalent use and size.

Commented [LA92]: Standards for substantially damaged residences in the floodway are recommended by the state but not required.

Commented [BF92R2]: Discuss

- ~~Repairs, reconstruction, or replacement of a residential structure shall not increase the total square footage of floodway encroachment.~~

- ~~The elevation of the lowest floor of the substantially damaged or replacement residential structure is a minimum of one foot higher than the BFE.~~

- ~~New and replacement water supply systems are designed to eliminate or minimize infiltration of flood water into the system.~~

- ~~New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of flood water into the system and discharge from the system into the flood waters.~~

- ~~All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.~~

~~Substantial Improvements to Residential Buildings for Proposed Flood Risk Reduction Projects~~

- ~~For proposed projects that substantially improve residential buildings in a designated floodway for the primary purpose of reducing flood damage, the floodplain administrator may make a written request that the Department of Ecology assess the risk of harm to life and property posed by the specific conditions of the floodway. Based on analysis of depth, velocity, flood-related erosion, channel migration, debris load potential, and flood warning capability, the Department of Ecology may exercise best professional judgment in recommending to the local permitting authority to permit the proposed building consistent with WAC 173-158-076. The property owner shall be responsible for submitting to the local government and the Department of Ecology any information necessary to complete the assessment. Without a favorable recommendation from the department for the substantially improved residential building located in the regulatory floodway, no repair or replacement is allowed per WAC 173-158-070(1).~~

- ~~Before the construction is started, all requirements of the NFIP, the state requirements adopted pursuant to 86.16~~

Commented [LA93]: This is a new allowance provided for in the WAC. Communities may choose to adopt this language but are not required to. If the community chooses not to allow for substantial improvements in the floodway, recommend adopting subsection d below.

Commented [BF93R2]: Discuss

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~~RCW, and all applicable local regulations must be satisfied. In addition, the following conditions must be met:~~

~~Flood depths cannot exceed more than three feet and flood velocities cannot exceed more than three feet per second.~~

~~There is no evidence of flood-related erosion.~~

~~Substantial improvement of a residential building shall not increase the total square footage of floodway encroachment.~~

~~If a favorable recommendation from the department is provided and the conditions above are met, the building must meet the requirements in Section 5.2-1.~~

~~OR~~

d. Stevens County shall not request recommendation from the Department of Ecology per WAC 173-158-076.

2. All Other Building Standards Apply in the Floodway

a. If Section 5.4-1 is satisfied or construction is allowed pursuant to section 5.4-2, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5.0, Provisions For Flood Hazard Reduction.

~~e.~~3.

Encroachments·

1. The cumulative effect of any proposed development, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

Standards for Shallow Flooding Areas (AO Zones)

1. Shallow flooding areas appear on FlRMs as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

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a. New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement and mechanical equipment) elevated above the highest grade adjacent to the building, one foot or more above. the depth number specified in feet on the FIRM (at least two feet if no depth number is specified).

b. New construction and substantial improvements of nonresidential structures within AO zones shall either:

i. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified); or

ii. Together with attendant utility and sanitary facilities, be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in Section 13.60.040 (B)(1)(b)(i).

c. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

d. Recreational vehicles placed on sites within AO Zones on the community's FIRM either:

i. Be on the site for fewer than 180 consecutive days;

ii. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

iii. Meet the requirements of Section 13.60.040 (E) above and the elevation and anchoring requirements for manufactured homes.

Critical Facility

1. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain).

2. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available.

3. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or more above the level of the base flood elevation (100-year) or to the height of the 500-year flood, whichever is higher at the site. Access to and from the critical facility should also be protected to the height utilized above.

4. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into flood waters.

5. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

Livestock Sanctuary

~~5.~~6. Elevated areas for the purpose of creating a flood sanctuary for livestock are allowed on farm units where livestock is allowed. Livestock flood sanctuaries shall be sized appropriately for the expected number of livestock and be elevated sufficiently to protect livestock. Proposals for livestock flood sanctuaries shall meet all procedural and substantive requirements of this chapter.

13.70 Geologically Hazardous Areas

~~39~~36 13.70.010 Classification

Geologically Hazardous Areas are areas that are susceptible to one or more of the following types of hazards shall be classified as a geologically hazardous area:

1. Erosion Hazard Areas (EHA)
2. Landslide Hazard Areas (LHA)
3. Mine Hazard Areas
4. Seismic Hazard Areas
5. Volcanic Hazard Areas

~~40~~37 13.70.020 Erosion Hazard Areas and Landslide Hazard Areas

Classification:

1. EHAs are defined as areas containing soils identified by the NRCS Soil Classification System, which may experience significant erosion, such as

Commented [AC95]: Suggest adding G: "Livestock Flood Sanctuary Areas" to comply with RCW 86.16.190.
G. Livestock Flood Sanctuary Areas
1.Elevated areas created as flood sanctuaries for livestock are allowed on farm units where livestock is kept. A livestock flood sanctuary area shall be sized for the expected number of livestock on the farm unit and elevated sufficiently to protect livestock. Proposals for livestock flood sanctuary areas shall meet all procedural and substantive requirements of this Section, including the floodway provisions of Section 13.60.040(C).

