

**ORDINANCE NO. #734**

**AN ORDINANCE OF THE CITY OF TENINO TO AMEND SECTIONS OF TENINO MUNICIPAL CODE, TITLE 18D DEVELOPMENT REGULATIONS – CRITICAL AREAS AND NATURAL RESOURCE LANDS, BY ADOPTING SECTIONS OF THURSTON COUNTY CODE TO APPLY TO LANDS WITHIN A PROPOSED ANNEXATION AREA.**

**WHEREAS**, the City of Tenino is proposing to annex property adjacent to its City limits (*Exhibit A*), which is legally described in the annexation petition for submission to the Thurston County Boundary Review Board for review; and

**WHEREAS**, the Thurston County Board of County Commissioners have certain concerns about consistency with the County critical area standards for project review and has asked the Boundary Review Board to invoke jurisdiction if the County and the City cannot come to a resolution; and

**WHEREAS**, the City adopted environmental and critical areas regulations after lengthy state and public review, but desires that the annexation proceed and is prepared to adopt additional environmental regulations as a measure to govern the review of any proposed development within the annexation area; and

**WHEREAS**, the annexation area is necessary for the City to provide land necessary to accommodate its population allocation and secure its economic objectives as provided in the Joint Tenino/Thurston County Comprehensive Plan; and

**WHEREAS**, in addition to the City’s environmental and critical areas regulations, the City will adopt and implement as part of the Tenino Municipal Code, specific Thurston County Code Chapters (or Sections) as the basis for critical area review of native outwash prairies and oak woodlands as if the project were in the County; and

**WHEREAS**, the City declares adoption of this ordinance as an emergency to satisfy Thurston County conditions in order that the Board of County Commissioners support the annexation proposal; and

**WHEREAS**, that these interim and additional environmental assurances provide necessary review of development of the annexed property to specifically include review of native outwash prairies and oak woodlands as addressed by the Board of County Commissioners; and

**WHEREAS**, this emergency ordinance is to take effect as a supplemental interim ordinance, effective for a period of six months, or until such time to permit the City of Tenino Planning Commission adequate review to recommend zoning and development standards for the annexation area, and to be renewed, if necessary, to permit the Tenino Planning Commission and City Council to complete their review and planning for the annexation property.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Tenino, Washington, as follows:

**Section 1.** The City shall include protection of native outwash prairies and oak woodlands, as those terms are defined in Thurston County Code, which provisions are herein incorporated into the Tenino Municipal Code by reference as follows for the purpose of land use or project review within the annexation area:

Native outwash prairies	<p>Open areas of excessively drained soils (refer to Category I aquifer recharge areas) greater than 5 acres in size which are covered by native drought-resistant species of grasses, forbs, lichens and mosses. The topography may be flat or mounded.</p> <p>The dominant grass species is Idaho fescue (<i>Festuca idahoensis</i>). Other native graminoid species often present are long-stolon sedge (<i>Carex pensylvanica</i>), field woodrush (<i>Luzula campestris</i>) and California danthonia (<i>Danthonia californica</i>). Other species of plants often present in various combinations are woolly sunflower (<i>Eriophyllum lanatum</i>), common camas (<i>Camassia quamash</i>), houndstongue hawkweed (<i>Hieracium cynoglossiodes</i>), death camas (<i>Zigadenus venenosus</i>), dune goldenrod (<i>Solidago spathulata</i>), nineleaf, common and barestem lomatium (<i>Lomatium triternatum</i>, <i>L. utriculata</i>, <i>L. nudicaule</i>), and western buttercup (<i>Ranunculus occidentalis</i>). Not all species may be present at a single site. Space between grasses and forbs is generally occupied by a nearly continuous layer of mosses and lichens. Non-native plant species may be present but do not dominate the community.</p>
Oak woodlands	Areas where Oregon white oak ( <i>Quercus garryana</i> ) comprises more than 20 percent of the trees in pure or mix stands of oak or oak savannah greater than five acres in size.

**Section 2.** Mitigating conditions for the annexation area shall include conditions to identify and protect native outwash prairies and oak woodlands where such areas meet the tests for environmental sensitivity and mitigation under the standards of the Thurston County Code referenced below, so adopted for those purposes.

