

Franklin County Development Regulations



Critical Areas Ordinance

#3-2009

Franklin County Development Regulations
Critical Areas Ordinance #3-2009 adopted February 18, 2009



FRANKLIN COUNTY

BOARD OF COMMISSIONERS

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ORDINANCE NUMBER 3-2009

BEFORE THE BOARD OF COMMISSIONERS, FRANKLIN COUNTY, WASHINGTON IN THE MATTER OF COUNTY PLANNING

RE: TC 2008-01, an Update to the Franklin County Development Regulations (Critical Areas Ordinance). This ordinance adoption repeals Franklin County Ordinance 04-95.

WHEREAS, on February 18, 2009, the Clerk of the Board did set a public hearing for Text Change 2008-01, to consider the recommendations of the Franklin County Planning Commission in regards to the Update of the County Critical Areas Ordinance (Protection of Critical Areas and Resource Lands).

WHEREAS, the Growth Management Act (RCW 36.70A) requires that comprehensive land use plans and development regulations, including critical areas regulations, be subject to continuing review and evaluation by the County. In 2002, the Washington State Legislature amended the Growth Management Act to require counties to take legislative action to review and, if needed, revise their Critical Areas Ordinance within a designated timeframe.

WHEREAS, the GMA defines critical areas that must be designated and protected as wetlands, fish and wildlife conservation areas, geologically hazardous areas, frequently flooded areas, and critical aquifer recharge areas.

WHEREAS, at the public hearing the Board has found as follows:

1. Notice of public hearing was given in accordance with statute.
2. The Planning Commission after public hearing and consideration on November 4, 2008, did recommend approval of said application.
3. The following findings of fact imposed on the application have been accepted by the Planning Commission.

FINDINGS

- a. The Updated Critical Areas Regulations and associated maps are included as a portion of the County Development Regulations.
- b. The Updated Critical Areas Regulations and associated maps are consistent with the requirements of the Growth Management Act – RCW 36.70A.
- c. The Updated Critical Areas Regulations and associated maps are consistent with the requirements of RCW 36.70A.050 regarding the guidelines to classify agriculture, forest, mineral lands, and critical areas.

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- d. The Updated Critical Areas Regulations and associated maps are consistent with the requirements of WAC 365-190 regarding the minimum guidelines for the protection of critical areas.
- e. The Updated Critical Areas Regulations and associated maps are consistent with the Franklin County Comprehensive Plan (2008).
- f. The Updated Critical Areas Regulations and associated maps have been developed in a process that is consistent with RCW 36.70A.035 and 140.
- g. All Notification of the Public Meetings/Workshops, and Public Hearings were posted as per County Ordinances and State law.
- h. A DNS was issued for this application.
- i. All workshops/public meeting and public hearings were advertised as open to the public and public input opportunities were granted on each occasion. Both verbal and written comments were solicited by the County regarding this Ordinance Update.
- j. The 2008 Update process to the Critical Areas Regulations and associated maps included the following public workshops and public hearings, and were advertised in the Franklin County Graphic and Tri-City Herald Newspapers.

May 6, 2008	Planning Commission	Public Meeting/Workshop in Pasco
July 1, 2008	Planning Commission	Public Meeting/Workshop in Pasco
July 30, 2008	Commissioners	Public Meeting/Workshop in Pasco
August 5, 2008	Planning Commission	Public Meeting/Workshop in Pasco
September 2, 2008	Planning Commission	Public Hearing (continued)
November 4, 2008	Planning Commission	Public Hearing
February 9, 2009	Commissioners	Public Meeting/Workshop in Pasco
February 18, 2009	Commissioners	Public Hearing

- k. Per Chapter 42 (Amendments to Comprehensive Plans) of the Franklin County Development Regulations the following shall be determined:
 - 1. The proposal **IS** in accord with the goals and policies of the comprehensive plan;
 - i. The Updated Critical Areas Regulations and associated maps are included as a portion of the County Development Regulations.
 - ii. The Updated Critical Areas Regulations and associated maps are consistent with County Goal 1 and Purpose Statement 1 (Environment) on Page 34 of County Comprehensive Plan 2008-089.
 - 2. The effect of the proposal on the immediate vicinity **WILL NOT** be materially detrimental;

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- i. The Updated Critical Areas Regulations and associated maps will assist in protecting the valuable and beneficial critical areas in the County and will not be materially detrimental.
3. There **IS** merit and value in the proposal for the community as a whole;
 - i. The Updated Critical Areas Regulations and associated maps will ensure the County's continued compliance with the Growth Management Act RCW 36.70A and WAC 365-190.
4. Conditions **WILL NOT** be imposed in order to mitigate any significant adverse impacts from the proposal;
 - i. Significant adverse impacts are not anticipated, thus conditions for mitigation are not necessary for the Update to the Critical Areas Regulations.
5. A concomitant agreement **WILL NOT** be entered into between the county and the petitioner, and if so, the terms and conditions of such an agreement.
 - i. A concomitant agreement is not necessary for the Update to the Critical Areas Regulations.

WHEREAS, the public use and interest will be served by approving the above-mentioned application.

NOW THEREFORE, BE IT ORDAINED that the above-mentioned application for the 2008 Growth Management Act (GMA) required Update to the Franklin County Critical Area Ordinance (Protection of Critical Areas and Resource Lands) be approved in accordance with the provisions of the Franklin County Development Regulations, the Growth Management Act and as recommended by the Planning Commission and Planning Staff.

BE IT FURTHER ORDAINED that the Board of County Commissioners hereby super cede and repeal Franklin County Ordinance Number 04-95, and all other applicable resolutions and/or ordinances that have previously amended the Franklin County Critical Area Ordinance portion of the Franklin County Development Regulations.

DECISION

The Board of County Commissioners, having conducted a public hearing, accepted public testimony, reviewed the record and adopted the Planning Commission's Findings and Recommendations, hereby **ADOPT** the Franklin County Development Regulations—Critical Areas Ordinance.

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SIGNED AND DATED THIS 18th DAY OF FEBRUARY 2009.

**BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON**

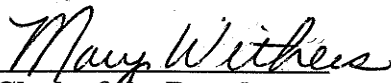


Rick Miller, Chair



Robert E. Koch, Chair Pro-Tem

Attest:


Clerk of the Board

Brad Peck - Absent

Brad Peck, Member

Ordinance Number 3-2009

Franklin County, Washington

Protection of Critical Areas and Resource Lands

(Repealing Franklin County Ordinance #4-95)

Chapter(s)

- 1.0** **General Provisions**
- 2.0** **Wetlands**
- 3.0** **Aquifer Recharge Areas**
- 4.0** **Frequently Flooded Areas**
- 5.0** **Geologically Hazardous Areas**
- 6.0** **Fish and Wildlife Conservation Areas**

Appendix(s)

- A** **Best Available Science: Documents, Miscellaneous Resources**
- B.** **Fish and Wildlife Conservation Area Listing**
- C.** **Critical Area Review Process Chart**
- D.** **Maps**

CHAPTER 1.0
GENERAL PROVISIONS

SECTIONS:

1.010	Purpose
1.020	Authority and Applicability
1.030	Relationship to other regulations
1.040	Interpretation
1.050	Jurisdiction—Critical Areas
1.060	Best Available Science
1.070	Definitions
1.080	Identification of Critical Areas—Maps and Documents
1.090	General Review Process and Report Requirements
1.100	Appeals
1.110	Reasonable Use Exception
1.120	Allowable Uses and Activities
1.130	Nonconforming Uses and Activities
1.140	Subdivisions
1.150	Violations - Penalties
1.160	Severability
1.170	Effective Date

1.010 PURPOSE

- A. The purpose of this ordinance is to promote the general health, safety and welfare of county residents by conserving and protecting critical areas. The Franklin County Board of Commissioners finds that the impact of development in critical areas poses a threat to the public’s health, safety and welfare; to clean water, and to fish and wildlife habitat. This ordinance is enacted to protect critical areas by regulating development within or adjacent to such areas/lands, while providing property owners with reasonable economic use of their land.

- B. This Title is to implement the goals, policies, guidelines, and requirements of the Franklin County Comprehensive Plan and the Growth Management Act (RCW 36.70A, as amended).

- C. Goals. By identifying development impacts to critical areas, this Title seeks to:
 - 1. Protect members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, volcanic eruptions, or flooding;

2. Protect unique, fragile, and valuable elements of the environment, including ground and surface waters, wetlands, and fish and wildlife and their habitats;
 3. Direct activities not dependent on critical area resources to less ecologically sensitive sites and mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to critical areas; and
 4. Prevent cumulative adverse environmental impacts to water quality, wetlands, and fish and wildlife habitat, and the overall net loss of wetlands, frequently flooded areas and habitat conservation areas.
- D. This Title is intended to protect critical areas in accordance with the Growth Management Act and through the application of best available science, as determined according to WAC 365-195-900 through 365-195-925, and in consultation with other qualified professionals.
- E. This Title is to be administered with flexibility and attention to site-specific characteristics. It is not the intent of this Title to make a parcel of property unusable by denying its owner reasonable economic use of the property.
- F. The County's enactment or enforcement of this Title shall not be construed for the benefit of any individual person or group of persons other than the general public.

1.020 AUTHORITY AND APPLICABILITY

- A. As provided herein, the Planning Director and his/her designee(s) is given the authority to interpret and apply, and the responsibility to enforce this Title to accomplish the stated purpose.
- B. The County shall not approve any permit or otherwise issue any authorization to alter the condition of any land, water, or vegetation, or to construct or alter any structure or improvement in, over, or on a critical area or associated buffer, without first assuring compliance with the requirements of this Title.
- C. The provisions of this Title shall apply to all lands, all land uses and development activities, and all structures and facilities in the County, whether or not a permit or authorization is required, and shall apply to every person, firm, partnership, corporation, group, governmental agency, or other entity that owns, leases, or administers land within the County. No person, company, agency, or applicant shall alter a critical area or buffer except as consistent with the purposes and requirements of this Title.

- D. Approval of a permit or development proposal pursuant to the provisions of this Title does not discharge the obligation of the applicant to comply with the provisions of this Title.

1.030 RELATIONSHIP TO OTHER REGULATIONS

- A. These critical area regulations shall apply as an overlay to the Franklin County Zoning Ordinance, as amended, and other applicable regulations adopted by the County, including but not limited to design standards, subdivision ordinance, building codes, shorelines management program, and environmental review (SEPA) procedures.
- B. Any individual critical area adjoined by another type of critical area shall meet the requirements that provide the most protection to the critical areas involved. When any provision of this Title or any existing regulation, easement, covenant, or deed restriction, conflicts with this Title, that which provides more protection to the critical areas shall apply.
- C. Compliance with the provisions of this Title does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, Shoreline Substantial Development Permits, HPA permits, Army Corps of Engineers Section 404 permits, NPDES permits). The applicant is responsible for complying with these requirements, apart from the process established in this Title. Where applicable, the Planning Director will encourage use of information such as permit applications to other agencies or special studies prepared in response to other regulatory requirements to support required documentation submitted for critical areas review.

1.040 INTERPRETATION

In the interpretation and application of this ordinance, the provisions of this Title shall be considered to be the minimum requirements necessary, shall be liberally construed to serve the purpose of this ordinance, and shall be deemed to neither limit nor repeal any other provisions under state statute.

1.050 JURISDICTION – CRITICAL AREAS

- A. The County shall regulate all uses wholly or partially within designated critical areas, consistent with the best available science and the provisions herein.
- B. Critical areas regulated by this Title include:

1. Wetlands as designated in Chapter 2.0;
 2. Critical aquifer recharge areas as designated in Chapter 3.0;
 3. Frequently flooded areas as designated in Chapter 4.0;
 4. Geologically hazardous areas as designated in Chapter 5.0; and
 5. Fish and wildlife habitat conservation areas as designated in Chapter 6.0.
- C. All areas within the County meeting the definition of one or more critical area, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this Title.

