CRITICAL AREAS REGULATIONS

Okanogan County
Office Of Planning And Development

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Okanogan County Critical Area Regulations

Article I Critical Areas Administration

14.12.010 Purpose/Authority

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

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

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

C. Further, Okanogan County declares that "critical areas" are characterized as either Resource Critical Areas or Hazard Critical Areas, as follows:

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

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

14.12.020 Administrative Implementation

A. As provided herein, Okanogan County Planning staff and the Planning Commission are directed to interpret and apply these Critical Area Regulations to accomplish the regulatory intent and purpose stated in this section. All effort shall be made to integrate any procedures required to assure compliance with this chapter with the Okanogan County Zoning Code, Subdivision Ordinance, Shoreline Master Program, Flood Damage Prevention Ordinance, and State Environmental Policy Act Ordinances.

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

C. Comments from the public, Federal, Tribal, and state agencies consulted for comment on development applications subject to this chapter, shall comply with the requirements set forth pursuant to Chapter 43.21C RCW, SEPA, and Chapter 36.70B RCW and implementing regulations.~~be allowed 21 days from the postmarked date on the notice from the County in which to comment on the project. The Administrator may extend the comment period up to 15 days at the request of a reviewing agency for unique, complex, or unusually large project proposals.~~

14.12.030 Applicability

A. All land use activities, outside shoreline jurisdiction under Chapter 90.58 RCW (Shoreline Management Act) whether or not a permit or authorization is required, shall comply with the requirements of this chapter. Responsibility for the enforcement of this chapter shall rest with the Director of Planning and Development or the Director's designee. For the purposes of this chapter, "land use activities" shall include but not be limited to excavations, fills, boundary line adjustments, building permits, any flood plain development permit, subdivision, short subdivision, binding site plan, zone reclassification, cluster subdivision, planned unit development, planned destination resort, and any other development or use permit that would require approvals under existing or subsequently adopted Okanogan County Codes and/or Ordinances, as administered by the Office of Planning and Development, unless expressly exempted from this chapter.

B. As authorized in RCW 36.70A.710(1)(a), Okanogan County has opted in to the Voluntary Stewardship Program for unincorporated areas used for agricultural activities as an alternative to protecting critical areas through the development regulations inder RCW 36.70A.060. The Voluntary Stewardship Program applies to all unincorporated property upon which agricultural activities occur within a participating watershed as authorized in RCW 36.70A.710(5).

14.12.040 Preliminary Investigation / Site Visit

A. Upon the receipt of an application, the Administrator or designee shall consult all critical area maps. After referring to the maps, the Administrator or designee may perform a preliminary site visit (the cost of which is included in the permit application fee) to determine by visual observation, together with the known scientific evidence, whether or not critical areas may exist on the development site. Before the Administrator declares that critical areas do not exist, contrary to information provided on critical area maps, the Administrator may consult the affected agencies of expertise.

B. If the Administrator or designee is unable to confirm the existence or non-existence of critical areas, a second site visit shall be performed, including the agency of expertise, the Administrator or designee, and the applicant.

C. If a determination concerning critical areas cannot be made after a second site visit, the Administrator shall specify, with the agency of expertise, the required contents of a special study that will determine the existence or absence of critical areas, as defined in this chapter. Special studies will be circulated to the agencies of expertise during review of the development application.

14.12.050 Special Studies and Map Amendments - When Required

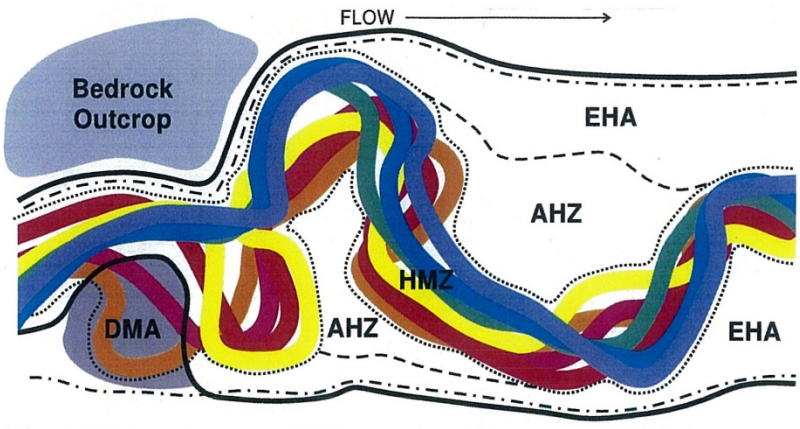
A. When sufficient information to identify the existence of or to evaluate the effects of a development proposal on critical areas is not provided or available, the Director shall notify the applicant that special studies are required. A special study shall be prepared by professionals with documented expertise and shall identify, locate, and describe any critical areas contained in the development site, and discuss how the development proposal meets the requirements of this chapter. The cost of a special study shall be the responsibility of the applicant.

B. A special study or map amendment of any existing regulatory map shall gather information needed to complete the Site Plan as required by Section XI. Special Studies shall identify, locate, and describe critical areas contained in the development site or that such critical areas do not exist; amount and type of encroachment or alteration of the critical area; and discuss how the proposed development will meet the requirements of this chapter.

C. For special studies and map amendments of any existing regulatory map related to Fish and Wildlife Habitat Conservation Areas, the study shall identify, locate and describe specific fish and wildlife habitat within one half (0.5) mile of the proposed development. Off-site study may be accomplished using the best available mapping and data to estimate the location and function of adjacent habitat such as: movement corridors, fawning areas, spring range, riparian areas, etc... The map shall also identify topography and specific vegetative communities present, structures, roads, fences, human activity areas, and lands which have been converted from native vegetation. A written summary of current and historical wildlife use (this shall include a list of species and their seasonal use of the site proposed for amendment) and current residential, recreational, or commercial use of the property. A section of the written summary shall be directed at describing the positive / negative impacts to wildlife of any proposed or anticipated development.

D. For special studies and map amendments of any existing regulatory map related to channel migration zones shall include a site specific special study of a channel migration hazard prepared by a licensed engineer, geologist, or engineering geologist who is experienced in fluvial geomorphology, river dynamics, and/or geotechnical engineering. The study shall have the severe channel migration boundary defined as the outer combined limit of the following:

1. Refer to the following conceptual diagram of the pieces of a CMZ (DOE #03-06-027, 2003):



2. The HMZ is defined as the outer limit of identifiable historical channel locations. Historical channel locations can be identified through review of aerial photographs, survey, field reconnaissance, or as new channels are established through on-going river processes;

3. The AHZ is defined as areas within or adjacent to the active channel corridor that are at risk for sudden channel changes or where the current channel may move in response to flood events or other hydrologic, hydraulic, geomorphic, or other floodplain changes;

4. The EHZ is defined by multiplying the representative average annual rate of erosion by 50 years, and applying the resulting distance perpendicular away from the direction of flow along the outer most boundary of either the HMZ or the AHZ, whichever is further from the river. Determine the representative average annual rate of channel migration at a given location or reach by dividing the lateral distance eroded during a corresponding elapsed time shown in sequential aerial photographs, historical maps, or surveys. Do not include any measurements from reaches that had some form of armoring on the banks. Historical records will need to be checked closely for this information. The average annual channel migration rate based on comparison of the 1954 and 1998 aerial photographs for the Methow and Okanogan River provided in the study can be used for specific site locations.

5. When a natural geologic feature such as a bedrock outcrop, valley wall, or high terrace (i.e. ancient floodplain surface represents a constraint to the predicted migration, the channel migration corridor shall abut that natural geologic feature. These areas may be designated as DMA's.

6. When a structure such as an arterial road or flood hazard reduction facilities are likely to be protected from future bank erosion due to existing program for public maintenance, the corridor width may be modified to incorporate the boundaries of such structures. These areas may be designated as DMA's. Note that the County can make no assurances regarding the ongoing or continued maintenance of public flood hazard reduction facilities such as levees and revetments, nor for the replacement of public flood hazard reduction facilities should they be damaged by flood events or other natural disasters.

7. The Moderate CMZ is defined as the area between the outside severe zone boundary and the current FEMA boundary. As such, the outer boundaries of the moderate zone are defined by existing FEMA NFIP flood regulations.

8. The study must include:

    (a) Vicinity Map and site map with scale, north arrow, and parcel number.

    (b) Clear statement of the requested revision or exception to the provisions of the County's channel migration hazard maps;

    (c) Clear presentation of all required study steps (as outlined above);

    (d) A clearly stated conclusion of the Special Study results that support the requested revision, show how the data presented refutes the data used in the County study/maps, and calculate the new results using the new information; and;

    (e) A clearly marked map showing the requested revision to the County's channel migration hazard map.

14.12.060 Appeal of Administrative Decisions

Administrative interpretations and administrative decisions pursuant to Section 14.12 of this title may be appealed, by applicants or parties of record, to the Board of Adjustment as provided for in Section 14.12.060 of this chapter.

A. Authority of the Board of Adjustment. The board of adjustment shall hear and decide appeals from any order, requirement, permit decision or determination made by the administrator under this code. (Ord. 92-12 § 5 (App. A), 1992).

B. Who May Appeal-Place of filing-Time Limit. Appeals may be taken to the board of adjustment by any person aggrieved, or by any officer, department, board or bureau of the county affected by any decision of an administrative official. Such appeals shall be filed in writing in duplicate with the administrator, as secretary for the board of adjustment, within 20 days of the action being appealed. The section does not create any additional notice requirements of the administrator. (Ord. 92-12 § 5 (App. A), 1992).

C. Setting for Hearing-Notice-Transmittal of Records. Upon the filing of an appeal from an administrative determination, the board of adjustment itself, or administrator as secretary for the board of adjustment, shall schedule a hearing with the board of adjustment to be held within 60 days of the receipt of the appeal, at which time the matter will be considered. At least a ten-day notice of such time and place together with one copy of the written appeal shall be given to the official whose decision is being appealed. At least 10-day notice of the time and place shall also be given to any adverse parties of record in the case. The officer from whom the appeal is being taken shall transmit to the board of adjustment all of the records pertaining to the decision being appealed from, together with such additional written report as he deems pertinent. (Ord. 92-12 § 5 (App. A), 1992).

D. Scope of Authority on Appeal. The board of adjustment may, in conformity with the Planning Enabling Act (Chapter 36.70 RCW) and this code, reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as should be made and, to that end, shall have all the powers of the officer from whom the appeal was taken insofar as the decision on the particular issue is concerned. (Ord. 92-12 § 5 (App. A), 1992).

E. Decision. Within 35 days following the termination of the public hearing on an appeal from an administrative determination, the Board of Adjustment shall sign its written order. In making the order it shall include written non verbatim record of the case, the findings of fact, upon which the decision is based.

F. Notice of Decision. Within five days of the decision, the order of the Board of Adjustment shall be mailed to the applicant and all persons who are specifically identified as parties of record or who have indicated an interest in being notified of the decision.

G. Appeal of Board of Adjustment Decision. The decision by the board of adjustment on an appeal from an administrative determination shall be final and conclusive unless a timely land use petition is filed and served pursuant to the Land Use Petition Act (Chapter 36.70C RCW). Appeals must be submitted by those with standing according to RCW 36.70C.060.