Commented [LA95R2]: Agree with this recommendation and have provided some language below. Livestock Sanctuaries are a requirement of RCW 86.16.190 for any jurisdiction allowing livestock.

Commented [BF95R3]: EJ good

Commented [AC96]: There is detailed soil mapping from DNR for Stevens County that has various hazard info that is much clearer and more user friendly than the NRCS Soils data. Discuss using this dataset (plus slope, seismic, mine hazard data) and updating definitions accordingly.

Commented [BF96R2]: Ben follow up with Adam - EJ good with updates

Commented [AC96R3]: I did additional research and follow up on the DNR dataset. It was derived from the NRCS data, and ultimately I think that for now, the NRCS system is a more commonly used dataset with better long term continuity, and we should stick to that.

steep slopes, bluffs and areas with unconsolidated soils and stream channel migration zones.

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

   a. Areas that have historically been prone to landslides.

   b. Areas containing soil types as unstable and prone to landslide hazard.

   c. Areas potentially unstable as a result of rapid stream incision or stream bank erosion.

   d. Areas of uncompacted fill.

   e. Areas with all three of the following characteristics:

      i. Slopes steeper than 15%;

      ii. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

      iii. Springs or groundwater seepage.

   f. Areas that have shown movement during the Holocene epoch (from ten thousand years ago to the present) or which are underlain or covered by mass wastage debris of this epoch;

   g. Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;

   h. Slopes having gradients steeper than 80% subject to rockfall during seismic shaking;

   i. Areas potentially unstable as a result of rapid stream incision, stream bank erosion and undercutting by wave action, and stream migration areas;

   j. Areas that show evidence of, or are at risk from snow avalanches;

   k. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and

l. Any area with a slope of 40% or steeper and with a vertical relief of ten or more feet except areas composed of bedrock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten feet of vertical relief.

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

Protection Requirements:

1. Areas identified as an EHA or LHA shall not be developed unless the applicant demonstrates the project is structurally safe from the potential hazard and the development will not increase the hazard risk.

2. A setback for development near an EHA or LHA shall be established on a site-by-site basis, based on the type of development proposed, the type and extent of hazard present, and pursuant to the applicable Stevens County Code.

3. A stormwater runoff management plan or an erosion control plan to reduce sedimentation problems may be required for development proposals within an EHA or LHA.

4. Disturbance of an EHA or LHA requires reseeding or replanting with vegetation to assist in stabilization of the area, restores ecological functions, and discourages the infiltration of invasive species.

~~41~~38.70.030 Mine Hazard Areas

Classification:

1. Mine hazard areas are defined as areas that are directly underlain by, adjacent to, or affected by mine workings including but not limited to adits (an almost horizontal passageway into a mine), tunnels, drifts, or air shafts. Mine hazard areas are based on the identification of active or historic mining activity and site-specific information regarding topography and geology.

Protection Requirements:

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

a. The locations of obvious mining activities shall be noted on site plans.

b. The applicant shall comply with any applicable known, previously prepared, and approved site reclamation plan. If there are no known reclamation plans, Applicants may be required to prepare a reclamation plan for restoration of a site, or portion thereof, with previous mining activity.

c. Structures and impervious surfaces shall not be developed on any tailings pile unless the applicant has demonstrated the project is safe and the development will not increase the hazard risk. If the tailings pile is known to be hazardous, a setback for development will be determined based on an industry standard for safety distance from the specific mineral/chemical content.

d. Setbacks from mine workings shall be determined on a site-by-site basis. If necessary, a geo-technical report may be required to determine appropriate setbacks, or for the preparation of a reclamation plan for the site.

~~42~~39 13.70.040 Seismic Hazard Areas

Classification:

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

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

Protection Requirements:

1. Development activities shall be required to conform to applicable provisions of the Stevens County codes with respect to structural safeguards to reduce the risks from seismic activity.

~~43~~40 13.70.050 Volcanic Hazard Areas

Classification:

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

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

Protection Requirements:

1. No specific protection requirements are identified for volcanic hazard areas.

13.80 Definitions

444113.80.010 Definitions

1. "Adaptive management" relies on scientific methods to evaluate how well regulatory and non-regulatory actions protect the critical area. An adaptive management program is a formal and deliberate scientific approach to taking action and obtaining information in the face of uncertainty. It includes t~~T~~he process of monitoring and improving permits, regulations, and programs to ensure the protection of critical areas. (Commerce Critical Areas Handbook v3.0). Associated primarily with wetland and fish and wildlife habitat conservation area critical areas.