1.060 BEST AVAILABLE SCIENCE

- A. The best available science is that scientific information applicable to the critical area prepared by local, state or federal natural resource agencies, a qualified scientific professional or team of qualified scientific professionals, that is consistent with criteria established in WAC 365-195-900 through WAC 365-195-925.
- B. In the context of critical areas protection, best available science must also be based upon a valid scientific process as defined in WAC 365-105-905.
- C. Franklin County's best available science sources are available in Appendix A of this Ordinance. The best available science includes any maps created through a critical areas review process or previously completed maps in the vicinity of a permit application.
- D. Critical area studies and decisions to alter critical areas must give special consideration to conservation and protection measures necessary to preserve or enhance anadromous fish and their habitat.

1.070 DEFINITIONS

For the purposes of this title, the following words and phrases shall have the indicated meanings unless the context clearly indicates otherwise:

1. "Agriculture" means the tilling of soil, raising of crops, livestock and horticulture for commercial purposes and all those activities normally and routinely involved in the production of crops, horticulture or livestock.

2. "Agriculture, low intensity" means agricultural activities that do not have a significant adverse impact on the functions and values of adjacent wetland or riparian resources. Agricultural activities that are not low intensity include those that result in soil or bank erosion, degradation of water quality, toxic poisoning of biota, desiccation or defoliation of wetland and riparian vegetation, and annual seed bed preparation and/or frequent discing.
3. "Allowable uses and activities" means, those uses and activities listed in Section 1.110, which are permitted without review for consistency with the provisions of this title.
4. "Appeal" means a request for review of a reviewing official's decision, determination, order or interpretation of any provision of this title.
5. "Applicant" means any person, authorized agent, business entity, or public agency that applies for any permit or approval required by this title.
6. "Area of Project Review" means the area surrounding and including a Critical Resource, as specified by this Title, within which activities and developments are subject to the provisions of this Franklin County Ordinance.
7. "Best Management Practices (BMP'S)" means physical, structural, and/or managerial practices that when used singularly or in combination, protect the functions and values of critical resources. BMP's are current and evolving conservation practices, systems of practices, management and operational measures, design and construction techniques, or normal and accepted industry standards that are applied to land uses and land use activity in a manner which:
 - A. controls soil loss and reduces water surface and groundwater quality degradation caused by nutrients, animal wastes, toxins, and sediment; and,
 - B. mitigates adverse impacts to the natural chemical, physical and biological environment of the County; and,
 - C. facilitates the utilization of the county's natural resources on a long term, sustainable yield basis.
8. "Buffer" means a designated area used to separate incompatible uses or protect resources or development. Buffers are generally undeveloped areas. There are different types of buffers for different purposes:
 - A. buffers which protect sensitive natural resources (critical areas) from the adverse impacts of development are generally undeveloped open space which are ecologically part of the protected resource;

- B. buffers which protect the integrity of development from certain natural hazards such as slope instability, floods or fire prone areas, are building setbacks which avoid the hazardous condition;
 - C. buffers to separate incompatible uses, such as residential from industrial, airports, or certain activities common to commercial agriculture, are generally open or sparsely populated.
9. "Building Setback/Structure Line" means a line which establishes a definite point beyond which the foundation of a building shall not extend. Prohibitions on the placement of structures or the use of hazardous or toxic substances and pesticides or certain fertilizers in this setback area may be imposed.
10. "Clay" means that as a soil separate, the mineral soil particles are less than 0.002 millimeter in diameter. As a soil textural class, the soil material is forty (40) percent or more clay, less than forty-five (45) percent sand, and less than forty (40) percent silt.
11. "Clearing" means the cutting or removal of vegetation or other organic plant material by physical, mechanical, chemical, or any other means.
12. "Comprehensive Plan" means the Franklin County Comprehensive Plan and any amendments, addenda, or supplemental plans that are duly adopted under R.C.W. Chapter 36.70 A. (as amended), for Franklin County or any portion thereof.
13. "County" means Franklin County.
14. "Critical Areas" mean those areas of Franklin County that include the following areas and ecosystems:
- A. Frequently flooded areas;
 - B. Areas with critical recharging effect on aquifers used for potable water;
 - C. Geologically hazardous areas;
 - D. Fish and wildlife habitat conservation areas; and
 - E. Wetlands.
15. "Critical Areas Overlay Maps" were developed from and are augmented by best available science, resource and technical studies, aerial photographs and other resource maps and include the following:

- A. Federal Emergency Management Agency's (FEMA), 100-year flood map(s);
 - B. County Geologically Hazardous Map(s);
 - C. County Critical Aquifer Recharge Map(s);
 - D. County Wetland Map(s);
 - E. other map(s) as are appropriate.
16. "Critical Area Review" means the evaluation performed by Franklin County as part of its review of an application for a permit or approval to ensure that impacts to Critical Resources have been addressed where appropriate.
 17. "Critical Resources" mean those specific resources which are subject to protection by regulation under this Title (e.g., wetlands, geologically hazardous areas, wildlife conservation areas, frequently flooded areas, aquifer recharge/interchange areas).
 18. "Critical Resource setback" means the required distance between a development or land use activity and the edge of any Critical Resource.
 19. "Determination of Consistency" means the determination by the Planning Director that an activity or development is consistent with the provisions of this Title.
 20. "Development Site" means the legal boundaries of the parcel or parcels of land for which an applicant has applied for authority from Franklin County to carry out a development proposal.
 21. "Diversity (ecological)" refers to the variety of species of plants and animals that compose a biotic community or ecosystem, often expressed as total number of different species.
 22. "Drainage Ditch" means that portion of a designed and constructed conveyance system that serves the purpose of transporting drainage waters, including irrigation return flows.
 23. "Dwelling or Dwelling Unit" means a building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking, and sanitation for not more than one family.
 24. "Emergency" means when there is an immediate threat to life or property.

25. "Enhancement" means an action which improves the natural functions and values of a stream, wetlands, or other critical resource to a state more closely resembling the natural conditions.
26. "Environmental Review" means the procedures and requirements established by the State Environmental Policy Act, Chapter 43.21C RCW as it now exists or is hereafter amended and/or modified.
27. "Erosion" means the process in which soil particles are mobilized and transported by natural agents such as wind, rain, splash, frost action or stream flow.
28. "Grading" means any excavation, filling, removing of the vegetative layer or any combination thereof.
29. "Gravel" refers to large soil particles two (2) to twenty (20) millimeters in diameter or an unconsolidated, natural accumulation of rounded rock particles.
30. "Groundwater Management Program" means a comprehensive program designed to protect groundwater quality, to assure groundwater quantity, and to provide for efficient management of water resources while recognizing existing groundwater rights and meeting future needs consistent with local and state objectives, policies and authorities within a designated groundwater management area or sub area developed pursuant to WAC 173-100."
31. "Habitat" means the sum of all environmental factors of a specific place necessary for the support and sustenance, on a permanent or temporary basis, of an organism, species, population or community.
32. "Hydrology" refers to the properties of water, including the circulation and distribution, on or below ground surface.
33. "Impervious Surface" means any material which reduces or prevents absorption of water into previously undeveloped land.
34. "Intensity" means the combination of factors (such as visual appearance and building size, traffic generation, noise, dust and light and economic value) associated with a particular use. Intensity often determines the potential impact of that use on adjacent land uses.
35. "Irrigation and/or Drainage Facilities" means all irrigation and/or drainage structures, including but not limited to: standpipes, weir boxes, pipelines, ditches, pump houses, culverts, etc.

36. "Irrigation Ditch" means that portion of a designed and constructed conveyance facility that serves the purpose of transporting irrigation water from its supply source to its place of use.
37. "Land" means any lot, parcel or tract of real property (ground, soil, earth).
38. "Land Use" means the method or manner in which land and structures are occupied or utilized.
39. "Landscaping" means:
 - A. an expanse of natural scenery;
 - B. "soft" landscaping which is the arrangement, placing and/or planting of trees, grass, shrubs and flowers; and,
 - C. "hard" landscaping which is the placement or construction of decorative features, such as, fountains, patios, street furniture, sidewalks or paths, observation platforms, kiosk and cabana, gazebo, and ornamental concrete or stonework.
40. "Legislative Body" means the Board of Franklin County Commissioners.
41. "Lot" means a portion of a subdivision, short plat, binding site plan or other parcel of land such as a tract or parcel:
42. "Lot Coverage" means that portion of the lot that is covered by structures and other impervious surfaces.
43. "Mitigation" means the use of any or all of the following actions that are listed in descending order of preference:
 - A. avoiding the impact altogether by not taking a certain action or parts of an action;
 - B. 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;
 - C. rectifying the impact by repairing, rehabilitating or restoring the affected sensitive area;
 - D. reducing or eliminating the impact over time by preservation or maintenance operations during the life of the development proposal;

- E. compensating for the impact by replacing, enhancing or providing substitute sensitive areas and environments;
 - F. monitoring the impact and taking appropriate corrective measures.
44. "Modification (of Use or Development)" means any change or alteration in the occupancy, arrangement, placement or construction of any existing use, structure, land, or associated site.
 45. "Monitoring" means the ongoing evaluation of the impacts of a development proposal on the biological, hydrologic and geologic conditions of Critical Resources. Monitoring includes the gathering of baseline data and the assessment of the performance of required mitigation measures through the collection and analysis of data for the purposes of understanding and documenting changes in natural ecosystems and features.
 46. "Native Vegetation" refers to plant species which are indigenous to the Central Basin region and which reasonably could have been expected to naturally occur on the site. Native vegetation does not include noxious weeds.
 47. "Non-indigenous Vegetation and Wildlife" means a species not native (i.e. indigenous) to Franklin County. For example, non-indigenous species of plant are introduced locally by feed and seed products imported from other regions.
 48. "Nonconforming Use" means a use of land or structures which was lawfully established and maintained at the effective date of this Title but does not conform to this title.
 49. "Overlay District" means the uniform development standards set forth in this title that "overlay" other pre-existing "underlying" county zoning districts (e.g., Rural Residential, Industrial, Commercial, etc.) wherever Critical Resources exist. The Overlay District does not modify or change the list of uses permitted in the underlying zone.
 50. "Over-riding economic need" means when a single proposed development is so essential to local or regional economic growth or stability, that failure to accomplish the project will result in demonstrable and enduring adverse impacts to employment, and/or the existing officially recognized economic base.
 51. "Permit" means written government approval issued by an authorized official, empowering the holder thereof to take some action permitted only upon issuance of written approval.
 52. "Planning Department" means the Franklin County Planning and Building Department.

53. "Point of Measurement" refers to the location at the edge of a critical resource (wetland, river, geologic hazard etc.) from which a measurement is made to establish the width of a buffer, or the Area of Project Review.
54. "Property Owner(s)" means the legal owner or owners of the property.
55. "Qualified Professional" means an accredited or licensed professional with a combination of education and experience in the discipline appropriate for the subject matter that is being commented or, someone who would qualify as an expert in their field. For wetlands, a qualified professional should be a professional wetland scientist with at least two years full time work experience as a wetlands professional, including delineating wetlands using the state or federal manuals, preparing wetland reports, conducting function assessments, and developing and implementing mitigation plans.
56. "Reviewing Official" means the Planning Director or legislative body, when engaged in any review or approval procedure under the provisions of this title.
57. "Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined in some definite manner.
58. "Topography" refers to a general term which includes the characteristics of the ground surface such as plains, hills, mountains; degree of relief, steepness of slope, and other physiographic features.
59. "Unregulated activities" mean allowable uses and activities.
60. "Use" means the activity or purpose for which land or structures or combination of land and structures are designed, arranged, occupied, or maintained together with any associated site improvement. This definition includes the construction, erection, placement, movement or demolition of any structure or site improvement and any physical alteration to land itself including any grading, leveling, paving or excavation. Use also means any existing or proposed configuration of land, structures, and site improvements, and the use thereof.
61. "Vegetation" means any and all organic plant life growing at, below, or above the soil surface.
62. "Violation" means the non-attainment of the provisions of any or all of the following: This Title, administrative rules, permit, stop work order, or any other order issued.

63. "Water Table" refers to the upper surface of the free groundwater in a zone of saturation unconfined by an overlying impermeable zone.

