GRAYS HARBOR COUNTY
SHORELINE MASTER PROGRAM

May 2020
Grays Harbor County

Shoreline Master Program

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Funding for this report was from a Department of Ecology Grant, No. 140048
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**Preface**

**Summary of the Shoreline Management Act**

The citizens of Washington State passed the Shoreline Management Act (SMA) in 1972 in recognition “that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation.” With this purpose in mind, the SMA requires “a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state’s shorelines.”

There are three broad policies for implementing the intent of the SMA:

- **The accommodation of appropriate uses that require a shoreline location** These preferred uses in priority include:
  - Areas for protecting and restoring shoreline health;
  - Water-dependent uses;
  - Water-related uses;
  - Water-enjoyment uses; and
  - Single family residences

- **The protection of shoreline natural resources, including “…the land and its vegetation and wildlife, and the water of the state and their aquatic life…” against adverse effects.** All allowed uses are required to mitigate adverse environmental impacts to the maximum extent feasible and preserve the natural character and aesthetics of the shoreline.

- **Provide public access to publicly owned shoreline areas and promote recreational opportunities for the public in shoreline areas.**

Under the SMA, Grays Harbor County must prepare and adopt a Shoreline Master Program (SMP) for managing development along shorelines of the state. The preparation and adoption of the county’s SMP must conform to Chapter 173-26 WAC, State Master Program Approval/Amendment Procedures, and Master Program Guidelines.

The SMA also establishes a balance of authority between Grays Harbor County and the State of Washington. While the SMA gives authority to the county to prepare and implement a SMP that reflects local geographic, economic, and environmental conditions, the state, through the

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1 RCW 90.58.020
Washington Department of Department of Ecology, has dual approval authority for certain permits issued by the county as well as the SMP itself.

**History of the Shoreline Management Act in Grays Harbor County**

Grays Harbor County has been planning under the SMA since the adoption of its first SMP in 1974.² The county amended its original SMP eleven times, with the last amendment occurring in 1991. Amendments to the SMA in 1995 by the State Legislature required local governments to periodically review and amend their SMP to achieve consistency with Chapter 173-26 WAC contingent upon receiving grant funding from the Department of Ecology.³ Grays Harbor received its funding for updating its SMP in July 2013, with the requirement of completing the update by June 2016.

**Goals for the 2016 Shoreline Management Plan Update**

Citizens of Grays Harbor County came together at three workshops in early 2015 for crafting a series of vision statements that spoke to their hopes as to what an updated Shoreline Master Program would accomplish for their community.⁴ The outcome of these workshops generated 19 vision statements that fall under five distinct themes. These themes and statements speak to both the diversity and commonalities that different areas hold for the future of shorelines in their area of the county.

The following summary captures the essence of the conversations held at each workshop.

**Planning for Smart Growth along our Shorelines**

- **Smart, Planned Growth - Montesano**
  
  Grays Harbor County will promote a pattern of development that complements the rural character of its shorelines. This entails carefully managing growth and creating incentives that relocate non-water dependent and related uses away from its shorelines. This will help our shorelines become a place that has great public amenities paid for by a growing tax base.

- **Planned Growth along Shorelines - Grayland**
  
  Our county will promote planned growth along our shorelines to create jobs and a strong tax base while preserving its rural character. We can accomplish this by containing urban sprawl and encouraging waterfront commercial, tourist amenities, and industry in appropriate locations. Our waterways can be a connection to all communities in our county.

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² Resolution #7419
³RCW 90.58.080
⁴ “A Grays Harbor County Vision for Updating the Shoreline Master Program” February 2015
Intelligent Planning along Our Shorelines – Pacific Beach

Protecting natural functions along our shorelines is dependent on the county managing growth in a sensible manner. The Shoreline Master Program should use a variety of methods to accomplish this goal by locating and clustering development where appropriate; managing development in critical areas; addressing sewage disposal concerns; planning for sea level rise; and encouraging green development.

Use Best Available Science and Best Management Practices – Montesano

We need to think “outside of the box” about the best ways to protect our shoreline resources as growth happens. Staying abreast of and applying innovative development techniques supported through best available science and best management practices will help us find the right way to sustain our shorelines over the long-term.

Best Management Practices – Commission

We need to encourage free market environmentalism as a solution to environmental issues. Markets and the protection of property rights act as a solution for solving many environmental issues.

Balancing Shoreline Protection with Property Rights

Finding a Balance between Public & Private Interests – Grayland

Grays Harbor County will manage our shorelines in a way that artfully balances public and private interests in a way that satisfies both. The Shoreline Master Program will do this by being mindful of the dual need to protect private property rights and shoreline natural resources. We will strive to find the right proportion of land under public ownership dedicated to shoreline enjoyment.

Define Property Rights – Pacific Beach

The Shoreline Master Program should clearly define the rights of property owners along the shoreline through a peer review process managed by its citizens. In addition, plans and regulations should recognize and use citizen knowledge about local conditions in the county. Actions by state and local agencies within the shoreline also need to be consistent with the SMP.

More Incentives – Montesano

Staying mindful of not placing the burden of shoreline protection solely on the shoulders of shoreline property owners should be a major focus of our future management efforts. Incentives are one way of helping communities and landowners share the costs of protecting shoreline assets in common. Emphasizing incentives will go a long way towards attaining the goodwill necessary for greater the protection of and access to natural resources under private
ownership. This is particularly important for those landowners who support our vital agriculture, aquaculture, and forestry economies.

**Maintaining Shoreline Resources that Support our Economy**

- **A Vibrant Economy that Utilizes our Natural Resources – Grayland**

Our shorelines are rich in natural resources that contribute to the foundation to our county’s economy. We will have vibrant, local communities built on the benefits of agriculture, fishing, recreation, and tourism.

- **Sustainable Development and Jobs – Montesano**

Shorelines can be a place that creates and supports jobs for our children here in our community. They can support a sustainable economy by providing a diverse range of development opportunities that celebrate our historic connection to the water. Key to achieving this goal is managing development within shorelines in a fair and balanced way so that it enhances and protects the existing wealth of our natural and built environments.

- **Thriving Marine Resource-Related Economic Uses – Pacific Beach**

The Shoreline Master Programs will allow shoreline natural ecological functions to flourish, including supporting natural processes that replenish our ocean beaches.

**Conserving our Shoreline Natural Resources**

- **Protecting/Conserving our Natural Resources – Grayland**

The quality and wise use of our shoreline natural resources will sustain Grays Harbor County well into the future. Management of our shorelines should emphasize protecting existing healthy natural resources by retaining wildlife corridors and ensuring water quality in our river, estuary, and marine waters. These resources are what make Grays Harbor County so special for locals and visitors alike.

- **Water Quality – Montesano**

Clean water is the foundation to our county’s existence. Improved water quality is critical to our shorelines for supporting business and industry, agriculture, homes, fish and wildlife, and recreation. We will work towards repairing degraded wetlands that contribute to clean water resources and manage future development along our shorelines in a manner that results in no net loss of ecological functions.

- **Enhanced Fish and Wildlife Resources – Montesano**

Our fish and wildlife resources along county shorelines are one of our most important community assets we share. Not only need do we need to protect those resources we have now, but we
need to find ways to improve them. Future development opportunities along our shorelines need to account for these resources so we sustain healthy populations.

- **Save Wildlife Corridors – Pacific Beach**

Future development along shoreline environments should identify and protect important wildlife corridors both upland and in the water. The county should work at encouraging all freshwater rivers and streams to be barrier-free for salmonids.

**Improving Public Access and Recreation**

- **Public Access & Tourism Enjoying our Natural Resources – Grayland**

Our shoreline natural resources are the doorway to many types of water-enjoyment activities, public access, and tourism. Careful development that preserves the character of the shoreline and promotes public access can host a wide range of water-enjoyment activities, from storm watching to oceanfront restaurants and resorts.

- **Better Beach Safety and Management – Pacific Beach**

The ocean beaches are important to our county’s way of life and economy. However, there are significant concerns regarding their management that fails to protect natural resources and public safety. We will encourage State Parks to take a proactive stance at exploring the impacts of people driving recklessly on the beach, preventing the dangers of continued fireworks use, and reducing the proliferation of garbage. Enforcement of laws and use regulations will be important to protect people and the resources in the future.

- **Improved Public Access to Our Waterways – Pacific Beach**

There are many roads in our county that intersect with waterways. However, many of these public rights-of-way have failed to accommodate public access, bypassing what could be a significant opportunity for people to enjoy the water. Future road and bridge design should plan for accommodating public access opportunities whenever possible.

- **Better Access for Emergency Personnel and Vehicles – Pacific Beach**

There are sections of the ocean beach that tourists frequent where emergency personnel and vehicles have difficulty accessing in a timely fashion. The Shoreline Master Program should allow for providing emergency access and egress points to these areas.
Chapter 1: Introductory Provisions

Section 1.1 Title

The title of this document is the Grays Harbor County Shoreline Master Program, hereafter referred to as the “Master Program.”

Section 1.2 Purpose and intent

1.2.1 The purpose and intent of the policies and regulations within this Master Program shall implement the policies of the Shoreline Management Act under Chapter 90.58 RCW, hereinafter referred to as the “Act.”

1.2.2 The Master Program shall promote the health, safety, and general welfare of the citizens of Grays Harbor County by:

A. Utilizing shorelines of the state for economically productive uses that are particularly dependent on shoreline location or use;

B. Promoting access to publicly-owned shoreline areas and encouraging recreational use;

C. Protecting and restoring the ecological functions of shoreline natural resources;

D. Ensuring the public’s right of navigation and corollary uses in shorelines of the state;

E. Protecting and restoring buildings and sites that have historic, cultural, educational, and scientific value;

F. Planning for public facilities and utilities concurrently with other development;

G. Preventing and minimizing flood damage;

H. Recognizing and protecting private property rights by ensuring regulations, permit procedures, and enforcement are consistent with constitutional limitations;

I. Providing location preference in and along shorelines of the state for water-oriented and single-family uses; and

J. Coordinating shoreline management with other relevant local, state, and federal programs.

Section 1.3 Adoption authority

Grays Harbor County adopts this Master Program pursuant to the authority granted under the Act, the State Master Program Approval/Amendment Procedures and Master Program Guidelines, Chapter 173-26 of the Washington Administrative Code (WAC), and the Shoreline Management Permit and Enforcement Procedures under Chapter 173-27 WAC.
Section 1.4  Applicability

1.4.1 This Master Program is the comprehensive use plan for those shorelines in Grays Harbor County under the jurisdiction of the Act.

1.4.2 All proposed uses and development activities occurring within shoreline jurisdiction shall be consistent with the Act and this Master Program, regardless if a permit is or is not necessary, except where specifically provided by the Legislature.

1.4.3 This Master Program achieves the procedural and substantive requirements of Chapter 173-26 WAC by establishing overall plan goals, policies, and regulations that includes maps, diagrams, tables, and other descriptive text and materials.

1.4.4 Although the following supporting documents were used in developing this Master Program and are not adopted as part of this Master Program, they are essential reference documents for understanding its development and providing guidance for implementing restoration goals:

A. Public Participation Plan for the Shoreline Master Program Update;
B. Shoreline Analysis Report for Shorelines in Grays Harbor County;
C. Shoreline Restoration Plan for Shorelines in Grays Harbor County; and
D. No Net Loss Report for the Grays Harbor County Shoreline Master Program.

1.4.5 The provisions of this Master Program shall apply to all shorelines of the state in unincorporated Grays Harbor County, including all freshwater and saltwater shorelines, shorelines of statewide significance, and all shorelands as defined in RCW 90.58.030, except where this Master Program makes explicit exception consistent with state law.

1.4.6 Federal agencies are subject to this Master Program and RCW 90.58, as provided by the Coastal Zone Management Act (Title 16 USC §1451 et seq.) and Washington Administrative Code 173-27-060.

1.4.7 This Master Program shall not apply to:

A. Lands held in trust by the United States for Indian Nations, tribal governments, or individuals;
B. Lands within the boundaries of the Olympic National Park in accordance with RCW 37.08.210.

Section 1.5  Adoption of Critical Areas Protection Regulations by Reference

1.5.1 Chapter 18.06 of the Grays Harbor County Code (GHCC), Critical Areas Protection Ordinance #448, adopted 9/3/2019, is integral and applicable to this Master Program and is hereby adopted by reference; provided, however, that the following exceptions shall apply:
A. Developments and uses within shoreline jurisdiction requiring a reasonable use exception or variance to locate within any critical area buffer shall be subject to the variance provisions under Section 7 of this Master Program and not the provisions in GHCC 18.06.

B. The fish and wildlife habitat conservation habitat area buffer for Type S waters shall be consistent with the shoreline buffer provisions under Section 3.3.3 of this Master Program and not Chapter 18.06 GHCC.

C. If there are any regulations under Chapter 18.06 GHCC pertaining to nonconforming development, uses, and lots within critical areas that are in conflict with the provisions with this Master Program, the Master Program shall prevail.

D. Section 13 Exemptions. Exemptions are limited to those consistent with the master program, as set forth in Section 7.2, and are only exempt from the requirement for a permit and not from the standards set forth in the regulations.

E. Section 15 Allowed Activities. Shoreline permits or exemptions may be required. Any vegetation removal activities must be consistent with SMP Section 3.3. Any pruning for views should be limited and must be consistent with the standards in SMP Section 3.3.3.

F. Grays Harbor County participates in the Voluntary Stewardship Program (VSP). As long as the County participates in VSP, critical area provisions shall not apply to agricultural activities. However, new agricultural uses or activities on land not currently in agricultural use, development on agricultural land that does not meet the definition of agricultural activities, and the conversion of agricultural land to nonagricultural uses, are regulated by this master program including all applicable critical area regulations.

1.5.2 Any amendments to Chapter 18.06 GHCC shall require an amendment to this Master Program consistent with Chapter 8.

Section 1.6 Relationship to other plans and regulations

1.6.1 Uses and development activities regulated by this Master Program may also be subject to other provisions of the Grays Harbor County Code and other state and federal laws.

1.6.2 Shoreline permit applicants are responsible for complying with all applicable laws before commencing any use or development activity permitted through this Master Program.

1.6.3 Except for those codes adopted by reference into the SMP, whenever this Master Program cites any RCW, WAC, or other county, state, or federal law, regulation, or policy, the most recent amendment shall apply.

1.6.4 In the event this Master Program conflicts with any other county laws or policies, the more restrictive provision shall apply unless stated otherwise.

1.6.5 Federal projects must comply with WAC 173-27-060.
Section 1.7  Agreements for regional shoreline planning and implementation

The county may participate in collaborative planning processes or pursue interlocal agreements for regulatory implementation with any city, county, state, federal, or tribal government that will further the purpose and intent of this Master Program.

Section 1.8  Liberal construction

This Master Program is exempt from the rule of strict construction and Grays Harbor County shall liberally construe its provisions to give full effect to the objectives and purposes provided under the Shoreline Management Act, Chapter 90.58 RCW.

Section 1.9  Severability

Any section, policy, or regulation of this Master Program declared invalid shall not affect the validity of this Master Program as a whole.
Chapter 2: Shoreline Jurisdiction and Environments

Section 2.1 Shoreline Jurisdiction

2.1.1 This Master Program applies to shorelines within the jurisdiction of Grays Harbor County. These shorelines, listed in Appendix B, include:

A. The Pacific Ocean and its harbors, bays, estuaries, and inlets from the ordinary high water mark offshore three nautical miles to the western boundary of Washington State;

B. Rivers and streams with a mean annual flow of 20 cubic feet per second (cfs) or more;

C. Lakes and reservoirs 20 acres or greater;

D. Shorelands extending two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark that may include:
   i. Floodways and the contiguous floodplain areas landward 200 feet from the floodway; and
   ii. Associated wetlands and river deltas.

2.1.2 The Shoreline Management Act, Chapter 90.58 RCW, identifies the following shorelines of statewide significance in Grays Harbor County:

A. The Pacific Ocean and its harbors, bays, estuaries, and inlets from the ordinary high water mark offshore 3 nautical miles to the western boundary of Washington State;

B. Rivers and streams listed in Appendix B with a mean annual flow of one thousand cfs or more;

C. Lakes listed in Appendix B, whether natural, artificial, or a combination thereof, with a surface acreage greater than one thousand acres or more measured at the OHWM, and

D. Shorelands associated with A, B, and C of this section that extend landward two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark that include:
   i. Floodways and contiguous floodplain areas 200 feet landward of the floodway; and
   ii. Associated wetlands and river deltas.
Section 2.2  Designation of Shoreline Environments and Official Maps

2.2.1 The Master Program uses a classification system for managing shorelines by categorizing shoreline reaches into appropriate environment designations. This classification system reflects the current biological and physical character of the shoreline, the pattern of existing uses within shoreline jurisdiction, and the county’s comprehensive plan and development regulations.

2.2.2 The purpose of each environment designation is to encourage uses and activities that complement and enhance its shoreline characteristics. Environment designations impose reasonable standards and restrictions on future development to ensure no net loss of shoreline ecological functions.

2.2.3 The Master Program classifies shorelines into the following environment designations:
   A. High Intensity Environment (HI);
   B. Coastal Community Environment (CC);
   C. Shoreline Residential Environment (SR);
   D. Rural Development Environment (RD);
   E. Aquatic Environment (A);
   F. Pacific Ocean Environment (PO); and
   G. Natural Environment (N).

2.2.4 The Official Shoreline Environment Maps in Appendix A show the location of each Environment and is for general planning purposes only. The lateral extent of shoreline jurisdiction and the location of the OHWM, associated wetlands, and floodplain and/or floodway, will require a site-specific evaluation at the time of a project proposal. The boundary of each Shoreline Environment shall be determined as follows:
   A. Boundaries that appear to follow lot, tract, or section lines shall be interpreted as such;
   B. Boundaries that appear to follow roads shall be interpreted as such to their centerlines; or
   C. Whenever existing physical features are inconsistent with boundaries on the Official Shoreline Map, the Administrator shall interpret the boundaries, with deference to actual conditions and the policies of the Master Program.

2.2.5 The Grays Harbor County Official Shoreline Environment Map with descriptive text shall be kept on file in the Planning and Building Division of the Department of Public Services. This map shall bear the original approving signature of the Board of Commissioners. Unofficial copies of the map may be prepared for administrative purposes.

2.2.6 In the event of a mapping error, the county shall rely on common boundary descriptions and the criteria contained in RCW 90.58.030(2) and WAC 173-22 pertaining to determinations of shorelands, as amended, rather than the incorrect or outdated map.
2.2.7 Any area shown on the map as within shoreline jurisdiction that does not meet the criteria for shoreline jurisdiction shall not be subject to the requirements of the Master Program.

2.2.8 All areas within shoreline jurisdiction that are not mapped and/or designated are assigned a Rural Development designation until it is designated otherwise through a Master Program amendment.

Section 2.3 High Intensity Environment (HI)

2.3.1 Purpose: The purpose of the High Intensity Environment is to provide for water-oriented industrial, transportation, and commercial uses.

2.3.2 Designation Criteria:
A. Shorelands with existing industrial, transportation, and commercial uses;
B. Shorelands identified in the comprehensive plan as suitable for future water-oriented industrial, transportation, and/or commercial development; and
C. Shorelands exhibiting low to moderate opportunities for ecological restoration or protection.

2.3.3 Policies:
A. Future water-oriented industrial, transportation, and commercial uses should locate on shorelands with low ecological function.
B. Support infill or redevelopment of shorelands within the High Intensity Environment to achieve full utilization of properties.
C. Encourage opportunities and incentives for the restoration of degraded shoreline ecological functions.
D. Nonwater-oriented uses may locate within existing structures.
E. Existing nonwater-oriented development may expand landward.

Section 2.4 Coastal Community Environment (CC)

2.4.1 Purpose: The Coastal Community Environment accommodates limited areas of more intense rural development and planned unit developments along the Pacific Coast and Lake Quinault.

2.4.2 Design Criteria:
A. Shorelands that have existing unincorporated communities consisting of a mix of commercial, residential, recreational, and public facility uses at urban densities;
B. Shorelands with master planned resorts;

C. Shorelands that have moderate to high ecological function with moderate to high opportunities for ecological restoration;

D. Shorelands that support passive and active public access and water-enjoyment opportunities; and/or

E. Shorelands identified as suitable for general commercial and residential development in the comprehensive plan.

2.4.3 Management Policies:

A. Development should preserve the natural character of the area while accommodating a mix of residential, commercial, recreational, public facilities and services, and public access uses that serve the needs of area residents and visitors.

B. Encourage opportunities and incentives for the restoration of ecological functions.

C. Encourage infill and redevelopment to achieve full utilization of properties within the environment designation.

D. The design and location of developments upland of recreational and commercial shellfish beds should avoid degradation of water quality.

E. The county should extend public water and sewer facilities to reduce the impacts of development to shoreline ecological functions.