~~1.~~

2. "Adjacent" means immediately adjoining (in contact with the boundary of the influence area) or within a distance less than that needed to separate activities from critical areas to ensure protection of the functions and values of the critical areas. Adjacent shall mean any activity or development located in either of the following areas:

   a. On-site immediately adjoining a critical area.

   b. A distance equal to or less than the required critical area buffer width.

3. Administrator means the Stevens County Director of Land Services or designee

4. "Alteration" means human-induced change including grading, filling, dredging, channelizing, clearing vegetation, applying pesticides, discharging waste, construction, compaction, excavation, modifying for stormwater management, relocating, or other activities that change the existing landform, vegetation, hydrology, wildlife, or habitat value of critical areas.

~~3.~~5. "Alteration of watercourse" means any action that will change the location of the channel occupied by water within the banks of any portion of a riverine waterbody.

~~4.~~6. "Anadromous fish" means fish that spawn and rear in freshwater and mature in the marine environment. While Pacific salmon die after their first spawning, adult char (bull trout) can live for many years, moving in and out of saltwater and spawning each year. The life history of Pacific salmon and char contains critical periods of time when these fish are more susceptible to environmental and physical damage than at other times. The life history of salmon, for example, contains the following stages: upstream migration of adults, spawning, inter-gravel incubation, rearing,

Commented [de97]: We urge caution in applying adaptive management to CARAs. Even incremental harm to an aquifer could result in lost potability.

Commented [BF97R2]: Add something to the effect that adaptive management is typically not applied to actions that could impact a CARA.

Commented [BF97R3]: EJ good

Commented [BF98]: Erik verify this is good

smoltification (the time period needed for juveniles to adjust their body functions to live in the marine environment), downstream migration, and ocean rearing to adults.

~~5.~~7. "Appeal" for the purpose of administering Section 13.60, Frequently Flooded Areas, means a request for a review of the interpretation of any provision of this Code or a request for a variance from the frequently flooded areas standards.

~~6.~~8. "Applicant" means a person who files an application for a permit under this Code and who is either the owner of the land on which that proposed activity would be located, a contract purchaser, corporate entities, agencies, or the authorized agent of such a person.

~~7.~~9. "Aquifer recharge area" means an area through which precipitation and surface water infiltrate the soil and are transmitted through rocks and soil to create groundwater storage. They are also areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of water.

10. "Area of special flood hazard" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. ~~Designation~~It is shown on the Flood Insurance Rate Map (FIRM) as zone A, AO, AH, A1-30, AE, A99, AR (V, VO, V1-30, VE). "Special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard". ~~maps always includes the letters A or V.~~

~~8.~~11. "ASCE 24" means the most recently published version of ASCE 24, Flood Resistant Design and Construction, published by the American Society of Civil Engineers.

~~9.~~12. "Average grade level" means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property that will be directly under the proposed building or structure. In the case of structures to be built over water, average grade level shall be the elevation of the OHWM. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure.

~~10.~~13. "Base flood" means a flood having a 1% chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood."

~~11.~~14. "Base flood elevation" (BFE) means the water surface elevation of the base flood. ~~It shall be referenced to the North American Vertical Datum of 1988.~~

~~12.~~15. "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

~~13.~~16. "Best available science" means a valid scientific process that includes organized investigations and observations conducted by qualified personnel using documented methods leading to verifiable results and conclusions consistent with ~~the following characteristics~~WAC 365-195-900 through 925~~:~~

~~a. Peer review~~

~~b. Methods~~

~~c. Logical conclusions and reasonable references~~

~~d. Quantitative analysis~~

~~e. Context~~

~~f. Reference~~

The County may use information that local, state and federal natural resource agencies have determined represents the best available science consistent with WAC 365-195-900.

~~14.~~17. "Best management practices (BMPs)" means conservation practices or systems of practice and management measures that perform the following actions:

a. Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, toxics, and sediment.

b. Minimize adverse impacts on surface water and groundwater flow, circulation patterns, and the chemical, physical, and biological characteristics of wetlands.

c. Protect trees and vegetation designated to be retained during and following site construction.

d. Provide standards for proper use of chemical herbicides within critical areas.

e. Other conservation practices as described in the NRCS Field Office Technical Guide, as applicable to Stevens County.

18. "Buffer, Critical Areas" means an area, which provides the margin of safety through protection of slope stability, attenuation of surface water flows and landslide hazards reasonably necessary to minimize risk to the public from loss of life or well-being or property damage resulting from natural disasters, or an area which is an integral part of a stream or wetland ecosystem and which provides shading, input of organic debris

Commented [L(99]: Suggest simplification of this definition - Best Available Science (BAS): Information produced through a valid scientific process that WDFW or another local, state or federal agency has determined represents the best available science consistent with criteria set out in WAC 365-195-900 through -925. WDFW's PHS information is considered a source of BAS. (WDFW Vol 2)

Commented [BF99R2]: Add WAC references

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and coarse sediments, room for variation in stream or wetland boundaries, habitat for wildlife and protection from harmful intrusion necessary to protect the public from losses suffered when the functions and values of aquatic resources are degraded.

