

ORDINANCE NO. 131-00

AN ORDINANCE DESIGNATING NATURAL RESOURCE LANDS AND CRITICAL AREAS; ADOPTING DEVELOPMENT REGULATIONS TO PROTECT CRITICAL AREAS; PROVIDING FOR THE ISSUANCE OF DEVELOPMENT PERMITS; PROVIDING FOR THE ADMINISTRATION OF THE PERMIT PROCESS; ESTABLISHING PENALTIES FOR VIOLATIONS; PROTECTING THE RIGHT TO FARM; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, Section 36.70A.170 of the Revised Code of Washington requires each county in the State of Washington to designate natural resource lands and critical areas; and

WHEREAS, Section 36.70A.060(2) of the Revised Code of Washington requires each county in the State of Washington to adopt development regulations that protect critical areas;

NOW, THEREFORE:

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF WAHKIAKUM COUNTY, as follows:

Section 1. Purpose:

This Critical Areas Protection Ordinance is intended to implement the provisions of Section 36.70A.060 of the Revised Code of Washington, and to further the objectives of the Wahkiakum County Comprehensive Plan and the Wahkiakum County Shoreline Management Master Program. In compliance with the mandate of the Washington State Growth Management Act, the County finds that certain portions of the county constitute critical areas. These critical areas contain valuable natural resources, perform important ecological functions and processes, provide agricultural production, provide scenic and recreation qualities important to the character of the county, and/or present a hazard to life and property.

In addition, this Ordinance reflects the policy of Wahkiakum County that any proposed method to conserve resource land should emphasize maintenance of existing practices. This Ordinance is not intended to deprive any person of the viable economic use of his/her property. To the extent that private property is regulated under this Ordinance, review and processing of permits shall be coordinated with other land use approvals so that additional bureaucratic burdens are not imposed upon the landowner.

Identification, designation, and regulation of critical areas are, therefore, necessary to promote the public health, safety and general welfare of Wahkiakum County's citizens by provisions designed:

- A. To classify and designate geologically hazardous areas, frequently flooded areas, potential aquifer recharge areas, wetlands, and fish and wildlife habitat conservation areas, as defined herein, as critical areas that are of special concern to Wahkiakum County;
- B. To protect critical areas from the adverse impact of development located within such designated areas, while protecting the constitutional rights of property owners;
- C. To reduce the potential for personal injury, loss of life, property damage or financial losses due to flooding, erosion, landslides or steep slope failures;

D. To protect against publicly financed expenditures due to the misuse of critical areas which causes unnecessary maintenance and replacement of public facilities and avoidable costs for public emergency rescue and relief operations;

E. To protect the rural lifestyle and quality of life of Wahkiakum County by preserving the county timber, farming and fishing resources.

Section 2. Statutory Authorization:

The legislature of the State of Washington pursuant to RCW 36.70A.060(2) has authorized counties to adopt regulations to protect critical areas. The legislature of the State of Washington pursuant to RCW 36.70A.170 has authorized counties to designate natural resource lands and critical areas.

Section 3. Definitions:

Unless specifically defined in this section, 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.

A. "Existing and on going agricultural activities" means current use, or use within the preceding twenty five years, of a tract of land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable or animal products or of berries, grain, honey, straw, hay, turf, seed, Christmas trees, hybrid cottonwood, or other similar short-rotation hardwoods grown on land that has been prepared by intensive cultivation and tilling or livestock, and that has long-term commercial significance for agricultural production. Agricultural activities include operation and maintenance of farm and stock ponds or drainage ditches, operation and maintenance of ditches, and normal maintenance repair, or operation of existing structures or facilities. An operation ceases to be an agricultural activity when the area on which it is conducted is proposed for conversion to a nonagricultural use or has lain idle for more than twenty-five years, unless the idle land is registered in a federal or state soils conservation program, or unless the activity is maintenance of irrigation or drainage ditches related to an existing agricultural activity, PROVIDED, HOWEVER, if the land has lain idle for more than five (5) years, but less than twenty-five (25) years, in order to take advantage of the exemption set forth in Section 5 (B) of this Ordinance, an applicant shall be prohibited from converting such land to non-agricultural use for a period of ten years from the date when the agricultural use was resumed. In such cases, the applicant may be required to work with the local Conservation District or other qualified professional to establish a farm plan designed to minimize adverse impacts to wetlands. Forest practices are not included in this definition. Reliance upon this definition does not relieve any applicant from complying with applicable wetlands regulations, interpretations, and procedures promulgated by the U.S. Army Corps of Engineers or the federal Environmental Protection Agency.

B. "Administrator" means the Wahkiakum County Public Works Director or his/her designee.

C. "Applicant" means any natural person or business entity such as a corporation or a partnership which applies for a development proposal, permit or approval subject to review under this Ordinance. Applicant shall also mean any predecessor or successor in interest involving the same or fundamentally the same individuals or entities.

D. "Aquifer recharge areas" means geological formations with recharging areas having an effect on aquifers used for potable water where an essential source of drinking water is vulnerable to contamination.

E. "Commercial activity" means a privately or publicly owned or operated facility or place of business open to the public for sale of goods or services. Examples include restaurants and taverns, hotels, motels, offices, personal services, retail stores, recreational vehicle parks and campgrounds.

F. “DeNovo” means a new hearing as opposed to a review of a record created at a prior hearing.

G. “Department” means the Wahkiakum County Public Works Department.

H. “Development” means a construction project involving property improvement or change of physical character within the site; the act of using land for building or extractive purposes. “Development” shall include, but shall not be limited to, the activities identified in Section 4 or this Ordinance.

I. “Excavation” means the mechanical removal of earth material.

J. “High Intensity Land Use” includes public road construction, housing development greater than one (1) house per 2 ½ acres, commercial land use, and industrial land use.

K. “Industrial activity” means public or private use of land or structures for manufacturing, processing, deep water port development, and energy generation facilities.

L. “Low Intensity Land Use” includes private and county access road maintenance/construction, and housing development less than or equal to one (1) house per 2 ½ acres.

M. “Filling or fill” is a deposit of earth material, man made materials, or other potentially damaging materials, placed by artificial means.