**17.15.705 Important habitats and species.**

A. The important habitats of Thurston County identified as Native outwash prairies and Oak woodlands of Table 8 of Chapter 17.15 Thurston County Code [as Table 17.15-1 Westside Annex Important Habitats, below], are adopted by the City of Tenino for special consideration in accordance with County standards and listed below for such habitats. These habitats are important to the long-term viability of the important species of Thurston County identified on Table 9 located at the end of this chapter, or are habitats which are unique or rare in Thurston County. The location of these important habitats shall be maintained as part of the Thurston County critical area inventory.

**Table 17.15-1 Westside Annex Important Habitats**

Native outwash prairies	<p>Open areas of excessively drained soils (refer to Category I aquifer recharge areas) greater than 5 acres in size which are covered by native drought-resistant species of grasses, forbs, lichens and mosses. The topography may be flat or mounded.</p> <p>The dominant grass species is Idaho fescue (<i>Festuca idahoensis</i>). Other native graminoid species often present are long-stolon sedge (<i>Carex pensylvanica</i>), field woodrush (<i>Luzula campestris</i>) and California danthonia (<i>Danthonia californica</i>). Other species of plants often present in various combinations are woolly sunflower (<i>Eriophyllum lanatum</i>), common camas (<i>Camassia quamash</i>), houndstongue hawkweed (<i>Hieracium cynoglossiodes</i>), death camas (<i>Zigadenus venenosus</i>), dune goldenrod (<i>Solidago spathulata</i>), nineleaf, common and barestem lomatium (<i>Lomatium triternatum</i>, <i>L. utriculata</i>, <i>L. nudicaule</i>), and western buttercup (<i>Ranunculus occidentalis</i>). Not all species may be present at a single site. Space between grasses and forbs is generally occupied by a nearly continuous layer of mosses and lichens.</p>
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	Non-native plant species may be present but do not dominate the community.
Oak woodlands	Areas where Oregon white oak ( <i>Quercus garryana</i> ) comprises more than 20 percent of the trees in pure or mix stands of oak or oak savannah greater than five acres in size.

B. The important species of Thurston County [incorporated into the Tenino Code are those species] identified on said Table 9 [which have a primary association with the native outwash prairies and oak woodlands so defined, subject to the conditions and limitations noted in the notes to Table 9. These important species were selected from those State Priority Species which are known to occur in Thurston County. Not included on this table are game species (e.g., elk), or federally protected marine mammals (e.g., harbor seal). The known point locations (such as the den or nest) of these important species shall be maintained as part of the Thurston County critical area inventory and development proposals which lie within six hundred feet of a point location shall be subject to review under this chapter.

C. Implementation of this chapter shall not apply to the following species listed on said Table 9 until such time as management recommendations have been prepared and added to the Management Recommendations for Washington's Priority Habitats and Species (1991). These species include the Mountain Quail, Red Tailed Hawk, Mardon Skipper and Whulge Checkerspot.

**17.15.710 Important habitats and species-- Allowable uses and activities.**

A. Those land uses and activities listed in Table 5 [under the column for Important Habitat & Species] are allowed in important habitat areas or within six hundred feet of a mapped point location of an important species as set forth in that table and subject to the performance standards set forth in TCC Section 17.15.715.

B. Unless specified within Table 5 attached, all other land uses and activities on regulated oak woodlands and native outwash prairies are prohibited.

C. Differences in regulations because of the overlap of two or more critical areas are governed by TCC Section 17.15.405.

**17.15.715 Important habitats and species - Performance standard for allowed uses and activities.**

To serve the purposes and provisions of this chapter, the review authority may restrict the uses and activities of a Group B development proposal which are listed in Table 5, and lie within an important regulated oak woodland and native outwash prairie habitat or within six hundred feet of a mapped point location of an important species with primary association with such habitats. The review authority will use the habitat management plan and the purposes of this chapter to evaluate the presence of the particular important habitat or species, and the likelihood that the particular important habitat or species will maintain or reproduce over the long-term.

**17.15.720 Buffers** [for regulated oak woodlands and native outwash prairies habitat].

Buffers shall be established on a case-by-case basis as described in a habitat management plan.

**17.15.725 Residential density** [for regulated oak woodlands and native outwash prairies habitat].

For the purpose of calculating residential densities within these critical areas the provisions of Section 17.15.335[(B)(4)] Thurston County Code shall apply.