H. Records-The appeal filed pursuant to this code, the evidence of notice, the electronic verbatim record of proceedings, although minutes of the proceedings may be nonverbatim, other material accepted as evidence, and the written order announcing a decision along with the findings of fact shall become a part of the official records of the board of adjustment.

14.12.070 Critical Areas - Maps and Inventories

The known distribution of critical areas in Okanogan County is displayed on the following maps on file in the Office of Planning and Development.

A. Critical Areas Maps -Regulatory. At the adoption of this chapter, the official critical areas map titled "Okanogan County Critical Areas Map" will be adopted. The distribution of critical areas within Okanogan County is described and displayed in reference materials and on maps maintained by the department. These reference materials, in the most current form, are intended for general information only and do not depict site-specific designations. They are intended to advise Okanogan County, applicants and other participants in the development permit process that a critical area may exist and that further study, review and consideration may be necessary. These reference materials shall include but are not limited to the following:

1. Okanogan County Level 1 Critical Fish & Wildlife Habitat Areas for Threatened, Endangered and Sensitive species(2012, as amended);
2. Okanogan County Level 2 Habitat and Species of Local Concern (two maps) ((2012, as amended);
3. Okanogan County Level 3 Locally Important Habitat and Species (2012, as amended);
4. Okanogan County Identified Critical Areas and Steep Slopes Maps (2012);
5. Flood Insurance Rate Maps ;
6. Flood Boundary and Floodway Maps as amended;
7. Channel Migration Zone Maps (Methow Channel Migration Hazard Zone Maps and Okanogan Flood Hazard Zone Component Maps 2012 as amended)
8. US Fish and Wildlife Service National Wetlands Inventory, as amended;
9. U.S.G.S. 7.5 Minute Series Topographic Quadrangle Maps;
10. Aerial photos; and
11. WDFW Priority Habitats and Species (2009 as amended)

12. Department of Natural Resources Heritage Maps and Data, as amended;
13. Natural Resource Conservation Service Soil Survey of Okanogan County Area Washington (2010 as amended)

B. Critical Areas identified through the development review process

1. Applicants may propose amendments to regulatory maps as they become available, using maps and data resulting from special studies. Map amendments may be processed at any time and shall be processed in accordance with Zoning Code Chapter 17.37. Agency review shall be accomplished in accordance with Zoning Code section 17.19.080 B.

14.12.080 Definitions

Words not defined in this Chapter shall be as defined in the Okanogan County Zoning Code. Words not found in either document shall be as defined in the Webster's Third New International Dictionary, latest edition.

A

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

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

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

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

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

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

Avulsion Hazard Zone (AHZ)-The portion of the Channel Migration Zone (CMZ) that delineated avulsion hazards not accounted for in the Historical Migration Zone. An avulsion means a sudden abandonment of a part of the whole of a meander belt by a stream for some new course.

B

Base Flood - A flood event having a one percent (1%) chance of being equaled or exceeded in any given year, also referred to as the 100-year flood.

Best management practices - Conservation practices or systems of practices and management measures that: **1.** Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, and sediment; and **2.** Minimize adverse impacts to surface water and groundwater flow, circulation patterns, and to the chemical, physical, and biological characteristics of wetlands.

Bogs - A swamp or tract of wet land covered, in many cases, with peat.

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

Built Environment - A hard surface area which either prevents or retards the entry of water into the soil. Examples include, but are not limited to, structures, concrete or asphalt paving, gravel roads, packed earthen materials, railroad beds, dikes, haul roads and oiled or macadam surfaces.

C

Channel Migration Hazard- means any increase in the potential risk of channel change (i.e. avulsion), erosion, scour, or other response in flood characteristics resulting from the location of a structure, placement of fill, or other activity occurring in the floodplain or channel migration zone.

Channel Migration Zone (CMZ)- means those areas subject to risk from lateral channel movement due to stream bank destabilization, rapid stream channel changes (i.e. avulsion), stream bank erosion, and/or shifts in location of stream channels, as shown on Okanogan County's Channel Migration Zone Hazard Maps.

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

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

"Restoration" - Actions performed to reestablish wetland functional characteristics and processes which have been lost by alterations, activities, or catastrophic events within an area which no longer meets the definition of a wetland.

"Creation" - Actions performed to intentionally establish a wetland at a site where it did not formerly exist.
"Enhancement" - Actions performed to improve the condition of existing degraded wetlands so that the functions they provide are of a higher quality.

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

Critical Areas - Critical areas include: Critical Aquifer Recharge Areas, Fish and Wildlife Habitat Conservation Areas, Frequently Flooded Areas, Geologically Hazardous Areas, and Wetlands, as defined in RCW 36.70A and this chapter.

D

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

Development - means any construction or activity which changes the basic character, use or intensity of use of the land on which the construction or activity occurs. Development includes subdivision of land for the purpose of sale or lease which requires platting under the Okanogan County subdivision code. (Ord. 92-12 § 5 (App. A), 1992).

E

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

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

Erosion hazard areas - At least those areas identified by the United State Department of Agriculture National Resources Conservation Service as have a "severe" rill and inter-rill erosion hazard.

Erosion Hazard Zone (EHZ) - means the area of the CMZ unaccounted for in the AHZ or the HMZ that delineated channel susceptibility to lateral bank erosion.

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

Existing and Ongoing Agriculture - includes activities involved in the preparation, cultivation and production of crops, animal or fiber products, land registered in a federal or state conservation program and lands which have been approved by the County as Open Space Farm and Agricultural Conservation Land pursuant to RCW Chapter 84.34. Existing and ongoing activities include the operation and maintenance of farm and stock ponds, drainage ditches, irrigation ditches or systems including laterals or canals, changes between agricultural activities and the normal maintenance, repair or operation of existing serviceable structures, facilities or improved areas. An operation or activity ceases to be ongoing when the area on which it was conducted is converted to a nonagricultural use (subdivision, etc.). Forest practice activities are not included in this definition. However Christmas tree operations are included in agricultural activities.

F

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

Fault line - The intersection of a fault surface with the surface of the earth.

Fish and Wildlife Habitat Conservation Areas - are areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and 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, 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. ~~Areas of local importance that include a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of high relative density or species richness, breeding habitat, winter range, movement corridors, and areas of limited availability or high vulnerability to alteration, such as cliffs, tales, and wetlands.~~

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

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

Flood Protection Elevation - The elevation that is one (1) foot above the base flood elevation.

Floodway - The channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing

the surface water elevation more than one (1) foot. Also known as the "zero rise floodway."

Fluvial Geomorphology- means the science that addresses the form, configuration, changes that may take place, and the evolution of rivers and streams.

Frequently Flooded Areas - are lands in the flood plain subject to at least a one percent or greater chance of flooding in any given year, or within areas subject to flooding due to high groundwater. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands, and areas where high groundwater forms ponds on the ground surface.

G

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

Growth Management Act - RCW 36.70A, as amended.

H

High intensity land use - Land uses which are associated with moderate or high levels of human disturbance or substantial wetland habitat impacts including, but not limited to, medium and high density residential including lots with greater than 1 dwelling unit per acre, and Planned Developments where the density is greater than the underlying zoning density, multifamily residential, active recreation, and commercial and industrial land uses greater than 1500 square feet, except home industries.

Historical Migration Zone (HMZ) - means the portion of CMZ that the channel occupied in the historical record (i.e. as shown on historical aerial photographs, identified through survey and/or field reconnaissance, or defined by newly established channel alignments.

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

I

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

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

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

L

Landslide hazard areas - are areas at risk of mass movement due to a combination of geologic, topographic, and hydrologic factors. These areas are typically susceptible to landslides because of a combination of factors including: bedrock, soil, slope gradient, slope aspect, geologic structure, ground water, or other factors.

Lek ~~-~~ those specific assembly locations where animals (such as the sharp tailed grouse and sage grouse) carry on display and courtship behavior~~An area where sharp-tailed grouse gather to perform their courtship displays.~~

Low-Intensity Land Use - Land uses which are associated with low levels of human disturbance or low wetland habitat impacts, including, but not limited to, passive recreation, Planned Developments where the density is less than or equal to the underlying zoning density, open space, or agricultural or forest management uses. The lowest residential density requirement for any given district qualifies as low-intensity use, PROVIDED, that the density requirement does not exceed 1 du/acre. Commercial and industrial uses smaller than 1500 square feet in size are also considered low-intensity land uses.

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

M

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

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

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

Moderate Channel Migration Zone- A channel migration zone shall be designated as moderate hazard when it lies outside the severe hazard channel migration zone and within the FEMA floodplain boundary.

N

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

Non-Conformity - An existing use or structure that is not in compliance with current regulations.

O

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

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

P

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

Private Wildlife Open Space - Land retained in an open condition in perpetuity for fish and wildlife conservation or enhancement purposes. Lands within this type of open space dedication may include but are not limited to, portions and combinations of forest habitats, grasslands, shrub steppe, on-site watersheds, 100 year flood plains, County shorelines or shorelines of state-wide significance, riparian areas and wetlands.

R

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

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

Riparian - are transitional areas between terrestrial and aquatic ecosystems and are distinguished by gradients in biophysical conditions, ecological processes, and biota. They are areas through which surface and sub surface hydrology connect water bodies with their adjacent uplands. They include those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems (i.e., a zone of influence). Riparian areas are adjacent to perennial, intermittent, and ephemeral streams, lakes, and estuarine-marine shorelines. The width of these areas depends upon slope and vegetation cover, but for the purposes of this regulation, includes a maximum of 200 feet, measured on the slope of the land, from the ordinary high water mark on each side of the perennial streams, rivers, lakes, ponds, marshes, wetlands, Types 1-5 Waters, etc.

S

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

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

Seismic Design Category C - The area identified in the 2009 Uniform Building Code as amended. This design category determines the structural engineering requirements for buildings constructed in the County.

Serviceable - Presently usable.

Severe Channel Migration Zone- A channel migration zone shall be designated as severe when it lies within the boundaries of HMZ; and/or within the AHZ; and/or within the channels probable EHZ as predicted to occur within the next 50 years and as measured in either direction from the outside edge of either the HMZ or the AHZ as defined, whichever is furthest from the river.

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

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

T

Threatened - Fish or wildlife species that are native to the state of Washington and are listed in WAC 232-12-011(1) as amended and those listed in the Federal Register as a threatened species.

U

~~*Unavoidable and necessary impacts* - Impacts to regulated wetlands that remain after a person proposing to alter regulated wetlands has demonstrated that all reasonable economic use is being denied.~~

V

Variance - An adjustment in the application of the regulations of a zoning ordinance to a particular piece of property, in a situation where the property, because of special circumstances found to exist on the land, is deprived as a result of the imposition of the zoning regulations of privileges commonly enjoyed by other properties in the same vicinity and zone.

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

W

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

Type S Water - **"Type S Water"** means all waters, within their bankfull width, as inventoried as "shorelines of the state" under chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW including periodically inundated areas of their associated wetlands.