Section 2.5  Shoreline Residential (SR)

2.5.1 Purpose: The Shoreline Residential Environment provides for residential, water-oriented commercial, recreational, planned unit developments, and public access uses along shorelines at appropriate densities that protect shoreline ecological functions.

2.5.2 Designation Criteria:

A. Shorelands consisting primarily of residential and recreational uses on parcels of one to five acres;

B. Shorelands with water-oriented public access and recreation development;

C. Shorelands that have moderate to high ecological function with moderate to high opportunities for ecological restoration; and

D. Shorelands identified as suitable for residential, commercial, and recreational development in the comprehensive plan.
2.5.3 Management Policies:

A. Future development should be limited to preferred uses except those with mixed-use developments that include and support water-dependent and public access development.

B. Encourage locating structures along the Pacific Ocean and the Grays Harbor Estuary as far landward as feasible to minimize potential danger from coastal storm surge, flooding, and tidal influences and natural disasters.

C. Encourage opportunities and incentives for the restoration of ecological functions.

D. The county should extend public water and sewer facilities to reduce the impacts of development to shoreline ecological functions.

E. The design and location of developments upland of recreational and commercial shellfish beds should avoid degradation of water quality.

Section 2.6 Rural Development Environment (RD)

2.6.1 Purpose: The Rural Development Environment provides for the protection of designated resource lands of long-term commercial significance, open space, and floodplain processes while allowing rural development and uses.

2.6.2 Designation Criteria:

A. Shorelands supporting resource lands of long-term commercial significance;

B. Shorelands with rural development and uses;

C. Shorelands that have moderate to high ecological function with moderate to high opportunities for ecological restoration;

D. Shorelands with significant development constraints, such as frequently flooded areas, wetlands, and geologically hazardous areas;

E. Shorelands that contribute to critical aquifer recharge areas used for potable water supply;

F. Shorelands that can provide water-oriented public access and recreation development and protect or restore ecological functions; and/or

G. Shorelands identified as suitable for agriculture, forestry, mineral extraction, low-intensity residential development, and recreational development in the comprehensive plan.
2.6.3 Management Policies:

A. New development should be compatible with sustaining existing natural resource lands of long-term commercial significance.

B. Encourage opportunities and incentives for the restoration of ecological functions.

C. The scale of water-oriented recreational facilities should be compatible with the character of the surrounding area and minimize the need for public facilities and services.

Section 2.7 Aquatic Environment (A)

2.7.1 Purpose: The Aquatic Environment protects, restores, and manages freshwater and estuarine shorelines of the state.

2.7.2 Designation Criteria: The Aquatic Environment consists of all freshwater and estuarine shorelines of the state waterward of the ordinary high water mark east of the mouth of the Grays Harbor Estuary. “Mouth of the Grays Harbor Estuary” is defined here as a line drawn between the western most exposed tips of the North and South jetties.

2.7.3 Management Policies:

A. Encourage opportunities and incentives for the restoration of aquatic ecological resources, such as removing fish barriers, reconnecting floodplains, improving riparian vegetation, increasing channel complexity, increasing water quantity, improving water quality, and reducing sedimentation.

B. The location and design of development and uses on navigable waters and submerged lands should minimize interference with surface navigation, existing uses, public access, and allow for unobstructed passage of fish and wildlife.

C. Limit the development of new over-water structures for water-dependent uses, public access, or ecological restoration.

D. Allowed uses should be compatible with uses in the adjacent upland environment designation.

E. The design of new overwater structures should be the least size necessary for its intended use to minimize impact to shorelines.

F. To reduce potential impacts to shorelines, the design of overwater structures should strive to serve multiple uses.

G. The design and management of shoreline uses and modifications are should prevent degradation of water quality and alteration of shoreline ecological functions.

H. The jurisdiction of the Ocean Resources Management Act, Chapter 43.143 RCW, extends to the mean high tide within the Grays Harbor Estuary and coastal rivers.
creeks, and streams. Development within these waterbodies should be consistent with Chapter 6, Ocean Management.

Section 2.8 Pacific Ocean Environment (PO)

2.8.1 Purpose: The Pacific Ocean Environment protects, restores, and manages aquatic resources within the Pacific Ocean.

2.8.2 Designation Criteria: The Pacific Ocean Environment consists of marine waters:

A. West of the mouth of the Grays Harbor estuary, defined as a line drawn between the western most exposed tips of the North and South Jetties, extending waterward for three nautical miles from the ordinary high water mark along the shoreline of the Pacific Ocean; excluding those areas that lie within the Master Program jurisdiction of the Cities of Ocean Shores and Westport;

B. West of the Highway 109 bridge over the Moclips River, Joe Creek, Boone Creek, and Copalis River; and

C. West of the mouth of Connor Creek.

2.8.3 Management Policies:

A. Allowed uses should conform to the provisions to Chapter 6, Ocean Management.

B. The location of new development should avoid and minimize adverse impacts to existing ocean uses.

C. Allowed uses should be compatible with uses in the adjacent upland environment designation.

D. New over-water structures should serve only water-dependent uses.

E. The design of new overwater structures should be the least size necessary for its intended use to minimize impacts to shorelines and public views.

F. To reduce potential impacts to shorelines, the design of overwater structures should strive to serve multiple uses.

Section 2.9 Natural Environment (N)

2.9.1 Purpose: The Natural Environment protects those areas that are relatively undisturbed, ecologically intact or minimally degraded, and/or retain value because of their scientific, educational, or historic interest.

2.9.2 Designation Criteria:

A. Shorelands and shoreline areas that are largely ecologically intact and therefore perform an important, irreplaceable function or an ecosystem-wide process either of
which is susceptible to damage by human activity. Ecologically intact means that
the shoreline is largely vegetated with native vegetation;

B. Shorelands and shoreline areas that cannot support new development or uses
without significant adverse impacts to ecological functions or risk to human safety;

C. Shorelands and shoreline areas with ecosystems and geologic types that are of
particular scientific, educational, or historic interest; and/or

D. Shorelands and shoreline areas under county, state, federal, and nonprofit ownership
and managed as conservation resources.

2.9.3 Management Policies:

A. Prohibit development or uses that degrade ecological functions or areas of scientific,
educational, or historic interest.

B. Allowed uses include passive recreational uses and activities that restore or improve
ecological functions.

C. Allow the location of development related to scientific, historical, cultural,
educational research activities if the action results in no ecological impacts.

D. Avoid new public facilities and services and utility corridors except as necessary to
serve the health, safety, and welfare of the public.

E. Prohibit new development or significant vegetation removal that would reduce the
ability of vegetation to perform normal ecological functions including shading
shorelines, providing food sources for fish and wildlife, providing structure to
shorelines, reducing erosion, or providing habitat.

F. Do not allow the subdivision of property in a configuration that, to achieve its
intended purpose, will require significant vegetation removal or shoreline
modification that adversely impacts ecological functions. Each new parcel must be
able to support its intended development without significant ecological impacts to
the shoreline ecological functions.

Section 2.10 Shoreline Use and Modification Tables

2.10.1 The following tables summarize the permitted, conditional, and prohibited uses, shoreline
modifications, and ocean management by shoreline environment. All permitted and
conditional uses are subject to the provisions of this Master Program and may require
other permits from the county or other regulatory agencies.

2.10.2 The symbols used in the table are:

A. $P =$Permitted use. Permitted uses within a Shoreline Environment require a shoreline
substantial development permit or a letter of exemption as provided under Chapter
7.

B. $C =$Conditional use. Conditional uses within a Shoreline Environment require a
Shoreline Conditional Use Permit as provided under Chapter 7.

C. $X =$Prohibited use. Prohibited uses are uses not allowed within a Shoreline
Environment.
### Table 1: Shoreline Uses by Environment

<table>
<thead>
<tr>
<th>Shoreline Uses</th>
<th>High Intensity</th>
<th>Coastal Community</th>
<th>Shoreline Residential</th>
<th>Rural Development</th>
<th>Aquatic</th>
<th>Pacific Ocean</th>
<th>Natural</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>X P P P</td>
<td>P</td>
<td>P</td>
<td>NA</td>
<td>NA</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Aquaculture²</td>
<td>X P P P</td>
<td>P</td>
<td>X</td>
<td>X</td>
<td>P P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>Boating facilities:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Marinas</td>
<td>C C C C C</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X X X</td>
<td>X X X</td>
<td></td>
</tr>
<tr>
<td>• All other boating facilities</td>
<td>P P P P P</td>
<td>P</td>
<td>X</td>
<td>X</td>
<td>X X X</td>
<td>X X X</td>
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<tr>
<td>Commercial development:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Water-dependent</td>
<td>P P P X</td>
<td>P</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>• Water-related</td>
<td>C P P X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>C X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>• Water-enjoyment</td>
<td>X P C P</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X X X</td>
<td>X X X</td>
<td></td>
</tr>
<tr>
<td>• Nonwater-oriented</td>
<td>X P X X X X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X X X</td>
<td>X X X</td>
<td></td>
</tr>
<tr>
<td>Forest practices</td>
<td>X X P⁵</td>
<td>P</td>
<td>P</td>
<td>NA</td>
<td>NA</td>
<td>C</td>
<td></td>
</tr>
<tr>
<td>Industry:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Water-dependent</td>
<td>P X X X</td>
<td>P</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>• Water-related</td>
<td>C X X X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>• Nonwater-oriented</td>
<td>X⁶</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X X X</td>
<td>X X X</td>
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</tr>
<tr>
<td>In-stream structural development</td>
<td>C C C C C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C C</td>
<td>C</td>
<td></td>
</tr>
<tr>
<td>Mining</td>
<td>C X C C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>X C</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Public facilities and services</td>
<td>P P P P P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P P</td>
<td>P</td>
<td>C</td>
</tr>
<tr>
<td>Recreational development:</td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>• Water-dependent</td>
<td>X P P P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P P</td>
<td>P</td>
<td>C</td>
</tr>
<tr>
<td>• Water-related</td>
<td>X P P P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P P</td>
<td>C</td>
<td></td>
</tr>
<tr>
<td>• Water-enjoyment</td>
<td>X P P P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P P</td>
<td>P</td>
<td>C</td>
</tr>
<tr>
<td>• Nonwater-oriented</td>
<td>X X X X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X X X</td>
<td>X X X</td>
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<tr>
<td>Residential development:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Single-family/duplex</td>
<td>X P P P</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X X X</td>
<td>X X X</td>
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<tr>
<td>• Multi-family</td>
<td>X P C X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X X X</td>
<td>X X X</td>
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<tr>
<td>Transportation:</td>
<td>P P P P P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P P</td>
<td>P</td>
<td>C</td>
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<td>Parking:</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Serving an allowed use</td>
<td>P P P P P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>• Not serving a specific allowed use</td>
<td>X X X X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X X X</td>
<td>X X X</td>
<td></td>
</tr>
<tr>
<td>Utilities</td>
<td>P P P P</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C C</td>
<td>C</td>
<td></td>
</tr>
</tbody>
</table>

**Footnotes to Table 1**

1. Work below the OHWM of Lake Quinault is solely within the jurisdiction of the Quinault Indian Nation and will not be authorized by the County.
2. Net pen aquaculture for nonnative marine finfish species is prohibited.
3. Conditional use required under Section 4.3.3 C and E ii.
4. Allowed only when consistent with 4.5.3 D.
5. See Section 4.6.3 C; a conditional use permit is required for forest practices in shorelines of statewide significance not using selective commercial timber cutting methods.
6. Nonwater-oriented uses may locate within existing structures.
7. High intensity recreational developments, such as campgrounds and recreational vehicle parks are conditional uses.
Table 2: Shoreline Modifications by Environment

<table>
<thead>
<tr>
<th>Shoreline Modifications</th>
<th>High Intensity</th>
<th>Coastal Community</th>
<th>Shoreline Residential</th>
<th>Rural Development</th>
<th>Aquatic</th>
<th>Pacific Ocean</th>
<th>Natural</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shoreline stabilization:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Nonstructural</td>
<td>P P P P P C C C C</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Structural</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Piers and docks</td>
<td>P P P P P P P X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fill (associated with an authorized use)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Upland of the ordinary high water mark</td>
<td>P P P P NA NA</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Waterward of the ordinary high water mark</td>
<td>NA NA NA Na C1 C1 C1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Beach and dunes management</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dredging and dredge material disposal not exempt under Section 5.5.3.A2.</td>
<td>X C C C C C X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shoreline habitat &amp; natural system enhancement projects</td>
<td>P P P P P P P</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Footnotes to Table 2
1 Work below the OHWM of Lake Quinault is solely within the jurisdiction of the Quinault Indian Nation and will not be authorized by the County.
2 Fill for ecological restoration projects is a permitted use
3 A shoreline permit is not required to dispose of dredged materials at a disposal site approved through the cooperative planning process referenced in RCW 79.105.500, provided the dredged material disposal proponent obtains a valid site use authorization from the dredged material management office within the Washington Department of Natural Resources.

Table 3: Ocean Management Actions by Environment

<table>
<thead>
<tr>
<th>Ocean Management</th>
<th>Pacific Ocean</th>
<th>Aquatic (ORMA)2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oil and gas uses and activities</td>
<td>X X</td>
<td></td>
</tr>
<tr>
<td>Ocean mining</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Energy production</td>
<td>C</td>
<td>C</td>
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<tr>
<td>Ocean disposal</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Transportation</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Ocean research</td>
<td>P/C1</td>
<td>P/C1</td>
</tr>
<tr>
<td>Ocean salvage</td>
<td>C</td>
<td>C</td>
</tr>
</tbody>
</table>

Footnotes to Table 3
1 Ocean research requiring the construction of fixed structures requires a conditional use permit.
Areas within the Aquatic Environment that are in ORMA jurisdiction; see Section 2.7 H.
Chapter 3: General Policies and Regulations

Section 3.1 Applicability

The provisions of this chapter establish goals, policies, and regulations that shall apply to all shoreline environments without regard to environment designation.

Section 3.2 Archeology, Historic, and Scientific Resources

3.2.1 Goal:

Encourage the identification, protection, and restoration of sites within the county’s shorelines that have archeological and historic importance to the public.

3.2.2 Policies:

A. Encourage the identification, protection, and restoration of sites within shorelines that have archeological, historic, and scientific sites importance to the public.

B. Grays Harbor County should cooperate with local, state, federal, tribal, agencies, nonprofit organizations, and private property owners to identify, protect, acquire, and restore these sites.

C. New development or expanded existing development should avoid or minimize impacts to known archeological, historic, and scientific sites.

D. Where appropriate, public access design should protect archeological, historic, and scientific sites from damage.

E. Development proposals should incorporate design features to avoid visual and physical impacts to adjacent archeological, historic, and scientific sites.

3.2.3 Regulations:

A. The Administrator shall review all permit applications for shoreline development or statements of exemption on any project site that is shown on the Washington State Department of Archeology and Historic Preservation’s current predictive model as “survey recommended: moderate risk,” “survey highly advised: high risk,” and “survey highly advised: very high risk.”

B. All applications meeting the criteria under A in this section shall require a site survey or assessment, unless the Washington State Department of Archaeology and Historic Preservation (DAHP) waives or modifies this requirement.

C. Any required site assessment shall be conducted by a qualified professional, as applicable, to determine the presence of the resource or resources. The permit applicant shall pay the cost for the qualified professional.
D. If the site assessment identifies the presence of archaeological, historic, or scientific resources, a qualified professional shall prepare appropriate recommendations as part of the survey or assessment. The permit applicant shall pay the cost for the services of the qualified professional. In the preparation of such plans, the qualified professional shall solicit comments from the DAHP, affected tribal governments, or other appropriate state and federal agencies. The conclusions and recommended conditions of the survey or assessment shall incorporate comments received from all reviewers to the maximum extent practicable.

E. A survey or site assessment shall be prepared in accordance with guidance for such studies. The county, in consultation with DAHP or other affected tribal, state, or federal agencies, shall determine whether the research design or study is adequate.

F. Based upon consultation with DAHP or other affected tribal, state, or federal agencies, the Administrator may reject or request revision of the conclusions reached in a survey or assessment when there is inaccurate or incomplete measures to address the management concerns involved with the archaeological, historic, or scientific sites.

G. Whenever granting shoreline permits or statements of exemption for development, the Administrator may attach conditions of approval to assure the protection of archaeological, historic, or scientific sites.

H. Whenever a property owner inadvertently discovers archaeological, historic, or scientific sites or artifacts in the process of development on shorelines, work on that portion of the development site shall stop immediately and the property owner shall report the finding as soon as possible to the Administrator, DAHP, and affected tribes.

I. When discoveries are made, after consulting with DAHP, affected tribes, and any other appropriate agencies, the Administrator may require an immediate site assessment conducted by a qualified professional pursuant to subsection E of this section to determine the extent of damage to the resource. Upon completion of the assessment or survey, the Administrator shall distribute it to DAHP, affected tribes, or other appropriate agencies for a 15-day review period. If the above listed agencies or governments have failed to respond within the applicable review period following receipt of the site assessment, work on the development may resume.

J. If there is a discovery of human remains on the property, all activity shall cease immediately and the property owner shall report the finding to the County Sheriff.

Section 3.3 Protection of Shoreline Ecological Functions

3.3.1 Goal:

Protect shoreline resources by ensuring no net loss of existing ecological functions by providing buffers for critical area buffers and conserving native shoreline vegetation while maintaining property rights of owners within the shoreline.
3.3.2 Policies:

A. Manage development and uses within shoreline jurisdiction so that critical areas should remain unaltered and protected to the greatest extent feasible.

B. Development should retain shoreline vegetation that contributes to the:
   i. Maintenance of appropriate water temperatures for fish and wildlife;
   ii. Regulation of microclimates in riparian areas;
   iii. Input of organic matter and food for aquatic life;
   iv. Reduction of erosion and sedimentation;
   v. Filtration of pollutants and input of nutrients that improve water quality;
   vi. Addition of large wood that moderate hydraulic flows and provide habitat for fish and wildlife;
   vii. Conservation of habitat and migratory corridors for fish and wildlife;
   viii. Safety of people and property from damage caused by flooding and geologic hazards;
   ix. Protection of water quality that supports tourism, agriculture, fishing, and aquaculture; and/or
   x. Rural character of county shorelines.

C. Impacts to critical areas and native riparian vegetation should be avoided first; but when such impacts are unavoidable, development and uses should minimize or mitigate them to ensure no net loss of ecological function.

D. Recognize existing shoreline development patterns by establishing flexible buffers widths and vegetation conservation corridors along shorelines that do not result in a net loss of ecological function.

E. Develop regulations for critical area buffers and vegetation conservation that allow single-family residences to access, view, and enjoy the shoreline while protecting overall ecological functions.

F. Encourage activities that create, restore, or enhance ecological functions, especially for priority species.

G. Provide incentives that encourage property owners to protect and restore critical areas by allowing buffer width reductions for restoring degraded critical areas and buffer averaging.
H. Consider and use available data relating to tidal influences and flood events and monitor their potential impacts to critical areas within the shoreline environment.

I. The county should cumulatively assess future development allowed within critical areas and vegetation conservation buffers to assure over the long-term there is no net loss of ecological functions.

3.3.3 Regulations:

A. Shoreline development, uses, and activities shall be located and designed to ensure no net loss of ecological function unless authorized otherwise under this Master Program.

B. Ecological functions existing at the time of the adoption of this Master Program shall serve as the baseline for evaluating new development and its effect on ensuring no net loss of ecological functions.

C. Development and uses shall protect existing shoreline ecological functions. However, if avoidance is not possible, mitigation is required to address impacts in accordance with the following order of priority:

i. Avoiding the impact altogether by not taking a certain action or parts of an action;

ii. Minimize 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;

iii. Rectify the impact by repairing, rehabilitating, or restoring the affected environment;

iv. Reduce or eliminate the impact over time by preservation and maintenance operations

v. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments; and

D. Requirements for mitigation shall be consistent with Section 18.06.080 GHCC.

E. Shoreline buffers shall be maintained along all Type S shorelines to protect and maintain ecological functions and to minimize risks to public safety. The width of the shoreline buffer shall be measured horizontally from the site’s ordinary high water mark. The width of the shoreline buffer shall be consistent with the following:

i. High Intensity Environment: 25 feet

ii. Coastal Community Environment adjacent to the Pacific Ocean Environment: 200 feet
iii. Coastal Community Environment adjacent to the Aquatic Environment: 150 feet

iv. Shoreline Residential Environment adjacent to the Pacific Ocean Environment: 200 feet, except as provided under Section 3.9.3.1

v. Shoreline Residential Environment adjacent to the Aquatic Environment: 150 feet

vi. Rural Development Environment adjacent to the Pacific Ocean Environment: 200 feet

vii. Rural Development Environment adjacent to the Aquatic Environment: 150 feet

viii. Natural Environment: 200 feet

F. Before granting a shoreline permit or exemption, the Administrator shall review site plans to determine that the removal of native shoreline vegetation within a shoreline buffer or critical area or critical area buffer will not result in a net loss of ecological function. When a proposed development will result in the removal or disturbance of native vegetation within a required shoreline buffer or critical area or critical area buffer, the Administrator may require a critical area protection study as provided in GHCC 18.06. The study shall evaluate the following factors:

i. The need to retain areas on the parcel with native plant communities along shorelines and in critical areas;

ii. The placement of structures and accessory uses on the parcel to minimize impacts on native plant communities; and

iii. A mitigation plan for impacts within buffers that ensure there is no net loss of shoreline ecological function.