19. "Building Code" means the currently effective versions of the International Building Code and the International Residential Code adopted by the State of Washington Building Code Council and locally adopted amendments.

~~15. "Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.~~

~~16.~~20. "Clearing" means the cutting, killing, grubbing, or removing of vegetation or other organic material by physical, mechanical, chemical, or any other similar means.

~~17.~~21. "Compensation" includes actions necessary to replace or enhance the critical area or its buffer depending on the scope of the approved alteration and what is needed to maintain or improve the critical area or buffer functions, including land acquisition, planning, construction plans, monitoring, and contingency actions.

~~18.~~22. "Compensation project" means actions specifically designed to replace project-induced critical area and buffer losses. Compensation project design elements may include land acquisition, planning, construction plans, monitoring, and contingency actions.

23. "Compensatory mitigation" means types of mitigation used to replace project-induced critical areas and buffer losses or impacts.

24. **Compensatory mitigation:** The restoration, creation, enhancement, or preservation of uplands, wetlands, or other aquatic resources for the purposes of compensating for unavoidable adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved. "Compensatory mitigation" includes mitigation that: Occurs at the same time as, or in advance of, a project's planned environmental impacts; Is located in a site either on, near, or distant from the project's impacts; and Provides either the same or different biological functions and values as the functions and values impacted by the project. (RCW 90.74.010 (1))

~~19.~~25.

~~20.~~26. "County" means Stevens County.

~~21.~~27. "Critical aquifer recharge area" means those areas with critical aquifer recharging effect on aquifers used for potable water, including areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water, or is susceptible to reduced recharge (WAC 365-190-030).

28. "Critical facility" for purposes of administrating Section 13.60 Frequently Flooded Areas, means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, and installations which produce, use, or store hazardous materials or hazardous waste.

29. **Cumulative impacts:** The combined, incremental effects of human activity on critical area functions and values. Cumulative impacts result when the effects of an action are added to or interact with the effects of other actions in a particular place and within a particular time. It is the combination of these effects, and any resulting environmental degradation, that should be the focus of cumulative impact analysis and changes to policies and permitting decisions. (Ecology 2022)

~~22.~~30. "Development" (for special flood hazard areas) means any man-made 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.

~~23.~~31. "Delineation" means the determination of an area's boundaries in the field according to the application of specific methodology by an agency(ies) or qualified professional.

~~24.~~32. "Development proposal" means any land use activity that may adversely impact designated critical areas including, but not limited to the construction or alteration of structures, clearing/grading of land and road construction.

~~25.~~33. "Dredging" means the removal of sediments and debris from the bottom of lakes, rivers, harbors, and other water bodies for navigation and maintaining berthing areas, protection of infrastructure and property, environmental remediation, and other purposes.

34. "Ecological functions" or "critical area functions" means the work performed or role played by the physical, chemical, and biological processes and species that contribute to the maintenance of the aquatic and terrestrial environments.

35. **Ecosystem:** The complex of a community of organisms and its environment functioning as an ecological unit, with composition, structure and functions. ~~A spatially explicit unit of the Earth that includes all of the organisms, along with all components of the abiotic environment. Ecosystems have composition, structure, and functions. (WDFW Vol 1)~~

~~**Ecosystem-based management (EBM):** Management driven by explicit goals; executed by policies, protocols, and practices; and made adaptable by monitoring and research; based on our best understanding of the ecological interactions and processes necessary to sustain ecosystem composition, structure, and function. EBM acknowledges that humans are an important ecosystem component and focuses on managing human activities within ecosystems. EBM often involves balancing ecological, economic, and social objectives within the context of existing laws and policies. (WDFW Vol 2)~~

~~**Ecosystem functions:** The products, physical and biological conditions, and environmental qualities of an ecosystem that result from interactions among ecosystem processes and ecosystem structures. Ecosystem functions include, but are not limited to, sequestered carbon, attenuated peak streamflows, aquifer water level, reduced pollutant concentrations in surface and ground waters, cool summer in-stream water temperatures, and fish and wildlife habitats. (WAC 365-196-210 (17))~~

~~**Ecosystem services:** The benefits that the public enjoys as a result of natural processes and biological diversity. (RCW 76.09.020)~~

~~**Ecosystem values:** The cultural, social, economic, and ecological benefits attributed to ecosystem functions. (WAC 365-196-210 (18))~~