N. “Mitigation” means avoiding, minimizing or compensating for adverse critical area impacts, including the following, in the following order of preference:

- (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 operation;
- (5) Compensating for the impact by replacing, enhancing or providing substitute resources or environments;
- (6) Monitoring the impact and the compensation project. Mitigation for individual actions may include a combination of the above measures;

O. “Nonconforming structure” means a structure which was lawfully constructed or established prior to the effective date of this ordinance but which does not conform to present regulations or standards of this ordinance.

P. “Normal maintenance or repair” means those acts to an area to prevent a decline from or to restore to a state comparable to its original condition, except if repair requires total replacement or causes substantial adverse impacts to the critical area.

Q. “Pond” means a naturally existing or artificially created body of standing water less than 20 acres in size and not defined as “shorelines of the state” by RCW 90.58 (Shoreline Management Act). Ponds can include reservoirs which exist on a year round basis and occur in a depression of land or expanded part of a stream. A pond is bounded by the ordinary high water mark

or the extension of the elevation of the pond's ordinary high water mark within the stream, where the stream enters the pond.

R. "Qualified Critical Area Professional" means a person with experience, education, and professional degrees and training pertaining to the critical area in question, and with experience in performing delineations, analyzing critical area functions and values, analyzing critical area impacts, and recommending critical area mitigation and restoration. The Administrator shall require professionals to demonstrate the basis for qualifications and shall make final determination as to qualifications. Demonstration of qualifications may include, but shall not be limited to, professional certification.

S. "Reasonable alternative" means an activity that could feasibly attain or approximate a proposal's objectives, but at a decreased level of environmental degradation. Reasonable alternatives may be used, in part, to mitigate adverse impacts.

T. "Reasonable use" means the economically viable use of a property owner's land as articulated by Federal and State courts in regulatory takings cases.

U. "Riparian zone or stream setback" means a specified area alongside a stream where specific measures are taken to protect water quality and fish and wildlife habitat. Riparian zones shall not be developed and natural vegetation shall be maintained. Non-native invasive species may be controlled within the riparian zone so long as adverse impacts to the riparian zone are minimized.

V. "Steep Slope" means an area which is equal to or in excess of 30% slope, or where the grounds surface rises ten feet or more vertically within a horizontal distance of twenty-five feet.

W. "Stream Type" means the classification of a stream according to the water typing system adopted by the Washington State Forest Practices Board and promulgated in Section 222-16-030 of the Washington Administrative Code. Type I, II, III, IV, and V streams are synonymous with type 1, 2, 3, 4, and 5 waters as defined in WAC 222-16-030.

Section 4. Applicability:

The provisions of this Ordinance shall apply to an activity requiring a valid development permit and which occurs in a critical area or its buffer or riparian zone subject to this Ordinance unless otherwise exempt. These activities may include but are not limited to the following:

- A. Removing, excavating, disturbing or dredging soil, sand, gravel, minerals or organic matter of any kind;
- B. Dumping, discharging, or filling with any material;
- C. Constructing, demolishing or altering the size of any structure;
- D. Destroying or altering vegetation through clearing, harvesting, cutting, intentional burning, shading or planting vegetation where these activities would alter the character of a critical area;
- E. Draining or artificial flooding that alters the water table;
- F. Discharges into water that result in adverse changes to a critical area;

All activities subject to a development permit under this Ordinance shall be coordinated with the requirements of the following permits and approvals: clearing, filling and grading; subdivision or short subdivision; flood control permit; shoreline substantial development; variance, conditional use and other permits leading to the development or alteration of land. If two or more critical areas designations apply to a single plot of land, both or all designations shall apply.

Section 5. Exemptions:

The following activities shall be exempt from the provisions of this Ordinance:

A. All policies, regulations, and procedures of this Ordinance are null and have no effect on those activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations and/or conducted in conformity with an approved Habitat Conservation Plan;

B. Existing and on-going commercial and industrial activities as defined in this Ordinance.

C. Existing and on-going agricultural activities as defined in this Ordinance, including those activities legally conducted in wetland areas at the time of the adoption of this Ordinance; in order to establish this exemption, the Administrator may require an applicant to provide documentation that the area in question has previously been used for agricultural production. Documentation may include one or more of the following:

- (1) Evidence of the presence of agricultural activity within the boundary of the proposed development (dated photographs, dated video, topographic surveys);
- (2) Old aerial photographs showing agricultural activity within the proposed development area;
- (3) Old maps drawn by registered engineers/surveyors showing the presence of agricultural activity in the proposed development area;
- (4) Evidence that established plants of cultivated (not native) agricultural plant species are present within the proposed development; or
- (5) The presence of farm records and/or farm plans prepared by the local Conservation District or Agricultural Extension Service.

D. Access, maintenance, operation or reconstruction of existing roads, streets, driveways, utility lines, and associated existing structures, PROVIDED, reconstruction does not exceed the footprint of the existing improved road right-of-way;

E. Installation, construction, or replacement of utility lines in improved county/city right-of-way;

F. Normal maintenance, repair, operation, or reconstruction of existing structures, facilities or improved areas provided that reconstruction meets the guidelines for a "non-conforming structure" as defined;

G. Maintenance of groundcover or other vegetative matter intentionally planted in a critical area that was disturbed prior to the effective date of this Ordinance;

H. Site investigative work required by a city, county, state or federal agency for preparing a land use application submitted such as surveys, soil logs, percolation tests and other related activities provided impacts in environmentally critical areas are minimized and disturbed areas are restored within one (1) year after tests are concluded;

I. Recreational uses such as sport fishing or hunting, scientific or educational reviews. (or other activities which have minimal adverse impacts on critical areas);

J. Intentionally created wetlands made from uplands (with the exception of wetlands established expressly for purposes of mitigation) or surface water systems including irrigation and drainage ditches, grass-lined swales and canals, farm ponds, and landscape or ornamental amenities;

K. Emergency actions which must be undertaken immediately or for which there is insufficient time for full compliance with this chapter when it is necessary to prevent an imminent threat to public health or safety, to public or private property or to prevent serious environmental degradation. Prior to engaging in an emergency action, the Administrator shall provide written determination that an emergency action is required and the reasons underlying that determination in accordance with this section. In the event a person or agency determines that the need to take emergency action is so urgent that there is insufficient time for review by the department, such emergency action may be taken immediately.

The person or agency undertaking such action shall notify the Administrator within two(2) working days following commencement of the emergency activity. Following such notification the director shall make a written determination if the action taken was within the scope of the emergency actions taken in this subsection. The Administrator may require after-the-fact mitigation for adverse impacts to wetlands.

