

Recommendations on CAO Format and Administrative Provisions

Submitted reports to refer to:

- Comparison of Formats of Three CAOs
- CAO - Table of Contents
- CAO - Graphics and Figures
- CAO - Regulated Uses and Allowed Uses

Why we recommend the Whatcom County CAO as a model.

The current version of the Whatcom County CAO was adopted in 2005, and has not been challenged. It is designed to stand alone as a discrete chapter in their Unified Development Code. It is clearly organized. It uses plain language. Terms and phrases are well-defined, and consistent throughout the entire document. It incorporates the most recent guidance on wetlands from the Department of Ecology. It contains "alternative regulation" provisions for existing and ongoing agriculture.

How the organization of the Whatcom County model compares with our current CAO, and Island County's CAO; and why clear organization is important.

The "Comparison of Formats" is provided to give you an overview of the organization and section headings of our current CAO, the Whatcom CAO and the Island County CAO. It might also be useful as a checklist for topics that should or could be included.

For new, infrequent, and regular users of any kind of code or ordinance, it is really important that the organization and application of the provisions be readily apparent. No one wants to have to read every word and parse every phrase of every section and paragraph in order to extract what is relevant to their particular situation.

The "administrative provisions" section of the Whatcom CAO describes all of the requirements that apply to all critical areas. This is useful because many parcels of land contain more than one type of critical area; and critical areas and their buffers often overlap. There should be consistent and, as much as possible, common standards for on-site identification of critical areas, delineation and mapping, site assessment reports, the review process, and mitigation of adverse impacts of development.

How the updated Jefferson County CAO should fit within the UDC in order to "stand alone" (and be recognized).

The provisions of our current CAO are located in Title 18 of the Jefferson County Code, otherwise known as the Unified Development Code; but if you look at the chapter headings of the UDC, you will not find any reference to critical areas. You will not find any reference to critical areas in the index to the UDC either. Who

would guess that critical areas are described in a chapter titled Land Use Districts? This ordinance affects almost every parcel of privately-owned land in the County. Don't leave it buried as a few disconnected Articles between provisions related to land-use overlay districts! It seems like the problem could be easily solved by creating an entirely new chapter in the UDC titled "Critical Areas."

Why the CAO should have a Table of Contents.

Once a reader has arrived at the chapter titled Critical Areas, it would be really helpful to find a table of contents that indicates not only the section headings but which sections of the code are applicable to all critical areas, and which are applicable to each type of critical area.

Why we suggest incorporating supplemental information such as graphics, tables, and figures into the CAO as Appendices.

There are cases, such as the determination of buffers for steep slopes, where a simple diagram is far more easily understood than a verbal description. The page titled "Appendix B - Graphics and Figures" provides a list of some of the graphics and figures contained in an appendix to the Pierce County CAO. It is recommended that these be reviewed for the possibility of including similar graphics in our CAO.

Our recommended Table of Contents lists several other Appendices that we consider to be useful in understanding and implementing the CAO, particularly Appendix E: Listed, sensitive, and candidate species known or suspected to occur in Jefferson County.

The reason to put this kind of supplemental information in appendices is so that it can be revised and updated as needed without requiring an amendment to the CAO itself.

Why we wrote and have submitted recommended language for the following three sections of the administrative provisions of the CAO:

- 6. Regulated Uses and Activities**
- 7. Activities Allowed Without Notification**
- 8. Activities Allowed With Notification**

It was necessary to write these sections in order to establish the terms for the other CAO sections that we wrote (Wetlands and the alternative regulations for agriculture). Although these sections are based on the format of the Whatcom CAO, it should be noted that they contain a significant amount of new language.

In particular, note the following:

Regulated Uses and Activities (B) (6) introduces the option for a land owner (who is not necessarily engaged in agricultural activity) to continue or initiate certain kinds of alterations to critical areas and buffers in accordance with site-specific plans for

Vegetation Management, Mitigation, or in conjunction with a watershed-scale improvement plan.

Activities Allowed without Notification (B) allows Class I forest practices to be conducted on parcels platted after January 1, 1960. This activity is otherwise not exempt under the usual CAO provisions exempting forest practices. The reason to add this exception is that it appears to place an unfair burden on certain parcels in rural areas, that isn't applied to other parcels of the same size, character, and use.

Activities Allowed without Notification (G) outlines the purposes to which Vegetation Management Plans may be applied.

Activities Allowed with Notification (E) provides criteria for management of hazard trees. This language is there for land owners who do not have the benefit of the forest practices exemption, or an established Vegetation Management Plan or Mitigation Plan, or are not operating under the alternative regulations for agriculture.