Type F Water - means segments of natural waters other than Type S Waters, which are within the bankfull widths of defined channels and periodically inundated areas of their associated wetlands, or within lakes, ponds, or impoundments having a surface area of 0.5 acre or greater at seasonal low water and which in any case contain fish habitat or are described by one of the following four categories:

(a) Waters, which are diverted for domestic use by more than 10 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type F Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less;

(b) Waters, which are diverted for use by federal, state, tribal or private fish hatcheries. Such waters shall be considered Type F Water upstream from the point of diversion for 1,500 feet, including tributaries if highly significant for protection of downstream water quality. The department may allow additional harvest beyond the requirements of Type F Water designation provided the department determines after a landowner-requested on-site assessment by the department of fish and wildlife, department of ecology, the affected tribes and interested parties that:

i. The management practices proposed by the landowner will adequately protect water quality for the fish hatchery; and

ii. Such additional harvest meets the requirements of the water type designation that would apply in the absence of the hatchery;

(c) Waters, which are within a federal, state, local, or private campground having more than 10 camping units: Provided, That the water shall not be considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within 100 feet of a camping unit, trail or other park improvement;

(d) Riverine ponds, wall-based channels, and other channel features that are used by fish for off-channel habitat. These areas are critical to the maintenance of optimum survival of fish. This habitat shall be identified based on the following criteria:

i. The site must be connected to a fish habitat stream and accessible during some period of the year; and

ii. The off-channel water must be accessible to fish.

Type NP Water - means all segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are flowing waters that do not go dry any time of a year of normal rainfall and include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.

Type NS Water - means all segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np Waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np Water. Ns Waters must be physically connected by an above-ground channel system to Type S, F, or Np Waters.

Wetlands - “Wetland" or "wetlands" means areas that are inundated or saturated by surface water 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 nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

Wetland buffers / wetland buffer zones - Those areas that surround and protect a wetland from adverse impacts to the functions and values of a wetland.

Wetland Categories, Categories of wetlands or wetland types - ~~Descriptive Categories of the wetlands taxonomic classification system of the United States Fish and Wildlife Service (Cowardin, et al 1978).~~Wetland categories are generated based on the rarity, sensitivity to disturbance, and functions they provide using the “Washington State Wetland Rating System for Eastern Washington”.

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

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

Wetland rating system - The system of evaluating wetlands functions and values.

~~*Wetlands, regulated* - All Category I and II wetlands, Category III wetlands larger than 2,500 square feet, and Category IV wetlands larger than 10,000 square feet.~~

14.12.090 General Exemptions

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

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

B. Operation, Mainenance, or Repair of existing structures, infrastructure improvements, utilities, public or private roads, dikes, levees, or drainage systems, 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.

C. Voluntary Stewardship Lands as authorized by RCW 36.70A.710.

D. Recreation, education, and scientific research that does not degrade the critical area.

E. The removal of trees from critical areas and buffers that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property.

F. Forest practices in accordance with the provisions of RCW 76.09 and WAC 222.

14.12.100 Reasonable Use Exception

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

1. That no reasonable economic use with materially less impact on Critical Areas is feasible; and,

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

B. Requests for Reasonable Use Exceptions shall be heard by the Planning Commission, which shall make a recommendation for approval, modification, or disapproval to the Board of County Commissioners, who shall issue a final decision.

C. This chapter shall be interpreted to respect constitutional rights to property to the full extent recognized by the law of the United States and the State of Washington.

14.12.110 Non-Conforming Uses and Structures

All issues relevant to Non-Conforming Uses or structures shall be processed pursuant to Section 17.36 of the Okanogan County Zoning Code.

14.12.120 Amendments

Amendments to this Chapter shall be authorized and processed in the same manner and under the same statutory authority as amendments to any other portion of the Okanogan County Zoning Code.

14.12.130 Variances

Requests for variance, as defined herein and in the Okanogan County Zoning Code Chapter 17.34, shall be processed in the same manner and under the same statutory authority as provided for Variances in Chapter 17.34.

14.12.140 Conflict of Regulations

If more than one Okanogan County development regulation applies to any lands identified in this Chapter or a particular development application, then the most restrictive regulation shall apply.

14.12.150 Application Requirements

A. General Application Requirements

A Site Plan, drawn to scale, showing critical areas must be submitted with each application for development approval. For parcels greater than five (5) acres, the site plan may be limited to the area within 330 feet of proposed structures (adjacent properties need not be mapped). The site plan may be combined with or accompany site plan requirements for other County approvals, and, unless the Administrator waives one or more of the following information requirements, site plans shall include the following:

1. An aerial photograph at a scale no smaller than 1" = 400' showing the entire parcel of land owned by the applicant;

2. A site plan at 1"=50' showing existing improvements and natural features (such as rivers, cliffs, streams, ponds, etc.), including critical areas (such as specific wildlife habitat or wetland areas), within 330 feet of the proposed structures;

3. Boundaries and dimensions of the site(s);

4. The location of proposed sites and specifications for all development activities;

5. The purposes of the project and an explanation why the proposed activity cannot be located at another location on-site, that is not impacted by critical areas;

6. Location and identification of all existing and proposed roads, easements, driveways, and parking areas on or abutting the parcel;

7. A description of the vegetative cover around wetlands and streams, and identification of dominant species. Identification of existing vegetation in general, which would include identification of all evergreen trees greater than eight (8) inches in diameter and all deciduous trees greater than twelve (12) inches in diameter, as measured four and one half (4.5) feet above ground level, to be retained after completion of the development;

8. Location of existing vegetation and vegetation to be removed;

9. Proposed revegetation, including location, species and maintenance plan;

10. Approximate elevations of the site and adjacent lands within the critical area and its buffer;

11. Sketch of existing and proposed changes to topography which would include steep slopes, ravines, grading, etc.;

12. Open Space: Amount, location, function and maintenance plan for contiguous private wildlife open space or other open space;

13. Mitigation: Show the extent to which measures to lessen potential adverse impacts to critical areas are incorporated into the project design, including but not limited to enhancement of habitat, provision of replacement habitat, public education, consideration of remaining open space areas for viable functional habitat, migration corridors etc.; and,

14. A list of all property owners within 300' of a Category I wetland and all properties contiguous to the parcel to be developed, if a public hearing is required. If the owner of the parcel to be developed owns another parcel or parcels of real property which lies contiguous to the parcel to be developed, notice shall be given to owners of real property located within 300 feet of any portion of the boundaries of such contiguously located parcels.

B. The applicant and the administrator or designee shall visit the site together during the application process.

C. Critical Area Report Requirements

1. The critical area report shall demonstrate when implemented, that loss of habitat function is minimal.
2. The critical area report shall identify how impacts from the proposed project shall be mitigated, as well as the necessary maintenance and monitoring.
3. The Critical Area Report shall include a written report identifying the goals and objectives of the compensation proposed including the following:

(a) A detailed description of the vegetation on and adjacent to the project area.

(b) Identification of any threatened, endangered, or sensitive species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species.

(c) A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;

(d) A discussion of the following mitigation measures as they relate to the proposal:

1) Avoiding the impact altogether by not taking a certain action or parts of an action;

2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

4) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.

(e) The Critical Area Report shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this Title have been met, including but not limited to the following mitigation measures:

1) Establishment of buffer zones,

2) Preservation of critically important plants and trees,

3) Limitation of access to the habitat conservation area,

4) Seasonal restriction of construction activities,

5) Establishment of a timetable for periodic review of the plan.

(f) The Critical Area Report shall include written specifications and descriptions of the mitigation proposed, such as: The proposed construction sequence, timing, and duration; Grading and excavation details; Erosion and sediment control features; A planting plan specifying plant species, quantities, locations, size, spacing, and density; and Measures to protect and maintain plants until established.

(g) Written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, and topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

(h) A detailed discussion of on-going management practices which will protect the habitat area after the project site has been fully developed, including proposed monitoring, contingency, maintenance and surety programs.

14.12.160 Emergency Permit

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

1. The Administrator determines that an unacceptable threat to life or severe loss of property will occur if an emergency permit is not granted; and

2. The anticipated threat or loss may occur before a permit can be issued or modified under the procedures otherwise required by this chapter and other applicable laws.

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

1. be limited in duration to the time required to complete the authorized emergency activity, and

2. require the restoration of any wetland altered as a result of the emergency activity.

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

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

E. The emergency permit may be terminated at any time without process upon a determination by the Administrator that the action was not or is no longer necessary to protect human health or the environment.

14.12.170 Performance Bonds

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

1. all activities, including any required compensatory mitigation, have been completed in compliance with the terms and conditions of the permit and the requirements of this chapter; and

2. upon the posting by the applicant of a maintenance bond.

B. Until such written release of the bond, the principal or surety cannot be terminated or canceled.

14.12.180 Maintenance Bonds

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

14.12.190 Enforcement

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

   1. Civil and / or criminal penalties.

   2. Orders and penalties issued pursuant to this subsection may be appealed as provided for within the Appeals section.

B. All enforcement shall be conducted pursuant to this Chapter and Chapter 17.38, of the Okanogan County Zoning Ordinance.

Article II Aquifer Recharge Areas

14.12.200 Exemptions

This section shall not apply to:

A. artificially diverted or stored water
B. the construction of a single family residence
C. any land use that has less than 50% of the aquifer recharge area on the parcel, covered with non-porous surfaces
D. Structures and activities that currently and legally exist within aquifer recharge areas at the time of adoption of this chapter.

14.12.210 Classification / Rating System

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

14.12.220 Designation / Mapping

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

14.12.230 Regulations

These regulations apply to all activities that require a permit from the County Office of Planning and Development and are only imposed on areas of aquifer recharge: Critical Aquifer Recharge Protection areas shall be regulated as follows:

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

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

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

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

E. The County Health District shall comply with any state or federally required well-head protection program for the County's public water supplies.

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

G. All household hazardous waste shall be disposed of according to the County's Moderate Risk Waste Management Plan, 2003 as amended.

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

14.12.240 Second Opinion Process

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

1. depth to ground water and / or impermeable soil layer:

2. aquifer properties such as hydraulic conductivity and gradients;

3. soil texture, permeability, and contaminant attenuation properties;

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

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

B. The scope of the study shall be in direct relationship to the scope of the proposed development.

Article III Fish and Wildlife Habitat Conservation Areas

14.12.250 Exemptions

A. Removal of riparian vegetation within 30 feet of an existing structure, for the purposes of fire separation.

B. Removal of riparian vegetation within 30 feet of permitted additions that will be attached to an existing structure.

C. Structures and activities that currently and legally exist within fish and wildlife habitat conservation areas at the time of adoption of this Chapter.

D. Clearing of riparian vegetation for community trail system where an easement or deed is granted to a public entity. Maximum clearing width shall be 14 (fourteen) feet.

14.12.260 Classification / Rating System

Level I Habitat consists of Threatened, Endangered, and Sensitive Species as identified on the Federal Register and /or the Washington State Listing as designated on the maps on file in the Office of Planning and Development.