1.080 IDENTIFICATION OF CRITICAL AREAS—MAPS AND DOCUMENTS

- A. The maps for critical areas are used as a general guide to the location and extent of critical resources. Critical resources are presumed to exist in or near the critical areas indicated on the Critical Areas Overlay Maps and, if present, are protected under all the provisions of this title and all related titles. A critical resource is protected under this title whether or not it is shown within a designated critical area.
- B. The Critical Areas Overlay Maps are available for review in the Planning Department as either hard copy or computer generated images of the County's Geographic Information System. The maps will be amended over time to accurately reflect improvements in the accuracy of the data base.
- C. The Critical Areas Overlay Maps are also intended to alert the development community, appraisers, and current and prospective property owners of the potential encounter with natural site constraints due to Critical Resources, which may limit or cause alterations of development plans but provisions of the title may apply outside of the mapped designations.
- D. If the property proposed for development is wholly or partially within an Area of Project Review for a Critical Resource, then the Planning Director may require that additional information be provided prior to the County's acceptance of a development application as complete and ready for processing under current Franklin County Codes. When any other title of the Franklin County Code conflicts with this title, the more restrictive provision will apply.
- E. The County's Critical Area Overlay Maps are developed utilizing the maps and inventories listed and included in the County Best Available Science (Appendix A of this Ordinance). The Critical Area Maps include the following:
1. Federal Emergency Management Agency's (FEMA), 100-year flood map(s);
 2. County Geologically Hazardous Map(s);
 3. County Critical Aquifer Recharge Map(s);
 4. County Wetland Map(s);
 5. Other map(s) as are appropriate.

- F. Applicability of reference maps: In some cases, the Critical Area Reference Maps identified herein display general locations and approximate boundaries of potential critical areas. Further field determination and analysis may be necessary for specific development proposals to establish exact location, extent, and nature of critical areas. Fish and Wildlife Conservation Areas are identified using the references, maps, and criteria established in Chapter 6.0.

1.090 GENERAL REVIEW PROCESS AND REPORT REQUIREMENTS

- A. The County shall follow the process discussed below:
1. Verify the information submitted by the applicant for the applicable permit;
 2. Evaluate the project area and vicinity for critical areas;
 3. Determine whether the proposed project is likely to impact the functions or values of critical areas; and
 4. Determine if the proposed project adequately addresses the impacts and avoids impacts to the critical area associated with the project.
- B. **Critical areas present, but no impact - waiver.** If the Planning Director determines that there are critical areas within or adjacent to the Area of Project Review, but that the proposed activity is unlikely to degrade the functions or values of the critical area, the Planning Director may waive the requirement for a report or other applicable information (with written approval and assistance from a federal, state, or local resource agency). A waiver may be granted if there is substantial evidence that all of the following requirements will be met:
1. There will be no alteration of the critical area or buffer;
 2. The development proposal will not impact the critical area in a manner contrary to the purpose, intent, and requirements of this Title; and
 3. The proposal is consistent with other applicable regulations and standards.
- C. **Critical Areas Present and Potential Impact Likely.** If the Planning Director determines that the proposed project is within, adjacent to, or is likely to impact a critical area, the Planning Director shall:
1. Notify the applicant that a critical area report, State Environmental Policy Act (SEPA) checklist or other applicable information must be submitted

prior to further review of the project, and indicate each of the critical area types that should be addressed;

2. Require a critical area report or other applicable information from the applicant that has been prepared by a qualified professional. Additional information and requirements may be obtained within each Chapter;
3. Review and evaluate the critical area report and other applicable information to determine whether the development proposal conforms to the purpose and performance standards of this Title;
4. Assess potential impacts to the critical area and determine if they are necessary and unavoidable;
5. Determine if any mitigation proposed by the applicant is sufficient to protect the functions and values of the critical area and public health, safety, and welfare concerns consistent with the goals, purposes, objectives, and requirements of this Title; and
6. A summary of this analysis and the findings shall be included in any decision on the underlying permit(s). Critical area review findings may result in: a) no adverse impacts to critical area(s), b) list of applicable critical area(s) protection conditions for the underlying permit(s), or c) denial of permit based upon unavoidable impacts to critical area(s) functions and values.

D. Critical Area report requirements

1. Incorporating best available science. The report shall use scientifically valid methods and studies in the analysis of data and field reconnaissance and reference the source of science used. The report shall evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this Title.
2. Minimum report contents. At a minimum, the report shall contain the following:
 - a. the resume of the principal author(s) which disclose(s) their technical training and experience and demonstrates their stature as a qualified professional; The study shall be performed by a professional who is licensed or qualified as an expert in the Critical Resources at issue.
 - b. identification and characterization of the Critical Area and associated buffers;

- c. an assessment of any potential hazards associated with the proposed development;
- d. an assessment of the impacts of the development proposal on any Critical Area;
- e. a mitigation plan which reduces impacts on the Critical Area(s) to an insignificant level and specifies maintenance, monitoring and bonding measures (where necessary);
- f. additional information and requirements that may be required within each Chapter of this code.

1.100 APPEALS

The Planning Directors' decisions in Section 1.090 shall be considered final unless an appeal is submitted. An applicant or any person with legal standing may appeal to the Board of County Commissioners the Planning Director's determination. Any appeal shall be made in writing to the Planning Director within fourteen (14) days from the date of the Planning Director's final determination. The appeal period shall commence on the date of the Planning Director's final determination. The appeal shall state clearly the Critical Resource issue and the specific findings or elements of the action which are being contested. An appeal fee consistent with the Planning Department Fee Schedule shall be paid at the time of appeal submittal.

1.110 REASONABLE USE EXCEPTION

- A. Nothing in this chapter is intended to preclude the reasonable economic use of property. For purposes of this section, reasonable economic use of a lot or parcel shall be deemed available if any one of the specific uses listed as permitted, accessory or conditional in the Franklin County Zoning Ordinance, as amended, in the zone in which the subject property is located, can be accommodated on the subject lot.
 - 1. If requirements of this ordinance as applied to a specific property, would deny all reasonable economic use of the lot, development consistent with the use regulations of the Franklin County Zoning Ordinance, as amended, can be permitted through a variance to the standards herein if the applicant demonstrates all of the following to the satisfaction of the Franklin County Planning Commission:
 - a. There is no other reasonable economic use or feasible alternative

to the proposed development with less impact on the critical areas(s);

- b. The proposed development does not pose a threat to public health, safety and welfare on or off the subject lot;
- c. Any variance permitted from requirements of this ordinance shall be the minimum necessary to allow for reasonable economic use of the property;
- d. The inability of the applicant to derive reasonable economic use of their property is not the result of actions by the applicant after the effective date of this chapter in subdividing the property or adjusting a boundary line which creates the undeveloped condition and,
- e. The proposal mitigates impacts to the critical area(s) to the maximum extent possible.

B. Reasonable Use Decision Process: An application for reasonable use exception shall be filed with the Administrator and shall be considered by the Planning Commission at a public hearing. The application shall include the following information which will be considered during the evaluation for granting a reasonable use exception:

- 1. A description of the critical area(s) located on the property and the required standards of this code that are applicable to the proposed development;
- 2. An analysis of the minimum amount of development that would be considered reasonable economic use of the lot, including a narrative which describes the factual basis for this determination;
- 3. An analysis of the impact(s) associated with development in subsection 2 that would be imposed on the critical areas(s);
- 4. An analysis of whether any other reasonable economic use with less impact on the critical area(s) and buffers is possible. This should include a discussion of whether there is any practical on-site alternative to the proposed development with less impact, including reduction in density, phasing of project implementation, change in timing of activities, revision of lot layout, and/or related site planning considerations that would allow reasonable economic use with less adverse impact to the critical area(s) or buffers.

1.120 ALLOWABLE USES AND ACTIVITIES

The following are exemptions to provisions of this chapter; however, the listed exemptions may not be exempted from other state or federal regulations or permit requirements:

- A. Activities in response to emergencies that threaten public health, property, safety or welfare, as verified by the administrator to be the minimum necessary to alleviate the emergency.
- B. Legally constructed structures, in existence on the date this ordinance becomes effective, that do not meet requirements of this ordinance may be remodeled or reconstructed; provided that the new construction or related activity does not further encroach into the critical area(s) and/or natural resource land(s). Remodeling or reconstruction shall be subject to all other requirements of the zoning code.
- C. Operation and maintenance of existing Columbia Basin Project related facilities by the U.S. Bureau of Reclamation, and maintenance activities of the associated Columbia Basin Irrigation Districts which operate in some degree within Franklin County. Including all water contract activities related to the use, reuse or lack of use of water subject to the Federal Water Right.
- D. Normal and routine maintenance of legally constructed irrigation and drainage ditches. (When located within an already approved easement, right-of-way etc.)
- E. Normal and routine maintenance of agricultural ponds, livestock watering ponds and fish ponds, provided that such activities do not involve conversion of any wetland or stream not used for such purpose on the effective date of this chapter.
- F. Artificial structures intentionally constructed from upland areas for purposes of storm-water drainage or water quality control, or ornamental landscape ponds, which are not part of a mitigation plan as described and detailed herein.
- G. Irrigation water, or the conveyance of irrigation water, and associated practices in rural and agricultural areas within the Columbia Basin Project. Changes in irrigation practices, or the conveyance of said irrigation water, which may create or impact a wetland or artificial wetland if the use of the land is for agricultural purposes. Filling of or eliminating wetlands for commercial, industrial or residential uses shall be regulated by this critical area ordinance.
- H. Normal and routine maintenance of public streets, state highways, public utilities and public park facilities. Maintenance and repair does not include any modification that changes the character, scope, or size of the original structure, facility, or improved area, nor does it include construction of a maintenance road

or dumping of maintenance debris. (Note: Meaning no expansion into new unused areas).

- I. The following electric, natural gas, cable communications and telephone utility-related activities, when undertaken pursuant to best management practices to avoid impacts to critical areas: Water quality, flood plain and other permits may be required if applicable.
 - 1. Normal and routine maintenance or repair of existing utility structures or right-of-way when located within already approved easements, right-of-ways etc.
 - 2. Relocation of electric facilities, lines equipment or appurtenances, not including substations with an associated voltage of 55,000 volts or less, when required and/or approved by the administrator; (when located within an already approved easement, right-of-way etc.)
 - 3. Relocation of natural gas, cable communications, telephone facilities, lines, pipes, mains, equipment or appurtenances when required and/or approved by the administrator; (when located within already approved easements or right-of-way etc.)
 - 4. Installation or construction in approved street right-of-ways and replacement, operation or alteration of all facilities listed in subsections b. and c., above;
- J. Buffer management when approved by the administrator and all agencies with jurisdiction. Management may be limited to actions necessary to reduce risk to adjacent properties from falling trees, wildfire, etc provided the management is the minimum necessary to protect both the critical area and property.
- K. Existing and on-going agricultural activities normal or necessary to general farming conducted according to industry-recognized best management practices, particularly as advocated by the Natural Resources Conservation Service, including the raising of crops or the grazing of livestock.
- L. Passive uses, including but not limited to:
 - 1. Conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife;
 - 2. Outdoor recreational activities such as bird watching, hiking, boating, swimming, canoeing, bicycling, hunting, fishing, trapping, and compatible minor improvements, such as trails, observation points, and navigational aids. Trails located in wetlands or buffers are limited to permeable

surfaces no more than 5 feet in width. Minor crossing only are allowed in wetlands. These trails should only be located in the outer 25% of a wetland buffer and should be designed to avoid removal of significant trees.

- M. Scientific research, education, and site investigative work such as surveys, soil logs, percolation tests and other related activities.
- N. Activities undertaken as an authorized element of a project previously approved by the county.
- O. Emergency actions by fire districts.

1.130 NONCONFORMING USES AND ACTIVITIES

- A. Nonconforming uses and activities inside an Area of Project Review are allowed. Nonconforming uses are those uses officially determined by the Planning Director, based upon verifiable evidence, to have been legally established uses in existence on the date this title becomes effective.
- B. A Determination of Consistency may be required if existing buildings are remodeled, reconstructed or replaced if the construction activity may cause significant adverse impacts to functions and values of Critical Resources.