Section 6. Relationship to other Regulations:

No permit granted pursuant to this Ordinance shall remove an applicant's obligation to comply with applicable provisions of any other federal, state or local law or regulations. In the event of any conflict between these regulations and any other regulation or regulations of the county, the regulations which provide the most protection to the critical area shall apply.

Section 7. Reasonable use Exception:

A. If the application of this Ordinance would deny all reasonable use of the property, development may be allowed which is consistent with the general purposes of this Ordinance and the public interest. An application for a critical area reasonable use exception shall be filed with the Administrator who shall consult with the Prosecuting Attorney and shall issue a final decision.

B. The Administrator, in approval of a reasonable use exception, must determine that:

1. Application of this Ordinance would deny reasonable use of the property;
2. There is no other reasonable use with less impact on the critical area;
3. The proposed development does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
4. Any alteration permitted to these critical areas shall be the minimum necessary to allow for reasonable use of the property;
5. Any authorized alteration of a critical area under this section shall require mitigation under the mitigation plan approved by the Administrator; and
6. The inability to derive reasonable economic use of the property is not the result of actions in segregating or dividing the property, thus creating the undevelopable conditions after the effective date of this Ordinance.

Section 8. Single Family Residence Exception:

The standards and restrictions contained in this Ordinance shall not be used to preclude the placement of a single-family residence on an otherwise legally buildable lot of record. Standards contained in this Ordinance may be applied on established properties to limit the proposed location of structures and proposed removal of vegetation. Mitigation may also be required.

Section 9. Establishment of Development Permit:

A. Development permit required. A development permit shall be obtained before development begins within any critical area or its buffer. A development permit will be issued as

part of a buildings or shorelines permit as may be required by law. In cases where the development is exempt from either a buildings or shorelines permit, a development permit in the form of a letter will be used. No additional fee shall be charged for the issuance of a development permit under this Ordinance.

B. Preapplication Process. Any person who considers that this Ordinance may apply to development of a particular property is encouraged to request a meeting with the County Public Works Department to discuss and receive preliminary comments on the potential effects of this Ordinance in advance of making a formal application for any permit. A preapplication meeting may include the following determinations:

1. The actual presence or absence of a critical area based on maps, photographs, or other information, either supplied by the prospective applicant or by the department; and if a critical area is indicated, what options may be available;
2. The absence, presence or extent of a critical area based on a site inspection by Department Staff (e.g. by measuring slopes, or noting general land surface characteristics);
3. Whether a site evaluation would be required to establish the absence, presence, or extent of a critical area; and/or
4. Whether a special report would be required to determine if the regulations applicable to a known critical area can be met.

The purpose of a preapplication meeting is to provide a prospective applicant and the county the opportunity to determine if and how the Critical Areas Ordinance may apply, so that if desired, the scope and design of the proposal may be modified to reduce or avoid restrictions which may be imposed by this Ordinance. Since site information and proposal are typically incomplete at the preapplication stage, and that more specific site and proposal information is typically generated prior to making a formal application, preliminary determinations made through a preapplication meeting shall not be binding.

C. Application for Development Permit. Application for a permit shall be made on forms furnished by the Public Works Department. This Ordinance is not intended to create a separate permit process for development proposals. To the extent possible, the county shall consolidate the review and processing of permits related to critical lands with other land use approvals. Applicants shall be required to submit a site plan drawn to scale with a north arrow and identifying known locations of critical areas, location of proposed structures, roads, water boundaries, if applicable, and activities including clearing, grading, and general topographic information. Applicants shall be required to provide such documentation, illustrations, maps, and accurate engineering data as the Administrator may deem necessary to adequately appraise the development proposed, the potential impact on the environment of the critical area, and to ensure compliance with this Ordinance.

Section 10. Designation of Administrator:

The Public Works Director or his/her designee is appointed to administer and implement this Ordinance by granting or denying development permit applications in accordance with its provisions.

Section 11. Duties and Responsibilities of Administrator:

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 or are being applied for from those federal, state or local government agencies from which prior approval is required. The county's review shall not be determinative as to whether such other state, federal or local permits are required. The final responsibility for making such determination as to the necessity for other permits is with the permit applicant.
3. Review all development permits to determine if proposed development is located in a critical area. If located in a critical area, assure that the provisions of this ordinance are met.
4. Consult with a qualified critical area professional with respect to applicability of the standards contained in Section 20 of this Ordinance.

B. Use of Other Data. When there is a question regarding the location or existence of a critical area within a development proposal, the Administrator shall obtain, review, and reasonably utilize any maps or other source available.

C. Information to be Obtained. Where maps or available information are insufficient to determine the existence or location of a critical area within the development proposal, the Administrator shall request a study be prepared by a qualified engineer or qualified critical area professional. The applicant may select from a qualified critical area professional list or register which is maintained by the County. In the event that an applicant chooses to utilize the services of a qualified critical area professional not listed on the county register, the county may at its discretion and at the applicant's expense, retain a qualified critical area professional to review and confirm the applicant's reports and studies.

D. Coordination of Reporting Requirements. To avoid duplication, the information required by this section should be coordinated with reporting requirements for any other critical area located in the development proposal.

Section 12. Critical Area Inventory Maps:

The location and extent of environmentally critical areas and lands within the county are shown on the maps adopted as part of this Ordinance. These maps are intended to be used as a guide for the assistance of property owners and as information for the public. Boundaries are generalized; field investigation and analysis by a qualified critical area professional may be required to confirm the existence of a critical area. In the event of any conflict between the location, designation or classification of a critical area shown on the county maps and the criteria or standards of this Ordinance, the criteria and standards of the Ordinance as supported by determination of a field investigation shall prevail.

Section 13. Pre-Existing Nonconforming Use and Development Standards:

"Pre-Existing nonconforming development" means a use or structure which was lawfully constructed, approved or established prior to the effective date of this Ordinance but which does not conform to present regulations or standards of this Ordinance. The following rules govern non-conforming uses:

A. A nonconforming development may be continued provided that it is not enlarged, intensified, increased or altered in any way which increases its nonconformity.

B. If a nonconforming development has been discontinued for a period of 12 consecutive months, new alterations to the structure or use shall conform to the regulations and standards of this Ordinance.