Level II habitat consists of fish and wildlife habitat of local concern which are:

- Mule Deer Spring Range
- Mule Deer fawning areas
- Mule Deer migration corridor
- Mule Deer staging area
- Mule Deer critical winter range
- Mule Deer key winter range,
- Riparian habitat,
- Shrub Steppe,
- Mountain Goat,
- Great Blue Heron,
- Cliffs,
- Big Horn Sheep
- Golden Eagle
- Harlequin Duck

Level III habitat consists of other locally important habitat and species which are:

- White Tailed Deer,
- Long-billed Curlew,
- Chuckar,
- Blue Grouse,
- Mule Deer winter range.

14.12.270 Designation / Mapping

A. ***Level I Habitat:***
The habitat of Threatened, Endangered and Sensitive Species as identified on the Federal Register and/or the Washington State Listing as designated on the maps on file in the Office of Planning and Development.

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

C. ***Level III Habitat:***
Habitat as designated on the maps on file in the Office of Planning and Development, as locally important to fish and wildlife.

14.12.280 Development Applications

The following standards apply to land division and/or new construction of single and multi-family residences, structures for commercial or recreational purposes.

14.12.290 Map Amendments

Applicants for land division or other development permit completing special studies may apply for Critical Areas Map amendment pursuant to Section III Critical Areas - Maps and Inventories.

14.12.300 Level I - Habitat Standards

A. Any development applications or ground disturbing activities except agricultural activities authorized under OCC 14.12.090 in level I habitat as identified on Okanogan County critical area maps shall prepare a critical area report in accordance with OCC 14.12.150C.

B. The conservation or enhancement of habitat through a habitat management plan, conservation easement, or other instrument in accordance with a critical area report (OCC 14.12.150C) may qualify for a tax deferral under the open space tax program (OCC 14.08) or for a density bonus utilizing the Cluster Subdivision process.

14.12.310 Level II - Habitat Standards

Development Requirements

The provisions of this section apply to all development proposed in Level II Habitat.

A. ***Native Revegetation Standards***

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

2. Installation and Maintenance

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

3. *Performance Assurance and Enforcement*
   Performance bonds may be required, except for single family dwellings, in accordance with Zoning Code, Title 17, Planned Development Section 17.19.080 D (3).

B. The conservation or enhancement of habitat through a habitat management plan, conservation easement, or other instrument in accordance with a critical area report (OCC 14.12.150C) may qualify for a tax deferral under the open space tax program (OCC 14.08) or for a density bonus utilizing the Cluster Subdivision process.

14.12.320 Level III Habitat Standards

A. The conservation or enhancement of habitat through a habitat management plan, conservation easement, or other instrument in accordance with a critical area report (OCC 14.12.150C) may qualify for a density bonus utilizing the Cluster Subdivision process.

14.12.330 Level II Riparian Habitat Conservation Areas

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

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

2. **Vegetation Removal Standards** –

(a) Type NP and NS Waters
Lots or parcels with shoreline frontage:

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

ii. An equal amount of riparian vegetation, as in (a) above, may be removed, in no more than 2 areas, to meet other development needs, i.e. trails, picnic sites, etc., **and**

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

B. **Buffer Widths**: Riparian buffer widths are intended ~~in part~~ to ~~mitigate the impacts of construction near riparian areas and to~~ protect riparian ~~areas so that fish and wildlife may flourish~~. Water bodies classified by the Water Typing System (WAC 222-16-030) have the recommended buffer widths identified in the table below. Widths shall be measured from the ordinary high water mark or the top of the bank if the ordianry high water mark cannot be identified. A buffer area shall have the width recommended in the table below, EXCEPT WHERE: ~~an alternative buffer is allowed pursuant to Riparian assessment in section14.12.330C or pursuant to Buffer width averaging 14.12.330E or Administrative buffer reduction 14.12.330D~~.

1. The previously existing built environment isolates portions of the riparian buffer from the waterbody. In that circumstance, the regulated riparian buffer shall extend from the ordinary high water mark to the waterward edge of the built environment, or;

~~1.~~2. The Administrator shall have the authority to reduce buffer widths established in section (table below) pursuant to 14.12.330C Riparian Assessment or 14.12.330E Buffer Width Averaging or 14.12.330D Administrative Buffer Reduction.

~~2. Widths shall be measured from the ordinary high water mark or the top of the bank if the ordinary high water cannot be identified.~~

3. Standard Riparian Buffer Width Table

Riparian Buffer Widths	
Type S	150 feet
Type F	150 feet (100 feet if no anadromous fish)
Type Np	50 feet
Type Ns	25 feet
Lakes and Ponds	75

C. **Riparian Assessment Criteria**
Riparian assessment is conducted on a site specific basis upon request of the applicant who demonstrates unique conditions on site which are clearly delineated on the property.

1. A site assessment of the riparian area will be conducted by the Administrator or designee.
2. Delineation of the riparian boundary will be conducted based on vegetation composition and soil characteristics.
3. The delineation of the riparian boundary shall not adversely affect the buffer's functional value.
4. Sites which have prior buffer width reduced or modified by administrative action are not eligible for further reduction under this section. No additional buffer reduction is eligible under this process, except as authorized in OCC 17.34 Variances.

D. **Administrative Reduction of Standard Riparian Buffer Area Width.**
The Administrator shall have authority to reduce buffer widths established through section 14.12.330B on a case specific basis for single family residences and low intensity uses as identified in 14.12.080, placed on legal lots subject to standard mitigation sequencing in section Critical Area Report C(1)(d), and when the applicant demonstrates to Administrators satisfaction that the following criteria have been met or the applicant can appeal the administrators decision under section 14.12.060(Administrative Appeals):

1. Buffer width reduction shall not adversely affect the designated habitat conservation area and buffer's functional value.
2. Buffer width reduction is contingent upon the submittal and approval of a Critical Area Report in accordance with section 14.12.150C.

E. **Riparian Buffer Width Averaging**. Riparian buffer width averaging The required buffer widths may be modified by the Administrator for single family dwellings and low intensity uses as identified in 14.12.080, legal lots subject to standard mitigation sequencing in section 14.12.150C(3)(d), and when the applicant demonstrates to Administrators satisfaction that the following criteria have been met:

1. The designated habitat conservation area contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation;
2. The width averaging shall not adversely affect the designated habitat conservation area and buffer's functional value;
3. The total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging.
4. Buffer width averaging is contingent upon the submittal and approval of a Critical Area Report in accordance with section 14.12.150C.

F. ***Access Standards***
Proposed roads and/or access routes shall be kept to a minimum and shared whenever practical. Structures shall be built as close to existing access routes as practical.

Article IV Frequently Flooded Areas

14.12.340 General Provisions

A. **Statutory Authorization**

The State of Washington has authorized, in RCW 86.12.200, county governments to adopt Comprehensive Flood Control Management Plans for any drainage basin that is located wholly or partially within the county. Chapter 86.16.041 RCW requires counties to adopt Flood Plain Management Ordinances. Furthermore, the State of Washington has given, in RCW 86.16.020, local governments the authority to exercise state-wide flood plain management regulations through the administration of the National Flood Insurance Program by adoption of regulations designed to promote the public health, safety, and general welfare of its citizenry. RCW 86.16.045 authorizes the County to adopt Flood Plain Management Ordinances or requirements that exceed the minimum federal requirements of the National Flood Insurance Program without following the procedures provided in RCW 86.16.031 (8).

B. PURPOSE AND INTENT

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

1. To protect human life and health;
2. To minimize expenditure of public money and costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. 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.
6. 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;
7. To provide a method to notify potential buyers that property is in an area of special flood hazard; and,
8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

C. METHODS OF REDUCING FLOOD LOSSES

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

1. restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
4. controlling filling, grading, dredging, and other development in floodways which may increase flood damage; and;
5. preventing or regulating the construction of flood barriers in floodways which will unnaturally divert flood waters or may increase flood hazards in other areas.

D. **SOURCES**

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

E. **DEFINITIONS OF TERMS**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application. For the purposes of this section the following definitions are to be used:

1. ***Appeal*** A request for review of the Administrator's interpretation of any provisions of this chapter.
2. ***Area Of Shallow Flooding*** A designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.
3. ***Area Of Special Flood Hazard*** The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letter A.
4. ***Basement*** Any area of the building having its floor sub-grade (below ground level) on all sides
5. ***Base Flood*** The flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V.
6. ***Base Flood Elevation (BFE)*** The height of the base flood in relation to the National Geodetic Vertical Datum of 1929 (or other datum where specified).
7. ***Critical Facility*** A facility for which even the slight chance of flooding might be too great. Critical facilities include, but are not limited to churches, schools, day care centers, prisons and detention facilities, group care facilities, sewage treatment facilities, nursing homes, hospitals, police , fire and emergency response installations, installations which produce, use, or store hazardous materials or hazardous waste.

8. ***Day Care Center*** Any licensed or non licensed child care facility that provides care during part of the twenty-four hour day in a facility other than the family abode of the person or persons under whose direct care children are placed.

9. ***Detailed Study Areas*** Those areas covered by the current Flood Insurance Study (FIS) for unincorporated areas of Okanogan County that have been studied by detailed methods, including areas so identified in the FIS, any area for which a Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR) has been issued, and any areas studied in detail at the request of the Federal Emergency Management Agency (FEMA) since publication of the current FIS. Detailed study entails the use of hydrologic and hydraulic study methods to determine flood hazard data.

10. ***Detention Facility*** Any establishment dedicated to the incarceration of those members of a society deemed punishable for unlawful acts committed against property and or against any individual or group member of the general public.

11. ***Development*** 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, to include those associated areas relevant to flood management.

12. ***Effective FIRM*** The latest FIRM issued by FEMA, which is in effect as of the date shown in the title box of the FIRM as “EFFECTIVE DATE,” “REVISED,” or “MAP REVISED .”

13. ***Encroachment*** The construction, placement of fill, or similar alteration of topography in the flood plain that reduces the area available to convey floodwaters.

14. ***FIRM*** Flood Insurance Rate Map (see “effective FIRM”)

15. Flood or Flooding

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:

1) The overflow of inland or tidal waters.

2) The unusual and rapid accumulation or runoff of surface waters from any source.

3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) 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.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

16. ***Flood Damage*** Harmful inundation, water erosion of soil, stream banks and beds, harmful deposition by water of eroded and shifting soils and debris upon property or in the beads of streams, or other bodies of water, damages by high water to public roads, highways, bridges, utilities and to works built for protection against floods or inundation, the interruption by floods of travel, communication and commerce, and all other high water influences and results which adversely affect the public health and safety of property. (RCW 86.16.120)

17. ***Flood Insurance Rate Map*** The insurance and flood plain management map issued by FEMA that identifies, based on detailed or approximate analysis, areas of 100 year flood hazard in a community. Also shown on the FIRM are actuarial insurance rate zones. In areas studied by detailed analysis, the FIRM also shows BFE's and 500 year flood plain boundaries.

18. ***Flood Insurance Study*** The engineering study provided by the Federal Insurance Administration to identify flood-prone areas and other flood data within a community.

19. ***Flood Plain or Flood Prone Area*** Any land area subject to inundation by water from any source (see definition of "flooding").

20. ***Flood Plain Management*** The operation of a program of corrective and preventive measures for reducing flood damage, including to but not limited to, emergency preparedness plans, flood control works, and flood plain management regulations.