1.140 SUBDIVISIONS

Any subdivision, as defined in the County Subdivision Ordinance, as amended, of land that creates a lot greater in size than five acres and is located in a critical area or associated buffer shall comply with the following:

- A. Land that is located wholly within a wetland, fish and wildlife conservation area, geologically hazardous area, floodway, or the buffers required for these critical areas may not be subdivided.
- B. Land that is located partially within a wetland, fish and wildlife conservation area, geologically hazardous area, floodway, or the buffers required for these critical areas may be subdivided provided that an accessible, contiguous, and buildable portion of each new lot is:
 - 1. Located outside of the wetland, fish and wildlife conservation area, geologically hazardous area, floodway, and the buffers required for these critical areas; and

2. Meets the minimum buildable site requirements of the Franklin County Zoning Ordinance, as amended.
- C. Access roads and utilities serving the proposed subdivision may be permitted within the wetland, fish and wildlife conservation area, geologically hazardous area, or the buffers required for these critical areas only if the Planning Director determines that no other feasible alternative exists, consistent with this Ordinance.

1.150 VIOLATIONS - PENALTIES

The violation of any of the provisions of this title shall constitute an infraction. Each such violation shall constitute a separate infraction for each and every day or portion thereof during which such violation is committed, continued, or permitted. Violations of this Title are processed in accordance with the provisions included in Chapter 2 Violations and Penalties included in the County Zoning Ordinance 7-2005, as amended.

1.160 SEVERABILITY

If any provision of this title is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the title and the applicability thereof to other persons and circumstances shall not be affected thereby.

1.170 EFFECTIVE DATE

This ordinance shall take effect and be in full force upon its passage and adoption.

CHAPTER 2.0 WETLANDS

SECTIONS:

- 2.010 Applicability
- 2.020 Purpose
- 2.030 Development Permitted
- 2.040 Definitions
- 2.050 Classification and Designation
- 2.060 Determination Process
- 2.070 Critical Area Report/ Wetland Mgt and Mitigation Plan
- 2.080 Management Recommendations and Standards

2.010 APPLICABILITY

This chapter applies to wetlands and development activities within or adjacent to such wetlands located within unincorporated Franklin County.

2.020 PURPOSE

It is the intent of Franklin County to promote public health and welfare by instituting local measures to preserve naturally occurring wetlands that exist in this county for their associated value. These areas may serve a variety of vital functions, including, but not limited to: flood storage and conveyance, water quality protection, recharge and discharge areas for groundwater, erosion control, sediment control, fish and wildlife habitat, recreation, education and scientific research.

Protection measures should strive to spare identified value and function of wetlands that may be in jeopardy from new development proposals. However, these regulations shall not prohibit uses legally existing on any parcel prior to their adoption.

Franklin County recognizes that various legal means and levels of government already address protection of wetlands. Effort will be made to avoid unnecessary duplication and to promote cooperation and coordination whenever possible.

2.030 DEVELOPMENTS PERMITTED

Developments within an Area of Project Review as set forth in this chapter are permitted when sited, designed, and operated in a manner which protects the functions and values of the wetland when such developments meet the requirements of this title.

2.040 DEFINITIONS

- A. “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 wetland areas such as irrigation and drainage ditches, canals, grass-lined swales, detention facilities, wastewater treatment facilities, farm ponds and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas for mitigation of approved projects.
- B. “Artificial Wetlands” are those wetlands intentionally created on non-wetland (upland) sites. Artificial wetlands are not the result of an accident or an unexpected by-product of some other intentional act.

2.050 CLASSIFICATION AND DESIGNATION

Wetlands shall be identified and delineated using the Washington State Wetlands Identification and Delineation Manual for Eastern Washington. Classification and rating of wetlands will be done using the Washington State Wetlands Rating System for Eastern Washington.

The following wetlands may not be further regulated by this section:

1. Artificial Wetlands that have developed within structures designed to convey water within the developed portion of the Columbia Basin Irrigation Project. (This is a federally managed irrigation system that intentionally created by design, engineering and land use contracts aquatic features in upland areas within water conveyance structures such as canals and ditches.
2. Areas that may meet the definition of “artificial wetlands” as described herein that are managed and owned by the United States Bureau of Reclamation.
3. Wetland areas identified on the National Wetland Inventory (NWI) maps with an artificial designation when it can be shown that the area(s) noted was (were) intentionally created from a non-wetland site.

2.060 DETERMINATION PROCESS

Franklin County will review each development permit application in accordance with Section 1.090 of this Title and to determine if the provisions of this Section will be applied to the project. In making the determination, the County may use any of the best available science and the Critical Area reference maps and/or inventories identified in Section 1.080. The following progressive steps will occur upon a determination by the County that a wetland area may exist on a site proposed for a development permit.

- A. Franklin County Planning Director will determine if the proposed development activity is within an Area of Project Review and if there are any possible wetland areas on-site. This determination shall be made following a review of information available, as well as a site inspection and/or a consultation with a qualified wetland biologist, if deemed necessary by the County. If no wetland area is determined to be present, this section shall not apply to the review of the proposed development, unless wetlands are discovered to be present during project development.
- B. If it is determined by the Planning Director that wetland areas may be present, a site inspection and consultation with a qualified wetland biologist shall be conducted to more definitively determine if a wetland area exists on the site. If yes, the applicant shall complete a Critical Area Report consistent with Section 1.090 of this Title and conduct a wetland delineation using the Washington State Wetlands Identification and Delineation Manual (Ecology Publication #96-94), as amended, and the USACE Arid West Supplement to the 1987 Wetlands Delineation Manual.
- C. An applicant of a wetland project and/or of a development activity that is within or adjacent to such wetlands located within unincorporated Franklin County are encouraged to contact the State Department of Ecology to determine permit requirements that are independent of Franklin County and this Ordinance.

2.070 CRITICAL AREA REPORT/ WETLAND MANAGEMENT AND MITIGATION PLAN

As determined necessary as provided for in this section a wetland management and mitigation plan shall be required when impacts to a wetland are unavoidable during project development.

- A. Wetland management and mitigation plans shall be prepared by a qualified professional as described in Section 1.070 (57). The following guidance documents are encouraged to be used in mitigation planning documents: Wetland Mitigation in Washington State, Part 1: Agency Policies and Guidance (Version 1, Publication #06-06-011a, March 2006) and Wetland Mitigation in Washington State, Part 2: Developing Mitigation Plans (Version 1, Publication #06-06-011b, March 2006).

- B. The wetland management and mitigation plan shall demonstrate, when implemented, that there shall be no net loss of the ecological function and values or acreage of the wetland.
- C. The wetland management and mitigation plan shall identify how impacts from the proposed project shall be mitigated, as well as the necessary monitoring and contingency actions for the continued maintenance of the wetland and its associated buffer. Monitoring shall be for a period necessary to establish that performance standards have been met. Generally plans shall include a (5) five-year monitoring plan unless a longer time line is required during the review process. Forested or scrub-shrub communities shall include an 8 eight-year monitoring plan unless a longer time is established during the review process.
- D. The wetland management and mitigation plan shall be developed to be consistent with Section 1.090 of this Title and contain a report that includes, but is not limited to, the following information:
1. Location maps, regional 1:24,000 and local 1:4,800;
 2. A map or maps indicating the boundary delineation of the wetland; the width and length of all existing and proposed structures, utilities, roads, easements; wastewater and storm-water facilities; adjacent land uses, zoning districts and comprehensive plan designations;
 3. A description of the proposed project including the nature, density and intensity of the proposed development and the associated grading, structures, utilities, storm-water facilities, etc., in sufficient detail to allow analysis of such land use change upon the identified wetland;
 4. A detailed description of vegetative, faunal and hydrologic conditions, soil and substrate characteristics, and topographic features within and surrounding the wetland;
 5. A detailed description of vegetative, faunal and hydrologic conditions, soil and substrate characteristics, and topographic features within any compensation site;
 6. A detailed description of the proposed project's effect on the wetland, and a discussion of any federal, state or local management recommendations which have been developed for the area;
 7. A discussion of the following mitigation alternatives as they relate to the proposal. The mitigation alternatives shall be proposed in a manner that considers the following in order of priority from a through f:

- a. avoiding the impact altogether by not taking a certain action or parts of an action;
 - b. 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;
 - c. rectifying the impact by repairing, rehabilitating or restoring the affected sensitive area;
 - d. reducing or eliminating the impact over time by preservation or maintenance operations during the life of the development proposal;
 - e. compensating for the impact by replacing, enhancing or providing substitute sensitive areas and environments;
 - f. monitoring the impact and taking appropriate corrective measures.
8. A plan by the applicant which explains how any adverse impacts created by the proposed development will be mitigated, including without limitation the following techniques:
- a. Establishment of buffer zones;
 - b. Preservation of critically important plants and trees;
 - c. Limitation of access to the wetland area;
 - d. Seasonal restriction of construction activities;
 - e. Establishment of a monitoring program within the plan;
 - f. Drainage and erosion control techniques.
9. A detailed discussion of on-going management practices which will protect the wetland after the project site has been fully developed, including proposed monitoring, contingency, maintenance and surety programs;
10. All reports will be provided in an electronic format (word processor) and all geographic entities (maps etc.) will be provided in a geo-coded format for use in GIS systems (ArcView, MapInfo, AutoCad etc.).

E. Mitigation ratios shall be used when impacts to wetlands cannot be avoided. As identified below, the first number specifies the acreage of replacement wetlands and the second number specifies the acreage of wetlands altered. The mitigation ratios by wetland type are as follows:

1. Re-establishment or Creation:
 - a. Wetland Category I- 6:1
 - b. Wetland Category II- 3:1
 - c. Wetland Category III- 2:1
 - d. Wetland Category IV- 1.5:1.0
2. Rehabilitation only:
 - a. Wetland Category I- 12:1
 - b. Wetland Category II- 6:1
 - c. Wetland Category III- 4:1
 - d. Wetland Category IV- 3:1

F. Wetlands enhancement as mitigation.

1. Impacts to wetlands may be mitigated by enhancement of existing wetlands. Applicants proposing to enhance wetlands must produce a critical area report that identifies how enhancement will increase the functions of the wetland and how this increase will adequately mitigate for the loss of wetland area and function at the impact site. An enhancement proposal must also show whether existing wetland functions will be reduced by the enhancement actions.
2. The ratios identified in (2.070 E), above, shall be four (4) times the required acreage where the enhancement proposal would result in minimal gain in the performance of wetland functions and/or result in the reduction of other wetland functions currently being provided in the wetland.

2.080 MANAGEMENT RECOMMENDATIONS AND STANDARDS

The following management recommendations and standards will apply to development proposals determined to be located within wetland areas, as defined and described herein:

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

- B. Alteration shall not mean best management practices for agriculture which by design could not be considered a change in land use, including but not limited to, improved chemical application or practice, which are intended to improve crop production and enhance areas adjacent to wetlands.
- C. Activities and construction necessary on an emergency basis to prevent threats to public health and safety may be allowed if reasonable justification warrants cause for a waiver. These activities should avoid impacts to the extent practicable, and mitigation for unavoidable wetland impacts shall be required upon remedy of the emergency.
- D. The county will coordinate wetland preservation strategy and effort with appropriate state and federal agencies, and private conservation organizations, to take advantage of both technical and financial assistance, and to avoid duplication of efforts.
- E. Criteria for Wetland Alterations:
 - 1. Uses and activities may only be allowed in a wetland or wetland buffer if the applicant can show that the proposed activity will not degrade the functions, values, and functional performance of the wetland and other critical areas.
 - 2. Category I Wetlands. Activities and uses shall be prohibited from Category 1 wetlands, except as provided for in the public agency and utility exceptions, reasonable use exceptions, and variance sections of this Ordinance.
 - 3. Category II and III Wetlands. The following standards shall apply:
 - a. Water dependant activities may be allowed where there are no practicable alternatives that would have a less adverse impact on the wetland, its buffers and other critical areas.
 - b. Where the non-water-dependant activities are proposed, it shall be presumed that alternative locations are available, and activities and uses shall be prohibited, unless the applicant demonstrates that:
 - i. The basic project purpose cannot reasonably be accomplished and successfully avoid, or result in less adverse impact on, a wetland if the project was located on another site or sites in the general region; and
 - ii. All alternative designs of the project, as proposed, that would avoid or result in less of an adverse impact on a

wetland or its buffer such as reduction in the size, scope, configuration, or density of the project are not feasible.

4. Category IV Wetlands. Activities and uses that result in unavoidable and necessary impacts may be permitted in Category IV wetlands and associated buffers in accordance with an approved critical area report and mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objective.