C. If a nonconforming development is discontinued for twelve consecutive months, or for twelve months during any two year period, any subsequent development shall conform to the

regulations and standards of this Ordinance. It is not necessary to show that the property owner intends to abandon the nonconforming development in order for the nonconforming rights to expire.

D. A nonconforming development cannot be changed to another nonconforming development, regardless of the conforming or nonconforming status of the structure in which it is located.

E. Structures in existence on the date this Ordinance becomes effective and that do not meet the requirements of this Ordinance for wetlands, streams, or steep slope hazards may be remodeled or reconstructed provided that the new construction or related activity does not further intrude into a stream, wetland, or steep slope or other critical area and is subject to the standards of the Wahkiakum County Flood Control Ordinance (Title 86 RCWC) for substantial improvement to any area of special flood hazard.

F. If any nonconforming development is destroyed by fire, flood, windstorm or other natural disaster, it may be restored to its pre-existing condition. If destruction is the result of a flood, any reconstruction shall comply with the applicable provisions of the Wahkiakum County Flood Damage Prevention Ordinance.

Section 14. Variances:

A. Procedure

1. Subject to the public notice and hearing provisions of this Section, the Administrator may consider applications for variances from the requirements of this Ordinance. An application for a variance shall be made upon forms provided by the Public Works Department.
2. In reviewing an application for variance, the Administrator shall consider all maps, special reports, all relevant factors, standards specified in other sections of this Ordinance and other applicable local, state or federal requirements.
3. Following his review of the application for variance, the Administrator shall prepare a written staff report including a recommendation with respect to granting or denying the requested variance. Within sixty (60) days of receipt of variance application, the Administrator shall submit his staff report to the Wahkiakum County Planning Commission.
4. Upon receipt of the Administrator's staff report, the Planning Commission shall schedule a public hearing to review the variance application. Notice of the public hearing shall be published in the Wahkiakum County Eagle at least fourteen (14) calendar days prior to the scheduled hearing. Written notice of the hearing shall also be provided to the applicant at least fourteen (14) calendar days prior to said hearing.
5. The Planning Commission shall conduct its public hearing on the variance application not more than forty-five (45) days after its receipt of the Administrator's staff report. Any interested person may appear and be heard regarding the variance application, subject to hearing procedures adopted by the Planning Commission.
6. Following the public hearing, the Planning Commission shall review the variance application to determine whether the application meets the criteria set forth in subsection B of this Section. The Planning Commission shall then submit its recommendations to the Board of Wahkiakum County Commissioners. The recommendations shall be accompanied by written "Findings of Fact." A copy of the recommendations and findings shall be forwarded to the applicant.

7. The Board of Wahkiakum County Commissioners shall consider the variance application within fourteen (14) calendar days of its receipt of the recommendations and findings from the Planning Commission. The Board of County Commissioners may approve, deny, or approve within conditions, the variance application. The decision of the Board of County Commissioners shall be final.

B. General Conditions

1. A variance in the applications of the regulations of this Ordinance to a particular piece of property or a variance to the use prohibitions of this ordinance may be granted when the application meets all of the following criteria:
 - a. Because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of this ordinance is found to deprive subject property of rights and privileges enjoyed by other properties in the vicinity, **PROVIDED**, however the fact that surrounding properties have been developed under regulations in force prior to the adoption of this Ordinance shall not be the sole basis for the granting of a variance;
 - b. The granting of the variance will not be materially detrimental to the critical area public welfare or injurious to the property in the area in which the property is situated or contrary to the goals, policies and purpose of this Ordinance;
 - c. The granting of the variance is the minimum necessary to accommodate the permitted use; and
 - d. No other reasonable alternative exists, i.e., no other activity could feasibly attain a proposal's objectives but at a decreased level of environmental degradation.
2. If granting a variance hereunder results in impacts to a critical area, mitigating measures shall be undertaken pursuant to Section 20.
3. Except when application of this ordinance would deny all reasonable use of the property, an applicant who seeks an exception from the requirements of this Ordinance shall pursue relief by means of a variance.

Section 15. Appeals:

A. A person aggrieved by the issuance or denial of a development permit or variance or reasonable use exception or by the imposition of a civil penalty may appeal such action to the Board of County Commissioners. Any such appeal shall be in writing and must be filed with the Board within fourteen days of the transmittal of the Administrator's decision to the applicant. The appeal shall specify the reasons therefor. The Administrator shall provide the Board with the findings and documentation relating to the decision being appealed.

B. The Board, following a de novo hearing, shall affirm, modify or reverse the Administrator's decision. The appellant carries the burden of proof on appeal. The Board shall reach a decision on the appeal within twenty-one days following the filing of the appeal unless the appellant consents to an extension of time. The Board's decision shall be in writing and shall contain findings of fact and shall be filed with the Clerk of the Board and a copy thereof shall be transmitted to the appellant.

C. The decision of the Board shall be final and conclusive unless within fourteen days from the date of transmittal the original applicant or an adverse party files appeal to the Superior Court for Wahkiakum County for a writ of certiorari, a writ of prohibition, or a writ of mandamus. The filing of such an appeal within such time limit shall stay the effective date of the order of the Board until such time as the appeal shall have been adjudicated or withdrawn. Concurrently with filing such notice of appeal, the aggrieved party shall serve a copy thereof on the Clerk of the Board.

D. Any appeal hereunder which is transmitted through the United States Mail shall be deemed filed and received by the County on the date shown by the Post Office cancellation mark stamped upon the envelope or other appropriate wrapper containing it.

Section 16. Enforcement:

A. The Prosecuting Attorney shall bring such injunctive, declaratory, or other actions as are necessary to insure compliance with this Ordinance.

B. Any person who fails to comply with this Ordinance, by either engaging in activities within critical areas of the county prohibited by this Ordinance or by failing to conform to the terms of a permit issued pursuant to this Ordinance, shall also be subject to civil penalty of not less than one hundred (\$100.00) nor more than one thousand dollars (\$1,000.00) for each violation. The severity of any penalty shall be based on the nature of the violation and the damage or risk to the public or to public resources. Each violation or each day of noncompliance, except for periods of appeal as defined in Section 15, shall constitute a separate violation.

C. Notice to comply. If a violation of this Ordinance has occurred and the Administrator determines that a stop work order is unnecessary, then the Administrator shall issue and serve upon the applicant a notice which will clearly set forth:

- (1)(a) The specific nature, extent, and time of failure to comply with the terms of this Ordinance, and/or
- (b) The relevant provisions of this Ordinance relating thereto; and
- (2) The specific course of action ordered by the Administrator to be followed by the applicant to correct such failure to comply and to prevent, correct and/or compensate for material damage to critical areas which resulted from any violation of this Ordinance.