36. "Elevation Certificate" means an administrative tool of the National Flood Insurance Program (NFIP) that can be used to provide elevation information, to determine the proper insurance premium rate, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

37. "Elevated Building" for insurance purposes, a non-basement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

38. **Enhancement:** The manipulation of the physical, chemical, or biological characteristics of habitat to heighten, intensify, or improve a specific ecosystem function(s). Enhancement results in the gain of selected habitat function(s) but may also lead to a decline in other ecosystem function(s). Enhancement does not result in a gain in habitat area. (WAC 173-700-104)

~~26.~~

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39. "Erosion hazard area" means those areas containing soils which, according to the United States Department of Agriculture Natural Resources Conservation Service Soil Survey Program, which may experience significant erosion such as steep slopes, bluffs and areas with unconsolidated soils and channel migration zones.

~~27. "Essential Facility" has the same meaning as "Essential Facility" defined in ASCE 24. Table 1-1 in ASCE 24-14 further identifies building occupancies that are essential facilities.~~

~~28.~~40. "Existing manufactured home park or subdivision" for the purposes of administrating Section 13.60, Frequently Flooded Areas, means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

41. "Expansion to an existing manufactured home park or subdivision", for the purposes of administrating Section 13.60, Frequently Flooded Areas means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

~~29. "Farmhouse" for the purposes of administrating Section 13.60 "Frequently Flooded Areas" means a single-family dwelling located on a farm site where resulting agricultural products are not produced for the primary consumption or use by the occupants and the farm owner.~~

Commented [LA101]: If the county chooses to not included the farmhouse standards recommended above, this can be removed.

~~30.~~42. "Federal Emergency Management Agency (FEMA)" means the agency that oversees the administration of the National Flood Insurance Program (44 Code of Federal Regulations).

~~31.~~43. "Fill" means the addition of soil, sand, rock, gravel, sediment, earth-retaining structure, or other material to an area waterward of the OHWM, in wetlands or on riparian areas in a manner that raises the elevation or creates dry land.

~~32.~~44. "Fish and wildlife habitat conservation areas" ~~means those areas where endangered, threatened, and sensitive species have a primary association; habitats and species of local importance, as determined locally; naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat; waters of the state; lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity; and State natural area preserves, natural resource~~

~~conservation areas, and state wildlife areas~~. Areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, areas with high relative population density or species richness, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors. (WAC 365-190-030 (6)(a)). Does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

45. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

a. ~~t~~The overflow of inland waters;

b. ~~and/or t~~The unusual and rapid accumulation of runoff or surface waters from any source.

~~33.~~c. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

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46. "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards. Also known as a Flood Insurance Study (FIS).

~~34.~~47. "Flood insurance rate map (FIRM)" means the official map on which the FEMA has delineated the areas of special flood hazards and the risk premium zones applicable to the County. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

~~35.~~48. "Flood insurance study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

49. "Floodplain" or "flood-prone area" is any land area susceptible to being inundated by water from any source. See "Flood or flooding."~~synonymous with 100-year floodplain and means that land area susceptible to inundation with a 1% chance of being equaled or exceeded in any given~~

~~year. The limit of this area shall be based on flood Code regulation maps or a reasonable method, which meets the objectives of the act.~~

50. "Floodplain administrator" means the community official designated by the Stevens County Land Services Director (Administrator of this title - to administer and enforce the floodplain management regulations.

Commented [BF102]: Consistency update

51. "Floodplain management regulations" means the zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other application 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.

~~36.~~52. "Flood proofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. Flood proofed structures are those that have the structural integrity and design to be impervious to floodwater below the Base Flood Elevation.

~~37.~~53. "Floodway" means the channel of a river or other watercourse and the adjacent land areas through which the base flood is discharged. Floodways identified on flood boundary and floodway maps become "regulatory floodways" within which encroachment of obstructions are prohibited.

~~38.~~54. "Forest practice" means any activity conducted under the Forest Practices Act.

55. "Functions" and "values" mean the beneficial roles served by critical areas, including, but 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, and recreation. Functions and values may be considered independently, with water quality, hydrologic, habitat, and other functions being measured indicators and local importance, potential qualities, recreational benefits, or other values being non-measured indicators.

~~39. "Functionally dependent use" for the purposes of administrating Section 13.60 "Frequently Flooded Areas" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long term storage or related manufacturing facilities.~~

~~40.~~56. "Geologically hazardous areas" means areas that, because of their susceptibility to erosion, sliding, earthquake, or other geologic events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns. Geologically Hazardous Areas include Erosion Hazards, Landslide Hazards, Mine Hazards, and Seismic Hazards.

~~41.~~57. "Geotechnical Report" or "geotechnical analysis" means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology; the affected landform and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions, and recommendations regarding the effect of the proposed development on geologic conditions; the adequacy of the site to be developed; the impacts of the proposed development; alternative approaches to the proposed development; and measures to mitigate potential site-specific, cumulative geological, and hydrological impacts of the proposed development, including the potential adverse impacts on adjacent and down-current properties. Geotechnical Reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local geology and processes.