F. Wetland buffers widths presume the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the wetland functions and values at the time of the proposed activity. If the vegetation is inadequate then the buffer width shall be increased or the buffer should be planted to maintain the standard width. Required standard wetland buffers, based on wetland category and land use intensity, are as follows:

1. Category and Intensity

- a. Category I

High Intensity	250
Moderate Intensity	190
Low Intensity	125

- b. Category II

High Intensity	200
Moderate Intensity	150
Low Intensity	100

- c. Category III

High Intensity	150
Moderate Intensity	110
Low Intensity	75

- d. Category IV

High Intensity	50
Moderate Intensity	40
Low Intensity	25

2. Land Use Intensity: The following are types of proposed land uses that can result in high, moderate, and low levels of impacts to adjoining wetlands.

- a. High Intensity includes the following types of land uses: Commercial; Urban; Industrial; Institutional; Retail sales; Residential (more than 1 unit/acre); and high intensity recreation such as golf courses and ball-fields etc..
 - b. Moderate Intensity includes the following types of land uses: Residential (1 unit/acre or less), Moderate intensity open space (parks with biking and jogging trails etc); Paved driveways and gravel driveways serving 3 or more residences; and paved trails.
 - c. Low Intensity includes the following types of land uses: Low Intensity open space (hiking, bird watching, preservation of natural resources etc); Timber management; Gravel driveways serving 2 or fewer residences; Unpaved trails; and Utility corridor without a maintenance road and little or no vegetation management.
- G. Wetland buffers shall be retained in their natural conditions unless change in a portion of a wetland buffer is proposed that will have a positive effect on the wetland, or adequate mitigation cannot or will not be provided by pre-development conditions. Integrity of the wetland shall be maintained as a function of the buffer.
- H. Buffer Averaging:
- 1. Standard buffer widths may be modified by the Planning Director for an averaging to improve wetland protection may be permitted when all of the following conditions are met:
 - a. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a “dual-rated” wetland with a Category I area adjacent to a lower rated area.
 - b. The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower-functioning or less sensitive portion.
 - c. The total area of the buffer after averaging is equal to the area required without averaging.
 - d. The buffer at its narrowest point is never less than 3/4 of the required width.

2. Averaging to allow reasonable use of a parcel may be permitted when all of the following are met:
 - a. There are no feasible alternatives to the site design that could be accomplished without buffer averaging.
 - b. The averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a report from a qualified wetland professional.
 - c. The total buffer area after averaging is equal to the area required without averaging.
 - d. The buffer at its narrowest point is never less than 3/4 of the required width.
- I. Activities or uses, which would strip the shoreline of vegetative cover, cause substantial erosion or sedimentation or affect aquatic life, should be prohibited.
- J. Encourage development of an education program promoting the value of Franklin County's wetlands, and that promotes private stewardship of wetland areas.

CHAPTER 3.0
CRITICAL AQUIFER RECHARGE/INTERCHANGE AREAS

SECTIONS:

- 3.010 Applicability
- 3.020 Purpose
- 3.030 Development Permitted
- 3.040 Definitions
- 3.050 Classification and Designation
- 3.060 Determination Process
- 3.070 Management Recommendations and Standards

3.010 APPLICABILITY

This chapter applies to development activities within or adjacent to critical aquifer recharge/interchange areas located in unincorporated Franklin County.

3.020 PURPOSE

It is the intent of Franklin County to promote public health and safety by acknowledging the importance of preserving critical aquifer recharge areas that may exist in the county. These areas serve the vital function of replenishing groundwater resources which, in Eastern Washington, account for a major share of the water for irrigation, municipal, industrial and domestic uses. Potable water is an essential life-sustaining element. Much of Washington's water comes from groundwater supplies. Preventing contamination is necessary to avoid exorbitant costs, hardships and potential physical harm to people.

3.030 DEVELOPMENT PERMITTED

Developments within an Area of Project Review as set forth in this chapter are permitted when sited, designed, and operated in a manner which protects the functions and values of critical aquifer recharge/interchange areas and when such developments meet the requirements of this title.

3.040 DEFINITIONS

For the purposes of this chapter, the following words and phrases shall have the indicated meanings unless the context clearly indicates otherwise:

- A. "Aquifer" means a body of rock or soil that contains sufficient saturated permeable material to conduct groundwater and to yield economically significant quantities of groundwater to wells and springs.
- B. "Critical Aquifer Recharge/Interchange Areas" means those aquifer recharge/interchange areas that have an effect on, or are associated with, aquifers used for potable water in community water systems.
- C. "Groundwater" means the supply of fresh water under the surface of the ground in an aquifer that forms a natural reservoir of potable water.
- D. "Recharge Area" refers to an area in which water is absorbed and added to the groundwater reservoir.

3.050 CLASSIFICATION AND DESIGNATION

Aquifer Recharge Areas are classified and designated by Franklin County according to the following standards:

- A. Data sources are available from Franklin County that are used in the mapping of characteristics of aquifer recharge areas.
- B. Areas mapped in Franklin County as critical aquifer recharge areas are as follows:
 - 1. Any areas with both of the following characteristics:
 - a. Hydrologic A Soils as identified in the Franklin County Soil Survey;
 - b. Irrigated lands.
 - 2. Designated Wellhead Protection Areas in Franklin County;
 - 3. Areas within one hundred feet (100') of all irrigation district main canals (100' from edge of canal);
- C. The Ground Water Management Area (GWMA) continues to study Aquifer Recharge Areas in Franklin County. As new data is developed, the Chapter may be amended in the future to accurately reflect the improvement(s) of the relative data and mapping.

3.060 DETERMINATION PROCESS

Franklin County will review each development permit application in accordance with Section 1.090 of this Title and to determine if the provisions of this Section will be

applied to the project. In making the determination, the County may use any of the best available science and the Critical Area reference maps and/or inventories identified in Section 1.080. The following progressive steps will occur upon a determination by the County that a critical aquifer recharge area may exist on a site proposed for a development permit.

- A. Franklin County Planning Director will determine if the proposed development activity is within an Area of Project Review.
- B. If it is determined by the Planning Director that the proposed development activity is within an Area of Project Review, compliance with Section 1.090 of this Title and development of a Critical Area Report is required.

3.070 MANAGEMENT RECOMMENDATIONS AND STANDARDS

The following management recommendations and standards will apply to development proposals determined to be located within critical aquifer recharge areas, as defined and described herein:

- A. Franklin County will encourage the appropriate agency(s) within the County to develop educational information to assist with informing people with shallow wells how best to manage and protect their potable water source.
- B. Franklin County will support the GWMA and local conservation districts in their efforts to educate agricultural producers about the best management practices for protecting Franklin County's groundwater quality.
- C. Franklin County will encourage the Washington State Department of Ecology to better enforce the well-casing requirements.
- D. Regulated Activities: A site analysis and critical area report is required, in compliance with this Ordinance, for uses and activities that have the potential to impact aquifer recharge areas. Examples of uses and activities regulated in Critical Aquifer Recharge Areas are as follows:
 - 1. Biosolids land application;
 - 2. Critical material handling, generating, or use;
 - 3. Dairy operation requiring a County Conditional Use Permit;
 - 4. Feedlot or large animal operation requiring a County Conditional Use Permit;
 - 5. Landfill;
 - 6. Mining;
 - 7. Sanitary waste discharge;
 - 8. Wood treatment facilities;

9. Storage, processing, or disposal of radioactive substances;
 10. Above ground storage tanks, subject to WAC 173-303-640;
 11. Below ground storage tanks, subject to WAC 173-360;
 12. Hazardous waste generator (such as Boat or Motor Vehicle Repair Shops);
 13. Junk yards and salvage yards;
 14. Waste water application to land surface;
 15. Commercial fertilizer storage;
 16. Injection wells;
 17. Sawmill;
 18. Solid waste handling and recycling facility;
 19. Chemical treatment and disposal facility;
 20. Any activities, particularly municipal, industrial, commercial and agricultural activities, that involve the collection and storage of substances that, in sufficient quantity during an accidental or intentional release, would result in the impairment of the aquifer water to be used as potable drinking water liquids shall be regulated by this chapter.
- E. Both major and minor developments, as defined in Chapter 1.070 to be proposed within an Area of Project Review for Critical Aquifer Recharge, shall comply with local, state, and federal agency requirements for each of the following: 1) connections to sanitary sewer systems; 2) onsite sewage disposal systems; 3) connections to public water supplies; 3) existing and proposed wells; and 4) water rights related issues.
- F. Surface impoundments, defined by Chapter 173-303 WAC, shall be designed by a professional engineer and constructed with an impermeable liner and other components as appropriate to prevent discharge of any material on the ground surface and/or into the groundwater system. Surface impoundments shall be designed and constructed in accordance with applicable governing law, and have a minimum excess capacity equal to one hundred twenty percent of the projected volume of liquid to be contained including intentional and unintentional stormwater capture. Surface impoundment means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), and which is designed to hold an accumulation of liquid dangerous wastes or dangerous wastes containing free liquids. The term includes holding, storage, settling, and aeration pits, ponds, or lagoons, but does not include injection wells.
- G. Regulated activities and uses may only be permitted in a critical aquifer recharge area if the applicant can show that the proposed activity will not adversely effect the recharging of the aquifer and that the proposed activity will not cause contaminants to enter the aquifer.

- H. Regulated activities must, at a minimum, comply with the water source protection requirements and recommendations of the federal Environmental Protection Agency, state Department of Health, and the local Benton-Franklin Health Department.
- I. Development activities within a critical aquifer recharge area that have a high potential for contamination shall be required to do a hydrogeologic study as developed by a qualified geologist. The study shall focus on the following at a minimum:
1. Geologic setting, site location map, topography, and well logs for the surrounding area;
 2. Current available data on springs or seeps for the surrounding area;
 3. Background water quality data;
 4. Water source/supply to facility;
 5. Depth/location of any perched water tables or geological features that could form perch water tables if recharge is increased;
 6. Groundwater flow direction and gradient;
 7. An analysis of physical parameters of the aquifer to include:
 - i. Soil types;
 - ii. Hydraulic conductivity;
 - iii. Annual recharge;
 - iv. Depth to water;
 - v. Importance of the Vadose Zone based on the geology above the aquifer;
 8. Description (both qualitative and quantitative) of the impacts the project will have on surrounding wells;
 9. Discussion of the effects of proposed project on groundwater resources;
 10. Other information required by the Planning Director in consultation with other agencies of expertise.
- J. Mitigation measures for groundwater protection may be required. Implementation of protection measures to prevent contamination is required. A qualified professional shall discuss potential mitigation measures if the proposed project should have an adverse impact on groundwater resources.

- K. Parks, Schools and Recreation Facilities. Fertilizer and pesticide management practices of schools, parks, other recreation facilities and similar uses shall use best management practices as prescribed by the Franklin Conservation District.
- L. All major and minor developments shall have an informational note placed on the face of plat stating "this subdivision is located within an aquifer recharge area. Best management practices shall be used for the containment of stormwater and the application of pesticides and fertilizers".

CHAPTER 4.0 FREQUENTLY FLOODED AREAS

SECTIONS:

- 4.010 Applicability
- 4.020 Purpose
- 4.030 Development Permitted
- 4.040 Definitions
- 4.050 Classification and Designation
- 4.060 Determination Process
- 4.070 Management Recommendations and Standards

4.010 APPLICABILITY

This chapter applies to development activities within frequently flooded areas located in unincorporated Franklin County.

4.020 PURPOSE

It is the intent of Franklin County to recognize and diminish potential hazards that may be caused by inappropriate development in areas where severe and costly flooding is anticipated to occur. Based on historical observation and information collected by the Federal Emergency Management Agency, this county endorses a cautious posture that limits construction in areas located within zones designated to be flood prone. This decision stems from local, as well as state and federal understanding, that development limitation in these areas help to serve the health, safety and public welfare of the people of Franklin County. Protection measures designed to minimize hazards in frequently flooded areas already exist for the county, as detailed in the 08-2004 Franklin County Flood Damage Prevention Ordinance, as hereafter amended.

4.030 DEVELOPMENT PERMITTED

Developments within an Area of Project Review as set forth in this chapter are permitted when sited, designed, and operated to protect the functions and values of frequently flooded areas and when such developments meet the requirements of this title.