G. Primary uses and structures that meet the definition of water-dependent may locate within a shoreline buffer when consistent with the mitigation requirements under Section 3.3.3 C and D.

H. Public access water-enjoyment uses and structures, such as trails, benches, viewing areas, boardwalks, pedestrian bridges, and emergency access routes, may locate within a shoreline buffer when consistent with the mitigation requirements under Section 3.3.3 C and D.

I. Removal of vegetation within the shoreline buffer shall be avoided except under the following conditions:

i. Where removal of native vegetation cannot be avoided, it shall be mitigated consistent with the requirements under Section 3.3.3 C and D.
ii. Property owners may do limited and selective pruning for views within the shoreline buffer that does not compromise slope stability and ecological functions. View maintenance techniques shall preserve plant composition and structure by removing no more than 25 percent of the canopy cover of any individual tree and no more than 20 percent of the canopy cover in any single stand of trees in a given five-year period. Pruning shall comply with the National Arborist Association pruning standards.

iii. Projects that eradicate invasive species, including noxious weeds and non-native species, are allowed. Removal of non-native vegetation shall be replaced with native vegetation.

iv. A landowner may remove a hazard tree in a shoreline buffer if it poses an immediate threat or danger to health, safety, property, or environmental degradation caused by pest or disease infestation.

v. A private dock or pier, a six-foot pedestrian pathway leading to the shoreline; and a cleared recreation area may be permitted as accessory to a single-family residence provided that impacts are fully mitigated. Cleared recreation areas may not be located in a landslide hazard area and may not exceed 15% of the total area of the shoreline buffer. If there is a category 4 wetland between the water body and the uplands, a path may be constructed through the wetland if there is no alternative route and the impacts are fully mitigated.

J. Requirements for shoreline vegetation buffers do not apply retroactively to existing development and uses in shoreline jurisdiction except when required as mitigation for new or expanded development.

K. Development proposed on existing parcels created before the effective date of the comprehensive update of this Master Program and unable to meet requirements for a shoreline buffer may be authorized without a shoreline variance in accordance with the following provisions:

i. There is no opportunity to consolidate lots under common ownership to alleviate the nonconformity;

ii. The proposed development and appurtenances, excluding the on-site sewage disposal system and driveway, do not exceed 2,500 square feet;

iii. The proposed location of the development is as far landward as possible and not closer than 50 feet to the ordinary high water mark;

iv. Removal of native vegetation shall be mitigated consistent with the requirements under Section 3.3.3 C and D

v. The location is not in an erosion or landslide hazard area or in a floodway.
L. Minimize the permanent clearing of native vegetation in shoreline jurisdiction. If vegetation clearing would adversely impact shoreline functions, mitigate those impacts.

Section 3.4  Flood Hazard Reduction

3.4.1 Goal:

Promote public health, safety, and general welfare by minimizing the location of development and uses within flood-prone areas that require the need for future structural flood hazard reduction measures.

3.4.2 Policies:

A. Development in floodplains should not significantly or cumulatively increase flooding hazards. New development or new uses in shoreline jurisdiction, including the subdivision of land, should not be established when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway.

B. Whenever feasible, the Master Program gives preference to the use of nonstructural flood hazard reduction measures over structural ones for protecting development in shoreline jurisdiction.

C. Implement county flood management plans and ordinances to ensure development in floodplains do not cumulatively increase flood hazards.

D. Encourage floodplain restoration projects that return rivers and streams to natural hydrological conditions.

E. Consider the removal or relocation of structures and restrictions in floodplains when evaluating the need for flood hazard reduction measures.

F. Minimize development within active channel migration zones.

G. Encourage restoration projects along shorelines that minimize flooding hazards, such as reconnecting isolated floodplains and sloughs, restoring riparian vegetation, increasing instream channel complexity, and removing channel restrictions.

H. Limit development within coastal dune areas to minimize potential hazards from coastal flooding due to storm surge and tsunami inundation.

I. Coordinate comprehensive land use plans and development regulations with the Master Program to allow appropriate development within floodplains.

J. Consider and use available data relating to past flood events and monitor its potential influence on increasing flood hazards along estuarine and coastal shorelines.
3.4.3 Regulations:

A. The following development or uses may be appropriate and/or necessary within channel migration zones or floodways:

i. Actions that are protecting or restoring shoreline ecological functions;

ii. Forest practices in compliance with the Washington State Forest Practices Act and its implementation rules;

iii. Existing and ongoing agricultural practices, provided that there are no new structural restrictions to channel migration;

iv. Mining when conducted in a manner consistent with the shoreline environment designation and the provisions of Section 4.9;

v. Bridges, utility lines, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate cost;

vi. Repair and maintenance of an existing legal use, if such actions do not cause significant ecological impacts or increase flood hazards to other uses;

vii. Development with a primary purpose of protecting or restoring shoreline ecological functions;

viii. Modifications or additions to an existing nonagricultural use, if channel migration is not further limited and that the new development includes appropriate protection of ecological functions;

ix. Measures to reduce shoreline erosion if a qualified professional demonstrates that:

   a. Erosion rates exceed those occurring under natural conditions;

   b. The measure does not interfere with fluvial hydrological geomorphological processes normally acting in natural conditions; and

   c. The measure includes appropriate mitigation of impacts to ecological functions associated with shorelines of the state.

B. Allow new structural flood hazard reduction measures in shoreline jurisdiction only when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development, that nonstructural measures are not feasible, that impacts on ecological functions and priority species and habitats can be successfully mitigated to assure no net loss, and that appropriate vegetation conservation actions are undertaken consistent with WAC 173-26-221(5).
C. Place new structural flood hazard reduction measures landward of the associated wetlands, and designated vegetation conservation buffers, except for actions that increase ecological functions, such as wetland restoration. Flood hazard reduction projects may be authorized if it is determined that no other alternative to reduce flood hazard to existing development is feasible. The need for, and analysis of feasible alternatives to, structural improvements shall be documented through a geotechnical analysis.

D. Structural flood hazard reduction measures shall be consistent with an adopted comprehensive flood hazard management plan approved by the department that evaluates cumulative impacts to the watershed system.

E. The development of new dikes and levees shall provide for public access improvements unless there are demonstrated unavoidable risks to public safety, security problems, or unreasonable costs.

F. The removal of gravel for flood management purposes shall be consistent with an adopted flood hazard reduction plan and allowed only after a biological and geomorphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution. Removal of sand and gravel within an active channel located waterward of the ordinary high water mark of a river shall not be permitted unless consistent with all of the following provisions:

i. Removal of specified quantities of sand and gravel or other materials at specific locations will not adversely affect the natural processes of gravel transportation for the river system as a whole.

ii. The removal and any associated permitted activities will not have significant adverse impacts to habitat of priority species nor cause a net loss of ecological functions of the shoreline.

iii. The determinations required by i and ii of this subsection shall be made consistent with RCW 90.58.100(1) and WAC 173-26-201 (2)(a). Such evaluation of impacts should be appropriately integrated with relevant environmental review requirements of Chapter 18.04 GHCC, State Environmental Policy Act Procedures.

iv. In considering renewal, extension or reauthorization of gravel bar and other in-channel gravel and sand removal operations in locations where they have previously been conducted, the county shall require compliance with this subsection to the extent that no such review has previously been conducted. Where there has been prior review, the county shall review previous determinations comparable to the requirements of this section to assure compliance with this subsection under current site conditions.

v. The provisions of this subsection do not apply to dredging of authorized navigation channels when conducted in accordance with Section 5.5. Dredging and Dredge Material Disposal.
Section 3.5  Public access

3.5.1  Goal:

Increase the ability of the public to enjoy the water’s edge, travel on the waters of the state, and to view the water and shoreline from adjacent locations.

3.5.2  Policies:

A. Development activities within shoreline jurisdiction should promote and enhance public access to waters of the state, including opportunities to view shorelines from public rights-of-ways, in a manner consistent with private property rights, public safety, and the protection of shoreline ecological functions.

B. Grays Harbor County currently has numerous opportunities for public access to shorelines of the state. However, the county identifies the following areas, where appropriate, as potentially needing improved public access:
   i. North Beach to Moclips along the Pacific Ocean;
   ii. The abandoned Markham rail line not in private ownership along the South Shore of Grays Harbor Estuary along SR 105; and
   iii. Some major river systems flowing into the Chehalis River, the Grays Harbor Estuary, and the ocean beaches.

C. Requirements for public access to shorelines of the state should focus on improving existing public access areas or adding new ones in deficient areas of the county. When development occurs in areas with existing adequate public access, the county may allow off-site public access improvements in areas described in subsection B above.

D. The county should make available a list of such off-site public improvements projects and/or create a dedicated local public access fund for improving existing sites.

E. Required public access improvements should be commensurate with the scale and character of the development, the surrounding area, and the environment designation.

F. Public access improvements should accommodate people with disabilities to the greatest extent feasible.

G. The design of public access improvements should minimize impacts to neighboring private properties and their privacy.

H. Grays Harbor County is encouraged to develop a public inventory, website, and signage program to assist the public in locating existing access points to shorelines of the state.
I. Grays Harbor County may establish a dedicated Public Access Improvement Fund that proposed development may use for public access improvements.

3.5.3 Regulations:

A. Shoreline development by public entities shall include public access measures unless shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment.

B. Except as provided in B below, substantial developments or conditional uses shall provide public access under the following circumstances:
   i. A development will create increased demand for public access to the shoreline;
   ii. A development will interfere with existing public access;
   iii. A development will result in a new non-water-dependent use;
   iv. A subdivision of land adjacent to shorelines of the state that results in more than four parcels;
   v. New multi-family residential developments adjacent to shorelines of the state; or
   vi. A development will interfere with public use of lands or shorelines of the state.

C. The Administrator may waive the requirement for on-site public access for proposed substantial developments or conditional uses under any of the following conditions:
   i. There are unavoidable health or safety hazards to the public created by the proposed use that site design cannot mitigate;
   ii. On-site design alternatives cannot address inherent security concerns related to the proposed use;
   iii. The cost of providing public access or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed use;
   iv. Public access would create adverse impacts to ecological functions;
   v. Significant, unavoidable conflicts could occur between public access improvements, the proposed use, and/or adjacent uses that site design cannot mitigate.

D. Exceptions to on-site public access must demonstrate that:
   i. Regulating access by use of gates or hours of use is not feasible;
   ii. The use of fences, landscaping, or other means of separating uses is not practical; or
   iii. Opportunities to develop access or provide improvements at alternate public access locations are not available within one-half mile.
E. Proposed uses that are waived from providing on-site public access shall provide comparable improvements to compensate for the waiver by one of the following actions upon approval by the Administrator:
   i. Provide improvements to an existing unincorporated county public access location;
   ii. Provide new public access at an off-site unincorporated county location; or
   iii. Make compensatory payment to the Public Access Improvement Fund.

F. Nonwater-oriented development adjacent to shorelines of the state shall provide public access as a public benefit.

G. County rights-of-way that abut or are adjacent to shorelines of the state shall remain accessible to the public unless such access is incompatible due to safety, security, or impact to the shoreline environment.

H. Required public access improvements shall be fully developed and available for public use at the time of occupancy of the development.

I. The county shall not vacate a road or any portion thereof that abuts shorelines of the state unless in conformance with RCW 36.87.130.

J. Required public access shall be commensurate with the level of shoreline development and may consist of one or more of the following physical improvements approved by the Administrator:
   i. A five-foot wide walkway or trail on an easement no less than twelve feet wide that leads from a public right-of-way to shorelines of the state;
   ii. Installation of amenities at an existing public access location, such as benches, picnic facilities, windbreaks, covered patios, interpretive centers, parking improvements, or restrooms;
   iii. The connection or continuation of a public walkway, bike path, or trail that is equivalent in design and area;
   iv. Parking, a viewpoint, park, observation tower, deck, pier, or boat launch; or
   v. Mitigation at other existing sites or other improvements appropriate to the level of development.

K. Proposed shoreline uses shall record all required public access improvements with the County Auditor through a legal instrument, such as an easement or a public dedication. Recordings shall occur before approval of building permits, occupancy, or subdivision approval, whichever one happens first. Successors to the shoreline development shall not diminish the usefulness or value of required public access areas or improvements.
L. Maintenance of public access areas or improvements shall be the responsibility of the owner unless the county accepts responsibility through a formal agreement recorded with the County Auditor.

Section 3.6 Setbacks, heights, and building site provisions

3.6.1 Goal:
Limit the placement and height of structures within shoreline jurisdiction to ensure protection of shoreline aesthetic qualities and required buffers.

3.6.2 Policies:
A. The height and lot coverage of structures should not unreasonably obstruct the shoreline view from rights-of-way or neighboring properties according to RCW 90.58.320.

B. Use appropriate building setbacks from required shoreline buffers to prevent impacts to these areas from construction and maintenance activities related to the development or use.

3.6.3 Regulations:
A. No permit shall be issued pursuant to this chapter for any new or expanded building or structure development to be more than 35 feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same then only when overriding considerations of the public interest will be served, RCW90.58.320; provided, however, that there is no height restriction for water-dependent and water-related commercial and industrial development in the High Intensity Environment.

B. Minimum lot widths shall be no less than 75 feet in width.

C. Maximum lot coverage shall not exceed 30%. In the Rural Development environment, impervious surfaces shall not exceed ten percent.

D. Power poles and transmission towers are not subject to height limits but shall be no higher than necessary to achieve the intended purpose.

E. There shall be a building setback of ten feet established on the landward edge of any buffer required by this Master Program. The setback shall be an open space that may include landscaping and architectural features consistent with Section 17.64.010 GHCC.

F. Development within shoreline jurisdiction shall be consistent with the building site provisions for the applicable underlying zoning district established under Title 17 GHCC, Zoning.
Section 3.7 Shorelines of Statewide Significance

3.7.1 Goal:

Manage shorelines of statewide significance in a manner that recognizes the overall best interests of the state and all of its citizens.

3.7.2 Policies:

A. Management of shorelines of statewide significance shall give preference to development in the following order of priority:

i. Recognize and protect the statewide interest over local interest;

ii. Preserve the natural character of the shoreline;

iii. Result in long term over short term benefit;

iv. Protect the resources and ecology of the shoreline;

v. Increase public access to publicly owned areas of the shorelines;

vi. Increase recreational opportunities for the public in the shoreline; and

vii. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

B. To ensure the protection of statewide interests over local interests, the county shall review all development proposals within shorelines of statewide significance for consistency with RCW 90.58.020 through the following actions:

i. Include restoration and/or enhancement of ecological conditions if such opportunities exist when shoreline development or redevelopment occurs;

ii. Consult with state and federal resource agencies and tribal governments for development proposals that affect fish and wildlife and other shoreline resources;

iii. Give preference to those uses that are sustainable, do not deplete natural resources, and are compatible with other approved uses over those that do not have these qualities;

iv. Give preference to those uses that provide long-term benefits over those uses that provide only short-term gains;

v. Give preference to those uses that preserve aesthetic qualities over those uses that impact aesthetic qualities;

vi. Give preference to those uses that require a shoreline location over those that are nonwater-oriented uses;

vii. Locate nonwater-oriented uses outside shoreline jurisdiction or in areas where they will not interfere with or displace preferred uses or public access;

viii. Protect and support areas that serve aquaculture, recreation and tourism, and other economic resources of statewide importance;
ix. Regulate those uses that have the potential to cause significant adverse impacts to shoreline ecological functions;

x. Design all public access and recreation development to protect the ecological resources upon which such activities depend; and

xi. Encourage public and private development that provides trails, viewpoints, water access points, and water-related recreation opportunities where conditions are appropriate for such uses.

Section 3.8 Water Quality, Stormwater, and Nonpoint Pollution

3.8.1 Goal:

Protect and enhance the quality and quantity of the region’s water resources that are critical for protecting the county’s public health, economy, natural resources, and critical areas.

3.8.2 Policies:

A. The protection of water quality within the Grays Harbor County shoreline environment is a priority of the Master Program. Ensuring the quality of water protects public health, supports fish and wildlife resources, and contributes to the economic well-being of county resource-based industries, such as fishing, aquaculture, agriculture, and tourism.

B. The county should promote the establishment of shellfish protection districts under Chapter 90.72 RCW to establish programs that address or prevent nonpoint pollution that threatens water quality in general, and commercial and recreational shellfish beds within Grays Harbor Estuary and along coastal beaches.

C. The county should promote the extension of public facilities and services to higher density developments in the Coastal Community and the Shoreline Residential Environments to protect water quality.

D. The county should pursue federal and state grant and loan programs that assist residential property owners to improve residential on-site sewage systems that potentially degrade water quality within shoreline areas.

E. Work cooperatively with other governmental agencies to monitor the cumulative impact of past and future development on water quality within county watersheds and shorelines of the state.

F. Encourage projects that research and monitor water quality in the county’s rivers, lakes, estuary, and ocean.
3.8.3 Regulations for water quality, stormwater, and nonpoint pollution

A. Shoreline development shall protect water quality by preventing stormwater and nonpoint pollution from entering shorelines of the state consistent with the provisions of the most current Stormwater Management Manual for Western Washington.

B. New and expanded development within the High Intensity and Coastal Community Environments shall incorporate low-impact development best management practices.

C. The placement of on-site sewage systems consistent with Chapter 8.16 GHCC should be the furthest from the ordinary high water mark as deemed needed by the county health officer and, at a minimum, shall be located outside the buffer unless authorized by a shoreline variance.

D. Subdivisions that create more than four parcels shall utilize low impact development methods to control stormwater runoff.

Section 3.9 Existing Uses, Structures, and Parcels

3.9.1 Goal:

Provide reasonable provisions to allow the continuation and use of lawfully established uses, structures, and parcels created before the adoption of this Master Program.

3.9.2 Policies:

A. Provide flexibility in allowing, legally established nonconforming uses, structures, and parcels to continue in a manner that avoids further degradation of existing shoreline ecological functions.

B. Provide flexibility in allowing appropriate use of undeveloped parcels not consistent with this Master Program in a manner that will minimize degradation of existing shoreline ecological functions.

C. Existing upland structures should be allowed to accommodate nonwater-oriented uses when there is no foreseeable demand for water-oriented ones.

3.9.3 Regulations:

A. Any legally established development, including residential and appurtenant structures, built before the effective adoption date of this Master Program and does not meet all of the provisions therein, is a conforming structure and may undergo repair, maintenance, or replacement in accordance with the Act.

B. Change of ownership, tenancy, or management of a nonconforming use or structure shall not affect its nonconforming status, provided there is no further intensification or expansion.
C. Existing development within a required buffer may expand, redevelop, change occupancy class, or rebuild without a shoreline variance in accordance with the following provisions:
   i. Expansion of the footprint of a structure may occur landward of the existing structure provided there is no impact to shoreline ecological function;
   ii. Upward expansion of a structure may occur consistent with applicable height limitations of the Master Program and Act; and
   iii. Expansion of a structure in geologically hazardous and frequently flooded areas is subject to the provisions of Chapter 18.06 GHCC.

D. If a nonconforming use is converted to a conforming use, a nonconforming use may not be resumed.

E. Legally established, nonconforming, undeveloped lots located landward of the ordinary high water mark are buildable in a manner consistent with this Master Program and the Act.

F. Floating homes permitted before January 1, 2011 are a conforming preferred use that the owner may maintain, repair, replace, or remodel in accordance with Grays Harbor County health and building codes.

G. A floating on-water residence legally established prior to July 1, 2014, must be considered a conforming use and accommodated through reasonable shoreline master program regulations, permit conditions, or mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating on-water residences and their moorages by rendering these actions impracticable.

H. A legally existing structure may be rebuilt to its existing configuration immediately before damage or destruction by fire, explosion, or other casualty if the owner submits a completed permit application for reconstruction within one year of the damage or destruction.

I. A single-family residence shall be permitted within the shoreline buffer adjacent to the Pacific Ocean Environment if:
   i. The parcel was established before June 3, 1974 and the shoreline buffer prevents the owner from making any reasonable use of the parcel; or
   ii. Single-family residences are already located inside the 200-foot shoreline buffer and within 200 feet north and south of the nearest exterior boundary of the site.

