

CHAPTER 13.40

ENFORCEMENT

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

13.40.010

(1) It shall be the duty of the Planning Department to enforce the provisions of this Title. In cases where building permits have been issued or would be required, the Stevens County Building Official shall assist in enforcement of the provisions of this Title.

(2) Any person or entity who violates, disobeys, omits, neglects or refuses to comply with, or who unlawfully resists the enforcement of any provisions of this Title shall be guilty of a misdemeanor, provided that the Administrator may choose to pursue voluntary compliance with this Title through a cooperative process and may ask for assistance or recommendations from other local, state, or federal agencies with expertise or jurisdiction.

13.40.012 REQUEST FOR INSPECTION

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

13.40.014 COOPERATIVE INVESTIGATION AND ENFORCEMENT

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

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

13.40.016 NOTICE OF VIOLATION PROCESS

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

13.40.018 SERVICE OF A NOTICE OF VIOLATION

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

13.40.020 ENFORCEMENT ACTION IN DISTRICT COURT

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

13.40.030 REPORTS TO PLANNING COMMISSION

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

CHAPTER 13.50

APPEALS

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

BIBLIOGRAPHY OF RESOURCE MATERIALS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BIBLIOGRAPHY OF STEVENS COUNTY REGULATIONS

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

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

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

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

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

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

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

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

Appendix "A" Critical Areas Checklist

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

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

Dated this _____ day of _____, 20____.

Signed: _____

Appendix “B”

NOMINATION PROCESS FOR ‘HABITATS AND SPECIES OF LOCAL IMPORTANCE’

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

A completed environmental checklist which includes the following:

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

And supplemental information showing the following

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

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

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

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

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