~~42.~~58. "Grading" means stripping, cutting, filling, or stockpiling of land, including the land in its cut or filled condition to create new grade.

~~43.~~59. "Habitat" means the specific area or environment in which a particular type of animal or plant lives. An organism's habitat must provide all the basic requirements for life and should be free of harmful contaminates. Habitat may be tied to temperature, water, soil, sunlight, source of food, refuge from predators, place to reproduce, and other living and non-living factors.

60. "Habitats and species of local importance" means those species that may not be endangered, threatened, or critical from a state-wide perspective but are of local concern due to their population status, sensitivity to habitat manipulation, or other educational, cultural, or historic attributes. These species may be priority habitats, priority species, and those habitats and species identified in the critical areas code as having local importance, as approved by the Board of Stevens County Commissioners.

~~**Habitat Management Plan (HMP):** A project-based, site-specific report for land use activities in a FWHCA that could affect critical area functions. (WDFW Vol 2)~~

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~~44.~~

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~~45.~~61. "Hazard areas" means areas designated as frequently flooded or geologically hazardous areas due to potential for erosion, landslide, seismic activity, mine collapse, or other geologically hazardous conditions, including steep slopes.

~~46.~~62. "Hazardous substance(s)" is as follows:

a. A hazardous substance as defined by Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act; any substance designated pursuant to Section 311(b)(2)(A) of the Clean Water Act (CWA); any hazardous waste having the characteristics identified under or listed pursuant to Section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress); any toxic pollutant listed under Section 307(a) of the CWA; or any imminently hazardous chemical substance or mixture with respect to which the EPA has taken action pursuant to Section 7 of the Toxic Substances Control Act.

Hazardous substances that include any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibit any of the physical, chemical, or biological properties described in WAC 173-303-090, 173-303-102, or 173-303-103.

63. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

64. "Historic structure" means any structure that is:

a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

i. By an approved state program as determined by the Secretary of the Interior, or

ii. Directly by the Secretary of the Interior in states without approved programs.

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~~47.~~65. "Impervious surface area" means a hard surface area, which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. Impervious surface shall also include a hard surface area, which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads with compacted subgrade, packed earthen materials, and oiled, macadam or other surfaces, which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces.

~~48.~~66. "Infiltration" means the downward entry of water into the immediate surface of soil.

~~49.~~67. "Invasive, non-native vegetation species" means the plants for Eastern Washington in Washington State Noxious Weed Board Publication # 820-264E (N/6/09) or the latest version of this document.

~~50.~~68. "Landslide" means down slope movement of a mass of soil, rock, snow, or ice, including, but not limited to, rock falls, slumps, mud flows, debris flows, torrents, earth flows, and snow avalanches.

~~51.~~69. "Landslide hazard areas" means those areas potentially subject to landslides based upon a combination of geologic, topographic, and hydrologic factors.

~~52.~~70. "Lowest floor" for the purpose of administrating Section 13.60, Frequently Flooded Areas, 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 Code found at Section 13.60.040 (B)(1)(a)(ii).

~~53.~~71. "Manufactured Home" for the purpose of administrating Section 13.60, Frequently Flooded Areas, 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 attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

~~54.~~72. "Manufactured home park or subdivision" for the purpose of administrating Section 13.60, Frequently Flooded Areas, means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

~~55.~~73. "Mine hazard area" means those areas directly underlain by, adjacent to, or affected by mine workings such as adits, tunnels, drifts, or air shafts.

74. "Mining" is the removal of naturally occurring materials from the earth for economic use.

~~**Mitigation sequence**: An approach to planning and project design that, when properly applied, achieves no net loss. The steps of the mitigation sequence are: Avoiding the impact altogether by not taking a certain action or parts of an action; 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; Rectifying the impact by repairing, rehabilitating, or restoring the affected environment; Reducing or eliminating the impact over time by preservation and maintenance operations; Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and Monitoring the impact and the compensation projects and taking appropriate corrective measures. (Ecology 2023)~~

~~56.~~

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~~57.~~75. "Monitoring" means the collection of data by various methods for the purpose of understanding natural systems and features, evaluating the impact of development proposals on such systems, and/or assessing the performance of mitigation measures imposed as conditions of development.

~~58.~~76. "New construction", for the purposes of administrating Section 13.60, Frequently Flooded Areas, means structures for which the start of construction commenced on or after the effective date of this Code.