J. When construction of a single-family residence is allowed under Section 3.9.3.I, the following conditions apply:
   i. The residence shall be located as far easterly on the lot as practical and not seaward of the existing line of conformity; and
   ii. No residence be constructed west of the crest of a foredune.
Chapter 4: Shoreline Uses and Development

Section 4.1 Applicability

The provisions in this chapter apply to specific common uses and types of development to the extent they occur within shoreline jurisdiction. All uses and development must be consistent with the Master Program.

Section 4.2 Agriculture

4.2.1 Goal:

Recognize the importance of agriculture to the economy of Grays Harbor County and supports its continued viability by establishing provisions for existing and new agricultural activities that promote its retention and expansion while protecting shoreline ecological functions.

4.2.2 Policies:

A. Provide voluntary incentives to encourage existing agricultural activities and lands to restore shoreline ecological functions.

B. Cooperate with the agricultural community to identify and make available the most current scientific and technical information and management practices available to protect and restore shoreline ecological functions.

C. Manage the permitting process for new agricultural activities to minimize application requirements by avoiding redundancy with other state and federal provisions.

4.2.3 Regulations:

A. This section shall not require modification of or place limitations on agricultural uses occurring on agricultural lands that are existing before the adoption of this Master Program.

B. Changes in agricultural activities on agricultural lands are exempt activities under this Master Program.

C. The Master Program shall not limit the resumption of discontinued agricultural activities on any designated agricultural lands of long-term commercial significance as designated under Section 18.10.030 GHCC.

D. New agricultural lands created after the effective date of this Master Program shall:
   i. Conform to all Master Program provisions;
   ii. Assure no net loss of ecological functions; and
   iii. Not create adverse impacts on other shoreline resources and values.
iv. A shoreline substantial development permit is required for any agricultural development not specifically exempted by RCW 90.58.030(3)(e).

v. Conversion of existing agricultural land and activities to non-agricultural uses shall be consistent with this Master Program.

Section 4.3 Aquaculture

4.3.1 Goal:

Protect and expand the viability of aquaculture in Grays Harbor County as an important economic resource that protects the resources and ecology of the shoreline environment.

4.3.2 Policies:

A. Encourage the expansion of existing and new aquaculture practices in a manner that contributes to the county’s economy while protecting shoreline ecological functions and values.

B. Assist in sustaining aquaculture by incorporating provisions within this Master Program and other development regulations to protect water quality from degradation by upland development.

C. Design and locate aquacultural facilities to avoid the potential to spread disease to native aquatic life. Ensure that establishment of new nonnative species does not cause significant ecological impacts, or significantly affect the aesthetic qualities of the shoreline.

D. Support preservation of tidelands acquired under the Bush Act of 1895 for aquacultural activities only.

E. Encourage the location of commercial geoduck aquaculture in shoreline areas where sediments, topography, land, and water access supports growing and harvesting activities without significant clearing and grading.

F. Manage the permitting process for new aquaculture activities to minimize application requirements by avoiding redundancy with other state and federal provisions.

G. Aquaculture should not locate in areas where it would result in a net loss of ecological function, adversely affect native eelgrass beds (Zostera marina) and macroalgae, or significantly conflict with navigation and other water-dependent uses.
4.3.3 Regulations:

A. Aquaculture is a water-dependent activity that, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area.

B. A shoreline substantial development permit is not required for aquaculture activities that are consistent with this Master Program and do not require development or structures, except as provided in Section 4.3.3.G. Examples of aquaculture that constitute development include finfish pens, mussel rafts, oyster rafts, and accessory structures such as docks.

C. Per RCW 77.125.050(1) net pen aquaculture for nonnative marine finfish species is prohibited.

D. Aquaculture mussel rafts, oyster floats, net pens, and similar development may intrude into or over critical saltwater habitats when meeting the following criteria:
   i. The public's need for such an action or structure is clearly demonstrated, and the proposal is consistent with the protection of the public trust;
   ii. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose. A cost analysis may be required to assist with the feasibility determination.
   iii. The project, along with any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat; and
   iv. The project is consistent with the state's interest in resource protection and species recovery.

E. The Administrator shall issue a letter of exemption for new aquaculture that does not constitute development but requires the review and approval of federal agencies.

F. Commercial geoduck aquaculture shall meet the following requirements:
   i. The planting, growing, and harvesting of farm-raised geoduck clams requires a substantial development permit if a specific project or practice causes substantial interference with normal public use of the surface waters, but not otherwise;
   ii. New commercial geoduck aquaculture shall require a conditional use permit, except where the applicant proposes to convert existing non-geoduck aquaculture to geoduck aquaculture;
   iii. All subsequent cycles of planting and harvest shall not require a new conditional use permit;
   iv. Conditional use permits for geoduck aquaculture acknowledge operators have a right to harvest geoduck once planted;
v. A single conditional use permit may be submitted for multiple sites within an inlet, bay or other defined feature, provided the sites are all under control of the same applicant and within the same shoreline aquatic environment;

vi. Applications for a conditional use shall contain the following information:
   a) A narrative description and timeline for all anticipated geoduck planting and harvesting activities if not already contained in the federal or state permit application or comparable information mentioned above;
   b) A baseline ecological survey of the proposed site to allow consideration of the ecological effects if not already contained in the federal or state permit application or comparable information mentioned above;
   c) Measures to achieve no net loss of ecological functions consistent with the mitigation sequence described in Section 3.3.3; and
   d) Management practices that address impacts from mooring, parking, noise, lights, litter, and other activities associated with geoduck planting and harvesting operations.

vii. To avoid or minimize impacts from geoduck aquaculture siting and operations, and to achieve no net loss of ecological functions, a conditional use permit may place the following conditions or limitations on a project:
   a) Avoid the practice of placing nursery tanks or holding pools or other impervious materials directly on the intertidal sediments.
   b) Prevent the use of motorized vehicles, such as trucks, tractors and forklifts below the ordinary high water mark.
   c) Limit activities to specific periods to protect priority habitats and associated species. The need for such measures should be identified in the baseline ecological survey conducted for the site.
   d) Minimize alterations to the natural condition of the site, including significant removal of vegetation or rocks and regrading of the natural slope and sediments.
   e) Install property corner markers that are visible at low tide during planting and harvesting.
   f) Require mitigation measures, such as buffers between commercial geoduck aquaculture and other fish and wildlife habitat conservation areas, to ensure no net loss of ecological functions.
   g) Require removal of predator exclusion devices as soon as they are no longer necessary.
   h) Use best management practices to minimize turbid runoff from the water jets when harvesting geoducks.
   i) Limit the number and duration of moored or beached vessels at the site.
   j) Ensure public rights to navigation over the surface of the water.
k) Institute frequent debris collection practices at geoduck aquaculture sites, including worker training and regular removal of equipment, tools, extra materials, and all wastes.

l) Consider recommendations from the Washington State Department of Natural Resources or other landowning agencies regarding protection of existing public access to publicly owned lands.

G. New aquatic species not previously cultivated in the county require written approval of the Washington Department of Fish and Wildlife before introduction to any aquatic environment designation.

H. Aquaculture operations periodically may become dormant for extended periods due to crop rotation, state or federal permit requirements, pest infestations, seed or juvenile availability, market fluctuations, and pollution from other uses or developments. The county shall determine on a case-by-case basis when an aquaculture activity is dormant or no longer in use by consulting with the responsible person or entity for the operation.

Section 4.4 Boating Facilities

4.4.1 Goal:

Design, site, and operate commercial and recreational boating facilities to be compatible with the surrounding aquatic environment and adjacent land uses.

4.4.2 Policies:

A. Multiple use and/or expansion of existing piers and floats should be encouraged over construction of new structures when possible.

B. The size of piers and floats for boating facilities should be the minimum necessary to meet the needs of the proposed water-dependent use.

C. The location of boating facilities should be in areas that create the least impact to shoreline functions.

D. Avoid locating boating facilities where shallow depths require excessive overwater lengths or frequent dredging.

E. Public launches for use by many are preferred over private (not commercial).

F. Support boating facilities as partners in promoting public access to shorelines throughout the county.

G. Encourage the design, location, and operation of boating facilities that are compatible with adjacent land uses and minimize impacts to critical areas.

4.4.3 Regulations:
A. This section does not apply to piers and docks serving four or fewer residences.

B. The location of boating facilities shall not interfere with navigation.

C. The design and construction of new or expanded boating facilities shall consist of materials approved by applicable state agencies.

D. Boating facilities shall avoid shallow-water tidal locations that require extensive structures to reach useable water for at least the majority of the tidal cycle.

E. Boating facilities that allow live-aboard shall provide pump-out and/or treatment facilities for sewage.

F. The permitting of boating facilities shall consider potential impacts to water quality, critical areas, and recreational and commercial shellfish beds.

G. Applications for new or expanded boating facilities shall provide an operational plan that addresses the following elements:
   i. Fuel handling and storage;
   ii. Sewage and waste collection and disposal;
   iii. Parking and storage;
   iv. Access to emergency services; and

H. All non-water dependent structures associated with a boating facility shall locate landward of the ordinary high water mark.

I. The location and design of boating facilities shall minimize the need for recurrent dredging, filling, or other harbor channel maintenance.

J. Anchored vessels shall not interfere with navigation or moor on shorelines of the state in excess of 30 days without a lease or permission from the Washington Department of Natural Resources, except as allowed by applicable state regulations.

Section 4.5 Commercial Development

4.5.1 Goal:

Manage commercial development along county shorelines to create economic opportunities for residents and amenities for visitors while protecting ecological functions.

4.5.2 Policies:

A. Water-dependent, water-related, and water-enjoyment commercial uses are preferred over nonwater-oriented uses.
B. Encourage new water-oriented commercial development along county shorelines that is compatible with adjacent land uses.

C. Promote commercial development along county shorelines that strengthen tourism, public access, recreation, and sustainable use of natural resources.

D. Allow non-water-oriented uses to locate in existing buildings when vacancies demonstrate a lack of market demand for water-oriented uses.

E. The order of priority for locating commercial development within shoreline jurisdiction is as follows:
   i. Water-dependent commercial development has preference over nonwater-dependent commercial development; and
   ii. Water-related and water-enjoyment commercial development has preference over nonwater-oriented commercial development.

4.5.3 Regulations:

A. Commercial development is not a water-dependent, water-related or water-enjoyment use until the Administrator determines that the proposed design, layout, and operation of the use or development is consistent with the definition and intent under this Master Program.

B. New nonwater-oriented commercial development is not an allowed use unless:
   i. The use is part of a mixed-use project that includes water-dependent uses and provides significant public benefit with respect to providing public access and ecological restoration;
   ii. Navigability is severely limited at the proposed site and the commercial use provides significant public benefit with respect to providing public access and ecological restoration; and/or
   iii. Another property or public right-of-way physically separates the development from the shoreline.

C. Nonwater-dependent commercial development shall not locate over water except in existing structures or if it is an auxiliary to, and necessary in support of, water-dependent development.

D. Commercial development shall incorporate visual and physical design elements that promote public access to the shoreline to meet the definition and intent of a water-related or water-enjoyment use.

E. Nonwater-oriented commercial development may locate within an existing vacant structure upon approval of the administrator and meeting all of the following criteria:
   i. The structure was constructed before the adoption of this Master Program;
ii. The proposed use within the structure is allowed within the shoreline environment;

iii. There is no expansion of the structure's current footprint;

iv. The proposed use shall take place entirely within the structure itself; and

v. The proposed use shall not present a potential for spills, discharges, or pollutants to the shoreline environment.

Section 4.6 Forest Practices

4.6.1 Goal:

Manage forest practices within shoreline jurisdiction to sustain their importance to the county's economy while protecting shoreline ecological functions and values.

4.6.2 Policies:

A. Promote forest practices within shoreline jurisdiction that continue to sustain the county’s economy while protecting shoreline ecological functions and values.

B. Cooperate with private forestland owners to encourage opportunities for public access to shorelines in a manner that respects private property rights.

4.6.3 Regulations:

A. Management of forest practices within shoreline jurisdiction fall under the purview of the Forest Practices Act, Chapter 76.13 RCW, the Forest Practice Rules, Title 222 WAC, and the Forests and Fish Report (1999) and Title 14, Forest Practices, GHCC.

B. Forest practices regulated under this Master Program include conversions, other Class IV-General forest practices that likely will result in a conversion to non-forest uses, and selective commercial timber cutting along shorelines of statewide significance as provided under RCW 90.58.150.

C. Forest practices within two hundred feet landward of the ordinary high water mark along shorelines of statewide significance shall allow only selective commercial timber cutting, so that no more than thirty percent of the merchantable trees may be harvested in any ten-year period of time, provided that:

i. Other timber harvesting methods may occur in those limited instances where the topography, soil conditions, or silviculture practices necessary for regeneration make selective logging ecologically detrimental; and

ii. Clear cutting may occur if it is solely incidental to the preparation of land for other uses.

D. Forest practices allowed under Section 4.6.3.C require a conditional use permit.
E. Timber harvest activities subject to this Master Program may not happen until county approval of a local plat or other applicable land use decision, including the issuance of any required shoreline permits.

F. Conversion of forestlands within shoreline jurisdiction to a different use shall protect shoreline ecological functions consistent with the provisions in this Master Program.

Section 4.7 Industrial Development

4.7.1 Goal:

Support opportunities for water-oriented industrial development along county shorelines that contribute to the regional economy at locations that protect or minimize impacts to shoreline ecological functions.

4.7.2 Policies:

A. Water-dependent and water-related industrial developments are preferred over nonwater-oriented industrial developments.

B. Preferred sites for water-oriented industrial development should demonstrate compatibility with adjacent land uses.

C. Industrial developments and redevelopments should be encouraged to locate where environmental cleanup and restoration is needed.

D. Encourage private and public industrial developments to share piers, cargo handling, storage, parking, and other accessory facilities.

E. The order of priority for locating industrial development within shoreline jurisdiction is as follows:
   i. Water-dependent industrial development is encouraged over nonwater-dependent industrial development; and
   ii. Water-related industrial development is encouraged over nonwater-oriented industrial development.

4.7.3 Regulations:

A. Industrial development is not a water-oriented use until the Administrator determines that the proposed design, layout, and operation of the use or development is consistent with the definition and intent under this Master Program.

B. Nonwater-oriented industrial development is not an allowed use unless:
   i. The use is part of a mixed-use project that includes water-dependent uses and provides significant public benefit with respect to providing public access and ecological restoration;
ii. Navigability is severely limited at the proposed site and the industrial use provides significant public benefit with respect to providing public access and ecological restoration; and/or

iii. Another property or public right-of-way physically separates the development from the shoreline

C. Lands designated for industrial development shall not include shorelines with severe environmental limitations created by critical areas.

D. Accessory development not requiring a location at or near the water's edge shall locate away from the shoreline to the greatest extent feasible.

E. Existing nonwater-oriented industrial development may expand landward only if the expansion meets the provisions of this Master Program.

**Section 4.8 Instream Structural Development**

4.8.1 Goal:

Ensure that instream structural developments minimize impacts to ecological functions, navigation, public access, and fish and wildlife resources.

4.8.2 Policies:

A. Projects for instream structures should demonstrate a compelling public benefit that outweighs the potential adverse impacts to ecological functions, fish and wildlife resources, navigation, and public access.

B. New development landward of the ordinary high water mark should not require future development of instream structures for protection from flood hazards.

C. Encourage improvements to existing instream structural developments that minimize impacts to fish and wildlife resources and shoreline ecological functions.

D. Encourage instream structures that allow for ecological restoration and improving fish and wildlife resources and habitat.

E. Encourage non-structural and non-regulatory methods to protect, enhance, and restore shoreline ecological functions and processes and other shoreline resources as an alternative to instream structures. Non-regulatory and nonstructural methods may include public facility and resource planning, land or easement acquisition, education, voluntary protection and enhancement projects, or incentive programs.

F. The location, design, and operation of instream structures should be consistent with plans related to flood management hazard plans, the Chehalis Basin Watershed Management Plan, and applicable fish and wildlife management plans.
4.8.3 Regulations:

A. Permit applications for instream structural development shall be prepared by a qualified professional and address the following items:

i. Analysis regarding the necessity of the instream structure for ensuring public safety or providing public infrastructure;

ii. The feasibility of nonstructural measures;

iii. Analysis of impacts to fish and wildlife resources, critical areas and ecological functions;

iv. Hydraulic analysis, including effect on water quality, water quantity, and flooding to area properties; and

v. Long-term management and monitoring plan.

B. New or expanded instream structural developments shall provide adequate migration for fish and avoid loss of salmonid habitat.

C. Location of instream structures shall not adversely affect existing uses or interfere with public access and navigation.

D. Construction and maintenance of irrigation structures, including but not limited to head gates, pumping stations, and irrigation channels necessary for farming and ranching activities are exempt.

Section 4.9 Mining

4.9.1 Goal:

Ensure that the extraction of economically important deposits of sand, gravel, and mineral resources within shoreline jurisdiction is done in manner that protects shoreline ecological functions.

4.9.2 Policies:

A. Mining within shoreline jurisdiction should locate only in areas that appropriate studies and detailed operation plans demonstrate the least disruption to the natural character of the shoreline, adjacent land uses, and critical areas.

4.9.3 Regulations:

A. The design and siting of new mining and associated activities shall be consistent with the provisions of the applicable shoreline environment designation.

B. Mining activities within shoreline jurisdiction shall be consistent with the Chapter 78.44, the Surface Mining Act, and the Surface Excavation and Extraction provisions of Sections 17.60.090 through 17.60.200, GHCC.
C. Mining and associated activities shall be allowed only in those locations where they will not cause:
   i. Damage to or potential weakening of the structural integrity of the shoreline that would result in a change of existing aquatic habitat or avulsion;
   ii. Changes in the water or exchange of water to or from adjacent water bodies that would damage aquatic or shoreline habitat; and
   iii. Changes in groundwater or surface water flow that would be detrimental to aquatic habitat, shoreline habitat, or ground water.

D. Mining within the channel migration zone in shoreline jurisdiction shall require a shoreline conditional use permit.

E. Disposal of overburden or other mining spoil or non-organic solid wastes shall comply with the fill provisions of this Master Program.

F. The removal of sand to supply the needs of cranberry growers, as provided under RCW 79A.05.630, is an exempt activity if sand removal occurs in backdune areas and does not result in a net loss of shoreline ecological functions.

G. All recreational mineral prospecting and placer mining shall meet permit requirements established by the Washington Department of Fish and Wildlife and applicable federal agencies. Any recreational mineral prospecting and placer mining shall ensure water quality and protect fish and wildlife resources.

Section 4.10 Recreational Development

4.10.1 Goal:

Encourage the development of a wide range of publicly- and privately-owned recreational opportunities for residents and tourists that facilitates their ability to reach, touch, and enjoy the water's edge as well as view and travel on shorelines of the state, all in a manner that protects shoreline ecological functions.

4.10.2 Policies:

A. The location, use, and intensity of recreational development should be consistent with the character of the shoreline and the availability of utilities and public facilities and services.

B. Promote a diverse range of recreational developments in appropriate locations that provide the public with a varied choice in recreational experiences.

C. The siting and design of recreational facilities should minimize impacts to ecological functions and neighboring private properties.
D. Encourage recreational developments to incorporate design improvements to the greatest extent feasible to facilitate access to the shoreline by people with physical disabilities.

E. The county is encouraged to forge cooperative agreements with private forestland owners to improve and facilitate recreational access to rivers and streams. Recreational access to these areas should include public education that promotes respect for private property and responsible use of the land and its resources.

F. Facilitate the acquisition of shorelines by local, state, tribal, and federal governments and nonprofit organizations to increase public opportunities for recreational access to shorelines of the state.

4.10.3 Regulations:

A. Recreational development that provides access to and use of the water has priority over recreational development that does not.

B. The location and design of recreational developments shall minimize adverse impacts to neighboring properties and critical area buffers that include, but are not limited to: light, noise, traffic, stormwater, nonpoint source pollution, and water quality.

C. All recreational developments shall make adequate provisions for
   i. Providing adequate parking and access;
   ii. Avoiding adverse impacts to adjacent properties; and
   iii. Preventing trespass to adjacent private properties.

D. The location and design of recreational development in floodplains shall not increase flooding hazards or rely on structural shoreline stabilization improvements.

Section 4.11 Residential Development

4.11.1 Goal:

Ensure the compatibility of residential development with the shoreline environment and avoid those areas that present a risk to people and property.

4.11.2 Policies:

A. Residential development is a preferred use of the shoreline when it is located in a manner that protects shoreline functions, critical areas, and vegetation.

B. Residential development should be consistent with the character of the environment designation and at densities reflecting the availability of appropriate infrastructure.
C. Encourage new subdivisions to use clustering of residences in accordance with Section 17.20.040 GHCC for avoiding critical areas, creating open space, and protecting shoreline ecological functions.