D. The Administrator shall have the authority to serve upon an applicant a stop work order which shall be a final order of the County if immediate action is necessary to prevent continuation of or to avoid material damage to a critical area. The stop work order shall set forth:

- (1) The specific nature, extent, and time of the violation;
- (2) An order to stop all work connected with the violation, and
- (3) The specific course of action needed to correct such violation and to correct and/or compensate for damage to critical areas which has resulted from any violation of this order.

E. The civil penalty provided for in this section shall be imposed by a Notice of Infraction in writing either by Certified Mail with return receipt requested or by personal service, to the person incurring the same. The notice shall describe the violation with reasonable particularity and shall order the acts constituting the violation or the potential violation to cease and desist, and in appropriate cases, require necessary corrective action within a specific time. The Administrator is authorized to issue a Notice of Infraction if an applicant has failed to take the corrective action specified in a Notice to Comply within thirty (30) days of the issuance of such Notice to Comply, or if an applicant violates any Stop Work Order issued pursuant to this Section.

F. Any civil penalty imposed pursuant to this section shall be subject to review by the Board of County Commissioners as provided in Section 15.

G. Any person subject to this Ordinance who violates any provision of this Ordinance or the provisions of a permit issued pursuant to this Ordinance shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area to its conditions prior to such violation.

CLASSIFICATION AND PROTECTION OF CRITICAL AREAS

Section 17. Frequently Flooded Areas:

A. Classification. All flood hazard areas shall be as identified in the scientific and engineering report entitled "the Flood Insurance Study for Wahkiakum County", dated September 28, 1990, with accompanying Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency (FEMA), and all areas identified within Wahkiakum County's Flood Control Ordinance, Title 86 RCWC, as areas of special flood hazard.

B. Mapping. All flood hazard areas identified by the Federal Insurance Administration in "The Flood Insurance Study", September 28, 1990, together with flood insurance maps (FIRM) dated September 1990, are hereby adopted by reference and declared to be part of this Ordinance. The flood insurance study and maps are on file at the Auditor's Office and Public Works Department located at 64 Main Street, Cathlamet, Washington 98612.

C. Designation. Areas of Wahkiakum County meeting the classification criteria for frequently flooded areas are hereby designated as such under RCW 36.70A.170.

D. Development Performance Standards. Since Wahkiakum County's Flood Control Ordinance (Title 86. RCWC) regulates development within frequently flooded areas as classified and designated herein, the said Wahkiakum County Flood Control Ordinance is adopted by reference and declared to be a part of this Ordinance.

Section 18. Geologically Hazardous Areas:

A. Classification. Geologically hazardous areas include areas susceptible to erosion, sliding, earthquake, or other geological event. They pose a threat to the health, and safety of the public. The following definitions shall be used in classifying geologically hazardous area:

1. Erosion Hazard Area. Erosion is a common occurrence due to hydrologic and geologic characteristics, vegetative conditions and human land use. Erosion hazard areas are sites designated by the USDA Soil Conservation Service as containing highly erodible or having the potential to become highly erodible due to disturbance of ground cover.

2. Seismic Hazard Areas. Seismic hazard areas are areas subject to a severe risk of earthquake damage as a result of seismically induced ground shaking, slope failure, differential settlement, soil liquefaction, or surface faulting. For purposes of this classification, seismic hazardous areas are those areas that are underlain by alluvium as identified by United States Geologic Service (USGS) maps.

3. Volcanic Hazard Areas. Volcanic hazard areas are areas which have potential risk to life and property by mud flows or flooding as a result of volcanic activity from Mt. St. Helens. All volcanic mudflow hazard areas shall be identified as flood hazards in the scientific and engineering reports entitled: "The Flood Insurance Study for Wahkiakum County", dated September 1990, with accompanying Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency (FEMA).

4. Landslide Hazard Areas. Landslide hazard areas are areas within Wahkiakum County that are subject to potential slope failure due to a combination of geologic, topographic and hydrological factors. These areas include:

- a. Areas identified by the Wahkiakum County Comprehensive Plan, 1984 (Figure 1, page 38).
- b. Areas of historic failures or potentially unstable slopes, such as areas mapped within future Soil Conservation Service Slide Hazard Area Studies; or marine bluffs, quaternary slumps, earthflows, mudflows, or landslides on maps published by the United States Geological Survey or Department of Natural Resources Division of Geology and provisions of the Uniform Building Code (UBC) as adopted by Wahkiakum County.

B. Designation. Areas of Wahkiakum County meeting the classification criteria for geologically hazardous areas are hereby designated as such under RCW 36.70A.170.

C. Landslide and Erosion Hazard Area Standards.

All development within designated landslide and steep slope hazard areas shall adhere to the following standards:

- a. An erosion control plan shall be submitted to the administrator for approval prior to any clearing, construction or other development in an erosion hazard area. The erosion control plan shall be designed so that the hazard is or mitigated such that the site is rendered as safe as an area without erosion hazards.
- b. For landslide hazard areas with a slope of thirty (30) percent or steeper and with a vertical relief of ten or more feet except areas of consolidated rock, a geological analysis and landslide control plan shall be submitted to the Administrator for approval prior to activity which would change the hydrologic characteristics of the site, such as filling, building, clearing construction, or other development in said area. The geological analysis shall indicate that:
 1. There is not significant risk to the development proposal or adjacent properties, or
 2. That the proposal is designed so that the hazard is significantly eliminated or mitigated such that the site and adjacent property are rendered as safe as an area without geologic hazards.
- c. All proposed development on slopes greater than fifty percent over a vertical height of a least ten feet shall be avoided if possible. Proposals for development shall include technical studies that evaluate the subsurface conditions and offer engineering solutions, including increased slope stabilization methods.

Section 19. Aquifer Recharge Areas:

Municipal water for Wahkiakum County is pumped directly from the Elochoman River and from ground water adjacent to the Grays River. There are no known critical aquifer recharge areas within the County.