**17.15.730 Special reports** [for regulated oak woodlands and native outwash prairies habitat].

Every development proposal for a Group B permit shall be subject to Section 17.15.735(A) Thurston County Code, if the development proposal contains a use or activity subject to Table 5 located at the end of this chapter, and contains either one of the important habitats listed on Table 8 located at the end of this chapter, or is within six hundred feet of a point location of one of the important species listed on Table 9 located at the end of this chapter.

**17.15.735 Important habitats and species-- Special report requirements.**

The following describes the requirements of a habitat management plan:

A. This report shall identify how the development impacts from the proposed project will be addressed through on or off-site habitat mitigation which meets the purposes of this chapter and section. The Management Recommendations for Washington's Priority Habitats and Species (1991) as amended shall be the basis for this report. (Refer to Appendix C and Figure 6.)

B. The habitat management plan shall contain but not be limited to the following information:

1. A map(s) prepared at an easily readable scale, showing:
  - a. The location of the proposed development site, to include a boundary survey;
  - b. The relationship of the site to surrounding topographic and built features;
  - c. The nature and density of the proposed development or land use change;
  - d. Proposed building locations and arrangements;
  - e. Existing structures and landscape features including the name and location of all water courses, ponds and other bodies of water;
  - f. Extent and location of the important habitat; and g. A legend which includes:
    - i. A complete and accurate legal description as prescribed by the development application form. The description shall include the total acreage of the parcel,
    - ii. Title, scale and north arrows,
    - iii. Date, including revision dates if applicable, and
    - iv. Certificates, by a professional biologist as appropriate.
2. A report which contains:
  - a. A description of the nature, density and intensity of the proposed development in sufficient detail to allow analysis of such land use change upon identified wildlife habitat;
  - b. The applicant's analysis of the effect of the proposed development, activity or land use change upon the wildlife habitat and species identified by the Washington Department of Fish and Wildlife within the identified priority habitat, utilizing the management guidelines;
  - c. A plan by the applicant which shall explain how he/she will mitigate any adverse impacts to wildlife habitats created by the proposed development;
  - d. An evaluation by the Washington Department of Fish and Wildlife or qualified expert regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate.

C. Possible mitigation measures within the plan shall include, but are not limited to:

1. Establishment of buffer zones;
2. Preservation of critically important plants and trees;
3. Limitation of access to habitat area;
4. Seasonal restriction of construction activities;
5. Establishing a timetable for periodic review of the plan; or
6. Clustering of the development.

D. This plan shall be prepared by a person who has been educated in this field and derives his/her livelihood from employment as a wildlife biologist, habitat management consultant or botanist.

**17.15.740 Listing or delisting of important habitats and species.**

- A. The process for listing or delisting an important habitat or species shall be an amendment to this chapter. This action may be initiated by request of the state Department of Wildlife, county staff or interested citizens. Any such request by county staff or interested citizens shall be in writing and shall include:
  - 1. The common and scientific names of the nominated species;
  - 2. A description of the habitat needs of the species in sufficient detail to enable accurate delineation of habitat areas;
  - 3. Maps or inventories of known occurrences within the county;
  - 4. Habitat management recommendations, including potential uses and restrictions of the habitat areas, seasonally sensitive areas and other guidelines necessary for the protection of the species;
  - 5. Name and address of the nominator;
  - 6. Reasons why the nominator wants the species to be listed or delisted; and
  - 7. Other supporting documentation.
- B. The written request and supporting data may be evaluated by a qualified wildlife biologist or equivalent selected by the county.
- C. The county shall consider the following factors when evaluating the request:
  - 1. The specificity and scientific validity of the information about the species needs and behaviors;
  - 2. The sufficiency of habitat areas to sustain the species over time; and
  - 3. The versatility of the habitat area to sustain species other than the one being nominated for local species designation.