D. Encourage residential subdivisions to incorporate design features that preserve shoreline views of individual residences and neighboring properties.

E. Provide incentives to residential development to restore shoreline ecological functions.

F. Consider and use available data relating to coastal storms and flood events and monitor their potential influence on construction of future residential development along susceptible shorelines.

4.11.3 Regulations:

A. A shoreline substantial development permit is not required for construction of a single-family residence by any owner, lessee, or contract purchaser for their own use or the use of their family. Single-family residences and their appurtenances must otherwise conform to this Master Program.

B. New residential subdivisions creating more than four parcels shall include low-impact development best management practices to protect surface water quality.

C. Residential development in floodplains and channel migration zones shall not locate where structural shoreline stabilization improvements will be necessary in the future. The county may require new residential development to prepare a geotechnical report to verify that future structural stabilization improvements will not be necessary.

D. New multi-unit residential development, including subdivisions of land into more than four parcels shall provide public access in accordance with SMP Section 3.5 Public Access for use by residents and the public.

E. New over-water residences, including floating homes and floating on-water residences, are prohibited in all shoreline environments.

Section 4.12 Transportation and parking

4.12.1 Goal:

Design, locate, and maintain transportation infrastructure and parking developments in a manner that minimizes impacts to ecological functions and complements shoreline access and aesthetics.

4.12.2 Policies:

A. Avoid the location of new public or private transportation development within shoreline jurisdiction whenever feasible.
B. The location of new streets should avoid shorelines whenever feasible.

C. Future development of transportation infrastructure within shoreline jurisdiction should be consistent with the character of the environment designation.

D. The design and location of new transportation development should minimize the need for structural shoreline stabilization improvements, modification of natural drainage systems, and waterway crossings.

E. Locate transportation developments outside of critical areas, floodplains, and channel migration zones whenever possible.

F. Cooperate with the Washington State Parks and Recreation Commission in updating Ocean Beach Recreation Management Plans to manage the use of motorized vehicles along ocean beaches in a manner that protects public safety and ecological functions.

G. Encourage the removal of fish barriers along transportation corridors.

H. Encourage new transportation developments, or improvements to existing infrastructure, to accommodate opportunities for public access within shoreline jurisdiction.

I. Promote the development of pedestrian trail systems countywide along shorelines utilizing abandoned railways, public rights-of-way, and easements.

J. Avoid locating transportation developments in floodplains and channel migration zones where structural shoreline stabilization improvements will be necessary in the future.

K. Minimize the location of raised roads and railways in floodways except for necessary crossings. The design of crossings should ensure they do not act as walls baffling or blocking floodwaters, or interrupting stream channel processes.

L. Consider and use available data relating to tidal influences, storms, and flood events, and monitor their potential influence on transportation development along susceptible shorelines.

4.12.3 Regulations:

A. Major street and highway improvements within shoreline jurisdiction shall include low-impact development improvements to protect, maintain, or improve water quality.

B. RCW 36.87.130 prohibits the county from vacating any county road that abuts a body of saltwater or freshwater except for port, recreational, educational, or industrial purposes.

C. Parking as a primary use is prohibited within shoreline jurisdiction.
D. Parking as an accessory to an authorized use shall locate as far upland from the shoreline as possible and use low-impact development improvements to protect water quality.

Section 4.13 Utilities

4.13.1 Goal:
Locate and design utilities within shoreline jurisdiction in manner that protects ecological functions, existing uses, and the character of the shoreline environment.

4.13.2 Policies:
A. The design and location of utilities should avoid aesthetic impacts to the shoreline environment.

B. Extension of utilities within shoreline jurisdiction should be consistent with future growth identified in countywide development plans and regulations.

C. Location of utilities should avoid impacts to public access, recreation, and significant historic, archaeological, cultural, or scientific resources.

D. The design and siting of pipelines and cables should avoid crossing aquatic lands to the greatest extent feasible. If water crossings are unavoidable, installation should be in areas that cause the least adverse impact to the environment and shoreline resources.

E. Consider and use available data relating to flood events, tidal influences and monitor its potential influence on managing utility development and uses along susceptible shorelines.

4.13.3 Regulations:
A. New public or private utilities should locate as far upland as feasible or outside shoreline jurisdiction, unless:
   i. The utility requires a location adjacent to the water;
   ii. Alternative locations are not feasible; or
   iii. Utilities are necessary for a permitted shoreline use consistent with this Master Program.

B. New utilities shall use existing transportation and utility sites, rights-of-way, and corridors where feasible before establishing new ones.

C. Infrastructure for water, sewer, energy, telecommunication, and pipeline systems that are not water-dependent shall locate away from shoreline jurisdiction unless alternative locations are not feasible.
D. New or expanded water-dependent and water-related utilities in the aquatic environment designations shall not interfere with existing uses, navigation, or public access.

E. The location and design of utilities shall avoid the need for structural shoreline modifications to the greatest extent feasible.
Chapter 5: Shoreline Modifications

Section 5.1 Applicability

Shoreline modifications relate to the construction of a physical element, such as a dike, breakwater, dredging, and fill, but can include other actions such as clearing, grading, or significant vegetation removal. Shoreline modifications usually support a shoreline use or undertaken in preparation for a shoreline use. The provisions of this chapter apply to all shoreline modifications within shoreline jurisdiction.

Section 5.2 General Shoreline Modification Policies

5.2.1 Shoreline modifications should only be allowed where it can be demonstrated that the proposed activities are necessary to support or protect a legally existing shoreline use or primary structure that is in danger of loss or substantial damage, or are necessary for reconfiguration of the shoreline or bedlands for an allowed water-dependent use, or for shoreline mitigation or enhancement purposes.

5.2.2 Shoreline modifications should only be allowed when impacts are avoided, minimized, and mitigated to assure no net loss of shoreline ecological functions.

5.2.3 In-water work should be scheduled to protect biological productivity, including but not limited to, fish runs, spawning, and benthic productivity. In-water work should not occur in areas used for commercial fishing during a fishing season unless specifically addressed and mitigated for in the permit.

5.2.4 Shoreline modification should be limited in number and extent.

Section 5.3 Beach and Dune Management

5.3.1 Goal:

Manage modifications within the beach and dune environment to ensure the protection of public safety, public access, critical areas, and ecological functions.

5.3.2 Policies:

A. Modifications to the beach and the foredune should be avoided to the greatest extent feasible to protect public safety, critical areas, and ecological functions.

B. Cooperate and plan accordingly with Washington State Parks and Recreation Commission in managing the Seashore Conservation Area and updating Recreation Management Plans to ensure that public access modifications protect public safety, critical areas, and ecological functions.

C. Evaluate the need for new public access and emergency routes to the ocean beaches that minimize adverse impacts to dune areas.
D. Promote restoration projects that protect dune structure and vegetation beneficial for wildlife habitat and flood hazard reduction.

E. Encourage the construction of elevated dune walkovers for pedestrian access to beaches to reduce damage to dune vegetation and habitat.

F. Consider and utilize available data relating to coastal storms, and monitor their potential influence on managing development and uses within the beach and dune environment.

5.3.3 Regulations:

A. Modification to incipient dunes, foredunes, foredunes that are conditionally stable but subject to ocean undercutting or wave overtopping, and deflation plains that are subject to ocean flooding, is prohibited unless a study prepared by a qualified professional demonstrates that the proposed development is:
   i. Adequately protected from wind erosion, undercutting, ocean flooding and storm waves; and
   ii. Designed to minimize adverse environmental effects.

B. The placement of structural shoreline stabilization measures within the beach and dune environment shall be consistent with Section 5.9.3.

C. New road design in dune areas shall meet the following requirements:
   i. Construct roads parallel to the shoreline and as far landward of the backdune as possible;
   ii. No road may locate on or breach the foredune, except for public rights-of-way that provide public access to ocean beaches; and
   iii. Orient beach access roads at an angle to the prevailing wind direction to reduce the chance that water and wind will be channeled along them and erode the dunes at the sides of the road cuts.

D. Dune modification and vegetation removal to protect views of the water shall occur only on properties subdivided and developed before the effective date of the comprehensive update to this Master Program under the following circumstances:
   i. The view is completely obstructed for a residence or water-enjoyment use; and
   ii. There is evidence that the dunes did not obstruct views at the time of original occupancy.

E. Removal of vegetation from the foredune is prohibited except to accommodate development and uses allowed under this Master Program, including the removal of invasive species or other restoration actions.
Section 5.4 Breakwaters, Jetties, Groins, and Weirs

5.4.1 Goal:

Construct breakwaters, jetties, groins, and weirs only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purposes.

5.4.2 Policies:

A. Consider the full range of adverse impacts to the shoreline ecology when permitting breakwaters, jetties, groins, and weirs, including sediment transport, erosion, character of the shoreline, neighboring properties and uses, fish and wildlife resources, visual impacts, public access, and recreation.

B. Prefer open-pile, floating, portable, submerged, or discontinuous breakwaters to fixed breakwaters to maintain sediment movement, fish habitat, and water circulation.

5.4.3 Regulations for breakwaters, jetties, groins, and weirs

A. Breakwaters, jetties, groins, and weirs shall require a conditional use permit except for those structures installed to protect or restore ecological functions, such as woody debris installed in streams.

B. Breakwaters and jetties shall be allowed when analysis by a qualified professional demonstrates that:

i. The structure is necessary for protecting water-dependent uses, such as boating facilities, navigation channels, and commercial aquaculture, from strong wave actions or currents; and

ii. Adverse impacts to water circulation, sediment transport, fish and wildlife migration, and aquatic vegetation can be avoided or mitigated.

C. Proposals for breakwaters, jetties, groins, and weirs constructed for shoreline stabilization shall complete a geotechnical analysis consistent with the provisions for shoreline stabilization proposals described in Section 5.9.

D. Weirs shall include measures to ensure uninterrupted fish migration.

Section 5.5 Dredging and Dredge Material Disposal

5.5.1 Goal:

Allow dredging and dredge material disposal for maintaining and expanding safe commercial and recreational navigation in a manner that protects shoreline ecological functions.
5.5.2 Policies:

A. Dredging to establish, expand, or relocate or reconfigure navigation channels and basins should be allowed where necessary for assuring safe and efficient accommodation of navigational uses and then only when minimizing or mitigating significant ecological impacts.

B. Siting of new water-dependent development should be in locations that avoid or minimize the need for future maintenance dredging.

C. Cooperate with the Department of Natural Resources in implementing Master Program provisions through the Dredged Materials Management Program.

D. Encourage disposal of dredge materials in upland areas outside of shoreline jurisdiction.

E. Discourage the disposal of dredge material on shorelands or wetlands within a river's channel migration zone.

F. Discourage dredging and dredge material disposal in areas that would interfere with navigation, critical areas, aquaculture, fisheries, and areas with potential ecological restoration.

5.5.3 Regulations:

A. Maintenance dredging of existing navigation channels and basins is restricted to the locations, depth, and width previously authorized through applicable county, state, and federal permits. This activity is exempt development under this Master Program.

B. Restrict dredging to the minimum necessary for accommodating water-dependent development.

C. Dredging waterward of the ordinary high-water mark for the primary purpose of obtaining fill material is limited to the following conditions:
   i. The material is necessary for the restoration of shoreline ecological functions and placed waterward of the ordinary high-water mark;
   ii. The project is associated with a MTCA or CERCLA habitat restoration project; or
   iii. Any other significant habitat enhancement project if approved through a shoreline conditional use permit.

D. The disposal of dredge material on shoreland or wetlands within a river's channel migration zone is not preferred and requires a conditional use permit.

E. The discharge of dredge material into the flowing current of a river or deep-water channel where it does not substantially affect the geohydrologic character of the channel migration zone is an allowed shoreline modification.
F. Dredge material deposited on land shall be considered fill and subject to Section 5.6.

G. Disposal of dredged material in water areas other than sites authorized under Washington State’s Dredged Materials Management Program may be allowed in approved locations for the following purposes:
   i. To restore or enhance habitat;
   ii. To establish substrates for fish and shellfish resources;
   iii. To nourish beaches that are starved for sediment; or
   iv. To remediate contaminated sediments.

Section 5.6 Fill and Excavation Activities

5.6.1 Goal:
Avoid fill and excavation activities along shorelines except when necessary to accommodate an approved shoreline development or use, or when associated with enhancement or restoration of shoreline habitat and landforms.

5.6.2 Policies:
A. Fill and excavation activities in shoreline jurisdiction should be limited to the minimum necessary to accommodate a preferred use and protect shoreline ecological functions.
B. Monitor and consider the cumulative impacts of fill to properties, public facilities and services, and shoreline ecological functions in areas susceptible to tidal influences, and flood events.

5.6.3 Regulations:
A. Fill and excavation activities shall minimize impacts to soils and native vegetation.
B. Fill and excavation activities shall use erosion control provisions during construction, and stabilize and revegetate disturbed areas immediately after completion of construction activities.
C. Fill and excavation shall be scheduled to minimize adverse impacts, including, but not limited to damage to water quality and aquatic life.
D. The placement of fill waterward of the ordinary high water mark may occur only when necessary for an approved development and no other feasible alternative exists for:
   i. Water-dependent development;
   ii. Ecological restoration or enhancement project;
   iii. Aquaculture operations to improve production;
iv. Public facilities and services;

v. Water-oriented public access or recreation;

vi. Beach nourishment;

vii. Disposal of dredge material consistent with the dredged material management program; or

viii. Cleanup and disposal of contaminated sediments as part of an interagency environmental cleanup plan.

E. A conditional use permit is necessary for any fills waterward of the ordinary high water mark and in associated wetlands except for ecological restoration projects.

F. Fill and excavation activities shall avoid floodplains and channel migration zones except when geohydraulic analysis demonstrates that the development will not:

i. Increase flood velocity;

ii. Increase potential channel migration;

iii. Create risks to life or property; or

iv. Decrease flood storage capacity.

G. Fills shall avoid critical areas and critical area buffers to the greatest extent feasible.

H. Fills, excavations, and beach nourishment shall consist of appropriate materials that will blend physically and visually with the existing topography while ensuring there will be no interference with long-term use, including public access.

I. Fill material shall be free of contaminated materials.

Section 5.7 Docks, Piers, Floats, and Boat Launches

5.7.1 Goal:

Develop docks, piers, floats, and boat launches to serve residential, commercial, and recreational uses effectively while ensuring the protection of shoreline ecological functions and values.

5.7.2 Policies:

A. Multiple use, expansion, and/or restoration of existing piers, docks, and floats should be encouraged over construction of new structures when possible.

B. The size of piers and floats should be the minimum necessary to meet the needs of the proposed water-dependent use.

C. The location of piers, floats, and boat launches should be in areas that create the least impact to shoreline functions.
D. Avoid locating piers and docks where shallow depths require excessive overwater lengths or frequent dredging.

E. Encourage residential developments to provide joint use or community dock facilities.

F. Encourage residences to rely on mooring buoys rather than docks, piers, or floats.

G. Allow commercial and public piers and docks to construct larger structures if a needs analysis demonstrates there will be a need to expand facilities in the future.

5.7.3 Regulations:

A. New docks, piers, and floats shall be allowed only for water-dependent uses or public access. A dock associated with a single-family residence is a water dependent use if it is designed and intended as a facility for access to watercraft and complies with the provisions of this Master Program.

B. A single-family residence shall not have more than one single-use pier or dock per lot.

C. Docks and piers for commercial, industrial, and transportation uses shall only serve water-dependent uses and shall be the minimum size necessary to accommodate the proposed use, provided, however, that larger structures may be permitted if an analysis demonstrates the need for future expansion over the next 10 years.

D. The design of all new residential docks, piers, and floats shall be the minimum necessary for their intended use. The following standards shall apply:
   i. Docks and piers:
      a) The width shall not exceed 4 feet for single-use or 6 feet for joint-use;
      b) Piers shall be no longer than the maximum length necessary to reach useable water to ensure vessels do not rest on substrate at any time.

   ii. Floats:
      a) The width of a single-use float shall not exceed 8 feet in width and 30 feet in length;
      b) The width of a joint-use float shall not exceed 8 feet in width and 60 feet in length;
      c) Grating of the surface area may be required to address shading impacts; and
      d) The float location shall ensure that the float, anchor lines, or any vessel shall not rest on substrate at any time.

   iii. Ramp widths shall not exceed 4 feet.

   iv. Piers and floats shall be located at least 10 feet away from the abutting side property line or the imaginary extension thereof into the water.
v. The Administrator may approve increasing the maximum dimensions for piers, floats, and ramps to accommodate a resident with disabilities.

E. Docks existing before the adoption of this Master Program that do not comply with this section may be repaired with appropriate permitting without changing the dimensions or configuration. However, a modification to a non-compliant dock may not exceed its nonconformity.

F. The location and design of docks and floats shall not interfere with navigation or public access.

G. The design and construction of new or expanded docks shall consist of materials approved by applicable state agencies.

H. No pier or dock shall be used as a residence.

I. Storage of fuel, oils, and other toxic materials is prohibited on residential docks and piers.

Section 5.8 Shoreline Habitat Restoration and Enhancement Projects

5.8.1 Goal:

Encourage shoreline restoration and enhancement projects that improve shoreline ecological functions that contribute to public health and safety, the county's economy, and healthy fish and wildlife populations.

5.8.2 Policies:

A. Encourage property owners, community groups, local, state, federal, and tribal entities to aid in implementing restoration projects identified through the Grays Harbor County Shoreline Restoration Plan.

B. Consider and utilize available data relating to flood events when developing and implementing shoreline habitat restoration and natural systems enhancement projects.

C. Integrate identified habitat and natural systems enhancement projects with required mitigation measures under Section 3.3.3.C whenever feasible.

D. The design and construction of shoreline restoration and enhancement projects should be consistent with best management practices.

5.8.3 Regulations:

A. Shoreline restoration and enhancement projects shall be consistent with applicable provisions of this Master Program and the county Shoreline Restoration Plan.
B. Fish habitat enhancement projects conforming to the provisions of RCW 77.55.181 shall be exempt from substantial development permits when consistent with the master programs, as follows:

i. A fish habitat enhancement project must accomplish one or more of the following tasks:
   a) Elimination of human-made fish passage barriers, including culvert repair and replacement;
   b) Restoration of an eroded or unstable streambank employing the principle of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or
   c) Placement of woody debris or other instream structures that benefit naturally reproducing fish stocks.

ii. A fish habitat enhancement project must be approved in one of the following ways:
   a) By the Department of Fish and Wildlife pursuant to Chapter 77.95 or 77.100 RCW;
   b) By the sponsor of a watershed restoration plan as provided in Chapter 89.08 RCW;
   c) By the department as a Department of Fish and Wildlife-sponsored fish habitat enhancement or restoration project;
   d) Through the review and approval process for the Jobs for the Environment Program;
   e) Through the review and approval process for Conservation District-sponsored projects, where the project complies with design standards established by the Conservation Commission through the interagency agreement with the United States Fish and Wildlife Service and the Natural Resource Conservation Service;
   f) Through a formal grant program established by the legislature or the Department of Fish and Wildlife for fish habitat enhancement or restoration; and
   g) Through other formal review and approval processes established by the legislature.

C. The county shall not require permits or charge fees for fish habitat enhancement projects that meet the criteria under B of this subsection.

D. The creation or expansion of restoration and enhancement projects may be permitted or exempt, subject to required state or federal permits, when the applicant has demonstrated that:
i. The project will not adversely impact spawning, nesting, or breeding within fish and wildlife habitat conservation areas;  
ii. Upstream or downstream properties or fish and wildlife habitat conservation areas will not be adversely affected;  
iii. Water quality will not be degraded;  
iv. Flood storage capacity will not be degraded;  
v. Impacts to critical areas and buffers will be avoided and where unavoidable, minimized and mitigated; and  
vi. The project will not interfere with the normal public use of the navigable waters of the state.

**Section 5.9 Shoreline stabilization**

5.9.1 Goal:  

Avoid or minimize the need for shoreline stabilization, and if unavoidable, give preference to nonstructural stabilization methods over structural ones.

5.9.2 Policies:  

A. Use structural shoreline stabilization measures only when more natural, non-structural methods, such as vegetative stabilization, beach nourishment, and bioengineering have been determined not feasible. Alternatives for shoreline stabilization should be based on the following hierarchy of preference:  
i. Take no action and allow the shoreline to retreat naturally, protect structures by increasing building setbacks or relocating them.  
ii. Construct flexible defense works of natural materials that may include soft shore protection, bioengineering, beach nourishment, protective berms, or vegetative stabilization.  
iii. Replace failing structures and allow expansion if no other practical alternative exists.  
iv. Allow the construction of rigid works consisting of artificial materials such as riprap or concrete when alternative methods have been determined infeasible.  
v. Permit the construction of larger works, such as jetties, breakwaters, or groin systems, only when no other practical alternatives exist.