21. ***Flood Plain Management Regulations*** Those zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

22. ***Floodway*** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

23. ***Group Care Facility*** An agency, other than a foster-family home, which is maintained and operated for the care of a group of children on a twenty-four hour basis.

24. ***Lacustrine Flood Hazard Area*** Those areas subject to inundation by flooding from lakes or ponds.

25. ***Lowest Floor*** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

26. ***Manufactured Home*** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

27. ***Manufactured Home Park Or Subdivision*** A parcel (or contiguous parcels) of land having two or more manufactured home sites for sale, rent, lease or transfer of ownership.

28. ***Meander Belt*** The area within which a stable river channel can be expected to move back and forth in the present climate. Instability resulting from land use changes or channel constraint can cause erosion beyond the meander belt. Riparian wetlands and related features such as oxbows and sloughs occur within the meander belt.

29. ***New Construction*** structures for which the start of construction commenced on or after the effective date of this ordinance.

30. ***Non-Detailed Study Areas*** Those areas covered by the current Flood Insurance Study (FIS) for unincorporated areas of Okanogan County that have been studied by approximate methods. Study by approximate methods entails extrapolation of data computed for detailed study areas.

31. ***Recreational Vehicle*** A vehicle which is 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.

32. ***Regulatory Floodway*** The channel of a stream plus any adjacent flood plain areas that must be kept free of encroachment so that the 100-year flood discharge can be conveyed without increasing the base flood elevation more than a specified amount.

33. ***Riverine Flood Hazard Area*** Those areas related to, formed by, or resembling a river (including tributaries), streams, creeks, etc., subject to inundation by flooding.

34. ***Start Of Construction*** Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit issuance date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms.

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

36. ***Substantial Improvement*** & Substantial Damage Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

    (a) before the improvement or repair is started, or

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

The term does not include:

    (a) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

    (b) any project for improvement and or of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living.

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

38. **Water Surface Elevation** The height, in relation to NGVD of 1929 (or other datum where specified), of floods of various magnitudes and frequencies in lacustrine (lake) and riverine flood hazard areas.

F. **Exemptions**

Exemptions include those structures and activities that currently and legally exist within the 100-year flood plain, at the time of adoption of this chapter.

G. Classification / Rating System

Frequently flooded areas are lands within the flood plain (including the floodway) that are subject to a one percent (1%) or greater chance of flooding in any given year. These areas shall be consistent with all designations of the Federal Emergency Management Agency (FEMA) and the National Flood Insurance Program. These are designated on the FEMA Flood Insurance Rate maps set by the Federal Insurance Administration.

H. Designation / Mapping

The County shall use the FEMA Flood Insurance Rate maps prepared by the Federal Insurance Administration, a portion of the National Flood Insurance program, to identify the 100-year flood plain in the County. These maps are subject to update based on new information. Elevation surveys stamped by a licensed surveyor are adequate proof of true elevation for development purposes.

I. Lands to Which this Ordinance Applies

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of Okanogan County, identified on Flood Insurance Rate Maps as 100-year flood plains and maps associated with other special flood studies.

J. Basis For Establishing The Areas Of Special Flood Hazard

1. The basis for establishing Local Flood Plain Management regulations shall be the areas designated as special flood hazard areas on the most recent maps provided by the Federal Emergency Management Agency for the National Flood Insurance Program. Best available information shall be used if these maps are not available or sufficient. (RCW 86.16.051).

2. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled The Flood Insurance Study for the Okanogan County area (revised May 2, 1994 and its subsequent revisions) with accompanying Flood Insurance Rate Maps and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study and FIRMs are on file at the Okanogan County Office of Planning and Development.

K. 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 ordinance and other applicable regulations.

2. Violation of the provisions of this ordinance by failure to comply with any of its requirements including violations of conditions and safeguards established in connection with conditions shall constitute a gross misdemeanor.

3. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than three hundred dollars ($300.00) or imprisoned for not more than ninety (90) 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 Okanogan County from taking such other lawful action as is necessary to prevent or remedy any violation.

L. **Abrogation And Greater Restrictions**
This ordinance 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.

M. **Interpretation**
In the interpretation and application of this ordinance, all provisions shall be:
1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and,
3. Deemed neither to limit nor repeal any other powers granted under State statutes.

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

14.12.350 Protection Standards

A. General Protection Standards
In all areas of special flood hazards, the following standards are required:

1. All development shall conform to the provisions of the Zoning Code, and the Uniform Building Code, all of which contain safeguards to reduce the risk of damage from flooding.

2. Any use or development shall maintain the pre-development movement (volume and velocity) of surface water and prevent or minimize the unnatural diversion of flood water to otherwise flood-free areas which could necessitate expensive and environmentally disruptive flood control methods. All development applications shall clearly delineate the 100 year flood plain boundary.

3. **Anchoring**

(a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure. Substantial improvements shall include any raw sewage line or extension of any such line.

(b) All manufactured homes must 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 Manufactured Home Installation in Flood Hazard Areas guidebook for additional techniques). See specific standards in Section 14.12.350B(4).

4. Construction Materials and Methods

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

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

(c) 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.

5. Utilities

(a) All new and replacement water supply systems shall be designed to eliminate infiltration of flood waters into the system;

(b) New and replacement sanitary sewage systems shall be designed to eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

(c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

6. Subdivision, Short Plat, Binding Site Plan, Planned Development Proposals

(a) All subdivision, short plat, binding site plan, planned development proposals shall be consistent with the need to minimize flood damage;

(b) All subdivision, short plats, binding site plan, planned development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(c) All subdivision, short plat, binding site plan, planned development proposals shall have adequate drainage provided to reduce exposure to flood damage; and

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

7. Review of Building Permits

(a) **Detailed Study Area**

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

(b) **Non-Detailed Study Area**

Information required by this ordinance for a non-detailed study area shall be provided by a professional licensed engineer. Computations of water surface elevations/base flood elevations in open channels may be documented utilizing the Quick-2 computer program (or its FEMA authorized revisions or replacement programs).

1) Where elevation data is not available either through the Flood Insurance Study, FIRM or from another authoritative source (Section 14.12.360C(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, recent surveys, photographs of past flooding, etc., where available. Failure to elevate at least two (2) feet above adjacent grade in these zones may result in higher insurance rates.

B. **SPECIFIC STANDARDS**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 14.12,340J(1)(b) BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or Section 14.12.360C(1)(b), Use of Other Base Flood data, the following provisions are required:

1. Residential Structure

(a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above base flood elevation.

(b) 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 flood waters. Designs for meeting this requirement shall be certified by a registered professional engineer and shall meet or exceed the following minimum criteria:

1) 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.

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

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

(c) No structures for human habitation or any sewage disposal facilities shall be constructed or placed in areas inundated by the 100-year flood within areas identified in the Comprehensive Plan as the Methow Review Subarea.

(d) Small Structures: A low cost building such as a detached garage, boathouse, pole barn, or storage shed, that is no larger than 576 square feet, less than 10% of the value of the property, and is not used for human habitation may be exempt from the elevation requirement of section 14.12.350B(1)(a), provided:

1) It is used only for parking or storage;

2) It is constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters;

3) It is anchored to prevent flotation which may result in damage to other structures;

4) All portions of the structure below the Base Flood Elevation must be constructed of flood-resistant materials;

5) Service utilities such as electrical and heating equipment meet the standards of 14.12.350A(4)(c) and 14.12.350A(5);

6) It has openings to allow free flowage of water that meet the criteria in section 14.12.350B(1)(b);

7) It must comply with floodway encroachment provisions of section 14.12.350C.

8) A variance for wet floodproofing is obtained in accordance with 14.12.360(D).

2. Agricultural Structure: New construction and substantial improvement of any agricultural structure shall either have the lowest floor, including basement, elevated at a minimum one foot above baseflood elevation; or meet the floodproofing requirements of 14.12.350B(3) Agricultural construction or other accessory structures that constitute a minimal investment and comply with the floodway encroachment standards may be exempt from the floodproofing and elevation requirements of section 14.12.350B(3) below by Variance when such structures, together with attendant utility sanitary facilities:

(a) Have a low potential for structural flood damage;

(b) Are designed and oriented to allow the free passage of floodwaters through the structure in a manner affording minimum flood damage; and

(c) Ensure that all electrical and mechanical equipment subject to floodwater damage and permanently affixed to the structure be elevated a minimum of one foot above the base flood elevation or higher, or floodproofed;

(d) Are constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters; and

(e) Will not be used for human habitation

(f) All such structures shall be anchored to resist flotation, collapse, and lateral movement, and that only flood resistant materials are used for elements of the buildings below the base flood elevation.

3. **Nonresidential Structure**
New 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 level of the base flood elevation; or, together with attendant utility facilities, shall:

(a) be flood-proofed so that below one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

(b) have structural components capable of resisting hydrostatic and hydrodynamic loads and effect of buoyancy;

(c) be certified by a registered professional engineer 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 14.12.360C1(b).

(d) Nonresidential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in 14.12.350B1(b).

(e) Applicants flood-proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood-proofed level (e.g.: a building constructed to the base flood level will be rated as one foot below that level).

4. Manufactured Homes

(a) All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites:

1) Outside of a manufactured home park or subdivision,

2) In a new manufactured home park or subdivision,

3) In an expansion to an existing manufactured home park or subdivision, or

4) 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 on a permanent foundation one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(b) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, and AE on the community's FIRM that are not subject to the provisions of 14.12.350B(4)(a) shall be elevated so that either:

1) The lowest floor of the manufactured home is elevated one foot above the base flood elevation, or

2) 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 anchored foundation system to resist flotation, collapse, and lateral movement.

(c) All manufactured homes to be placed within Zone A shall be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but not be limited to use of over the top or frame ties to ground anchors. This requirement is in addition to local requirements for resisting wind forces.

5. Recreational Vehicles

(a) Recreational vehicles placed on sites within Zones A1-30, AH and AE on the community's FIRM shall:

1) Be on the site for fewer than 180 calendar days during a calendar year, and

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

3) Be elevated on a permanent foundation such that the lowest floor of the recreational vehicle 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.

6. Critical Facilities

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year flood plain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to three feet or more above the level of the base elevation (100-year) at the site. Flood-proofing and sealing measures shall be taken to ensure that toxic substances will not be displaced by or released into flood waters. Two access routes elevated to or above the level of the base flood plain shall be provided to all critical facilities. Such elevated access routes shall not increase the base flood elevation by one foot or more.

C. **FLOODWAYS**

1. Located within areas of special flood hazard established in Section 14.12.340J 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) Restriction of land uses within designated floodways include the prohibition of construction or reconstruction of residential structures except for:

1) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and

2) repairs, reconstruction, or improvements to a structure of which the cost does not exceed fifty percent of the market value of the structure in either,

i. before the repair or reconstruction is started, or

ii. if the structure has been damaged, and is being restored, before damage occurred.

NOTE: Work done on a structure to comply with existing health, sanitary, or safety codes, or to structures identified as historic places may be excluded in the fifty percent determination, only if agreed upon and approved by the Planning Director.