#### **17.15.745 Stewardship options.**

Stewardship options available to the private property owner with an area of important habitats and species include the following:

- A. The "Open Space Tax Act" (RCW Chapter 84.34) allows Thurston County to designate lands which should be taxed at their current use value. The county has programs for agricultural lands, small forest lands less than twenty acres in size, and other open space lands. Thurston County has adopted a public benefit rating system which classifies properties on the basis of their relative importance of natural and cultural resources the availability of public access and the presence of a "conservation easement." These features are given a point value, and the total point value determines the property tax reduction. The open space program has property tax reductions of fifty, seventy or ninety percent. Lands with an important habitat or species would commonly qualify for this voluntary program. Applications are approved by the board of county commissioners following a public hearing.
- B. A "conservation easement" is a legal agreement a property owner makes to restrict the type and amount of development that may occur on a parcel. Each easement is tailored to the particular property and to the interest of the individual owner. The property owner grants an easement to an appropriate governmental agency or non-profit land trust. It provides significant property and federal income tax benefits to the property owner.
- C. Some property owners in Thurston County have benefited from combining both aforementioned options.

**Section 3.** The sections referenced above shall be added to the Tenino Municipal Code and shall be applicable to all lands within the annexation identified in Exhibit A. In the event of conflict, reference shall be made to the corresponding provisions of the County Code pertaining to native outwash prairies and oak woodlands for clarification. The purpose of this ordinance is to provide protection for native outwash prairies and oak woodlands, and species dependent upon those habitats under the same terms as those habitats and species are protected under the County Code.

**Section 4.** The annexation property shall include all properties included in City of Tenino annexation application number AN2007-0130TE, being submitted to the Boundary Review Board.

**Section 5.** This ordinance shall take effective immediately and shall be binding on any land use and development proposal activity within this annexation area.

**Section 6.** This interim ordinance shall be effective for a period of six months, and shall be extended until such time as the City Council enacts its land use plan for the annexation area, including a mitigation plan to protect native outwash prairies and oak woodlands under standards and criteria similar to Thurston County development regulations at Section 17.15.700 TCC.

**Section 7.** As an emergency interim ordinance, the City Council shall set a date within 60 days to schedule and conduct its required public hearing on this interim development regulations ordinance.

**Section 8.** If any provision of this ordinance or its application to any person or circumstances is held invalid, the remainder of this ordinance, or application of the provision to other persons or circumstances, shall be unaffected.

**Section 9.** This ordinance shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after the date of publication as required by law.

**ADOPTED** by the City Council of the City of Tenino, Washington, this 25th day of September, 2007 at a regularly scheduled Council meeting.

  
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Kenneth A. Jones, Mayor

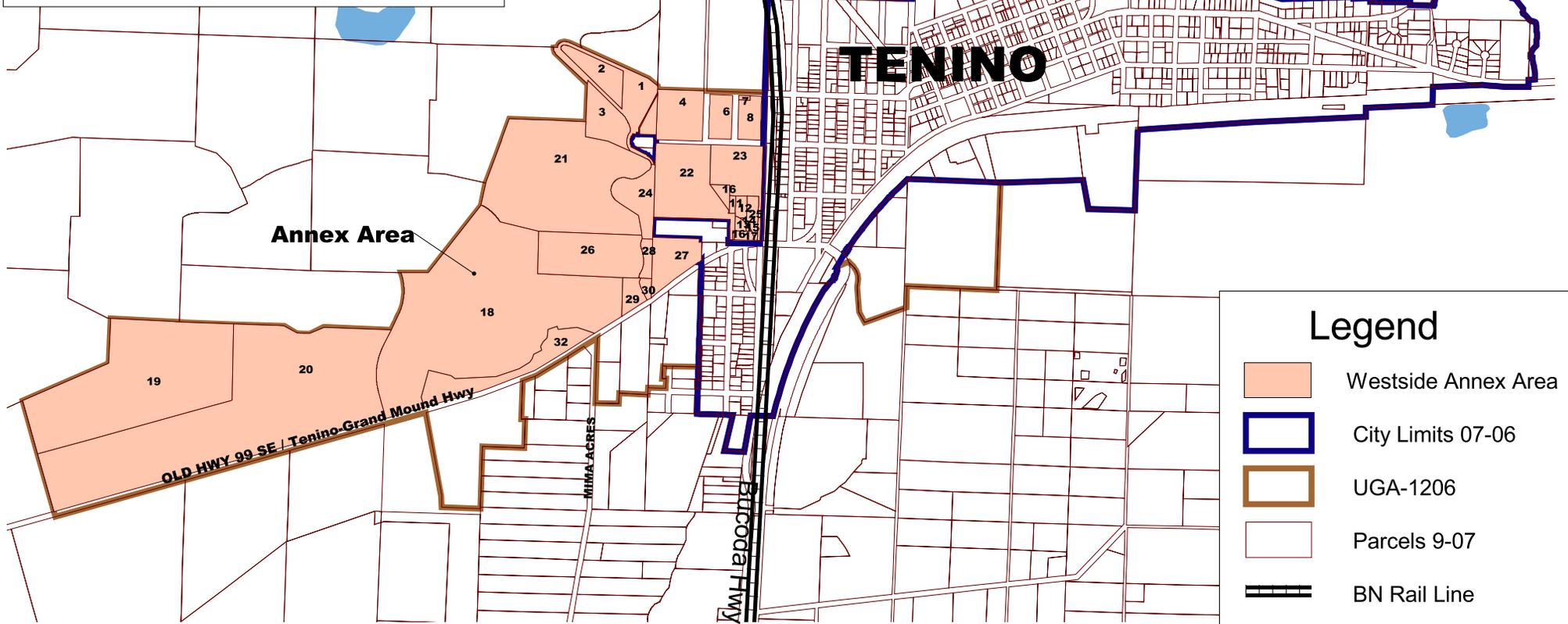
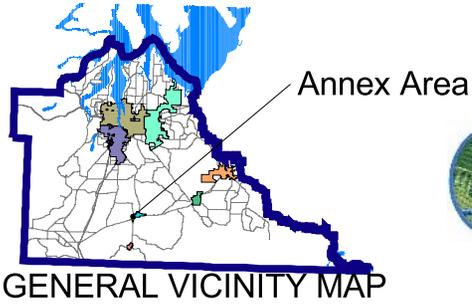
**ATTEST:**