B. Encourage best management practices and allow for shoreline stabilization measures along shorelines on resource lands of long-term commercial significance to control erosion problems that affect fish and wildlife habitat and to protect the economic viability of its use.
C. Locate and design new development along shorelines to minimize the future need for shoreline stabilization to the greatest extent feasible.

D. Allow structural shoreline stabilization only where there is a demonstrated need to support or protect an existing primary structure that is in danger of substantial damage or loss.

E. Provide incentives for property owners to remove structural shoreline stabilization or replace them with nonstructural modifications.

F. Consider the impacts to area properties when evaluating proposals for shoreline modifications.

G. Assure that the development of individual shoreline modifications do not have a cumulative adverse impact on flooding, erosion, and shoreline ecological functions.

H. Consider and utilize data relating to flood events and monitor its potential impacts to shoreline stabilization projects along shorelines in the Pacific Ocean and Aquatic Environments.

5.9.3 Regulations:

A. New structural shoreline stabilization measures shall not be allowed except when necessity is demonstrated in the following manner:

i. To protect existing primary structures:
   a) There is conclusive evidence, documented by a geotechnical analysis that the structure is in danger from shoreline erosion caused by tidal action, currents, waves, or flood events. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstrated need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization; and
   b) The erosion control structure will not result in a net loss of shoreline ecological functions.

ii. In support of new nonwater-dependent development, including single-family residences, when all of the following conditions apply:
   a) The erosion is not the result of upland conditions, such as the loss of vegetation and drainage;
   b) Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or insufficient;
   c) A geotechnical report demonstrates the need to protect primary structures from damage due to erosion. The damage must be the result of natural
aquatic processes, such as tidal action, currents, waves, and flood events; and
d) The erosion control structure will not result in a net loss of shoreline ecological functions.

iii. In support of water-dependent development when all of the following conditions below apply:

a) The erosion is not the result of upland conditions, such as the loss of vegetation and drainage;

b) Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient;

c) A geotechnical report demonstrates the need to protect primary structures from damage due to erosion. The damage must be the result of natural aquatic processes, such as tidal action, currents, and flood events; and
d) The erosion control structure will not result in a net loss of shoreline ecological functions.

iv. To protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to RCW 70.105D when all of the conditions below apply:

a) Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or insufficient; and

b) The erosion control structure will not result in a net loss of shoreline ecological functions.

v. To reduce accelerated erosion along resource lands of long-term commercial significance when the following conditions apply:

a) There is conclusive evidence documented by geotechnical analysis that shows excessive shoreline erosion is:

   1. Impacting fish and wildlife habitat by contributing to reduced water quality, loss of riparian habitat, decreased channel complexity, and/or increased sedimentation; and/or

   2. Contributing to a significant loss of shoreland that is impacting the use and/or economic viability of the property;

b) Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or insufficient;

c) The stabilization measure(s) will not interfere with normal hydrological and geomorphologic processes;

d) The erosion control structure will not result in a net loss of shoreline ecological functions.
B. A property owner may replace an existing shoreline stabilization structure with a similar structure if there is a demonstrated need to protect primary uses or structures from erosion caused by currents, tidal action, waves, or flood events. Replacement may occur in accordance with the following provisions:

a) The design, location, size, and construction of the replacement structure results in no net loss of shoreline ecological functions;

b) Replacement walls or bulkheads do not encroach waterward of the ordinary high-water mark or existing structure unless the residence was occupied before January 1, 1992 and there is significant safety or environmental concern. In such cases, the replacement structure shall about the existing shoreline stabilization structure;

c) Where a net loss of shoreline ecological functions associated with critical saltwater habitats would occur by leaving the existing structure, remove it as part of the replacement measure; and

d) Replacement of structural stabilization measures with nonstructural ones that restore shoreline ecological functions may locate waterward of the ordinary high-water mark.

C. For purposes of this section, “replacement” means the construction of a new structure to perform a shoreline stabilization function of an existing structure that can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

D. Construction of a normal protective bulkhead common to a single-family residence shall meet the following requirements:

i. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land.

ii. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill.

iii. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings.

iv. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark.

E. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements have been approved by the Washington Department of Fish and Wildlife.

F. When allowed pursuant to the provisions of this Master Program, structural shoreline stabilization must meet all of the following requirements:
i. The impacts can be mitigated in accordance with the mitigation sequencing established under Section 3.3.3.C to ensure there is no net loss of ecological functions;

ii. The size of a shoreline stabilization structure shall be limited to the minimum necessary to protect the primary structure or use. Shoreline stabilization shall be designed by a state licensed professional geotechnical engineer and/or engineering geologist, and constructed according to applicable state and federal laws;

iii. The shoreline stabilization shall be constructed and maintained in a manner that does not degrade the quality of affected waters; and

iv. No demolition debris or other solid waste shall be used for shoreline stabilization.

Section 5.10 In and Overwater Structures

A. Except as otherwise provided in this shoreline master program, in-water and overwater structures shall not be approved unless the following requirements are met:

i. The structure is necessary to achieve the policy of RCW 90.58.020;

v. The structure will not interfere with the public trust doctrine;

vi. All impacts on critical saltwater and freshwater habitats are capable of being mitigated and are mitigated according to the sequence in 3.3.3(C); and

vii. There will not be any adverse water quality impacts after the mitigation measures are applied.
Chapter 6: Ocean Management

Section 6.1  Goal

Protect and enhance ocean resources as a cornerstone to the environment, economy, and culture for all citizens of Grays Harbor County and the State of Washington by managing them in a manner that avoids their degradation or avoids and minimizes conflicts between uses.

Section 6.2  Applicability

6.2.1 This chapter is consistent with the purpose and intent of Chapter 43.143, the Ocean Resources Management Act, and WAC 173-26-360, Ocean Resources, and applies to shorelines within the Aquatic and Pacific Ocean Environments.

6.2.2 This chapter shall not modify current resource allocation procedures or regulations administered by other agencies, such as the Washington Department of Fish and Wildlife’s management of recreational and commercial fisheries, nor shall it regulate recreational uses or currently existing commercial uses involving fishing or other renewable marine or ocean uses.

6.2.3 The applicability of this Master Program shall not alter any treaty rights, regulate fisheries, limit recreational use, interfere with the issuance of leases on state-owned aquatic lands, or supersede any other applicable state and federal laws beyond what the scope of the Act allows.

Section 6.3  Ocean Management Jurisdiction

6.3.1 RCW 43.143.005(4) designates the State of Washington as having primary jurisdiction over the management of coastal and ocean natural resources within three miles of the county coastline. From three miles seaward to the boundary of the two hundred mile exclusive economic zone, the United States federal government has primary jurisdiction. Since protection, conservation, and development of the natural resources in the exclusive economic zone directly affect Washington’s economy and environment, the state has an inherent interest in how these resources are managed.

6.3.2 The ocean management provisions of this Master Program shall be applied consistent with WAC 173-26-360.

6.3.3 After inclusion in the state coastal zone management program, this Master Program and WAC 173-26-360 will be used for federal consistency purposes in evaluating federal permits and activities in Washington’s coastal waters. The adoption of this Master Program shall not preclude the county from opposing the introduction of new uses in the Pacific Ocean Environment.
Section 6.4 Relationship to Marine Spatial Planning

6.4.1 This Master Program implements the provisions of WAC 173-26-360 in coordination with Marine Spatial Planning authorized under the Marine Waters Planning and Management Act, Chapter 43.372 RCW.

6.4.2 The county will strive to consider and integrate the most current, accurate, and complete scientific information available generated through the Marine Spatial Planning into current permit actions and future Master Program amendments. This may include evaluating the Pacific Ocean Shoreline Environment to select appropriate environments for ocean resources uses and development that best meets the intent of the Act and Chapter 173-26 WAC and ORMA.

Section 6.5 Criteria for Permitting Ocean Resources Development

6.5.1 The county may authorize ocean resources uses and development as a substantial development, conditional use, or variance only if meeting or exceeding the following criteria:

A. There is a demonstrated significant local, state, or national need for the proposed development;

B. There is no reasonable alternative to meet the public need for the proposed development;

C. There will be no likely long-term significant adverse impacts to coastal or marine resources or existing uses;

D. All reasonable steps are taken to avoid and minimize adverse environmental impacts, consistent with Section 3.3.3.C., with special protection provided for the marine life and resources of Grays Harbor estuary and Olympic National Park.

E. All reasonable steps are taken to avoid and minimize adverse social and economic impacts consistent with Section 3.3.3.C., to uses such as, but not limited to, aquaculture, recreation, tourism, navigation, air and water quality, coastal erosion, treaty rights, and recreational, commercial, and tribal fishing;

F. Compensation is provided to mitigate adverse impacts to coastal resources or uses;

G. Plans and sufficient performance bonding are provided to ensure that the site will be rehabilitated after the use or activity is completed; and

H. The use or activity complies with all applicable local, state, and federal laws and regulations.

6.5.2 The procedures for permit applications for all ocean resources development shall conform to Chapter 7 of this Master Program.

6.5.3 Table 3 identifies the permits required for ocean uses and development.
Section 6.6 General Policies for Ocean Resources Development

6.6.1 The following policies apply to all ocean resources uses and development, their service, distribution, and supply activities and their associated facilities that require shoreline permits:

A. Ocean uses and activities that will not adversely affect renewable resources have priority over those that will. Correspondingly, ocean uses that will have less adverse impacts on renewable resources shall have priority over uses that will have greater adverse impacts.

B. Ocean uses that will have less adverse social and economic impacts on coastal uses and communities should have priority over uses and activities that will have more such impacts.

C. When the adverse impacts are generally equal, the ocean use that has less probable occurrence of a disaster will have priority.

D. The alternatives considered to meet a public need for a proposed use should be commensurate with the need for the proposed use. For example, if there is a demonstrated national need for a proposed use, then national alternatives should be considered.

E. Chapter 197-11 WAC (SEPA rules) provides guidance in the application of the permit criteria and guidelines of this section. The range of impacts to be considered should be consistent with WAC 197-11-060 (4)(e) and 197-11-792 (2)(c). The determination of significant adverse impacts should be consistent with WAC 197-11-330(3) and 197-11-794. The sequence of actions described in WAC 197-11-768 should be used as an order of preference in evaluating steps to avoid and minimize adverse impacts.

F. Impacts on commercial resources, such as commercial and recreational fisheries, on noncommercial resources, such as environmentally critical and sensitive habitats, and on coastal uses, such as loss of equipment or loss of a fishing season, should be considered in determining compensation to mitigate adverse environmental, social, and economic impacts to coastal resources and uses.

G. Allocation of compensation to mitigate adverse impacts to coastal resources or uses should be based on the magnitude and/or degree of impact on the resource, jurisdiction, and use.

H. Rehabilitation plans and bonds prepared for ocean uses should address the effects of planned decommissioning and unanticipated closures, completion of the activity, reasonably anticipated disasters, inflation, new technology, and new information about the environmental impacts to ensure that state of the art technology and methods are used.
I. The location, design, and operation of ocean resources development and their associated shoreline facilities should prevent, avoid, and minimize adverse impacts to:
   i. Migration routes and habitat areas of species listed as endangered or threatened;
   ii. Environmentally critical and sensitive habitats, such as breeding, spawning, nursery, foraging areas and wetlands;
   iii. Areas of high productivity for marine biota such as upwelling and estuaries; and
   iv. Existing preferred uses.

J. Locate ocean resources development to avoid adverse impacts on proposed or existing environmental and scientific preserves and sanctuaries, parks, and designated recreation areas.

K. Locate and design ocean resources development and their associated facilities to avoid and minimize adverse impacts on historic or culturally significant sites in compliance with Chapter 27.34 RCW and Section 3.2 of this Master Program.

L. Locate, design, and operate ocean resources development and their distribution, service, and supply vessels and aircraft in a manner that avoids or minimizes adverse impacts on fishing grounds, aquatic lands, or other renewable resource ocean use areas during their established, traditional, or recognized times they are used or when the resource could be adversely impacted.

M. Route ocean use service, supply, and distribution vessels and aircraft to avoid environmentally critical and sensitive habitats such as sea stacks and wetlands, preserves, sanctuaries, bird colonies, and migration routes, during critical times those areas or species could be affected.

N. When locating and designing associated onshore facilities, ocean resources development shall give special attention to the environment, the characteristics of the use, and the impact of a probable disaster, in order to assure adjacent uses, habitats, and communities have adequate protection from explosions, spills, and other disasters.

O. The location and design of ocean resources development and their associated facilities should minimize impacts on existing water dependent businesses and existing land transportation routes to the greatest extent feasible.

P. Locate land-based development and uses associated with ocean resources development in communities where there is adequate sewer, water, power, streets, and appropriate emergency services. Use existing marine terminals before creating new ones, if space is available.
Q. The scheduling and method of constructing ocean resources development facilities and the location of temporary construction facilities should minimize impacts on tourism, recreation, commercial fishing, local communities, and the environment.

R. Give special attention to the effect that ocean resources development facilities will have on recreational activities and experiences, such as public access, aesthetics, and views.

S. Consider the detrimental effects on air and water quality, tourism, recreation, fishing, aquaculture, navigation, transportation, public infrastructure, public services, and community culture in avoiding and minimizing adverse social and economic impacts.

T. Give special attention to methods that prevent, avoid, and minimize adverse impacts, such as noise, light, temperature changes, turbidity, water pollution, and contaminated sediments on shoreline environments. Give such attention particularly during critical migration periods and life stages of marine species and critical oceanographic processes.

U. Require the preparation of environmental baseline inventories, assessments, and monitoring programs of ocean uses before permitting ocean resources development when limited or no information exists about the potential effects of a development on marine and estuarine ecosystems, renewable resource uses, and coastal communities or the technology if change is likely.

V. The design, construction, and operation of oil and gas, mining, disposal, and energy producing ocean resources development should minimize environmental impacts on the shoreline environment, particularly the seabed communities, and minimize impacts on recreation and existing renewable resource uses, such as fishing.

W. To the extent feasible, chose the location of oil and gas, and mining facilities to avoid and minimize impacts on shipping lanes or routes traditionally used by commercial and recreational fishermen to reach fishing areas.

X. The discontinuance or shutdown of ocean resources development should minimize impacts to renewable resource ocean uses, such as fishing, and should restore the seabed to a condition similar to its original state to the greatest extent feasible.

Section 6.7 Oil and Gas Development

6.7.1 RCW 43.143.010(2) prohibits the lease of Washington’s tidal or submerged land for oil and gas exploration, development or production, within the Grays Harbor Estuary and the Pacific Ocean, extending from mean high tide seaward three nautical miles.

Section 6.8 Ocean Mining Development

6.8.1 Ocean mining development means the extraction of metal, mineral, sand, and gravel resources from the sea floor.
6.8.2 The location and operation of ocean mining development shall avoid detrimental effects on ground fishing or other renewable resource uses.

6.8.3 The location and operation of ocean mining development shall avoid detrimental effects on beach erosion or accretion processes.

6.8.4 Permit applicants for ocean mining development shall provide sufficient analysis by a qualified professional regarding habitat recovery rates for affected sea floor areas.

Section 6.9 Ocean Energy Development

6.9.1 Ocean energy development means the production of energy in a usable form directly in or on the ocean rather than extracting a raw material for use in producing energy in a usable form elsewhere. Ocean energy generation sources may include, but are not limited to, wind, wave, tidal, and ocean thermal energy conversion systems.

6.9.2 The location, construction, and operation of energy-producing uses shall not create detrimental effects on beach accretion or erosion and wave processes.

6.9.3 Permit applicants for ocean energy development shall prepare assessments that evaluate the effect of energy producing uses on upwelling and other oceanographic and ecosystem processes.

6.9.4 Associated energy distribution facilities and lines for ocean energy development shall conform to the provisions of Section 4.13 and locate in existing utility rights-of-way and corridors to the greatest extent feasible, rather than creating new corridors.

Section 6.10 Ocean Disposal Development

6.10.1 Ocean disposal development means the deliberate deposition or release of material at sea, such as solid wastes, industrial wastes, radioactive wastes, incinerator residues, dredged materials, vessels, aircrafts, ordnance, platforms, or other manmade structures.

6.10.2 The storage, loading, transporting, and disposal of materials shall in conform to the Dredged Material Evaluation and Disposal Procedures User Manual, August 2016 or most current edition.

6.10.3 Ocean disposal shall occur only in sites approved by the Washington Department of Ecology, the Washington Department of Natural Resources, the United States Environmental Protection Agency, and the United States Army Corps of Engineers.

6.10.4 The location and design of ocean disposal sites shall prevent, avoid, and minimize adverse impacts on environmentally critical and sensitive habitats, coastal resources and uses, or loss of opportunities for mineral resource development. Ocean disposal sites for the primary purpose of habitat enhancement may locate in a wider variety of habitats, but the general intent of the guidelines shall still apply.

Section 6.11 Ocean Transportation

6.11.1 This section applies to ocean transportation that originates or terminates within Washington’s coastal waters, or that transports a nonrenewable resource extracted from the outer continental shelf off Washington.
6.11.2 Ocean transportation includes such uses as shipping, transferring between vessels, and offshore storage of oil and gas; transport of other goods and commodities; and offshore ports and airports.

6.11.3 Transportation activities should be consistent with the following:

A. An assessment should be made of the impact transportation uses will have on renewable resource activities, such as fishing, and on environmentally critical and sensitive habitat areas, environmental and scientific preserves, and sanctuaries.

B. When feasible, hazardous materials such as oil, gas, explosives and chemicals, should not be transported through highly productive commercial, tribal, or recreational fishing areas. If no such feasible route exists, the routes used should pose the least environmental risk.

C. Transportation uses should be located or routed to avoid habitat areas of endangered or threatened species, environmentally critical and sensitive habitats, migration routes of marine species and birds, marine sanctuaries and environmental or scientific preserves to the maximum extent feasible.

Section 6.12 Ocean Research

6.12.1 Ocean research activities involve scientific investigation for furthering knowledge and understanding of the ocean environment.

6.12.2 Ocean research shall not result in a net loss of shoreline ecological functions.

6.12.3 The county shall require ocean research activities to coordinate with other ocean resources developments or ocean uses that occur within the same area to minimize potential conflicts.

6.12.4 Ocean research activities that meet the definition of “exploration activity” within WAC 173-15-020 shall exclude oil and gas development in accordance with RCW 42.143.010(2).

6.12.5 The use of fixed structures in ocean research, such as gravity-based structures, jack-up rigs, and steel jacket platforms, shall require a shoreline conditional use permit.

6.12.6 The completion or discontinuation of all ocean research shall restore the environment to its original condition to the greatest extent feasible and consistent with the purpose of the research.

6.12.7 The county encourages the public dissemination of ocean research findings.

Section 6.13 Ocean Salvage

6.13.1 Ocean salvage activities involve relatively small sites occurring intermittently. An example of ocean salvage activities is the archeological salvage of historic shipwrecks,
which include aspects of recreation, exploration, research, and mining. This section is not applicable to salvage operations for the emergency assistance or recovery of vessels.

6.13.2 Ocean salvage activities shall not result in a net loss of shoreline ecological functions.

6.13.3 Ocean salvage activities shall conform to the provisions under Section 3.2 regarding the protection of archeology, historic, and scientific resources.

6.13.4 Nonemergency marine salvage and historic shipwreck salvage activities shall avoid or minimize adverse impacts to shoreline ecological functions, ecosystem-wide species, and renewable resources such as fishing.

6.13.5 Nonemergency marine salvage and historic shipwreck salvage activities shall not occur in areas of cultural or historic significance unless part of a scientific effort sanctioned by appropriate governmental agencies.
Chapter 7: Permit Procedures and Enforcement

Section 7.1 Statement of applicability and purpose

Except when excluded by statute, all development undertaken on shorelines of the state shall be consistent with Chapter 90.58 RCW and the provisions of this Master Program, regardless of whether a shoreline substantial development permit, letter of exemption, shoreline variance, or shoreline conditional use permit is required.

Section 7.2 Exemptions from substantial development permits

7.2.1 Applicability

Certain developments are exempt from the substantial development permit requirements of the Act and this Master Program. These developments are those set forth in WAC 173-27-040 (or as amended), and do not meet the definition of substantial development under RCW 90.58.030(3)(e).

7.2.2 Application and interpretation of exemptions

A. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be exempt from the Substantial Development Permit process.

B. An exemption from the substantial development permit process is not an exemption from compliance with the Act or this Master Program, or from any other regulatory requirements. For example, the exemption for a single-family bulkhead shall comply with the policies and regulations for shoreline stabilization under Section 5.9 even though exempt from the substantial development permit.

C. Any unlisted development or development listed as a conditional use within this Master Program shall obtain a conditional use permit in accordance with Section 7.3.2.