Section 20. Wetlands:

Wetlands are essential and unique features of Wahkiakum County which provide multiple public benefits that are economically and culturally important to Wahkiakum County. Wetlands include shallow or deep water marshes, rivers, sloughs, ponds, bogs, wet meadows and forests, shrub wetlands and other lands which support a prevalence of vegetation adapted to saturated soils. Important functions provided by wetlands include flood control, shoreline stabilization and erosion control, aquatic and wildlife habitat, water quality maintenance, recreation, agriculture and silviculture, food chain support and productivity, and aesthetic functions.

A. Definition. "Wetland" or "Wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including but not limited to irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were intentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate conversion of wetlands.

B. Classification. Wetlands are classified according to the Washington State Wetland Rating System for Western Washington, Second Edition.

C. Designation. Areas meeting the definition of wetland found in this ordinance are designated as such under RCW 36.70A.170. PROVIDED, HOWEVER, the following wetlands shall not be regulated under this Ordinance:

1. Any Category III wetland which has an aggregate area of less than or equal to 2500 square feet.
2. Any Category IV wetland which has an aggregate area of less than or equal to 5000 square feet.

D. Identification and Delineation of Wetlands. Wetlands shall be identified and delineated according to the most current edition of the State of Washington Department of Ecology's manual adopted pursuant to RCW 90.58.380.

The approximate extent and/or location of most wetlands within Wahkiakum County are shown on existing National Wetland Inventory maps and in the Shoreline Management Master Program Environmental Designation Atlas for Wahkiakum County, 1980. The mapped boundaries are approximate and unmapped wetlands may exist. Any conflicts between inventory maps and the provisions of this ordinance shall be resolved pursuant to provisions for delineating wetlands. Wetlands not shown on the maps are still subject to the provisions of this ordinance.

A determination of whether a wetland exists on any parcel that is the subject of a development application shall be mandatory. Wahkiakum County will accept a written determination by the U.S. Army Corps of Engineers, Washington Department of Ecology, or a qualified critical areas professional as to whether a specific parcel contains a wetland; in lieu of a formal written determination, the Administrator, after consultation with and concurrence by a qualified critical area professional, in his or her discretion, may also consider other reliable evidence in determining whether a wetland exists. If wetlands are found on any parcel that is the subject of a development application, the applicant is responsible for delineating the wetlands.

E. Standards.

1. Any development proposed within a critical wetland area shall be reviewed by the Administrator to ensure that:

- a. Any alteration to critical wetland areas comply with applicable state and federal law;
 - b. Any development avoids adverse impacts to regulated wetlands to the extent possible considering the reasonable use of the property and takes affirmative and appropriate measures to minimize and compensate for unavoidable impacts;
 - c. Any development complies with applicable provisions of the Shoreline Management Master Program of Wahkiakum County;
 - d. Natural drainage systems with associated wetland corridors shall be maintained to protect natural hydrologic function, water quality, and to reduce public costs due to potential flooding;
 - e. Any reduction of tidal and non-tidal critical wetlands shall be mitigated through careful location and design of mitigating proposals approved by the Administrator, and
 - f. Wetlands located within publicly-owned and designated forest resource lands will be governed by and subject to compliance with the State Forest Practices Act.
2. Wetland permits shall not be effective and no activity thereunder shall be allowed during the time provided to file a permit appeal.

F. Wetland Buffers and Development Setbacks.

1. A wetland buffer and/or development setbacks shall be required for all regulated activities adjacent to wetlands. Any wetland created, restored or enhanced as compensation for approved wetland alterations shall also include the standard buffer required for the category of the created, restored or enhanced wetland. All buffers shall be measured from the wetland boundary. PROVIDED, HOWEVER, if the wetland is separated from the upland areas by an improved public roadway, the buffer areas shall not extend into the upland side of the roadway. The following wetland buffers are established:

<u>Wetland Category</u>		<u>Buffer</u>
Category I	High intensity land use	200 feet
	Low intensity land use	150 feet
Category II	High intensity land use	150 feet
	Low intensity land use	100 feet
Category III	High intensity land use	75 feet
	Low intensity land use	50 feet
Category IV	High intensity land use	50 feet
	Low intensity land use	25 feet

2. Standard wetland buffer areas may be modified by averaging buffer widths or a combination of averaging and reduction. Wetland buffer width averaging shall be allowed only where the applicant demonstrates all of the following:
 - a. Averaging will provide the necessary biological, chemical and physical support necessary to protect the wetland;

- b. Width averaging will not adversely impact the wetland's functions and values; and
 - c. The total area contained within the wetland buffer after averaging is no less than that contained within the standard buffer prior to averaging. In no instance shall the buffer width be reduced by more than 50% of the standard buffer.
3. If there is a vertical separation of more than 25 feet between the wetland and the proposed development, then no buffer is required, PROVIDED, the slope of the vertical separation is greater than 45° and a development setback of not less than 25 feet is maintained at the top of the vertical separation.
 4. 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. Wetland buffer zones shall be vegetated with native species. Non-native invasive species may be controlled within the wetland buffer zone so long as adverse impacts to the wetland are minimized.
 5. Permitted Uses in a Wetland Buffer Zone.

Regulated activities shall not be allowed in a buffer zone except for the following:

- (a) Activities having minimal adverse impacts on buffers and no adverse impacts on regulated wetlands. These may include low intensity, passive recreational activities such as pervious trails, nonpermanent wildlife watching blinds, short term scientific or educational activities, and sports fishing or hunting;

G. Mitigation.

1. Except as provided in paragraphs 6 and 7 of this subsection, as a condition of any permit allowing alteration of wetlands, the applicant will engage in the restoration, creation, or enhancement of wetlands in order to compensate for the impacts resulting from the applicant's actions. The applicant shall develop a County approved mitigation plan.

For guidance on what should be contained in a mitigation plan the applicant should consult the interagency document titled, "Guidelines for Developing Freshwater Wetlands Mitigation Plans and Proposals" available from the Permit Coordinator.

2. Alteration of wetlands shall require the creation, restoration or enhancement of wetlands to provide equivalent or greater area, functions and values. In order to address the risk and time lag associated with creating, restoring or enhancing wetlands, the Administrator may require mitigation in excess of a 1:1 ratio. In making a determination regarding the appropriate mitigation ratio, the Administrator will be guided by the Washington State Department of Ecology publication entitled "Wetland Mitigation Replacement Ratios: Defining Equivalency, February, 1992."