  
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Kathleen L. Clayton, Interim Clerk/Treasurer

3 Exhibits:

1. Proposed Annexation Area Map
2. Table 5 (Important Habitats and Species Column), Chapter 17.15, Thurston County Code applicable to referenced Annexation Area
3. Table 9, Chapter 17.15, Thurston County Code applicable to referenced Annexation Area

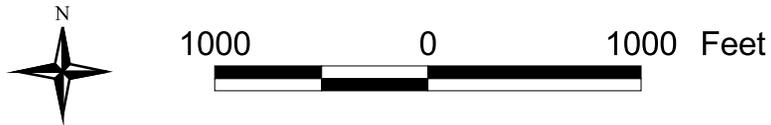
City of Tenino - West Side Annex  
Application #2007-0130



### Legend

-  Westside Annex Area
-  City Limits 07-06
-  UGA-1206
-  Parcels 9-07
-  BN Rail Line
-  Local Roads

Thurston County  
Boundary Review Board  
Exhibit II A  
Map of Entire City / Area



Prepared by City of Tenino Community Development  
September 18, 2007

[www.ci.tenino.wa.us](http://www.ci.tenino.wa.us)

DISCLAIMER: NOT A LEGAL DOCUMENT, map is for reference only. This map is for assessment and planning purposes only. It is not intended to be used for legal descriptions, conveyance, authoritative definition of legal boundary, or property title. This is not a survey product. Users are encouraged to examine the documentation or metadata associated with the data on which this map is based for information related to its accuracy, date of publication and limitations.

**Table 5--Uses and Activities Within Critical Areas and Their Buffers**

<b>Uses and Activities Permitted Without County Review under this Chapter</b>	<b>Important Habitats and Species</b>
1. Agriculture--existing and ongoing	P
2. Agricultural--ditch maintenance	P
3. Open space--(critical area tract)	P
4. Research--(education, scientific, and site investigation)	P
5. Road/street--repair and maintenance	P
6. Signs--(interpretation, critical area tract, and survey markers)	P
7. Utility--existing and ongoing, and installation in improved roads and utility corridors	P
8. Wildlife--blind or nesting structure	P
9. Agricultural--access road	S
10. Agricultural--building	S
11. Agricultural--ponds	P
12. Agricultural--wetland conversion	-
13. Beaver pond--removal	-
14. Critical facilities--see Table 7	S
15. Drainage ditch maintenance--active district	S
16. Drainage ditch maintenance--private	S
17. Emergency--temporary authorization	V
18. Fill--(not a part of another use or activity listed on this table)	S
19. Fish hatchery	S
20. Float--(floating dock, mooring buoy, navigational aid, and swimming float)	S
21. Golf course	S
22. Mineral extraction	S
23. Nonconforming use--expansion of	S
24. Site--mitigation, restoration or revegetation	S
25. Outdoor recreation activities--(bird watching, nonmotorized boating, bicycling, canoeing, fishing, hiking, horseback riding, hunting, jogging, photography, swimming, and similar activities)	S
26. Parks--(public parks, private parks, camping site, and day camps)	S
27. Pier	S
28. Ponds--private <1 acre	S
29. Public facility and not a school	S
30. Public project of significant importance	S
31. Radio/TV towers	S
32. Road/street--expansion of existing corridor	S
33. Road/street--New facilities	S