D. The burden of proof that a development or use is exempt from the permit process is on the applicant.

E. If any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire proposed development project.

F. The county may attach conditions to the approval of exempt development as necessary to assure consistency of the project with the Act and this Master Program.
7.2.3 WAC 173-27-040 lists activities that are exempt from the requirement to obtain a shoreline substantial development permit under this Master Program.

A. Any development of which the total cost or fair market value, whichever is higher, does not exceed 7,047 dollars, if such development does not materially interfere with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c).

B. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.

C. Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the department of fish and wildlife.
D. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or the local master program, obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and the local master program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency.

E. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels: Provided, That a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, slage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations.

F. Construction or modification of navigational aids such as channel markers and anchor buoys.

G. Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to chapter 90.58 RCW. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Local circumstances may dictate additional interpretations of normal appurtenances which shall be set forth and
regulated within the applicable master program. Construction authorized under this exemption shall be located landward of the ordinary high water mark.

H. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single and multiple family residences. This exception applies if either: (A) in salt waters, the fair market value of the dock does not exceed two thousand five hundred dollars; or (B) in fresh waters, the fair market value of the dock does not exceed: (I) Twenty-two thousand dollars for docks that are constructed to replace existing docks, are of equal or lesser square footage than the existing dock being replaced, and are located in a county, city, or town that has updated its master program consistent with the master program guidelines in chapter 173-26 WAC as adopted in 2003; or (II) eleven thousand two hundred dollars for all other docks constructed in fresh waters. However, if subsequent construction occurs within five years of completion of the prior construction, and the combined fair market value of the subsequent and prior construction exceeds the amount specified in either (A) or (B) of this subsection, the subsequent construction shall be considered a substantial development for the purpose of this chapter. All dollar thresholds under (B) of this subsection must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2018, based upon changes in the consumer price index during that time period.

I. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored groundwater from the irrigation of lands.

J. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water.

K. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system.

L. Site exploration: Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under the Act if:
   i. The activity does not interfere with the normal public use of the surface waters;
      (a) The activity will have no significant adverse impact on the environment including, but not limited to, fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
      (b) The activity does not involve the installation of a structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;
(c) A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and

(d) The activity is not subject to the permit requirements of RCW 90.58.550.

M. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the Washington Department of Agriculture or Ecology jointly with other state agencies under Chapter 43.21C RCW;

N. Watershed restoration projects as defined herein. Local government shall review the projects for consistency with the shoreline master program in an expeditious manner and shall issue its decision along with any conditions within forty-five days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects as used in this section.

i. “Watershed restoration project” means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:

   a) A project that involves less than ten miles of streamreach, in which less than twenty-five cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;

   b) A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

   c) A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the ordinary high water mark of the stream.

ii. “Watershed restoration plan” means a plan, developed or sponsored by the department of fish and wildlife, the department of ecology, the department of natural resources, the department of transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream,
stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act.

O. A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the following apply:
   i. The project has been approved in writing by the department of fish and wildlife;
   ii. The project has received hydraulic project approval by the department of fish and wildlife pursuant to chapter 77.55 RCW; and
   iii. The local government has determined that the project is substantially consistent with the local shoreline master program. The local government shall make such determination in a timely manner and provide it by letter to the project proponent.

P. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with disabilities act of 1990 (42 U.S.C Section 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.

7.2.4 Letter of exemption

A. Any person claiming exemption from the substantial development permit requirements shall make an application to the Administrator for such an exemption, except that no written letter of exemption is required for emergency development that is consistent with Section 7.2.3 D of this Master Program.

B. The Administrator may grant or deny requests for exemption from the shoreline substantial development permit requirement for uses and developments within shorelines listed in Section 7.2.3.

C. Exempt activities shall not be conducted until a written letter of exemption has been obtained from the Administrator.

D. The Administrator shall issue a written letter of exemption and send it to Ecology, the applicant, and maintain a copy on file in the offices of the Administrator. Statements of exemption may contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of this Master Program and Act.

E. A denial of an exemption shall be in writing and shall identify the reason(s) for the denial. The Administrator’s decision on a letter of exemption may be reconsidered by submittal of an appeal to the Planning Commission.

Section 7.3 Development Not Requiring Shoreline Permits or Local Review
A. Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

i. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW.

ii. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.

iii. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review.

iv. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.

v. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

Section 7.4 Types of Shoreline Permits

7.4.1 Substantial Development Permit

A. The Act provides that no substantial development shall take place on the shoreline of the state without first obtaining a substantial development permit.

B. The county shall grant a substantial development permit only when the permit applicant can demonstrate that the proposed development is consistent with the policies and procedures of the Act and this Program, as well as criteria in WAC 173-27-150.

C. The Act provides a limited number of exceptions to the definition of substantial development. Those exceptions listed under Section 7.2 and in RCW 90.58.030 do not require a substantial development permit. Whether or not a development constitutes a substantial development, all development must comply with the requirements contained in the Act and this Master Program and may require other permits or approvals.

D. The county may issue a substantial development permit with limitations or conditions to assure consistency with the Act and this Master Program.
E. The Administrator shall forward a Notice of Decision on an application for a substantial development permit with the Department of Ecology pursuant to Section 7.5.10 and WAC 173-27-130.

7.4.2 Shoreline conditional use permits

A. The purpose of a shoreline conditional use permit is to provide flexibility in authorizing uses in a manner consistent with RCW 90.58.020. Accordingly, the county may impose special conditions to prevent undesirable effects of the proposed development to assure consistency of the project with the Act and this Master Program.

B. The county shall grant a shoreline conditional use permit only after the applicant can demonstrate compliance with WAC 173-27-160 and this section as follows:

i. That the proposed use is consistent with the policies of RCW 90.58.020 and this Program;

ii. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;

iii. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and;

iv. That the public interest suffers no substantial detrimental effect.

C. In the granting of all conditional use permits, the county shall consider the cumulative impact of additional requests for like actions in the area. For example, if there were conditional use permits granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

D. The Administrator shall forward a notice of decision on an application for a shoreline conditional use permit to The Department of Ecology pursuant to Section 7.5.10 and WAC 173-27-130, -190, and -200, for final approval, approval with conditions, or denial. No approval is final until The Department of Ecology acts upon the conditional use permit.

7.4.3 Unclassified and prohibited uses

A. Other uses not classified or set forth in this Master Program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the master program.

B. Uses specifically prohibited by this Master Program may not be authorized pursuant to this section.
7.4.4 Variances

A. The purpose of a variance permit is strictly limited to circumstances where:

   i. Granting relief from specific bulk, dimensional, or performance standards (not uses) set forth in this Master Program; and

   ii. There are extraordinary or unique circumstances relating to the physical character or configuration of the property such that the strict implementation of this Master Program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

B. In all instances, the permit applicant shall show evidence that extraordinary circumstances exist and the public interest suffers no substantial detrimental effect.

C. Variance permits for development located landward of the ordinary high mark, and/or landward of any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:

   i. That the strict application of the bulk, dimensional or performance standards set forth in the Master Program preclude, or significantly interfere with, reasonable use of the property;

   ii. That the hardship described Section 7.3.4(A) is specifically related to the property and is the result of unique conditions, such as irregular lot shape, size, or natural features, and not from deed restrictions or from the actions of the applicant or a predecessor in title;

   iii. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and this Master Program, and will not cause net loss to shoreline ecological functions;

   iv. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;

   v. That the variance requested is the minimum necessary to afford relief; and

   vi. That the public interest will suffer no substantial detrimental effect.

D. Variance permits for development and/or uses that will be located waterward of the ordinary high water mark or within any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:

   i. That the strict application of the bulk, dimensional or performance standards set forth in this Master Program preclude all reasonable use of the property;

   ii. That the proposal is consistent with the criteria established under Section 7.3.4.C; and

   iii. The action will not adversely affect public rights of navigation and use of the shorelines.
E. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if there were previous granting of variances to other developments in the area where similar circumstances exist, the total of the variances shall remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to shoreline ecological functions.

F. Variances shall not authorize prohibited uses listed within Tables 1 through 3 under Section 2.11.

G. The county shall forward its Notice of Decision on applications for shoreline variance permits to The Department of Ecology pursuant to Section 7.5.10 and WAC 173-27-130, -190, and -200, for final approval, approval with conditions, or denial. No approval is final until The Department of Ecology acts upon the variance permit.

Section 7.5 Authority and responsibility

7.5.1 Administrator

A. The Planning Director or his/her designee is the Administrator of this Master Program.

B. The responsibility and authority of the Administrator is to:
   i. Provide overall administration of this Master Program;
   ii. Make administrative decisions and interpretations of the policies and regulations of this Master Program and the Shoreline Management Act in consultation with the Department of Ecology;
   iii. Advise interested people and prospective permit applicants as to the requirements and administration of this Master Program;
   iv. Grant or deny statements of exemption;
   v. Determine completeness of application materials and coordinate permit application compliance with environmental review under Chapter 18.04 GHCC;
   vi. Prepare and distribute Notices of Application and coordinate receipt of public comment;
   vii. Prepare and adopt findings of fact, conclusions, and decision that grants or denies a substantial development permit;
   viii. Issue a stop work order pursuant to the procedures set forth in WAC 173-27-270 upon a person undertaking an activity on shorelines in violation of RCW 90.58 or this Master Program and to seek remedies for alleged violations;
   ix. Prepare written recommendations to the Planning Commission on permit applications for conditional use permits, variances, and consolidated permits, and to assure that all relevant information, testimony, and questions regarding a specific matter is available to the Planning Commission during their review and decision process; and
- Prepare and submit to the Department of Ecology a final decision by the county on the permit application or a permit revision.

7.5.2 Planning Commission

A. The authority of the Grays Harbor Planning Commission is to:
   i. Hear appeals relating to administrative interpretations and decisions, including letter of exemptions and substantial development permits;
   ii. Prepare and adopt findings of fact, conclusion, and decision that grants or denies a conditional use permit;
   iii. Prepare and adopt findings of fact, conclusion, and decision that grants or denies a variance; and
   iv. Prepare and adopt findings of fact, conclusion, and decision that grants or denies a consolidated permit.

B. The Planning Commission has the responsibility to periodically review the Master Program and make recommendations for amendments to the Board of Commissioners in accordance with the procedures set forth in Chapter 8.

7.5.3 Hearing Examiner

A. Ordinance 429 grants the Board of County Commissioners the ability to opt for a Hearing Examiner which has the same authority as the Planning Commission under Section 7.4.2 A.

7.5.4 Board of Commissioners

A. The Grays Harbor County Board of Commissioners is responsible for initiating and adopting amendments to this Master Program in accordance with Chapter 8.

Section 7.6 Application review and appeal procedures

7.6.1 Pre-application conferences

A. Before filing a permit application for a shoreline substantial development permit, variance or conditional use permit decision, the applicant should contact the county to schedule a pre-application conference. The conference is not required, but may be requested by the applicant, for development activities associated with shoreline restoration projects, agriculture, commercial forestry, or the construction of a single-family residence.

B. The purpose of the pre-application conference is for the county to review and discuss the application requirements with the prospective permit applicant and provide initial comments on the development proposal. The county shall schedule the pre-application conference within 30 days from the date of receiving the applicant's request.
C. Information presented at or requested during the pre-application conference shall be valid for a period of 180 days following the pre-application conference. An applicant wishing to submit a permit application more than 180 days following a pre-application for the same permit application shall have to schedule another pre-application conference.

D. At or subsequent to a pre-application conference, the county may issue a preliminary determination that a proposed development is not permissible under the Master Program.

7.6.2 Minimum application requirements

A. A complete application for a Substantial Development, Conditional Use, or Variance Permit shall contain, at a minimum, the following information:

i. The name, address, and phone number of the applicant: The applicant should be the owner of the property or the primary proponent of the project and not the representative of the owner or primary proponent.

ii. The name, address and phone number of the applicant’s representative if other than the applicant.

iii. The name, address and phone number of the property owner, if other than the applicant.

iv. Location of the property: This shall include at a minimum the property address and identification of the section, township, and range to the nearest quarter, quarter section, or latitude and longitude to the nearest minute. All applications for projects located in open water areas away from land shall provide a longitude and latitude location.

v. Identification of the name of the shoreline (waterbody) with which the site of the proposal is associated. This should be the waterbody from which jurisdiction of the Act over the project is derived.

vi. A general description of the proposed project that includes the proposed development and modifications necessary to accomplish the project.

vii. A general description of the property as it now exists including its physical characteristics and improvements and structures.

viii. A general description of the vicinity of the proposed project including identification of the adjacent uses, structures, and improvements, intensity of development and physical characteristics.

ix. A State Environmental Policy Act checklist, when required.

x. Special critical area reports required under Section 18.06.020 GHCC.
xi. A site development plan consisting of maps and elevation drawings, drawn to an
appropriate scale to depict clearly all required information, photographs and
text which shall include:

a) The boundary of the parcel(s) of land upon which the development is
proposed; and

b) The ordinary high water mark of all waterbodies located adjacent to or within
the boundary of the project. This may be an approximate location provided,
that for any development where a determination of consistency with the
applicable regulations requires a precise location of the ordinary high water
mark, the mark shall be located precisely and the biological and hydrological
basis for the location as indicated on the plans shall be included in the
development plan. Where the ordinary high water mark is neither adjacent
to or within the boundary of the project, the plan shall indicate the distance
and direction to the nearest ordinary high water mark of a shoreline.

c) Existing and proposed land contours: The contours shall be at intervals
sufficient to determine accurately the existing character of the property and
the extent of the proposed change to the land that is necessary for the
development. Areas within the boundary that not altered by the
development may be indicated as such and contours approximated for that
area.

d) A delineation of all wetland areas, including those that will be altered or used
as a part of the development.

e) A general indication of the character of vegetation found on the site.

f) The dimensions and locations of all existing and proposed structures and
improvements including, but not limited to; buildings, paved or graveled
areas, roads, utilities, onsite sewage systems, material stockpiles or surcharge,
overwater structures, shoreline stabilization improvements, and stormwater
management facilities.

g) Where applicable, a landscaping plan for the project.

h) Where applicable, plans for development of areas on or off the site as
mitigation for impacts associated with the proposed project shall be included
and contain information consistent with the requirements of this section.

i) Quantity, source, and composition of any fill material placed on the site,
whether temporary or permanent.

j) Quantity, composition, and destination of any excavated or dredged
material.

k) A vicinity map showing the relationship of the property and proposed
development or use to roads, utilities, and existing development and uses on
adjacent properties.

l) Where applicable, a depiction of the impacts to views from existing
residential uses and public areas.

m) On all variance applications, the plans shall clearly indicate where
development could occur without approval of a variance, the physical
features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses.

xii. The required permit application fee.

7.6.3 Determination of Completeness

A. Within 28 days after receiving a permit application for a shoreline substantial development permit, conditional use permit, or variance, the county shall mail or provide in person to the permit applicant a written Determination of Completeness stating either that:

i. The application is complete; or

ii. The application is incomplete and what information is necessary to make the application complete

B. Failure of the permit applicant to submit sufficient information for a threshold determination shall be grounds for the Administrator to determine the application incomplete.

C. To the extent known by the county, the Determination of Completeness shall identify other agencies of local, state, federal, and tribal governments that may have jurisdiction over some aspect of the application.

D. A permit application is complete for purposes of this section when it meets the procedural submission requirements of the county and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness shall not preclude the county from requesting additional information or studies whether at the time of the notice of completeness or afterward if new information is required or substantial changes in the proposed action occur.

E. An application is complete under this section if the county does not issue a written Determination of Completeness to the permit applicant within 28 days of receipt.

F. Within 14 days, after an applicant has submitted to the county any additional information identified by the county as being necessary for a complete application, the county shall notify the applicant whether the application is complete or what additional information is necessary.

7.6.4 Consolidated permits

The Administrator shall consolidate a permit application required under this Master Program with other permit applications related to the same proposal whenever Titles 17 and/or 18 GHCC requires a public hearing; provided, however, the permit applicant may request the county to review each permit application separately. The county shall perform a critical area review for any permit or approval requested as required under GHCC 18.06.015 C.
7. 6.5 Notice of Application

A. Upon receipt of a completed permit application, the county shall issue a Notice of Application within 14 days of the Determination of Completeness that contains the following information:
   i. A description of the project;
   ii. The date of the application, the date of the Determination of Completeness, and the date of the Notice of Application;
   iii. A list of other any required permits and studies, if applicable;
   iv. The identification of existing environmental documents that evaluate the proposed project and where they are available for review;
   v. A statement of the public comment period;
   vi. A statement of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights;
   vii. The date, time, place, and public hearing, if applicable; and
   viii. Information on any threshold determination or scoping notice issued under Chapter 18.04 GHCC; and
   ix. Any other information determined appropriate by the county.

B. The county shall distribute the Notice of Application in accordance with the following procedures:
   i. Distributing by mail to:
      a) Property owners within 300 feet of any portion of the exterior boundaries of a subject parcel that is in a High Intensity or Coastal Community Environments;
      b) Property owners within 1,000 feet of any portion of the exterior boundaries of a subject parcel that is in a Shoreline Residential, Rural Development, Aquatic, Pacific Ocean, or Natural Environments;
      c) Agencies with jurisdiction; and
      d) Other people or agencies that requested in writing to receive Notice of Applications on a specific permit application or projects within a specific geographic area.
   i. Posting a notice of application on a conspicuous location on the subject property visible to vehicle traffic and pedestrians; and
   ii. Any other manner of notification deemed appropriate by the Administrator to inform area landowners and the public.

C. All public notices shall be deemed to have been provided or received on the date the notice is deposited in the mail or personally delivered, whichever occurs first. Failure to send notice by mail shall not invalidate such proceedings where the owner appears at the hearing or receives actual notice.
D. A Notice of Application is not required for applications exempt under Section 7.2 or letter of exemption under Section 7.2.4.

7. 6.6 Public comment

A. The public comment period for a permit application shall be no less than 30 days after the date of the Notice of Application.

B. The county may accept public comment at any time before the decision on the permit.

7. 6.7 Permit review responsibilities

A. The Administrator shall review and decide exemptions and substantial development permits and make recommendations to the Planning Commission pertaining to conditional use and variance permit applications.

B. The Planning Commission shall review and decide conditional use permits, variances, and substantial development permits consolidated with other permit applications within their review authority under Titles 17 and/or 18 GHCC.

7. 6.8 Public Hearings

A. The Planning Commission shall conduct a public hearing for permit applications involving conditional use permits, variances, and substantial development permits when consolidated with other permits that require Planning Commission or Hearing Examiner review.

B. The date of the public hearing shall be the first regularly scheduled Planning Commission meeting the day following the conclusion of the 30-day public comment period required under Section 7.5.6.

7. 6.9 Timing of decisions

Decisions on permit applications for substantial development permits, conditional use permits, and variances shall not exceed 120 days after the Determination of Completeness under Section 7.5.3.

7. 6.10 Notice of Decision and Filing

A. Upon consideration of a permit application, the review authority shall issue a Notice of Decision, whether approval or denial, that includes findings of fact and conclusions that describe its consistency with this Master Program and the Act.

B. In granting approval of a shoreline permit, the Administrator, the Planning Commission may attach conditions, modifications, or restrictions regarding the location, character, and other features of the proposed development necessary to assure that the development will be consistent with the policy and provisions of the Act and this Program as well as the supplemental authority provided in RCW 43.21C.
In cases involving unusual circumstances or uncertain effects, either the Administrator or the Planning Commission may impose a condition that requires monitoring that allows future review or reevaluation of the permit to assure its continued consistency with this Master Program and the Act.

C. The Administrator shall file the Notice of Decision, whether approval or denial, with the Department of Ecology and parties of record. A complete Notice of Decision includes:
   i. A copy of the complete application as provided under Section 7.5.2;
   ii. The Notice of Decision;
   iii. The permit data sheet required by WAC 173-27-190;
   iv. Applicable documents required under the State Environmental Policy Act Procedures, Chapter 18.04 GHCC; and
   v. Any project modifications of text or plans that occurred during the course of the county’s review process.

D. The submittal of substantial development permits, conditional use permits, variances, and revisions are complete when the Department of Ecology receives all pertinent documents required pursuant to Section 7.5.10(C). If the Department of Ecology determines the submittal does not contain all of the pertinent documents and information required, it shall identify those deficiencies and notify the county and the permit applicant in writing. The Department of Ecology will not act on a conditional use permit or variance submittal until it receives the material requested.

7.6.11 Effective dates of permits

A. The effective date of a permit shall be the date of filing of the Notice of Decision as provided below:
   i. The date of filing for a substantial development permit is the actual date of receipt by the Department of Ecology of the county’s Notice of Decision.
   ii. The date of filing for a conditional use permit or variance is the date the Department of Ecology transmits their decision to the county.
   iii. When the county simultaneously transmits its decision on a substantial development permit with its approval of either a conditional use permit or variance, the date of filing is as defined in ii of this subsection.