4.040 DEFINITIONS

For the purposes of this chapter, the following words and phrases shall have the indicated meanings unless the context clearly indicates otherwise:

- A. "Base Flood" or "100-year Flood" means the designation on the Federal Emergency Management Act (FEMA) Flood Insurance Rate Maps that denote areas subject to floods having a one (1) percent chance of being equaled or exceeded in any given year. The base flood is determined for existing conditions, unless a basin plan including project flows under future developed conditions has been completed and adopted by Franklin County; in these cases, future flow projections shall be used. In areas where the Flood Insurance Study includes detailed base flood calculations, those calculations may be used until projections of future flows are completed and approved by Franklin County.
- B. "Floodway" means the channel of the stream and that portion of the adjoining floodplain, shown on FEMA Maps, which are necessary to contain and discharge the base flood flow without increasing the base flood elevation more than one foot.
- C. "Frequently Flooded Areas" means those areas of Franklin County subject to inundation by a base flood (100-Year Flood) and other flood hazard areas such as creeks, wasteways, wetlands, canyons, and closed depressions which are shown on the County's Geologic Hazards Maps.

4.050 CLASSIFICATION AND DESIGNATION

- A. Classification. Classification of frequently flooded areas, according to the Minimum Guidelines, should include, at a minimum, the 100 year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program. The following categories of frequently flooded areas established for the purpose of classification are:
 - 1. Floodways - The channel of a stream, plus any adjacent floodplain areas, that must be kept free of encroachment in order that the base flood be carried without substantial increases in flood heights.
 - 2. Floodplains - The floodway and special flood hazard areas.
 - 3. Special Flood Hazard Areas - The area adjoining the floodway which is subject to a one percent or greater chance of flooding in any given year and determined by the Federal Insurance Administration.
- B. Designation. The Area of Project Review for the purposes of this Title include all Franklin County lands, shorelines and waters which are currently identified as frequently flooded areas by the Federal Insurance Administration in a scientific and engineering report entitled the Flood Insurance Study for the County of Franklin with accompanying Flood Insurance Rate Maps. If and when this study

becomes updated to reflect new conditions, designation of frequently flooded areas will include the changes.

4.060 DETERMINATION PROCESS

Franklin County will review each development permit application in accordance with Section 1.090 of this Title and to determine if the provisions of this Section will be applied to the project. In making the determination, the County may use any of the best available science and the Critical Area reference maps and/or inventories identified in Section 1.080 and in the Appendix. The following progressive steps will occur upon a determination by the County that a frequently flooded area may exist on a site proposed for a development permit.

- A. Franklin County Planning Director will determine if the proposed development activity is within an Area of Project Review.
- B. If it is determined by the Planning Director that the proposed development activity is within an Area of Project Review, compliance with the Franklin County Flood Damage Prevention Ordinance, as amended is required. Completion of a Critical Area Report is not required for Frequently Flooded Areas.

4.070 MANAGEMENT RECOMMENDATIONS AND STANDARDS

The following management recommendations and standards will apply to development proposals determined to be located within frequently flooded areas, as defined and described herein:

- A. New development is permitted when sited and designed in a manner that does not alter the direction, velocity, or volume of flood waters in a manner that adversely impacts other properties within or adjacent to Frequently Flooded Areas.
- B. All developments must follow the provisions of the Franklin County Flood Damage Prevention ordinance, as amended.
- C. Water quality standards for frequently flooded areas shall correspond with appropriate state and federal standards.

**CHAPTER 5.0
GEOLOGICALLY HAZARDOUS AREAS**

SECTIONS:

- 5.010 Applicability
- 5.020 Purpose
- 5.030 Development Permitted
- 5.040 Definitions
- 5.050 Classification and Designation
- 5.060 Determination Process
- 5.070 Management Recommendations and Standards

5.010 APPLICABILITY

This chapter applies to development activities within or adjacent to geologically hazardous areas, including steep slopes or hillsides located in unincorporated Franklin County. A steep slope is defined as one with a slope of fifteen (15) percent or more or where Critical Areas Overlay Maps indicate potentially hazardous conditions.

5.020 PURPOSE

It is the intent of Franklin County to reduce the threat posed to the health and safety of its citizens from commercial, residential or industrial development that may be sited in areas of significant geologic hazard. In some cases, it is recognized that risks from geologic hazards can be reduced or mitigated to acceptable levels through engineering design or modified construction practices. In other cases where technological efforts are not sufficient to reduce associated risks, building is best avoided.

5.030 DEVELOPMENT PERMITTED

Development in an Area of Project Review as set forth in this chapter is permitted when sited, designed, and operated in a manner which protects life, property, and the public welfare and when such development meets the requirements of this title.

5.040 DEFINITIONS

For the purposes of this chapter, the following words and phrases shall have the indicated meanings unless the context clearly indicates otherwise:

- A. "Geologically Hazardous Areas" are areas which pose potential threats to life or property because of unstable soil, geologic or hydrologic conditions, or steep

slopes. Geologically Hazardous Areas shall include, but are not limited to, all land slide and seismic hazard areas.

- B. "Landslide" means episodic downslope movement of a mass of soil or rock.
- C. "Erosion and/or Landslide Hazard Area" refers to those areas of Franklin County which include the following:
 - 1. Areas with a 15%-39% slope;
 - 2. Areas with a slope that is 40% or greater;
 - 3. Any areas with all of three (3) of the following characteristics:
 - a. Slopes greater than fifteen (15) percent;
 - b. The sediment group known as Ringold Fines; and,
 - c. Soils characterized as being severe water erosion hazards.
 - 4. Areas that historically have been prone to landsliding.
- D. "Area of Influence" encompasses an area that is 2.5 times the height of a slope. The Area of Influence applies to areas that have geologically hazardous attributes consistent with an Erosion or Landslide Hazard Area as defined in Section 5.040 (C). This mapped area surrounds the hazard area from all points for a distance of 2.5 times the height of the applicable slope. Areas with a 15% slope or greater as its only attribute do not have an Area of Influence.
- E. "Outcrop" refers to a geologic layer exposed at the earth's surface.
- F. "Seismic Hazard Areas" mean those areas of Franklin County that are potentially subject to severe risk of earthquake damage as a result of seismically induced ground shaking, slope failure, settlement, soil liquefaction or surface faulting.
- G. "Slide" refers to the downward mass movement of soil, rock, or snow resulting from failure of that material under stress.
- H. "Slope" refers to the inclination of the surface of the land from the horizontal.

5.050 CLASSIFICATION AND DESIGNATION

- A. Data sources are available from Franklin County that are used in the mapping of characteristics of geologically hazardous areas.

B. Areas mapped in Franklin County as geologically hazardous are as follows:

1. Erosion and/or Landslide Hazard Area:

- a. Areas with a 15%-39% slope. Risk Assessment is required and evaluation as to whether a Geotechnical Report is required.
- b. Areas with a 40% slope or greater. All applications proposed within this area require the compliance with Section 1.090 of this Title.
- c. Any areas with all of three (3) of the following characteristics:
 - Slopes that are fifteen (15) percent or greater;
 - The sediment group known as Ringold Fines; and,
 - Soils characterized as being severe water erosion hazards.

Known generally for its Ringold Fines soils, water erosion soils and slopes. All applications proposed within this area and/or its Area of Influence (as defined in Section 5.040 (D)) requires the compliance with Section 1.090 of this Title.

- d. Areas that historically have been prone to landsliding; All applications proposed within this area and/or its Area of Influence (as defined in Section 5.040 (D)) requires the compliance with Section 1.090 of this Title.

2. Seismic Hazard Area: Areas subject to, moderate-high and high, soil liquefaction susceptibility. These conditions occur in areas underlain by cohesionless, loose, or soft saturated soils of low density, typically in association with a shallow ground water table. All applications proposed within this area require the compliance with Section 1.090 of this Title.

5.060 DETERMINATION PROCESS

Franklin County will review each development permit application in accordance with Section 1.090 of this Title and to determine if the provisions of this Section will be applied to the project. In making the determination, the County may use any of the best available science and the Critical Area reference maps and/or inventories identified in Section 1.080 and in the Appendix. The following progressive steps will occur upon a determination by the County that a geologically hazardous area may exist on a site proposed for a development permit.

- A. Franklin County Planning Director will determine if the proposed development activity is within an Area of Project Review (including the Area of Influence, if applicable).
- B. If it is determined by the Planning Director that the proposed development activity is within an Area of Project Review (including the Area of Influence, if applicable) compliance with Section 1.090 of this Title is required. This portion is waived (See required process in 5.060 (C)) for proposed development activities within an Area of Project Review that has the geologically hazardous attribute of 15%-39% slopes only.
- C. If the proposed development activity is within an Area of Project Review and has the geologically hazardous attribute of 15%-39% slopes only, the requirement for a Critical Area Report is waived and the following process is required:
 - 1. If it is determined that a geologically hazardous area with 15%-39% slope may be present, the applicant shall submit a geologic hazard area risk assessment prepared by a licensed engineer or a licensed geologist. The risk assessment will include a description of the geology of the site and the proposed development; an assessment of the potential impact the project may have on the geologic hazard; an assessment of what potential impact the geologic hazard may have on the project; appropriate mitigation measures, if any; and a conclusion as to whether further analysis is necessary. The assessment will be signed by and bear the seal of the engineer or geologist that prepared it. No further analysis shall be required if the geologic hazard area risk assessment concludes that there is no geologic hazard present on the site, nor will the project affect or be affected by any potential geologic hazards that may be nearby.
 - 2. If the professional preparing the risk assessment (above in 5.060 C(1)) concludes that further analysis is necessary, the applicant shall submit a geotechnical report as provided for herein in Section 5.070 A(1).
 - 3. A proposed development cannot be approved if it is determined by the geotechnical report that either the proposed development or adjacent properties will be at risk of damage from the geologic hazard, or that the project will increase the risk of occurrence of the hazard, and there are no adequate mitigation measures to alleviate the risks.
- D. Area of Influence:
 - 1. If the proposed development activity is within an Area of Project Review and has the geologically hazardous attributes consistent with an Erosion or Landslide Hazard Area as defined in Section 5.040 (C), an Area of

Influence, that is 2.5 times the height of the applicable slope, from all points of the Area of Review shall apply and mapped accordingly.

2. An Area of Influence does not apply to the following Erosion or Landslide Hazard Areas: 1) All slopes with a 15% or greater slope characteristic only.
3. If it is determined by the Planning Director that the proposed development activity is within an Area of Project Review or an Area of Influence, compliance with Section 1.090 of this Title and development of a Critical Area Report is required.

5.070 MANAGEMENT RECOMMENDATIONS AND STANDARDS

The following management recommendations and standards will apply to development proposals determined to be located within an Area of Project Review and shall be integrated into the required Critical Area Report, if applicable. The Planning Director may require any of the following:

- A. A Geo-Technical Report as prepared by a civil engineer or geologist who is licensed to practice in the State of Washington.
 1. A geotechnical report shall include a description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinions and recommendations on the suitability of the site to be developed. The report shall evaluate the actual presence of geologic conditions giving rise to the geologic hazard, and an evaluation of the safety of the proposed project, and identification of construction practices, monitoring programs and other mitigation measures necessary. A bibliography of scientific citations shall be included as necessary.
 2. The geotechnical report shall include a certification from the engineer preparing the report, including the engineer's professional stamp and signature, stating all of the following: i) Factors of safety for slope stability; ii) Lithology of the soil column and the engineering properties of the soil comprising the column; iii) Groundwater elevations; iv) Area of influence of potential slide; v) The risk of damage from the project, both on- and off-site is minimal; vi) The project will not materially increase the risk of occurrence of the hazard; vii) The specific measures incorporated into the design and operational plan of the project to eliminate or reduce the risk of damage due to the hazard; and viii) Mitigation of adverse site conditions including slope stabilization measures and seismically unstable soils, if appropriate.