<b>Uses and Activities Permitted Without County Review under this Chapter</b>	<b>Important Habitats and Species</b>
34. Shoreline access--pedestrian path or hand launch boat site	-
35. Shoreline access--stair tower, stairway or mechanical lift	-
36. Shoreline access--boat ramp, vehicle access or marine railway	-
37. Shoreline protective structures--nonstructural techniques or bioengineering	-
38. Shoreline protective structures--structural techniques (bulkhead, gabion, riprap, or wall)	-
39. Single-family--residence, appurtenant structures, boathouse, deck and garage	S
40. Single-family residence--access road	X
41. Single-family residence--alteration to nonconforming residence	S
42. Single-family residence--replacement of nonconforming residence	S
43. Single-family residence--septic drainfield	S
44. Single-family residence--water well/pump house	S
45. Ski lake	S
46. Slope stabilization or retaining wall (not a bulkhead)	S
47. Stormwater--private retention and detention facility	S
48. Stormwater--regional retention and detention facility	S
49. Stormwater--temporary sediment control ponds	S
50. Stream--enhancement	-
51. Stream--relocation	-
52. Trails--(access, elevated walkway, interpretative site, path, and viewing platform)	S
53. Utility--facility	S
54. Utility transmission lines	S
55. Vegetation management--aquatic weeds	SP
56. Vegetation removal--native and forest practices	S
57. Wireless communication facilities	X

Notes:

P = Permitted without county review under this chapter. ( ) = Includes those uses and activities as examples.

S = Subject to review under this chapter. a = Permitted only within a long-term and Nisqually agriculture districts, otherwise prohibited.

SP = State permit subject to the standards and requirements of this chapter. b = Permitted only within the buffer, otherwise prohibited.

V = Verbal authorization required from planning director. c = Permitted only as allowed in the performance standards, otherwise prohibited.

X = Prohibited. 2 = Permitted only at the toe of the slope, otherwise prohibited.

- = Not applicable.

**Table 9--Important Species of Thurston County**

Common Name	Scientific Name
Fish	
Olympic mudminnow	Novumbra hubbsi
Amphibians	
Spotted frog	Rana pretiosa
Reptiles	
Western pond turtle (ST)	Clemmys marmorata
Birds	
Bald eagle (ST)	Haliaeetus leucocephalus
Band-tailed pigeon	Columba fasciata
Cavity-nesting ducks (includes Wood Duck, Bufflehead, Common and Hooded Mergansers, Barrow's Goldeneye)	
Great blue heron	Ardea herodias
Mountain quail*	Oreortyx pictus
Osprey	Pandion haliaetus
Peregrine falcon (SE)	Falco peregrinus
Pileated woodpecker	Dryocopus pileatus
Purple martin	Progne subis
Red-tailed hawk*	Buteo jamaicensis
Western bluebird	Sialia mexicana
Mammals	
Western gray squirrel**	Sciurus griseus
Western pocket gopher	Thomomys mazama (only subspecies couchi, glacialis, louiei, tumuli, and melanops; or Shelton, Roy Prairie, Cathlamet, Tenino, and Olympic pocket gophers, respectively)
Invertebrates	
Mardon skipper*	Polites mardon
Whulge checkerspot*	Euphydryas editha taylori

ST = State Threatened

SE = State Endangered

\* = Implementation will be deferred until management recommendations are prepared for this species.

\*\* = Implementation will be deferred within all urban growth areas.

Source: Washington Department of Wildlife, Management Recommendations for Washington's Priority Habitats and Species, 1991.