77. "New manufactured home park or subdivision" for the purposes of administrating Section 13.60, Frequently Flooded Areas means a manufactured home park or subdivision for which the construction of

facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

78. **No net loss:** Standards that are intended to limit the impacts from new development and other land uses by adopting a mitigation hierarchy to avoid, minimize, remediate, and offset negative impacts on ecosystems. (WDFW 2024)

~~59.~~

~~60.~~79. "Ordinary high-water mark (OHWM)" means that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter in accordance with permits issued by a local government or the department. Where the OHWM cannot be found, it shall be the line of mean high water. For braided streams, the OHWM is found on the banks forming the outer limits of the depression within which the braiding occurs.

~~61.~~80. "Potable water" means water that is safe and palatable for human consumption.

81. "Priority habitat" means a habitat type with unique or significant value to one or more species requiring protective measures and/or management guidelines to ensure their perpetuation.

~~**Priority species**: Fish and wildlife species requiring protective measures and/or management actions to ensure their survival. A species identified and mapped as priority species fit one or more of the following criteria (WDFW 2023, as amended): State-listed endangered, threatened, sensitive, or candidate species; Vulnerable aggregations; Of recreational, commercial, and/or tribal importance.~~

~~62.~~

~~63.~~82. "Project area" means the land area proposed to be disturbed, altered, or used by an activity or the construction of any proposed structures including areas adjacent to the proposed activity or construction.

~~64.~~83. "Public agency" means every city, county, state, or federal office; every office; every institution, whether educational, correctional, or other;

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and every department, division, board, and commission that provides services or recommendations to the public or other such agencies.

~~65.~~84. "Public/private utility" means a public/private service corporation performing some public service subject to special governmental regulations or a governmental or private agency performing similar public services, either of which are paid for directly by the recipients thereof. Such services shall include water supply, electric power, gas, and transportation for persons and freight.

~~66.~~85. "Qualified professional" means a person with experience and training in the pertinent discipline, and who is a qualified expert with expertise appropriate for the relevant critical area. A qualified professional must have obtained a B.S., B.A., or equivalent degree or certification in biology, engineering, environmental studies, fisheries, geomorphology, landscape architecture, forestry or related field, and related work experience.

a. A qualified professional for wildlife, habitats, or wetlands must have a degree in biology, zoology, ecology, fisheries, or related field, and professional experience in the State of Washington.

b. A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the State of Washington.

c. A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

d. A qualified professional with flood and CMZ expertise must be a hydrologist or fluvial geomorphologist.

e. A qualified professional for vegetation management must be a registered landscape architect, certified arborist, biologist, or professional forester with a corresponding degree or certification.

f. A qualified archaeologist must be a person qualified for addressing cultural and historic resources protection and preservation, with a degree in archaeology, anthropology, history, classics, or other germane disciplines with a specialization in archaeology and/or historic preservation and with experience in preparing cultural resource site assessments reports.

86. "Reasonably Safe from Flooding" means development that is designed and built to be safe from flooding based on consideration of current flood elevation studies, historical data, high water marks and other reliable date known to the community. In unnumbered A zones where flood elevation

Commented [de105]: See comment in general standards about public (water) utility ownership

Commented [BF105R2]: Updated

Commented [de106]: See comment in CARAs section about hydrogeos

Commented [BF106R2]: Discuss with Erik - limit to hydrogeos? Seems like proximity to Spokane would support this higher standard

information is not available and cannot be obtained by practicable means, reasonably safe from flooding means that the lowest floor is at least two feet above the Highest Adjacent Grade.

87. "Recreational Vehicle" means a vehicle:

a. Built on a single chassis;

b. 400 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.

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~~67.~~88. "Restore," "Restoration," or "Ecological restoration" means the reestablishment or upgrading of impaired natural or enhanced critical areas processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive structures, and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the area to pre-aboriginal or pre-European settlement conditions.

89. "Riparian habitat" Transitional areas between terrestrial and aquatic ecosystems distinguished by gradients in biophysical conditions, ecological processes, and biota. They are areas through which surface and subsurface hydrology connect waterbodies with their adjacent uplands. They include those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems. (WDFW Vol 1)

~~68. means areas adjacent to aquatic systems with flowing water that contains elements of aquatic and terrestrial ecosystems that mutually influence each other.~~

90. **Riparian management zone (RMZ):** An area of land adjacent to a stream, river, lake, wetland, marine shoreline, or other waterbody that contains or is intended to support riparian ecological functions and processes. The Riparian Management Zone includes vegetation, soils, floodplain features, and habitat elements that influence water quality, water quantity, channel stability, nutrient cycling, large woody debris recruitment, microclimate regulation, flood attenuation, and fish and wildlife habitat. The RMZ is managed to protect, maintain, and where necessary restore these ecological functions and values.~~The area that has~~

~~the potential to provide full riparian functions. In forested ecoregions, this is the area within one $SPTH_{200yr}$ (minimum 100 feet) measured from the wider of the OHWM, CMZ, or active floodplain. In dryland ecoregions the RMZ begins at the wider of OHWM, CMZ, or active floodplain; its width is equal to the greater of one $SPTH_{200yr}$, 100 feet, or the outermost point of the riparian vegetative community. (Folkerts et al. 2025)~~

Commented [CC107]: Discuss in WDFW meeting

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~~69.~~91. "Shoreline Master Program" means the comprehensive use plan for a described area and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020.