The following standard ratios shall apply to the creation or restoration of wetlands:

Category I

6:1

Category II or III	
Forested	3:1
Scrub-Shrub	2:1
Emergent	2:1
Category IV	
	1.25:1

3. The standard replacement ratio may be increased under the following circumstances:
 - a. High degree of uncertainty as to the probable success of the proposed restoration or creation;
 - b. Significant period of time between destruction and replication of wetland functions;
 - c. Projected losses in functional; and/or
 - d. Off-site compensation.
4. The standard replacement ratio may be decreased under the following circumstances:
 - a. Findings of special studies coordinated with agencies and/or other qualified individuals with expertise which demonstrates that no net loss of wetland function or value is attained under the decreased ratio.
 - b. In all cases, a minimum acreage replacement ration of 1:1 shall be required.
5. All wetland restoration, creation and/or enhancement projects required pursuant to this ordinance either as a permit condition or as the result of an enforcement action must receive the Administrator's written approval of the mitigation plan prior to commencement of any wetland restoration, creation or enhancement activity.
6. Any Category III wetland which has an aggregate area of less than or equal to 2500 square feet shall be exempt from any mitigation requirements.
7. Any Category IV wetland which has an aggregate area of less than or equal to 5000 square feet shall be exempt from any mitigation requirements.

Section 21. Fish and Wildlife Habitat Conservation Areas:

A. Definition. Fish and wildlife habitat conservation means land management for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created.

B. Classification. Fish and wildlife habitat conservation areas shall be identified according to the following table:

Classifications WAC 365-190-080(5)	Description
(1) Areas with which state or federal designated endangered, threatened, or sensitive species have a primary association.	Areas which, if significantly altered, may reduce the likelihood that the species will reproduce over the long term. Habitats associated with these species are those identified by Washington Department of Fish and Wildlife's current system for mapping species of concern. These habitats are designated as critical areas, where endangered, threatened, and sensitive species are verified to have a primary association.

(2) Species and habitats of local importance.	Habitat: All priority habitats occurring in Wahkiakum County as identified in the current edition of the Washington State Department of Fish and Wildlife's Priority Habitats and Species (PHS) List. Species: All priority species occurring in Wahkiakum County as identified in the current edition of the Washington State Department of Fish and Wildlife's Priority Habitats and Species (PHS) List.
(3) Commercial and recreational shell fish areas.	There is a small commercial and recreational crawfish fishery in Wahkiakum County.
(4) Kelp and eel grass beds; herring and smelt spawning areas.	No kelp, eel grass beds, or herring spawning areas are known to occur in Wahkiakum County. The Washington State Hydraulic Code guidelines (WAC 232) and information from the Washington State Department of Fisheries and Wildlife are used to identify smelt spawning areas.
(5) Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat.	Naturally occurring ponds are waters with a surface area of less than 20 acres but greater than one acre and manmade ponds developed as mitigation as part of a permitting process or mitigation agreement. Naturally occurring ponds do not include ponds deliberately created such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds (of less than three years duration), and landscape amenities.
(6) Waters of the state.	Waters of the state shall be those defined in WAC 222-16-030, Forest Practices Board, Definitions.
(7) Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity.	Waters of the state which regularly have game fish introduced.
(8) State natural area preserves and natural resource conservation areas.	Currently, there is only one state natural resource conservation area in Wahkiakum County, Hendrickson Canyon. It is owned by the State of Washington and managed by the Department of Natural Resources.

C. Designation. Lands of Wahkiakum County fulfilling the classification criteria for critical fish and wildlife conservation areas set forth in subsection B of this Section are hereby designated as such under RCW 36.70A.170.

D. Standards.

1. The Administrator shall ensure that any development within fish and wildlife habitat conservation areas, as classified in subsection B of this Section, shall be reviewed according to the following performance standards:
 - (a) When impacts to fish and wildlife habitat cannot be avoided, the performance standards contained in this subsection shall be used to develop plans submitted for regulated activities. Critical area permits may be conditioned to reflect the following performance standards contained in this subsection D.
 - (b) Consider habitat in site planning and design.
 - (c) Locate buildings and structures in a manner that preserves the habitat or minimizes adverse impacts.

- (d) Consolidate habitat and vegetated open space in contiguous blocks, and where possible locate habitat contiguous to other habitat, open space or landscaped areas to contribute to a continuous system or corridor that provides connections to adjacent habitat areas.
 - (e) Use native species in any landscaping of disturbed or undeveloped areas and in any enhancement of habitat or buffers.
 - (f) Emphasize heterogeneity and structural diversity of vegetation in landscaping.
 - (g) Remove and/or control any noxious, or undesirable species of plants as identified by the Wahkiakum County Noxious Weed Control Board, but with due attention to possible negative impacts of herbicide sprays to wetlands.
 - (h) Preserve trees to the extent possible, preferably in consolidated areas.
 - (i) Preserve and introduce native plant species which serve as food, shelter from climatic extremes and predators, and structure and cover for reproduction and rearing of young for critical wildlife.
 - (j) Preserve the natural hydraulic and ecological functions of drainage systems.
 - (k) Preserve fish and wildlife habitat conservation areas through maintenance of stable channels, adequate low flows, management of stormwater runoff, erosion and sedimentation.
 - (l) Manage access to fish and wildlife habitat conservation areas to protect species which are sensitive to human disturbance.
 - (m) Maintain or enhance water quality through control of runoff and use of best management practices.
2. Habitat Management Plan – Classification 1 Only. A habitat management plan may be required if the regulated activity is within two hundred fifty feet of a Classification 1 habitat area, or identified within one thousand feet of a point location (nests, dens, etc.) for a Classification 1 habitat area. The Habitat Management Plan will meet the following criteria:
 - (a) The habitat management plan will be prepared by a qualified expert.
 - (b) Habitat management plans will be sent to the Washington State Department of Fish and Wildlife and other appropriate state and federal agencies for comment with the SEPA checklist.
 3. Habitat Protection for Classification 2. Protection for these habitat areas shall be through compliance with the performance standards contained in subsection D (1) of this section.
 4. Habitat Protection for Classifications 3 and 4. If found to occur, protection of these areas shall be coordinated by the Administrator with the Washington State Department of Fish and Wildlife.
 5. Habitat Protection for Classifications, 5, 6 and 7. Protection for these habitat areas shall be through the maintenance of riparian zones as required under this ordinance, the Shoreline Management Act, the federal Clean Water Act, and the state Hydraulic Code and/or best management practices. Within

Classification 6 – Type 1, 2,3,4 and 5 waters as defined in Chapter 222- 16 030, WAC, Forest Practices Board, Definitions, are regulated streams.