3. All mitigation measures, construction techniques, recommendations and technical specifications provided in the geotechnical report shall be applied during the implementation of the proposal. The engineer of record shall submit sealed verification at the conclusion of construction that development occurred in conformance with the approved plans.
- B. The physical features of the site, including identification of surface and subsurface soil types, vegetation, streams, canyons, alluvial fans, and drainage ways. Topography shall be shown in five (5) foot contours unless prior approval is received for contours greater than five (5) feet;
 - C. Lot and parcel sizes, proposed lot coverage, square footage, dimensions, general type of construction and location of all structures, the existing and proposed utility systems including wells, sanitary sewers, electric, gas, and telephone, and other pertinent information requested by the Planning Director;
 - D. The general location and different circumstances that might be expected to precipitate a geological event;
 - E. The geologic, topographic, and hydrologic factors that might contribute to slope instability and the location of the site susceptible to instability;
 - F. Suitable, buildable areas taking into consideration the long term stability and maintenance of access roads and all other permanent infrastructure needs that would be affected by both the underlying geology and soils;
 - G. Recommended hazard setbacks to protect the geologic and topographic features;
 - H. Relying on existing data, areas with known or potential for seismic hazard;
 - I. The rate and extent of any potential hazards such as erosion, sliding, slumping etc., must be analyzed in light of the potential to impact the public health, safety and welfare;
 - J. The potential impact of residential landscape irrigation, drain-fields, upslope and off-site irrigation activities, storm water generation from upslope properties and proposed impervious surfaces on-site, and the influence of street conveyance on slope stability;
 - K. Proposed access, parking, and basic internal vehicle/pedestrian circulation system;
 - L. The proposed system for retention and release (detention) of storm and surface water runoff generated from the site;

- M. General landscaping plan indicating the type and placement of materials used around all structures, parking areas and other cleared portions of the site;
- N. The relationship between the proposed development and existing and proposed adjacent areas;
- O. Where development is proposed downslope of lands in, or with the potential for agriculture, analysis of the impact of surface and subsurface movement of waste irrigation water on the proposed development site shall be provided. The analysis shall include descriptions of the relevant soils, geologic, and hydrologic conditions of the project site and the upslope lands;
- P. For public buildings and facilities: identification of minimum design standards where seismic activity has the potential to occur.
- Q. A site development and grading plan which meets the requirements of shall be developed and submitted to the Planning Director for projects within an Area of Project Review in order to:
 - 1. Assure long term structural integrity of all development;
 - 2. Protect the public health, safety, and welfare by minimizing the potential for public expenditures for post-project geologic, soils, and hydrology hazards remediation;
 - 3. Avoid documented seismic and landslide hazard areas as locations for building construction, roads or utility systems where mitigation is not feasible;
 - 4. Eliminate as completely as practicable, any public or private exposure to landslide hazards or to abnormal maintenance or repair costs through the application of post construction slope stabilization and appropriately upgraded road construction specifications where appropriate;
 - 5. Minimize storm water runoff and soil erosion impacts;
 - 6. Control dust during all construction phases;
 - 7. Achieve maximum feasible retention, in their natural condition, of existing topographic features such as drainage swales, streams, slopes, structurally important ridge lines and rock outcroppings.
 - 8. Minimize grading where it will adversely impact slope stability.

- R. All development and grading plans shall be approved by the appropriate county departments in order to ensure compliance with the current application of the County's Zoning and Building Codes.
- S. All development and grading plans shall adhere to the requirements of the Benton-Franklin Health District.
- T. In areas of steep slopes and natural drainages, when construction will extend into the rainy season and potentially cause eroded sediments to move offsite, the storm and surface water runoff retention and detention system must be completed before other phases of site development are begun so that it can serve as a sediment trap during the remainder of the construction.

**CHAPTER 6.0
FISH AND WILDLIFE CONSERVATION AREAS**

SECTIONS:

- 6.010 Applicability
- 6.020 Purpose
- 6.030 Development Permitted
- 6.040 Definitions
- 6.050 Identification and Classification
- 6.060 Determination Process
- 6.070 Designation
- 6.080 Fish/Wildlife Habitat Survey
- 6.090 Critical Area Report/ Fish –Wildlife Habitat Management and Mitigation Plan

6.010 APPLICABILITY

The provisions of this chapter shall apply within unincorporated Franklin County to the main stems of the Snake, Palouse and Columbia Rivers including riparian corridors, locally important habitat areas, and areas associated with endangered and threatened species.

6.020 PURPOSE

It is the intent of Franklin County to recognize the importance of protecting fish and wildlife habitat conservation areas while at the same time encouraging continued economic development of the County, including the continuation of agriculture. Implementation of this section is directed toward preserving resources by steering incompatible development away from these areas and/or by providing adequate and appropriate mitigation measures to development that alleviate negative impacts.

Various federal, state and private agencies and individuals currently manage established fish and wildlife habitat conservation areas within this county. In recognition of their expertise and experience in local habitat management, Franklin County supports their efforts to preserve and protect those critical fish and wildlife habitat conservation areas by acknowledging that cooperation and communication are essential to achieve common habitat conservation goals. The following objectives are the guiding factors in the application of this section to future development in Franklin County:

- A. Identify categories of fish and wildlife habitat conservation areas in Franklin County, based in part on information supplied by Washington State Department of Fish and Wildlife’s Priority Habitat and Species Program, and other sources.
- B. Cooperate with federal, state and private agencies, and individuals who have

primary authority to manage specific fish and wildlife habitat conservation areas within certain parts of the county.

- C. Encourage preservation of adequate size blocks of land necessary for species survival and corridor areas that allow for migratory travel.
- D. Franklin County recognizes that species of wildlife in this locality are in a state of continuing flux, and a prudent understanding of this phenomenon is vital in guiding decision-makers to balance conservation of wildlife species with promotion of wise, desirable growth.
- E. Development decisions will serve to protect local wildlife values and reflect the needs and desires of the public.

6.030 DEVELOPMENT PERMITTED

Developments within an Area of Project Review as set forth in this ordinance are permitted when sited, designed, and operated in a manner which protects the functions and values of Fish and Wildlife Conservation Areas and when such development meets the requirements of this title.

6.040 DEFINITIONS

For the purposes of this chapter, the following words and phrases shall have the indicated meanings unless the context clearly indicates otherwise:

- A. “Federal or State Endangered, Threatened, Candidate Species” means the following:
 - 1. “Endangered Species,” means a native species that is seriously threatened with extinction throughout all or a significant portion of its range.
 - 2. “Threatened Species” means a native species that is likely to become endangered within the foreseeable future throughout all or a significant portion of its range without cooperative management or removal of threats.
 - 3. “Candidate Species” means a native species under review for possible listing as endangered, threatened, or sensitive. A species will be considered for candidate designation if sufficient scientific evidence suggests that its status may meet criteria defined for “endangered”, “threatened” or “sensitive”. Currently listed State Threatened or State Sensitive species may also be designated as State Candidate species if their status is in question.

- B. "Fish and Wildlife" mean any member of the animal kingdom, including without limitation, any vertebrate, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body parts thereof.
- C. "Fish and Wildlife Habitat Conservation" means, per WAC 365-190-080, land management for maintaining species in suitable habitat within their natural geographical distribution so that isolated subpopulations are not created. This does not mean maintaining all individuals of all species and all times, but it does mean cooperative and coordinated land use planning is critically important among counties and cities in a region. In some cases, intergovernmental cooperation and coordination may show that it is sufficient to assure a species will usually be found in certain regions across the state.
- D. "Fish and Wildlife Habitat Conservation Areas" means the following:
 - 1. Areas with which federal or state endangered, threatened and sensitive species of fish, wildlife or plants have a primary association;
 - 2. Habitats and species of local importance, which could include areas with state listed monitor or candidate species, or federally listed candidate species, or species with high recreational value (game, etc.) that have primary association;
 - 3. Naturally occurring ponds under twenty (20) acres and their submerged aquatic beds that provide fish or wildlife habitat;
 - 4. Waters of the state;
 - 5. Lakes, ponds, streams and rivers planted with game fish by a governmental entity; (these include water bodies planted under auspices of a federal, state or local program, or which support important fish species as identified by Washington State Department of Fish and Wildlife) or,
 - 6. Federal, state and private natural area preserves and natural resource conservation areas.

6.050 IDENTIFICATION AND CLASSIFICATION

- A. The following information, data, and resources are used in Franklin County to identify Fish and Wildlife Conservation Areas, as defined in Section 6.040 (D).
 - 1. Both Federal and State Fish and Wildlife Listed threatened or endangered species in Franklin County as designated under the Federal Endangered

Species Act or within the Washington Administrative Code Chapter 232-12 (Priority Species and Habitats). Also see Best Available Science list described in Appendix B;

2. Federal and/or state candidate species and species of local importance (See Appendix B) occur in different areas of Franklin County, and are subject to the provisions of this Section where significant negative impacts from a project would occur to the habitat associated with and utilized by these species;
3. Franklin County allows for the nomination of “Species/Habitats of Local Importance”. In order to nominate “Species/Habitats of Local Importance” as candidates for designation within the category of Important Habitat Areas, an individual or organization must:
 - a. Demonstrate a need for special consideration;
 - b. Propose relevant management strategies considered effective and within the scope of this chapter;
 - c. Provide species habitat location(s) on a map (scale 1:24,000).
4. Riparian Habitat Areas: For the protection of habitat along rivers, streams, and lakes the following buffer widths apply:
 - a. Type 1 or S, except lakes: 150 feet
 - b. Type 2 or F, except lakes: 150 feet (100 if no anadromous fish)
 - c. Type 3 or lakes: 100 feet (75 if no anadromous fish)
 - d. Type 4 or Np: 50 feet
 - e. Type 5 or Ns: 50 feet
5. In order to accommodate the needs and desires of the people of Franklin County, public input shall be required to include species and/or habitats in the “Important Habitat Area” classification identified in this Section. Where the habitats and species classified as “Priority Habitat Areas” are responsive, concurrently, with official changes in federal and/or state threatened or endangered listings/de-listings, to include or un-include species and/or habitats in the “Important Habitat Areas” classification, these regulations must be amended through a formal process for nomination as described in this regulation;

6. It is recognized that the list of Fish and Wildlife Conservation Areas (including species and habitats) will change from time to time. Further, the locations of species may also change over time. With this, the Planning Department will maintain and update, as necessary, its list and mapping data of Federal and State threatened, endangered, and candidate species and habitats for Franklin County. Coordination with the necessary Federal and State agencies will need to occur to obtain the applicable data updates. Restrictions may apply as to the County's ability to disseminate, both written and mapped sensitive fish and wildlife information, to the general public.
- B. Fish and wildlife habitat conservation areas will be classified by Franklin County as follows, based on a variety of data sources as identified herein:
1. Priority Habitat Areas – seasonal ranges and habitat elements with which federal and/or state listed endangered and threatened species have a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term;
 2. Important Habitat Areas- – habitat areas that are associated with and actively utilized by federal and/or state candidate species and species designated as being of local importance according to the nomination process described in Section 6.050(A) (3) and (4).

6.060 DETERMINATION PROCESS

- A. The Planning Director will review each development permit application in accordance with Section 1.090 of this Title and to determine if the provisions of this Section will be applied to the project.
- B. In making the determination, the Planning Director may use any of the inventories or reference maps identified in Section 1.080, Section 6.050, or the applicable best available science described in Appendix B.
- C. The following progressive steps will occur upon a determination by the Planning Director that a fish and/or wildlife habitat conservation area may exist on a site proposed for a development permit.
1. The Planning Director will determine if the proposed development activity is within an Area of Project Review. If the proposal is in or near an Area of Project Review, a site inspection and consultation with federal and/or state wildlife agency personnel or a qualified biologist may be conducted to more definitively determine if a fish and/or wildlife habitat conservation area exists on the site if deemed necessary by the County.

2. If it is determined by the Planning Director that the proposed development activity is within an Area of Project Review, compliance with Section 1.090 of this Title and development of a Critical Area Report is required. If it is determined that the activity is not in an Area of Project Review, this Section shall not apply to the review of the proposed permit activity.

6.070 DESIGNATION

- A. Areas of Project Review shall be designated as Priority Habitat Areas, Important Habitat Areas or other areas as defined by Fish and Wildlife Habitat Conservation Areas.
- B. If an area that is subject to a development permit application is determined to be a Priority or Important Habitat Area after going through the determination process described herein, it shall be designated as such, and a habitat boundary survey and a habitat management and mitigation plan shall be developed as provided for in this section.
- C. Designation as either a Priority or Important Habitat Area is not intended to deny development opportunities; rather, it is aimed at either steering growth to more suitable areas where fish and wildlife values will not be unduly compromised, or developing appropriate and adequate mitigation measures to alleviate potential negative impacts.