~~70.~~92. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures which are a normal appurtenance.

a. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence.

b. "Normal appurtenances" include a garage; deck; driveway; utilities; fences; septic tank and drainfield and grading which does not exceed 250 cubic yards and which does not involve placement of fill in any wetland or waterward of the OHWM.

~~71.~~93. "Soil survey" means the most recent soil survey for the local area or county by the National Resources Conservation Service, U.S. Department of Agriculture.

~~72.~~94. "Special protection areas" means aquifer recharge areas described in WAC 173-200-090 that require special consideration or increased protection because of unique characteristics, including, but not limited to:

a. Groundwaters that support an ecological system requiring more stringent criteria than drinking water standards;

b. Groundwater recharge areas and wellhead protection areas that are vulnerable to pollution because of hydrogeologic characteristics; and

c. Sole source aquifer status.

~~73.~~95. "Species, threatened and endangered" means those species that are listed by WDFW pursuant to RCW 77.12.070 as threatened (WAC 220-200-100) or endangered (WAC 220-610-010 232-12-014), or that are listed as threatened or endangered under the ESA (16 USC 1533).

~~74.~~96. "Start of construction" for purposes of administrating Section 1360 Frequently Flooded Areas, 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. For cumulative tracking, the permit may extend beyond the specified time frame to the time of permit completion. The actual start means either the first placement of permanent construction of a structure on a site or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation 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, nor does it include the installation on the property of accessory buildings not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

~~75.~~97. "Steep slopes" means those slopes (excluding County-approved geotechnical engineered slopes) 40% or steeper within a vertical elevation change of at least 10 feet. A slope is defined by establishing its toe and the top and is measured by averaging the inclination over at least 10 feet of vertical relief.

98. "Stream" means any portion of a channel, bed, bank, or bottom waterward of the OHWM of waters of the state, including areas in which fish may spawn, reside, or pass, and tributary waters with defined bed or banks, which influence the quality of fish habitat downstream. This includes watercourses that flow on an intermittent basis or fluctuate in level during the year and applies to the entire bed of such watercourse whether or not the water is at peak level. This definition does not include irrigation ditches, canals, stormwater runoff devices, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans.

~~76.~~99. "Structure" for floodplain management purposes means, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

~~77.~~100. "Substantial damage" for purposes of administrating Section 13.60 Frequently Flooded Areas, means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

~~78.~~101. "Substantial improvement" for purposes of administrating Section 13.60 Frequently Flooded Areas, 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, however, include either:

c. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

d. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

~~79.~~102. "Unavoidable" means adverse impacts that remain after all appropriate and practicable avoidance and minimization have been achieved.

~~80.~~103. "Utility" means a service and/or facility that produces, transmits, carries, stores, processes, or disposes of electrical power, gas, potable water, stormwater, communications, sewage, oil, and the like.

104. "Variance" for purposes of administrating Section 13.60 Frequently Flooded Areas, means a grant of relief from the requirements of this Code which permits construction in a manner that would otherwise be prohibited by this Code.

~~"Water Dependent" means a structure for commerce or industry that cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.~~

105. "Water surface elevation" means the height, in relation to the vertical datum utilized in the applicable flood insurance study of floods of various magnitudes and frequencies in the floodplains of riverine areas.

106. **Waters of the State:** Includes lakes, rivers, ponds, streams, inland waters, underground waters, salt waters and all other surface waters and watercourses within the jurisdiction of the state of Washington. (RCW 90.48.020)

~~81.~~

107. "Water quality" means the physical characteristics of water, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this Code, the term water quantity refers only to development and uses regulated under this Code and affecting water quantity. Water quantity, for purposes of this Code, does not mean the withdrawal of groundwater or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

~~82.~~108. "Wellhead protection areas" are protective areas associated with public drinking water sources established by water systems and approved or assigned by the state Department of Health (WAC 365-190-030).

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~~83.~~109. "Wetlands" are areas that are inundated or saturated by surface or groundwater 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 non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

Page 42: [1] Commented [AC62R2] **Adam Cares** **10/14/2026 9:10:00 PM**

The EPA SSA map does not show the SVRP within Stevens County.

Other publications by USGS show the boundaries of the SVRP extending very slightly into Stevens County, as documented here: https://pubs.usgs.gov/sir/2005/5227/pdf/sir20055227.pdf.

However, because the EPA and the Federal Safe Drinking Water Act are driving these protections, and their map doesn't show the SSA in Stevens County, I don't think this applies.