(b) The minimum requirements for national flood insurance program, and

(c) Encroachments, including fill, new construction, substantial improvements, and other development are prohibited unless certification by a professional engineer is provided demonstrating through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels, increase flood velocities or erosion potential on or off-site, or diminish the flood alleviation capacity of the river system.

(d) If Section 14.12.350C, is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 14.12.350, PROVISIONS FOR FLOOD HAZARD REDUCTION.
NOTE: Where base flood elevations have been provided but floodways have not, Section 14.12.050D, applies.

D. **ENCROACHMENTS**

The cumulative effect of any proposed development, when 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 as determined by a registered professional engineer.

E. **STANDARDS FOR SHALLOW FLOODING AREAS (AO ZONES)**

1. Shallow flooding areas appear on FIRM's as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet 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:

(a) New construction and substantial improvements of residential structures within AO zones shall have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, to or above the depth number specified 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:

1) have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, to or above the depth number specified on the FIRM (at least two feet if no depth number is specified); or

2) together with attendant utility and sanitary facilities, be completely flood-proofed to one foot 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 14.12.350B3(c).

(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:

1) be on the site for fewer than 180 consecutive days, and

2) 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

3) Meet the requirements of 14.12.350E above and the elevation and anchoring requirements for manufactured homes.

F. **SEVERABILITY**

If any section or provision of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged to be invalid or unconstitutional.

14.12.360 ADMINISTRATION

A. **ESTABLISHMENT OF DEVELOPMENT PERMIT**

1. Development Permit Required. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 14.12.340J. The permit shall be for all structures including manufactured homes, as set forth in 14.12.340E, DEFINITIONS, and for all development including fill and other activities, also as set forth in the DEFINITIONS.

2. Application for Development Permit

(a) Application for a development permit shall be made on forms furnished by the Okanogan County Office of Planning and Development and may include but not be limited to: two (2) copies of plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

(b) The following specific information is required on plan drawings:

1) elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;

2) elevation in relation to mean sea level to which any structure has been flood-proofed;

3) certification by a registered professional engineer that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in Section 14.12.350B3;

4) description of the extent to which a watercourse will be altered or relocated as a result of proposed development;

5) certified topographic data; and

6) hydrologic and hydraulic analyses. (Applicable for non-detailed study areas only).

7) Information required by this ordinance for a *detailed study area* shall be provided by a professional licensed surveyor or a professional licensed engineer.

8) Information required by this ordinance for a *non-detailed study area* shall be provided by a professional licensed engineer on a stable base mylar.

B. **DESIGNATION OF THE ADMINISTRATOR**

1. The Director of the Okanogan County Office of Planning and Development is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

2. The Director may at his/her discretion delegate the Administrative requirements of this ordinance.

C. **DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR**

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

(a) Permit Review

1) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.

2) Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.

3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 14.12.350 are met.

(b) Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 14.12.340J, 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 14.12.350.

(c) Information to be Obtained and Maintained

1) Where base flood elevation data is provided through the Flood Insurance Study, FIRM or required as in Section 14.12.360(c)(1), obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

2) For all new or substantially improved flood-proofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM or required as in 14.12.360(c)(1):

    i. Obtain and record the actual elevation (in relation to mean sea level),to which the structure was floodproofed and

    ii. maintain required flood-proofing certifications.

3) Maintain for public inspection all records pertaining to the provisions of this ordinance.

(d) Alteration of Watercourses

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

2) 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

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 14.12.360D.

D. **APPEAL AND VARIANCE PROCEDURES AND VARIANCE CONDITIONS**

(a) Procedures

1) The Okanogan County Board of Adjustment/Hearings Examiner as established by Okanogan County Commissioners shall hear and decide appeals and requests for variances from the requirements of this ordinance.

2) The Okanogan County Board of Adjustment/Hearings Examiner shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Administrator in the enforcement or administration of this ordinance.

3) Those aggrieved by the decision of the Okanogan County Board of Adjustment/Hearings Examiner, or any taxpayer, may appeal such decision to Okanogan County Superior Court.

4) In passing upon such applications, the Okanogan County Board of Adjustment/Hearings Examiner shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

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

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

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

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

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

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

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

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

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

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

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

5) Upon consideration of the factors of Section 14.12.360D(a)4, and the purposes of this ordinance, the Okanogan County Board of Adjustment/Hearings Examiner may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

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

(b) Conditions for Variances

1) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items [(i)-(xi)] in Section 14.12.360D(a)(4), have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

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

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

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

5) Variances shall only be issued upon:

i. a showing of good and sufficient cause;

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

iii. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 14.12.360D(a)(4), or conflict with existing local laws or ordinances.

6) 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.

7) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of flood-proofing than watertight or dry flood-proofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except 14.12.360D(b)1, and otherwise complies with Sections 14.12.350A3, and 14.12.350A4, of the GENERAL STANDARDS.

8) Variances may be issued for small accessory structures including but not limited to detached garages, storage sheds, and pole barns where it can be determined that such action will have low damage potential and complies with 14.12.350(B)(1)(d).

9) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

Article V Geologically Hazardous Areas

14.12.370 Exemptions

Exemptions include those structures and activities that currently and legally exist in geologically hazardous areas, at the time of adoption of this chapter.

Erosion Hazard Areas

14.12.380 Classification / Rating System

Erosion hazard areas are those areas that contain **ALL THREE** of the following characteristics:

A. A slope of 30% or greater,

B. Soils identified by the Soil Conservation Service (SCS) as unstable and having a high potential for erosion, and

C. Areas that are exposed to the erosion effects of wind or water.

14.12.390 Designation / Mapping

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

14.12.400 Regulations

A. Areas identified as Erosion Hazard Areas shall not be developed unless it is demonstrated that the project is structurally safe from the potential hazard, and that the development will not increase the hazard risk.

B. A reasonable setback or design considerations for development on or next to an Erosion Hazard Area shall be established on a case-by-case basis.

C. Existing uses legally established in Erosion Hazard Areas shall be allowed to continue. Expansion of any existing use shall meet structural standards that ensure the safety of the project.

D. A run-off management plan or an erosion control plan may be required of anyone proposing to develop in an Erosion Hazard Area, to reduce sedimentation problems.

E. If an applicant disagrees with the staff recommendation for setbacks or the extent of the hazard present, and could not mitigate the hazard to the point of precluding development of the site, the applicant has the option of hiring a structural geologist with expertise in erosion hazards, to study the area and prepare a report detailing findings and recommendations for the potential for site development. The report shall conform to Special Studies Section II C of this chapter.

F. Disturbance of an Erosion Hazard Area requires reseeding with native vegetation, to assist in stabilization of the area and to discourage the infiltration of knapweed.

Landslide Hazard Areas

14.12.410 Classification / Rating System

Landslide hazard areas may include:

A. All areas in the County that have historically been prone to land sliding (check geologic maps).

B. All areas containing soil types identified by the Soil Conservation Service as unstable and prone to landslide hazard.

C. All areas in the County that show evidence of or are at risk from snow avalanches.

D. All areas in the County that are potentially unstable as a result of rapid stream incision or stream bank erosion.

14.12.420 Designation / Mapping

Lands that meet the classification criteria are hereby designated as landslide hazard areas and will be mapped by Okanogan County as resources become available.

14.12.430 Regulations

A. Areas identified as Landslide Hazard Areas shall not be developed unless it is demonstrated that the project is structurally safe from the potential hazard, and that the development will not increase the hazard risk.

B. A reasonable setback for development near a Landslide Hazard Area shall be established on a case-by-case basis, based on the type of development proposed and the type and extent of Landslide Hazard present.

C. If an applicant disagrees with the staff recommendation for setbacks or the extent of the hazard present, and could not mitigate the hazard to the point of precluding development of the site, the applicant has the option of hiring a qualified professional with experience in landslide hazards, to study the area and prepare a report detailing findings and recommendations for the potential for site development. The report shall conform to the Special Studies Section of this chapter.

Mine Hazard Areas

14.12.440 Classification / Rating System

Mine Hazard Areas include: Areas that are directly underlain by, adjacent to, or affected by mine workings such as adits, tunnels, drifts, or air shafts with the potential for creating large underground voids susceptible to collapse, tailings piles, and waste rock. In addition, steep and unstable slopes created by open mines, tailings and waste rock piles have the potential for being mine hazard areas. Mine hazard areas are based upon the identification of active or historic mining activity and site-specific information regarding topography and geology.

14.12.450 Designation / Mapping

Lands that meet the classification criteria are hereby designated as mine hazard areas and will be mapped by Okanogan County as resources become available.

14.12.460 Regulations

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

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

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

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

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

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

F. If necessary, a geotechnical report may be required to determine safety distances for any development of a site containing mine hazards, or for the preparation of a reclamation plan for the site. The report shall conform to Special Studies Section II of this chapter.

Seismic Hazard Areas

14.12.470 Classification / Rating System

The majority of Okanogan County is located within Seismic Design Category C in accordance with the Uniform Building Code (2009 Edition, as amended).

14.12.480 Designation / Mapping

There are no known active faults in Okanogan County.

14.12.490 Regulations

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

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

Volcanic Hazard Areas

14.12.500 Classification / Rating System

No Volcanic Hazard Areas are known to exist in Okanogan County. There are, however, several active volcanoes that could have impacts on areas of Okanogan County. The impacts would include the fall-out of ash. There is no way to prevent the impacts of fallen ash, but there are ways to respond to the ash that could lessen its impacts.

14.12.510 Designation / Mapping

No mapping is necessary.

14.12.520 Regulations

The County shall consider updating its "Emergency Response Program" to address the affects of fallen ash and how citizens could help minimize that impact.

Channel Migration Zones

14.12.530 Classification/Rating System

Those areas subject to risk from lateral channel movement due to stream bank destabilization, rapid stream channel changes (i.e. avulsions), stream bank erosion, and/or shifts in location of stream channels, as shown on Okanogan County's Channel Migration Zone Hazard maps.

A. The CMZ is comprised of two areas defined as severe and moderate channel migration zones as outlined in the Channel Migration Study completed for Okanogan County located in Appendix A and B.

   1. Severe Channel Migration Zone: A channel migration zone shall be designated as severe hazard when it lies within the boundaries of HMZ; and/or within the AHZ; and/or within the channels probable EHZ as predicted to occur within the next fifty years and as measured in either direction from the outside edge of either the HMZ or AHZ as defined above, whichever is furthest from the river.

   2. Moderate Channel Migration Zone: A channel migration zone shall be designated as moderate hazard when it lies outside the sever hazard channel migration zone and within the FEMA floodplain boundary.

B. When a natural geologic feature will affect the predicted migration, the zone width shall be modified to consider such natural constraints; and

C. When structures such as arterial roads or flood hazard reduction facilities are likely to be protected from future bank erosion due to existing programs for public maintenance, the zone width may be modified to the boundary of such structures.

14.12.540 Designation/Mapping

Maps are provided for the Methow River in Appendix A and the Okanogan River in Appendix B.

14.12.550 Regulations

A. New structural flood hazard reduction measures shall be allowed only when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development.