6.080 FISH/WILDLIFE HABITAT BOUNDARY SURVEY

- A. If it is determined through the process identified herein that a Priority or Important Habitat Area exists on a site that is the subject of a development permit application, a fish/wildlife habitat boundary survey and evaluation shall be conducted by a professional biologist, as appropriate, who is knowledgeable of wildlife habitat within Franklin County. The wildlife habitat boundary shall be field staked, as necessary, by the biologist and surveyed by a State of Washington registered land surveyor for disclosure on all final plats, maps, etc.
- B. The fish/wildlife habitat boundary and any associated buffer shall be identified on all plats, maps, plans and specifications submitted for the project.

6.090 CRITICAL AREA REPORT/FISH-WILDLIFE HABITAT MANAGEMENT AND MITIGATION PLAN

- A. A fish/wildlife habitat management and mitigation plan is required for all proposed developments determined to be within a “Priority Habitat Area” or an “Important Habitat Area”.

- B. When required, a fish/wildlife habitat management and mitigation plan shall be prepared by a professional biologist who is knowledgeable of wildlife habitat within Franklin County.
- C. The fish/wildlife habitat management and mitigation plan shall demonstrate, when implemented, that the net loss of ecological function of habitat is minimal;
- D. Based on the best available science, the fish/wildlife habitat management and mitigation plan shall identify how impacts from the proposed project shall be mitigated, as well as the necessary monitoring and contingency actions for the continued maintenance of the habitat conservation area and any associated buffer.
- E. The fish/wildlife habitat management and mitigation plan shall include maps and narrative descriptions that address at least the following items:
 - 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.
- F. A plan by the applicant that explains how any adverse impacts created by the proposed development will be mitigated, including without limitation the following techniques:
 - 1. Use of any federal, state or local management recommendations which have been developed for the species or habitats in the area;
 - 2. Establishment of appropriate and adequate buffer zones;
 - 3. Preservation of critically important plants and trees;
 - 4. Limitation of access to the habitat conservation area;
 - 5. Seasonal restriction of construction activities;
 - 6. Establishment of a timetable for periodic review of the plan.

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

**APPENDIX A
FRANKLIN COUNTY, WASHINGTON
CRITICAL AREAS ORDINANCE**

**BEST AVAILABLE SCIENCE RESOURCES:
DOCUMENTS AND MISCELLANEOUS RESOURCES**

BEST AVAILABLE SCIENCE RESOURCES: WETLANDS

Franklin County Critical Area Map: Wetlands

USFWS National Wetland Inventory maps;

Areas identified as wetland areas within the project area on a Historical Franklin County Map, dated 1912 (H.C. Sawyer, Pasco, WA);

Areas identified as wetland areas within the project area on a United States Department of Agriculture, Bureau of Soils, Franklin County Soils Map, dated 1914;

Areas identified as wetland areas within the project area on Historical Metzger Maps, Franklin County, dated 1934 and 1963.

Columbia Basin Irrigation Project Topography and Retracement Maps from 1939-1943, as well as other pre-construction and construction maps developed for the Project.

Federal Wetlands Delineation Manual (1987), as amended;

Washington State Wetlands Identification and Delineation Manual (WDOE #96-94), as amended;

Washington State Wetlands Rating System for Eastern Washington (WDOE #05-06-008), as amended;

Wetlands in Washington State, Volume 1: A Synthesis of the Science (WDOE #05006-006), as amended;

Wetlands in Washington State, Volume 2: Managing and Protection Wetlands (WDOE #05-06-008), as amended;

“Wetland Mitigation in Washington State, Part 1: Agency Policies and Guidance” (Version 1, Pub. #06-06-011a)

“Wetland Mitigation in Washington State, Part 2: Developing Mitigation Plans”
(Version 1, Pub #06-06-11b)

Management Recommendations for Washington’s Priority Habitats and Species
(WDFW), as amended;

Management Recommendations for Washington’s Priority Habitats – Wetlands
(WDFW), as amended;

BEST AVAILABLE SCIENCE RESOURCES: AQUIFER RECHARGE AREAS

Franklin County Critical Area Map: Aquifer Recharge Area

Soil Survey of Franklin County, WA. United States Soil Conservation Service.

Columbia Basin Groundwater Management Area Plan, as amended.

Columbia Basin Ground Water Management Area maps, as amended

Wellhead Protection Plan for the Cities of Connell, Kahlotus and Mesa, Franklin
County, WA. 1996

2003 Irrigated Crop Lands data, Franklin Conservation District

South Columbia Basin Irrigation District, GIS Coverage for Main Water ways
Centerline

BEST AVAILABLE SCIENCE RESOURCES: FREQUENTLY FLOODED AREAS

Franklin County Critical Area Map: Frequently Flooded Areas

Flood Insurance Rate maps (FEMA), as amended;

Flood Boundary and Floodway maps (FEMA), as amended;

Flood Insurance Study for Franklin County, as amended

Franklin County Flood Damage Prevention Ordinance, 08-2004 as amended.

BEST AVAILABLE SCIENCE RESOURCES: GEOLOGICALLY HAZARDOUS AREAS

Franklin County Critical Area Map(s): Geologically Hazardous Area

- a. Erosion and Landslide Hazard Area Map
- b. Seismic Hazard Area

Soil Survey of Franklin County, WA. United States Soil Conservation Service.
USGS, 10 Meter, DEM, 7.5' Quadrangle Data Series/ NED for Slope Information
Washington State Department of Natural Resources, Active Slide GIS Coverage
Washington State Department of Natural Resources, Open File Report 2004-20:
Liquefaction Susceptibility and Site Class Maps of Washington State, By County

BEST AVAILABLE SCIENCE RESOURCES: FISH AND WILDLIFE CONSERVATION AREAS

Washington State Department of Fish and Wildlife's Priority Habitat and Species Program;

Washington State Fish and Wildlife Priority Species maps, as amended;

Washington State Fish and Wildlife Habitat maps, as amended;

Washington State Department of Fish and Wildlife's WLRIS (Washington State Lakes and Rivers) GIS Coverage

Washington State Department of Natural Resources, Natural Areas Program, Natural Area Preserves;

Washington State Department of Fish and Wildlife's Management Recommendations for Washington's Priority Habitat's: Riparian

BEST AVAILABLE SCIENCE RESOURCES: MISCELLANEOUS

Critical Area Assistance Handbook, Community Trade and Economic Development, Washington State, 2003

Model Code Recommendations for Designating and Protecting Critical Areas, Community Trade and Economic Development, Washington State, 2002

WAC Chapter 365-190 and WAC 365-190-080 Critical Areas

USGS Quadrangle maps;

2007 1:12000 scale digital orthoimagery;

2007 1:24000 scale digital orthoimagery;

2002 1:24000 scale digital orthoimagery;

Franklin County Shoreline Master Program, as amended;

Franklin County Growth Management Comprehensive Plan, as amended;

Franklin County Development Regulations (Zoning Ordinance), as amended

Previously completed maps in the vicinity of a permit application.

Previously completed special reports conducted in the vicinity of a permit application.

**APPENDIX B
FRANKLIN COUNTY, WASHINGTON
CRITICAL AREA ORDINANCE**

FISH AND WILDLIFE CONSERVATION AREAS

PRIORITY SPECIES: The following list comprises the identified species listed as endangered, threatened, or sensitive by the Federal or State Governments, *as amended*.

American White Pelican
Feriginous Hawk
Peregrine Falcon
Sharp Tailed Grouse
Sandhill Crane
Common Loon
Bald Eagle
Chinook Salmon
Steelhead
Bull Trout

IMPORTANT SPECIES: The following list comprises the identified species listed as candidate, monitor, or locally important species as designated by the Federal or State Governments and/or Franklin County, *as amended*.

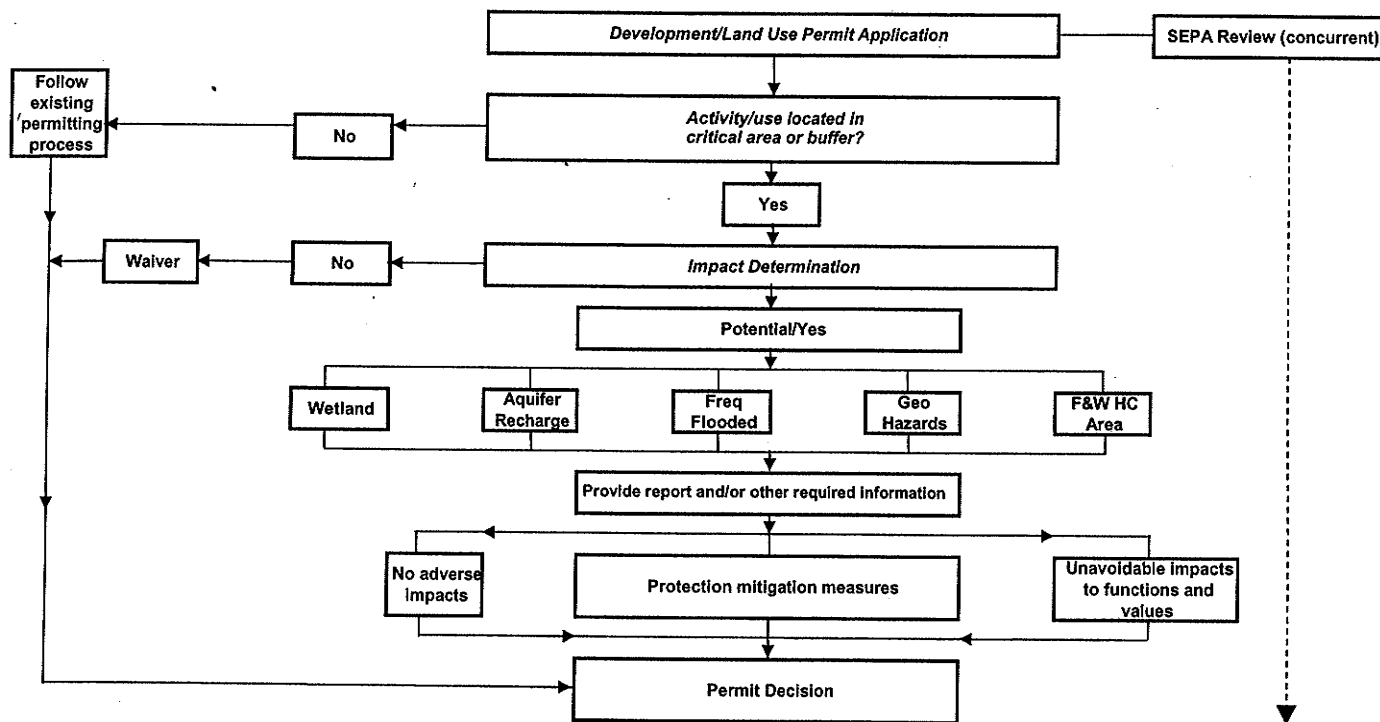
Black-necked Stilt
Black-tailed Jackrabbit
Burrowing Owl
California Floater
Foster's Tern
Golden Eagle
Grasshopper Sparrow
Great Blue Heron
Great Egret
Juniper Hairstreak
Loggerhead Shrike
Ord's Kangaroo Rat
Osprey
Prairie Falcon
Racer
Sage Sparrow
Sagebrush Lizard
Swainson's Hawk
Townsend's Ground Squirrel
Washington Ground Squirrel
White-tailed Jackrabbit
Woodhouse's Toad
Western Cutthroat

PRIORITY HABITATS: The following list comprises the identified habitats listed as Priority by the Federal or State Governments, *as amended*.

Cliffs/Bluffs
Grebe Species
Instream Habitat`
Juniper Savannah
Riparian Zones
Rural Natural Open Space
Shrub-Steppe
Urban Natural Open Space
Waterfowl Concentrations
Wetlands

**APPENDIX C
FRANKLIN COUNTY, WASHINGTON
CRITICAL AREA ORDINANCE**

CRITICAL AREA PERMIT REVIEW PROCESS



**APPENDIX D
FRANKLIN COUNTY, WASHINGTON
CRITICAL AREA ORDINANCE**

MAPS