6. Habitat Protection for Classification 8. Protection for state natural areas preserves and natural resource conservation area habitat is achieved by the Washington state Department of Natural Resources.

E. Riparian Zones.

1. Riparian zones and/or development setback areas shall be required for all regulated activities adjacent to streams. All riparian zones/setbacks shall be measured from the Ordinary High Water Mark (OHWM). The following riparian zones/setback areas are hereby established:

<u>Stream Type</u>		<u>Riparian Zone Width</u>
Type I	High intensity land use	100 feet
	Low intensity land use	50 feet
Type II	High intensity land use	100 feet
	Low intensity land use	50 feet
Type III	High intensity land use	75 feet
	Low intensity land use	50 feet
Type IV & V	High intensity land use	50 feet
	Low intensity land use	25 feet

2. In any event, the required stream set back shall terminate at any improved county road right-of-way or dike.
3. In locations where the vertical separation is greater than twenty-five feet as measured between the ordinary high water mark and the land to be developed, no riparian zone/setback shall be required, PROVIDED, the slope of the vertical separation is greater than 45° and the vertical separation consists primarily of non-vegetated exposed rock.
4. As to areas adjacent to the Columbia River, the riparian zone/setback shall be twenty-five (25) feet, provided, the following three circumstances exist: (a) the land consists primarily of dredge spoils or similar degraded habitat; (b) the land lacks any significant woody vegetation; and (c) there are no associated wetlands present.
5. Required riparian zone widths on clearing proposals on existing lots may be varied as follows:
- (a) External Riparian Zone Averaging. Required riparian zones can be reduced to the average shoreside building setback of existing neighboring residences which are within one hundred fifty (150) feet and downstream. For the purpose of calculating this average, undeveloped neighboring property shall be considered as maintaining a setback equal to the normally required riparian zone width. For example, a new home proposed between an existing residence located fifty (50) feet from shore and an undeveloped property normally subject to a one hundred (100) foot riparian width under this Ordinance may then be located as close as seventy-five (75) feet from shore.

- (b) Internal Riparian Zone Averaging. Subject to review under the standards contained in this Ordinance, portions of the riparian zone can be reduced up to fifty percent (50%) from the normal standards of this Ordinance if riparian zone widths are correspondingly increased elsewhere within the applicant parcel, such that the overall size and function and values of the riparian zone are maintained in the parcel.
- (c) In no event shall the width of the riparian zone be less than 25 feet.

DESIGNATION OF NATURAL RESOURCE LANDS

Section 22. Agricultural lands:

A. Designation. Areas which are identified as agricultural land by the Wahkiakum County Comprehensive Plan's existing land use map (Wahkiakum County Comprehensive Plan, 1984, Figure 4, page 74) are hereby designated as agricultural lands for purposes of RCW 36.70A.170.

B. Right to Farm.

1. Within areas designated as agricultural land, a farm operation shall not be found to be a public or private nuisance if the farm or farm operation conforms to generally accepted agricultural and management practices.
2. Within areas designated as agricultural land, a farm or farm operation shall not be found to be a public or private nuisance if the farm or farm operation existed before a change in the land use or occupancy of adjacent land or other land in the general area.
3. Within areas designated as agricultural land, farm operations shall not be restricted to time of day or days of the week, but shall be conducted according to generally accepted agricultural and management practices.
4. Within areas designated as agricultural land, farm operations shall not be found to be a public or private nuisance when conducted according to generally accepted management practices when in turn these practices may be subject to varying conditions which include but are not limited to: geographical location, weather, soil types and conditions, type of crop or livestock and management systems.
5. This subsection should not be construed to compromise existing county, state and federal Laws.

Section 23. Forest Lands:

A. Designation. Areas which are identified as forest areas by the Wahkiakum County Comprehensive Plan's existing land use map (Wahkiakum County Comprehensive Plan, 1984, Figure 4, page 74) are hereby designated as forest lands for purposes of RCW 36.70A.170.

Section 24. Mineral Resource Lands:

A. Designation. All lands which have known reserves of extractable minerals in commercial quantities, as identified in records maintained by the State of Washington Department of Natural Resources, are hereby designated as mineral resource lands for purposes of RCW 36.70A.170.

Section 25. Severability:

Should any section, clause or provision of this Ordinance be declared invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof other than the part so declared invalid.

Section 26. Effective Date:

This Ordinance shall be in full force and effect from and after the 1st day of January, 2001.

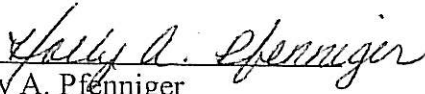
Section 27. Citation/Codification:

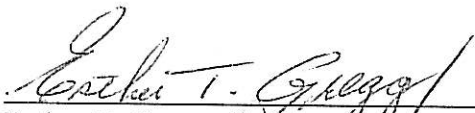
This Ordinance may be referred to as the "Wahkiakum County Critical Areas Protection Ordinance" and shall be codified as Chapter 43.70 of the Revised Code of Wahkiakum County.

DULY PASSED AND ADOPTED in Regular Session following a public hearing thereon, this 19th day of December, 2000.

**BOARD OF COUNTY COMMISSIONERS
OF WAHKIAKUM COUNTY, WASHINGTON**

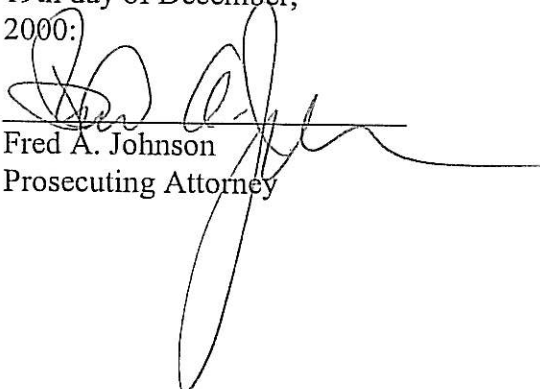
ATTEST:


Holly A. Pfenniger
Clerk of the Board


Esther T. Gregg, Chairman


Ronald D. Ozment, Commissioner

APPROVED AS TO FORM this
19th day of December,
2000:


Fred A. Johnson
Prosecuting Attorney


George A. Trott, Commissioner