B. A stormwater management plan may be required on a case by case basis.

C. A geotechnical report and mitigation plan may be required on a case by case basis.

D. Moderate Channel Migration Zones

1. Actions allowed within the Moderate Channel Migration Zone will be outlined in the Federal Emergency Management Agency (FEMA) National Flood Insurance Program (NFIP) regulations as addressed in section 14.12.360 through 14.12.390.

2. Final subdivisions, short plats, and binding site plans located within the moderate hazard channel migration zone shall contain language in the plat dedication to indicate lots or portions of lots that are affected by channel migration. The dedication on the plat shall read as follows:

(a) "This property is subject to flood inundation as defined by the current FEMA FIS for Okanogan County. As such, this property may be subject to risks from overbank flooding, bank erosion, and/or channel migration. Based on historical data, the channel or stream may erode or migrate and change locations over time, possibly undercutting or eroding portions of this property. Structures and/or property may be as risk from flood inundation and/or the migrating channel and could be damaged or destroyed. Activities in the migration zone are subject to the provisions of 14.12.550.

(b) Building setback lines may be drawn on lots, parcels and tracts so as to indicate suitable areas for construction of structures or improvements.

E. Severe Channel Migration Zones

1. New dwelling and/or accessory structures outside the linear boundaries of the flood plain as shown of the FEMA maps and in accordance with OCC 14.12.360A (floodplain development permit) after the effective date of this ordinance will only be allowed pursuant with the requirements outlined below. New dwellings shall not be allowed in the severe channel migration zones.

2. Within severe channel migration zones, only the following may be allowed in regards to the maintenance, repair, structural modification of or addition to a:

(a) Existing critical facility or building used as a place of employment.

(b) Existing place of public assembly;

(c) Existing dwelling unit;

(d) Existing accessory dwelling unit or accessory living quarters; or

(e) Existing accessory structures

(f) These shall only be allowed if the following are met:

i. There is no increase in the footprint of any existing structure greater than 1500 square feet.

ii. Combined footprint increases outlined in 14.12.550E (2)(above section) on the property have not exceeded 1500 square feet from the effective date of this ordinance.

iii. The footprint can only be expanded in such a way that it minimizes the increase of channel migration hazard.

iv. The character of use of the structure does not change.

v. The capacity of the septic system cannot be increased with the allowed combined footprint increases.

vi. The septic system can only be replaced for sanitation purposes; such upgrade cannot increase the capacity of the system.

vii. The maintenance, repair, structural modification or addition does not qualify as a substantial improvement as set forth in 14.12.340E (NFIP), unless;

a. Conducted to comply with regulations pertaining to health, sanitation, building or fire safety, or

b. The structure is identified as a historic place.

3. Within severe channel migration zones, new accessory structures, excluding the following are allowed.

    (a) On-site sewage disposal facilities

    (b) Water supply wells

    (c) Those used as critical facilities or buildings used as a place of employment.

    (d) Place of public assembly or dwelling unit,

    (e) Accessory dwelling unit or accessory living quarters.

4. Accessory structures listed in section 14.12.550E(3)(above) shall only be allowed if all of the following are met:

    (a) No feasible alternative location is available on-site that is outside of the severe channel migration zone; and

    (b) The structure is located where it is least subject to risk and minimizes the increase of hazard; and utilizes existing access routes

    (c) The footprint of the new structure does not exceed 1500 square feet; and,

    (d) Combined footprint increases outlined in 14.12.550E(2) on the property have not exceeded 1500 square feet from the effective date of this ordinance.

5. Replacement dwelling residences shall be allowed, provided that all of the following are met:

    (a) The dwelling residence was lost to natural hazards (excluding floods).

    (b) There is no increase of footprint consistent from above; and

    (c) The footprint shall be established from :

        i. The Okanogan County Building Department records; or if no such data is on file

        ii. The Okanogan County Assessor's Office

6. Maintenance or repair of water supply wells and increases to the depth of existing water supply wells when necessary to capture water supplies.

7. Maintenance of existing access routes and related earthworks shall be allowed, provided that all of the following are met;

    (a) The road carrying capacity cannot increase

    (b) Must get permits in accordance with Okanogan County 14.12.360A(floodplain Development permit)

    (c) It does not increase the risk of channel migration.

8. There shall not be any new roads in the severe channel migration zone.

9. Final subdivisions, short plats, and binding site plans located within the severe hazard channel migration zone shall contain language in the plat dedication to indicate lots or portions of lots that are affected by channel migration. The dedication on the plat shall read as follows:

    (a) "This property is in a severe channel migration zone. Based on historical data, the channel or stream is expected to migrate and change locations over time, possible undercutting or eroding portions of this property. Property and; or structures within the channel migration zones may be at risk from the migrating channel and could be damaged or destroyed. Activities in the channel migration zone are subject to the provisions of 14.12.570.

    (b) Building setback lines shall be drawn on lots, parcels and tracts so as to indicate suitable areas for construction of structures or improvements.

Article VI Wetlands

14.12.560 Exemptions

A. The following uses shall be allowed within a wetland or wetland buffer:

1. Conservation or preservation of soil, water, vegetation, fish, and other wildlife;

2. Outdoor recreational activities, including, but not limited to**,** fishing, bird watching, hiking, hunting, boating, horseback riding, Nordic skiing, swimming, canoeing, and bicycling provided the activity does not alter the wetland by changing existing topography, water conditions or water sources;

3. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, or alteration of the wetland by changing existing topography, water conditions or water sources;

4. The maintenance (but not construction) of drainage ditches;

5. Education, scientific research, and use of nature trails;

6. Navigation aids and boundary markers;

7. Boat mooring buoys;

8. Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities. In every case, wetland impacts shall be minimized and disturbed areas shall be immediately restored;

9. Normal maintenance, repair, or operation of existing serviceable structures, facilities, or improved areas;

10. Minor modification of existing serviceable and/or legal non-conforming structures shall be allowed to expand a maximum of 25% of the square footage existing at the time of the adoption of this chapter (the expansion maximum shall include decks, room additions, second floor areas and the like, where modification does not further encroach on the buffer and adversely impact wetland functions; and

11. Structures and activities that currently and legally exist within wetlands buffer areas at the time of adoption of this Chapter.

14.12.570 Classification / Rating System

Wetlands shall be classified and rated according to the criteria and procedures contained in the "Washington State Wetland Rating System for Eastern Washington", (Publication #04-06-015, March 2007), as amended.

14.12.580 Designation / Mapping

The approximate location and extent of wetlands in the County are displayed on the National Wetlands Inventory Map. The wetland map, along with other supportive documentation, are to be used as a guide to the general location and extent of wetlands. There may be wetlands that are not shown on the wetlands inventory maps. However, each potential wetland must be evaluated by the Administrator to determine the applicability of these requirements. In the event that any of the wetland designations shown on the maps conflict with the criteria set forth in this chapter, the criteria shall take precedence.

A. 14.12.590 Regulated Activities Permit ***Required*** development permit is required when any alterations are proposed to a wetland.

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

1. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;
2. The dumping, discharging, or filling with any material;
3. The draining, flooding, or disturbing of the water level or water table;
4. The driving of pilings;
5. The placing of obstructions;
6. The construction, reconstruction, demolition, or expansion of any structure;
7. The destruction or alteration of native wetlands vegetation (including clearing, harvesting, shading through chemicals, intentional burning, or planting of vegetation that would alter the character of a wetland, provided that these activities are not part of a forest practice governed under chapter 76.09 RCW and its rules; or
8. Activities that result in a significant change of water temperature, a significant change of physical or chemical characteristics of wetlands water sources, including quantity, or the introduction of pollutants.

14.12.600 Waivers - Wetland Delineation Requirement

The Administrator may waive the delineation requirement if the use or structure is greater than 300 feet away from the OHWM of the wetland.

14.12.610 Delineation Required

A. A wetland delineation and categorization shall be performed on property containing wetlands where development activities are planned within the wetland or wetland buffer.

B. The delineation shall be performed by a qualified individual or firm and be prepared in the following manner:

1. Designating Wetlands. Wetlands are those areas, designated in accordance with the U.S. Army Corp of Engineers Wetland Delineation Manual including regional supplements as amended, 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 adapted for life in saturated soil conditions. All areas within the county meeting the wetland designation criteria in the Identification and Delineation Manual, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.

2. Wetland Ratings. Wetlands shall be rated according to the Washington State Department of Ecology wetland rating system found in the Washington State Wetland Rating System for Eastern Washington, Ecology Publication No. 04-06-015, or as revised by Ecology.

C. The location of the outer extent of the wetland buffer and the areas to be disturbed pursuant to an approved permit shall be marked in the field, and such field marking shall be approved by the Administrator prior to the commencement of permitted activities. Such field markings shall be maintained throughout the duration of the permit.

14.12.620 Conditions of Permit Approval

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

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

1. limiting the degree or magnitude of the regulated activity;

2. limiting the implementation of the regulated activity;

3. using appropriate and best available technology;

4. taking affirmative steps to avoid or reduce impacts;

5. sensitive site design and siting of facilities and construction staging areas away from regulated wetlands and their buffers;

6. involving resource agencies early in site planning; and

7. providing protective measures such as siltation curtains, hay bales and other siltation prevention measures, scheduling the regulated activity to avoid interference with wildlife and fisheries rearing, resting, nesting or spawning activities.

14.12.630 Wetland Buffers

A. Standard Buffer Zone Widths shall be measured using one of the alternatives below except when the previously existing built environment isolates portions of the wetland buffer from the waterbody. In that circumstance, the regulated wetland buffer shall extend from the ordinary high water mark to the waterward edge of the built environment

1. Alternative I- (Table 2): Buffer width based only on the category of wetland impacted. The wetland shall be delineated and categorized by a qualified professional using the Washington State Delineation Manual for Eastern Washington as amended.

(a) Table 2

Category of Wetland	Widths of Buffers
IV	50 ft
III	150 ft
II	200 ft
I	250 ft

2. Alternative II-(Table 3) Wetland buffers based on intensity of land use[1], providing the wetland is delineated and categorized by a qualified professional using the Washington State Wetland Identification and Delineation Manual for Eastern Washington as amended:

[1] See Table 4 for a list of uses and their intensity.

2631 **(a)** Table 3

Category of Wetland	Land Use with Low Impact *	Land Use with Moderate Impact *	Land Use with High Impact*
IV	25 ft	40 ft	50 ft
III	75 ft	110 ft	150 ft
II	100 ft	150 ft	200 ft
I	125 ft	190 ft	250 ft
* See Table 4 for types of land uses that can result in low, moderate, and high impacts to wetlands.			

2632 **(b)** Table 4

Level of Impact from Proposed Change in Land Use	Types of Land Use
High	• Commercial • Urban • Industrial • Institutional • Retail sales • Residential (more than 1 unit/acre) • High-intensity recreation (golf courses, ball fields, etc.) • Hobby farms
Moderate	• Residential (1 unit/acre or less) • Moderate-intensity open space (parks with biking, jogging, etc.) • Paved trails • Building of logging roads • Utility corridor or right-of-way shared by several utilities and including access/maintenance road
Low	• Forestry (cutting of trees only) • Low-intensity open space (hiking, bird-watching, preservation of natural resources, etc.) • Unpaved trails • Utility corridor without a maintenance road and little or no vegetation management.

3. Alternative III-Applicants may alternatively evaluate and determine wetland buffer width based on the intensity of the impacts, wetland function, or special characteristics located in the tables below. A critical area report that shows such a reduction will result in preservation of wetland function will be required. Such report and plan must be prepared by a qualified professional and be based on the most current, accurate, and complete scientific and technical information and site specific conditions and analysis.

(a) Table 5: Widths of buffers needed to protect Category I wetlands

Wetland Characteristics	**Buffer Widths by Impact of Proposed Land Use (apply most protective if more than one criterion is met)**	**Other Measures Recommended for Protection**
Natural Heritage Wetlands	Low - 125 ft Moderate – 190 ft High – 250 ft	No additional surface discharges to wetland or its tributaries No septic systems within 300 ft Restore degraded parts of buffer
Bogs	Low - 125 ft Moderate – 190 ft High – 250 ft	No additional surface discharges to wetland or its tributaries Restore degraded parts of buffer
Forested	Buffer size to be based on score for habitat functions or water quality functions	If forested wetland scores high for habitat, need to maintain connectivity to other natural areas Restore degraded parts of buffer
Alkali	Low – 100 ft Moderate – 150 ft High – 200 ft	No additional surface discharges to wetland or its tributaries Restore degraded parts of buffer

Wetland Characteristics	Buffer Widths by Impact of Proposed Land Use (apply most protective if more than one criterion is met)	Other Measures Recommended for Protection
High level of function for habitat (score for habitat 29 - 36 points)	Low – 100 ft Moderate – 150 ft High – 200 ft	Maintain connections to other habitat areas Restore degraded parts of buffer
Moderate level of function for habitat (score for habitat 20 - 28 points)	Low – 75 ft Moderate – 110 ft High – 150 ft	No recommendations at this time
High level of function for water quality improvement (24 – 32 points) and low for habitat (less than 20 points)	Low – 50 ft Moderate – 75 ft High – 100 ft	No additional surface discharges of untreated runoff
Not meeting any of the above characteristics	Low – 50 ft Moderate – 75 ft High – 100 ft	No recommendations at this time

(b) Table 6: Widths of Buffers Needed to Protect Category II Wetlands

Wetland Characteristics	Buffer Widths by Impact of Proposed Land Use (apply most protective if more than one criterion is met)	Other Measures Recommended for Protection
High level of function for habitat (score for habitat 29 - 36 points)	Low - 100 ft Moderate – 150 ft High – 200 ft	Maintain connections to other habitat areas
Moderate level of function for habitat (score for habitat 20 - 28 points)	Low - 75 ft Moderate – 110 ft High – 150 ft	No recommendations at this time

Wetland Characteristics	Buffer Widths by Impact of Proposed Land Use (apply most protective if more than one criterion is met)	Other Measures Recommended for Protection
High level of function for water quality improvement and low for habitat (score for water quality 24 - 32 points; habitat less than 20 points)	Low - 50 ft Moderate – 75 ft High – 100 ft	No additional surface discharges of untreated runoff
Vernal pool	Low - 100 ft Moderate – 150 ft High – 200 ft 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 ft Moderate – 60 ft High – 80 ft	
Riparian forest	Buffer width to be based on score for habitat functions or water quality functions	Riparian forest wetlands need to be protected at a watershed or sub-basin scale (protection of the water regime in the watershed) Other protection based on needs to protect habitat and/or water quality functions
Not meeting above characteristics	Low - 50 ft Moderate – 75 ft High – 100 ft	No recommendations at this time

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(c) Table 7: Widths of Buffers Needed to Protect Category III Wetlands

Wetland Characteristics	Buffer Widths by Impact of Proposed Land Use	Other Measures Recommended for Protection
Moderate level of function for habitat (score for habitat 20 - 28 points)	Low - 75 ft Moderate – 110 ft High – 150 ft	No recommendations at this time
Not meeting above characteristic	Low - 40 ft Moderate – 60 ft High – 80 ft	No recommendations at this time

(d) Table 8: Widths of Buffers Needed to Protect Category IV Wetlands

Wetland Characteristics	Buffer Widths by Impact of Proposed Land Use	Other Measures Recommended for Protection
Score for all 3 basic functions is less than 30 points	Low - 25 ft Moderate – 40 ft High – 50 ft	No recommendations at this time

B. Standard Wetland Buffer Width Averaging

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

1. that the wetland and its buffer contain variations in sensitivity due to existing physical characteristics;
2. that low intensity land uses would be located adjacent to areas where buffer width is reduced, and that such low intensity land uses are guaranteed in perpetuity by covenant, deed restriction, easement, or other legally binding mechanism to not be converted to a high intensity use; **and**
3. that width averaging will not materially degrade the wetland functional values.
4. In no instance shall the buffer width be reduced by more than 50% of the standard buffer or be less than 25 feet.

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

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

1. activities having minimal adverse impacts on buffers and no adverse impacts on regulated wetlands. These may include but are not limited to: low intensity, passive recreational activities such as unpaved trails, wildlife watching blinds, short term scientific or educational activities, and sports fishing or hunting;

2. with respect to category III and IV wetlands, stormwater management facilities having no reasonable alternative on-site location; or

3. with respect to category II, III, and IV wetlands, low-intensity development having no feasible alternative location.

14.12.640 Compensating for Wetlands Impacts.

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

14.12.650 Compensatory Mitigation

Compensatory mitigation shall follow an approved mitigation plan pursuant to 14.12.710 the ***Mitigation Plans*** section and shall meet the following minimum performance standards:

A. Given the uncertainties in scientific knowledge and the need for expertise and monitoring, wetland compensatory projects may be permitted only when the Administrator finds that the compensation project is associated with an activity or development otherwise permitted and that the restored, created, or enhanced wetland will be as persistent as the wetland it replaces. Additionally, every mitigation plan shall require and include the following aspects:

1. scientific expertise, supervisory capability, and financial resources to carry out the project;

2. capability for monitoring the site and to make corrections during a two year period if the project fails to meet projected goals; and

3. protection and management of the compensation area to avoid further development or degradation and to provide for long-term persistence of the compensation area.

14.12.660 Wetlands Restoration, Creation, Enhancement, or Compensation

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

1. restoration of an existing wetland on-site,

2. creation of a new wetland on-site,,

3. purchase of a wetland, off-site,

4. compensation by payment to be used to purchase existing wetlands, off-site, or

5. enhancement of an existing degraded wetland.

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

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

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

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

NOTE: Replacement ratios do not apply to wetlands purchased through the Wetland Preservation Fund. The wetlands fee paid by the applicant is based on the replacement ratios noted below.

2755 1. Wetland Replacement Ratios

Category and Type of Wetland Impacts	Re-establishment or Creation	Rehabilitation Only[2]	Re-establishment or Creation (R/C) and Rehabilitation (RH) [4]	Re-establishment or Creation (R/C) and Enhancement (E)[4]	Enhancement Only[4]
All Category IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1
All Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
Category II Forested	4:1	8:1	1:1 R/C and 4:1 RH	1:1 R/C and 6:1 E	16:1
Category II Vernal pool	2:1 Replacement has to be seasonally ponded wetland	4:1 Replacement has to be seasonally ponded wetland	1:1 R/C and 2:1 RH	Case-by-case	Case-by-case
All other Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
Category I Forested	6:1	12:1	1:1 R/C and 10:1 RH	1:1 R/C and 20:1 E	24:1
Category I based on score for functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category I Natural Heritage site	Not considered possible[3]	6:1 Rehabilitation of a Natural Heritage site	R/C Not considered possible[5]	R/C Not considered possible[5]	Case-by-case
Category I Alkali	Not considered possible[5]	6:1 rehabilitation of an alkali wetland	R/C Not considered possible[5]	R/C Not considered possible[5]	Case-by-case
Category I Bog	Not considered possible[5]	6:1 Rehabilitation of a bog	R/C Not considered possible[5]	R/C Not considered possible[5]	Case-by-case
NOTE: Preservation is discussed in the following section.					

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[4] These ratios are based on the assumption that 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, while 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.

[5] Natural Heritage sites, alkali wetland, and bogs are considered irreplaceable wetlands because they perform some special functions that cannot be replaced through compensatory mitigation. Impacts to such wetlands would therefore result in a net loss of some functions no matter what kind of compensation is proposed.

F. When the applicant chooses to contribute to the Wetland Preservation Fund established by Okanogan County, fees shall be paid at the ratios listed above, and according to the adopted Okanogan County Land Use Fee Schedule.

In all cases, a minimum acreage replacement ratio of 1.25:1 shall be required.

14.12.670 Wetland Type

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

1. the wetland system is already significantly degraded and out-of-kind replacement will result in a wetland with greater functional value;
2. scientific problems such as exotic vegetation and changes in watershed hydrology make implementation of in-kind compensation impossible;
3. out-of-kind replacement will best meet identified regional goals (e.g., replacement of historically diminished wetland types).
4. where out-of-kind replacement is accepted, greater acreage replacement ratios may be required to compensate for lost functional values.

14.12.680 Location.

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

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

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

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

i. upland sites which were formerly wetlands;

ii. idled upland sites generally having bare ground or vegetative cover consisting primarily of exotic introduced species, weeds, or emergent vegetation;

iii. other disturbed upland.

14.12.690 Timing.

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

14.12.700 Cooperative Restoration, Creation or Enhancement Projects.

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

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

B. Persons proposing cooperative compensation projects shall:

1. submit a joint permit application;
2. demonstrate compliance with all standards;
3. demonstrate the organizational and fiscal capability to act cooperatively; and
4. demonstrate that long term management can and will be provided.

14.12.710 Mitigation Plans

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

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

1. impacted wetland including, at a minimum, wetland delineation; existing wetland acreage; vegetative, fauna and hydrologic characteristics; soil and substrate conditions; topographic elevations and

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

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

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

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

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

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

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

1. Establishing vegetation plots to track changes in plant species composition and density over time;
2. using photo stations to evaluate vegetation community response;
3. sampling surface and subsurface waters to determine pollutant loading, and changes from the natural variability of background conditions (pH, nutrients, heavy metals);
4. measuring base flow rates and storm water runoff to model and evaluate water quality predictions, if appropriate;
5. measuring sedimentation rates, if applicable; and
6. sampling fish and wildlife populations to determine habitat utilization, species abundance and diversity.
7. A protocol shall be included outlining how the monitoring data will be evaluated by agencies that are tracking the progress of the compensation project. A monitoring report shall be submitted annually, at a minimum, documenting milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five years.

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

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

H. Performance Bonds and Demonstration of Competence. Demonstration of financial resources, administrative, supervisory, and technical competence and scientific expertise of sufficient standing to successfully execute the compensation project shall be provided. A compensation project manager shall be named and the qualifications of each team member involved in preparing the mitigation plan and implementing and supervising the project shall be provided, including educational background and areas of expertise, training and experience with comparable projects. In addition, bonds ensuring fulfillment of the compensation project, monitoring program, and any contingency measure if required pursuant to 14.12.170 or 14.12.180 shall be posted in the amount of one hundred twenty (120) percent of the expected cost of compensation.

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