B. Construction activities shall not begin until 21 days from the date of filing of the Notice of Decision or until all review proceedings before the Shoreline Hearings Board are complete.

C. If a permitted development begins construction before the completion of the required 21-day period stated in Section 7.5.11(B), the construction is at the owner’s risk. If, as a result of judicial review, the courts order the removal of any portion of the
construction, or the restoration of any portion of the environment involved, or require
the alteration of any portion of a substantial development constructed pursuant to a
permit, the permit applicant cannot recover damages or costs involved in
accordance with RCW 90.85.140(5)(d).

7.6.12 Permit Revisions

A. A permit revision is necessary whenever the permit applicant proposes substantive
changes to the design, terms, or conditions within an approved permit. Changes are
substantive if the project is materially altered in a manner that relates to its
conformance to the terms and conditions of the permit, the Master Program, and/or
the policies and provisions of the Act.

B. If the county determines that the proposed changes are within the scope and intent
of the original permit, and are consistent with the Master Program and the Act, the
permit may be approved. “Within the scope and intent of the original permit” means
all of the following:
   i. No additional over-water construction is involved except that a pier, dock or
      floating structure may be increased by 10 percent over that approved under the
      original approval;
   ii. Ground area coverage and/or height may be increased a maximum of ten
      percent (10%) over that approved under the original approval; provided that, the
      revised approval does not authorize development to exceed the height,
      impervious surface, setback or any other requirements of this Program except as
      authorized under a variance granted for the original development;
   iii. Additional or revised landscaping is consistent with any conditions attached to
      the original approval and with this Program;
   iv. The use authorized pursuant to the original approval is not changed; and
   v. The revision will not cause an adverse environmental impact.

C. The permit applicant will submit a written request for a revision to a shoreline permit to
the Administrator. The request shall include detailed plans and text describing the
proposed changes. The county authority that approved the original permit will
review the request to assure consistency with this Master Program and the Act and
may approve, approve with conditions, or deny the request upon adopting a Notice
of Decision as provided under Section 7.5.10.

D. Revisions to permits may be authorized after original permit authorization has expired
under RCW 90.58.143. The purpose of such revisions shall be limited to authorization
of changes which are consistent with this section and which would not require a
permit for the development or change proposed under the terms of Chapter 90.58
RCW, this regulation, and the Master Program. If the proposed change constitutes
substantial development then a new permit is required. Provided, this subsection shall
not be used to extend the time requirements or to authorize substantial development beyond the time limits of the original permit.

E. The county shall require a new permit if the proposed revision and any previously approved revisions in combination would constitute development beyond the scope and intent of the original approval.

F. Grays Harbor County shall file the Notice of Decision for a revision with the Department of Ecology as provided under Section 7.5.10(C).

7. 6.13 Expiration of Exemptions and Permits

A. The following time requirements shall apply to all permit exemptions, substantial development permits, conditional use permits, or variances:

i. Construction shall commence, or those uses or activities when there is no construction involved, within two years of the effective date of the permit or permit exemption. The Administrator may authorize a single, one-year extension based on reasonable factors, if the permit applicant files a written request for extension before the expiration date and the county gives notice of the proposed extension to parties of record and the Department of Ecology.

ii. Authorization to conduct development activities shall terminate five (5) years after the effective date of a permit or permit exemption. The Administrator may authorize a single extension for a period not to exceed one year based on reasonable factors, if the permit applicant files a written request for an extension before the expiration date and the county gives notice of the proposed extension to parties of record and the Department of Ecology.

iii. The effective date of a shoreline permit is the date of filing as provided in Section 7.5.10. The permit time periods identified in this section do not include the time that a development did not commence due to:

a) The pendency of administrative appeals; or

b) Legal actions or the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals.

7. 6.14 Appeals and Compensation

Any person aggrieved by the granting, denying, or revising of a shoreline substantial development permit, conditional use permit, or variance may seek review from the Shoreline Hearings Board in accordance with RCW 90.58.180 and Chapter 461-08 WAC. The filing of the appeal with the Shoreline Hearings Board must be within 21 days of the date of filing for a Notice of Decision as provided in Section 7.5.10.
The purpose and intent of the regulations within this Master Program shall not violate Article I Section 16 – EMINENT DOMAIN, where, “No private property shall be taken or damaged for public or private use without just compensation...” Full text below.

“Article 1 Section 16, Eminent Domain – Private property shall not be taken for private use, except for private ways of necessity, and for drains, flumes or ditches on or across the lands of others for agricultural, domestic or sanitary purposes. No private property shall be taken or damaged for public or private use without just compensation having first been made, or paid into court for the owner, and no right of way shall be appropriated to the use of any corporation other than municipal, until full compensation therefore be first made in money, or ascertained and paid into the court for the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived as in other civil cases in courts of record in the manner prescribed by law. Whenever an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be really public shall be a judicial question, and determined as such without regard to any legislative assertion that the use is public.”

Section 7.7 Enforcement

7. 7.1 Authority

Grays Harbor County may bring such declaratory, injunctive, or other action as may be necessary to assure that no development within shoreline jurisdiction is inconsistent with the provisions of this Master Program or the Act. The Department of Ecology also shall have enforcement authority pursuant to Chapter 90.58 RCW and Chapter 173-27 WAC “Part II Shoreline Management Act Enforcement.”

7. 7.2 Process

A. The county shall have the authority to serve upon a person a cease and desist order if an activity undertaken on shorelines of the state is in violation of chapter 90.58 RCW or the Master Program.

B. The content of the order shall set forth and contain:

i. A description of the specific nature, extent, and time of violation and the damage or potential damage; and

ii. A notice that the violation, or the potential violation, shall cease and desist and may include in appropriate cases, the specific corrective action the person shall take within a given time. The county may issue a civil penalty under WAC 173-27-280 with the order.

C. The cease and desist order issued under this section shall become effective immediately upon receipt by the person to whom the order is directed.

D. Failure to comply with the terms of a cease and desist order can result in enforcement actions including, but not limited to, the issuance of a civil penalty.
7. 7.3 Civil penalty

A. A person who fails to conform to the terms of a substantial development permit, conditional use permit, or variance issued under RCW 90.58.140, or who undertakes a development or use on shorelines of the state without first obtaining a permit, or who fails to comply with a cease and desist order issued under these regulations, may be subject to a civil penalty by the county and/or the Department of Ecology. The county and/or the Department of Ecology may impose a penalty only upon an additional finding that a person:

i. Has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule;

ii. Has been given previous notice of the same or similar type of violation of the same statute or rule;

iii. The violation has a probability of placing a person in danger of death or bodily harm;

iv. Has a probability of causing more than minor environmental harm; or

v. Has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars.

B. In the alternative, the county and/or the Department of Ecology may issue a penalty to a person for violations that do not meet the criteria of under Section 7.6.3(A) of this section, after the Department of Ecology and/or county provides the following information in writing to a person through a technical assistance visit or a notice of correction:

i. A description of the condition that is not in compliance and a specific citation to the applicable law or rule;

ii. A statement of what is required to achieve compliance;

iii. The date of completion for compliance to be achieved;

iv. Notice of the means to contact any technical assistance services provided by the agency or others; and

v. Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the agency.

C. No penalty shall be issued until the person or business has been given a reasonable time to correct the violation and has not done so.

D. The amount of the penalty shall not exceed 1,000 dollars for each violation. Each day of violation shall constitute a separate violation.
E. Any person who, through an act of commission or omission, procures, aids or abets in the violation, shall be considered to have committed a violation for the purposes of the civil penalty.

F. A civil penalty shall be imposed by a Notice of Penalty in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the Department of Ecology and/or the county, or from both jointly. The notice shall describe the violation, approximate the date(s) of violation, and shall order the acts constituting the violation to cease and desist, or, in appropriate cases, require necessary corrective action within a specific time.

7. 7.4 Criminal penalties

Any person willfully engaged in activities on the shorelines of the state in violation of the Act, this Master Program, or any rules and regulations adopted pursuant thereto, shall be guilty of a gross misdemeanor, pursuant to RCW 90.58.220.
Chapter 8: Master Program Amendments

Section 8.1  General

8.1.1 Their Master Program implements the policies of the Act within Grays Harbor County. The Master Program may be amended as appropriate in order to assure:

A. That the Master Program complies with applicable law and guidelines in effect at the time of the review;

B. Assure consistency of the Master Program with the county comprehensive plans, development regulations, and other county code and policy provisions, and/or

C. Make it more equitable in its application to people, property, or changed conditions within the county.

8.1.2 All amendments to the Master Program shall be consistent with WAC 173-26-100 or WAC 173-26-104.

Section 8.2  Periodic Review

A. The Administrator shall assist the Planning Commission in conducting an annual review of this Master Program to evaluate its relationship to county goals, the cumulative effects of development, new information, and changes in local, state, and federal rules and statutes.

B. The county may review and amend the Master Program in accordance with the provisions under Section 8.4 when necessary, but no less than required under statute RCW 90.58.080.

Section 8.3  Initiation of Amendment

8.3.1 Any person or governmental or non-governmental body may initiate amendments to this Master Program.

8.3.2 If the amendment is initiated by a member of the Board of County Commissioners, the Planning Commission has no requirement to hear the amendment. The public hearing and process may be scheduled with the Board of County Commissioners as a substitute for the Planning Commission.

8.3.3 Requests for amending this Master Program shall be in writing to the Administrator and shall specify the changes requested, including all justification for the amendment.

Section 8.4  Amendment Procedures
8.4.1 Upon receipt of the amendment request, the Administrator shall forward it to the Planning Commission at its next regularly scheduled meeting. At that meeting, the Planning Commission shall set a date to hold a public hearing within the next 60 days.

A. Publishing in one or more newspapers of general circulation in the county;
B. Mailing to any person, group, federal, state, regional, or local agency, and tribes having interests or responsibilities relating to the subject shorelines; and
C. Any other method determined appropriate by the Administrator.

8.4.2 The public hearing notice shall include:

A. A statement or summary of the draft proposal;
B. A reference to the section of the Master Program proposed for amendment;
C. The date, time and place and the procedure for submitting comments; and
D. Information about where and when the public may inspect documents relating to the draft proposal.

8.4.3 The county will consult and solicit the comments of any person, group, federal, tribal, state, regional, and local governments having interests or responsibilities relating to the proposed amendment before the public hearing occurs.

8.4.4 Upon conclusion of the public hearing, the Planning Commission will evaluate the petition in satisfying the following criteria:

A. The proposed amendment would make this Master Program more consistent with the Act and/or any applicable rules under the Washington Administrative Code;
B. The proposed amendment would make this Master Program more equitable in its application to persons or property due to changed conditions in the county;
C. The proposed amendment shall not result in a net loss of ecological function as of the effective date of this Master Program; and
D. Comments from any person, group, federal, tribal, state, regional, and local government.

8.4.5 The Planning Commission shall prepare findings of fact, conclusions, and recommendation on approving or denying the petition in accordance with the criteria under Section 8.4.4. The Administrator shall transmit the Planning Commission recommendation, along with all petition materials and public comment, to the Board of Commissioners within 10 days.

8.4.6 Upon receipt of the Planning Commission recommendation, the Board of Commissioners may approve, approve with amendments, or deny the petition by motion.
8.4.7 The Administrator shall transmit an approved amendment by the Board of Commissioners to the Department of Ecology in accordance with procedures set forth within -WAC 173-26-110.

8.4.8 The amendment to the Master Program shall take effect as provided under RCW 90.58.090.


Chapter 9: Definitions

The terms used throughout this Master Program shall be defined and interpreted as indicated below. When consistent with the context, words used in the present tense shall include the future; the singular shall include the plural, and the plural the singular.

“Accretion” means the growth of a beach by the addition of material transported by wind and/or water. Included are such shore forms as barrier beaches, points, spits, hooks, and tombolos.

“Act” means the Washington State Shoreline Management Act, chapter 90.58 RCW.

“Agriultural activities” means agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation;

“Agricultural products” includes, but is not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products including, but not limited to, meat, upland finfish, poultry and poultry products, and dairy products;

“Agricultural equipment” and “agricultural facilities” includes, but is not limited to:

i. The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains;

ii. Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;

iii. Farm residences and associated equipment, lands, and facilities; and

iv. Roadside stands and on-farm markets for marketing fruit or vegetables;

“Agricultural land” means those specific land areas on which agricultural activities are conducted as of the date of adoption of a local master program pursuant to these guidelines as evidenced by aerial photography or other documentation. After the effective date of the master program, land converted to agricultural use is subject to compliance with the requirements of the master program.
"Amendment" means a revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.

"Appurtenant structures" means those structures connected to the use and enjoyment of a single-family residence that are located landward of the ordinary high water mark and the perimeter of a wetland. Normal appurtenances include a garage; deck; shed or greenhouse; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Construction authorized under this exemption shall be located landward of the ordinary high water mark.

"Aquaculture" means the culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery.

"Associated wetlands" means those wetlands which are in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to RCW 90.58.

"Average grade level" means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure: In the case of structures to be built over water, average grade level shall be the elevation of the ordinary high water mark. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure.

"Backdune" means a dune located behind the foredune or primary dune usually stabilized by vegetation such as grasses, bushes, and low trees.

"Beach enhancement or restoration" means the process of restoring a beach to a state more closely resembling a natural beach, using as non-intrusive means as applicable.

"Best available science" means the most reliable and available scientific information, most often used in the context of local government compliance with the State Growth Management Act (RCW 36.70A.172) for developing policies and development regulations regarding critical areas (WAC 365-195).

"Best management practices" means the implementation of policies, practices, procedures, or structures, that through experience and research, has proven to reliably mitigate adverse environmental effects by development or activities. Best management practices may include structural and non-structural methods.

"Bioengineering" means project designs or construction methods that use live woody vegetation or a combination of live woody vegetation and specially developed natural or synthetic materials to establish a complex root grid within the existing bank that is resistant to erosion, provides bank stability, and maintains a healthy riparian environment with habitat features important to fish life. Use of wood structures or limited use of clean angular rock may be allowable to provide stability for establishment of the vegetation (WAC 220-110-020(12)).

"Boating facility" means a facility that includes boat launch ramps, covered moorage, dry boat storage, and marinas. The term excludes docks serving four or fewer single-family residences.
“Boat launch” means an inclined slab, set of pads, rails, planks, or graded slope used for launching boats with trailers or by hand.

“Buffer” means a strip of land designed and designated to remain permanently vegetated to protect an adjacent aquatic or wetland resource from landward impacts, improve water quality, and to provide habitat for fish and wildlife.

“Bulkhead” means solid, open-pile, or irregular wall of rock, rip-rap, concrete, steel, or timber or combination of these materials erected parallel to and near ordinary high water mark to provide a protective vertical wall resistant to water and wave action.

“Channel migration zone (CMZ)” means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

“Clearing” means the destruction or removal of vegetation from a site by physical, mechanical, chemical, or other means. This does not include landscape maintenance or pruning consistent with accepted horticultural practices, which does not impair the health or survival of the trees or native vegetation.

“Coastal waters” means the waters of the Pacific Ocean seaward from Cape Flattery south to Cape Disappointment, from mean high tide seaward two hundred miles.

“Conditional use” means a use, development, or substantial development that is classified as a conditional use or is not classified within the applicable master program.

“Critical areas” as defined under chapter 36.70A RCW includes the following areas and ecosystems:

i. Wetlands;

ii. Areas with a critical recharging effect on aquifers used for potable waters;

iii. Fish and wildlife habitat conservation areas;

iv. Frequently flooded areas; and

v. Geologically hazardous areas.

“Deflation plain” means the broad interdunal backdune area that is wind-scoured to the level of the summer water table.

“Department” means the state department of ecology.

“Development” means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this chapter at any state of water level.

“Development regulations” means the controls placed on development or land uses by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted
under chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto.

“Dike” means an artificial embankment normally set back from the bank or channel in the floodplain for keeping floodwaters from inundating adjacent land.

“Dock” means a landing and/or moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. A dock floats on the surface of the water and is connected to land or a pier.

“Document of record” means the most current shoreline master program officially approved or adopted by rule by the department for a given local government jurisdiction, including any changes resulting from appeals filed pursuant to RCW 90.58.190.

“Dredge disposal site” means that portion of the waters of the United States where specific disposal activities are permitted and consist of a bottom surface area and any overlying volume of water.

“Dredged material” means material excavated from freshwater, estuarine, or marine waters.

“Dune” means accumulation of windblown sand on the upper part of a beach above the normal reach of tides, usually in the form of small hills or ridges, stabilized by vegetation or control structures. Subclasses of dunes include: the foredune, backdune, deflation plain, and incipient foredune or littoral unit.

“Dune modification” means the removal or addition of material to a dune, the reforming or reconfiguration of a dune, or the removal or addition of vegetation that will alter the dune’s shape or sediment migration.

“Ecological functions” or “shoreline functions” include but are not limited to hydrologic functions such as transport of water and sediment, shoreline vegetation, hyporheic functions, and habitat functions.”
"Ecosystem-wide processes" means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions. Examples of ecosystem-wide processes include movement of sediment, surface- and groundwater, nutrients, toxins, pathogens, and large wood.

"Erosion" means the general process or the group of processes whereby the material of the earth’s crust are loosened, dissolved, or worn away, and simultaneously moved from one place to another, by natural forces that include weathering, solution, corrosion, and transportation, but usually exclude mass wasting.

"Exemption" or "Exempt" means developments as set forth in WAC 173-27-040 and RCW 90.58.030 (3)(e), 90.58.147, and 90.58.515 which are not required to obtain a substantial development permit but which must otherwise comply with applicable provisions of the act and the local master program.

"Extreme low tide" means the lowest line on the land reached by a receding tide.

"Fair market value" of a development is the open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed, or found labor, equipment, or materials.

"Feasible" means, for the purpose of this chapter, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

i. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;

ii. The action provides a reasonable likelihood of achieving its intended purpose; and

iii. The action does not physically preclude achieving the project’s primary intended legal use.

In cases where the Master Program requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.

In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

"Fill" means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the ordinary high water mark, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

"Fish hatchery" means a facility designed for the artificial breeding, hatching, and rearing through the early life stages of finfish.
“**Float**” means a platform structure anchored in and floating upon a water body that does not connect to the shore, and that provides landing for water dependent recreation or moorage for vessels or watercraft, and that does not include above water storage.

“**Floating home**” means a single-family dwelling unit constructed on a float that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed.

“**Floating on-water residence**” means any floating structure other than a floating home that:

1. Is designed or used primarily as a residence on the water and has detachable utilities; and
2. Whose owner or primary occupant has held an ownership interest in space in a marina, or has held a lease or sublease to use space in a marina, since a date prior to July 1, 2014.

“**Flood hazard reduction measures**” may consist of

1. Nonstructural measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures, and stormwater management programs, or
2. Structural measures, such as dikes, levees, revetments, floodwalls, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.

“**Flood plain”** is synonymous with one hundred-year flood plain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the act.

“**Floodway**” means the area that has been established in effective federal emergency management agency flood insurance rate maps or floodway maps. The floodway does not include lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

“**Foredune”** means the long, essentially continuous, first ridge of vegetated sand paralleling the beach above the ordinary high water mark, sometimes referred to as the primary dune.

“**Foredune, Active**” means an unstable barrier ridge of sand paralleling the beach and subject to wind erosion, and growth from new sand deposits. Active foredunes may include areas with beach grass and occur in sand spits and at river mouths as well as elsewhere.

“**Foredune, Conditionally stable**” means an active foredune that has ceased growing in height and that has become conditionally stable with regard to wind erosion.

“**Forest land”** means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under *RCW 84.33.100* through *84.33.140*, and that has long-term commercial significance. In determining whether forest land is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to
urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forest land to other uses.1

“Geotechnical report” or “geotechnical analysis” means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

“Free Market Environmentalism” means that the free market and property rights are the best means of preserving the environment, internalizing pollution costs and conserving resources.

“Grading” means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

“Guidelines” means those standards adopted by the department to implement the policy of chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards shall also provide criteria for local governments and the department in developing and amending master programs.

“Hazard tree” means any tree that presents a risk to persons or property due to a high probability of falling in the near future because of a debilitating disease, a structural defect, a root ball significantly exposed, or having been exposed to windthrow within the past ten years. Hazardous trees include, but are not limited to, conditions where a permanent, primary structure or appurtenant or accessory structure is within one and one half tree lengths of the base of the trunk.

“Height” is measured from average grade level to the highest point of a structure: Provided, That television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included; provided further, that temporary construction equipment is excluded in this calculation.

“Incipient dunes” or “littoral unit” means the open area between the western toe of the first distinct foredune ridge and the line of extreme low tide.

“Instream structural developments” means a structure placed by humans within a stream, river, or estuary waterward of the ordinary high water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water
supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose.

“Invasive species” means a nonnative plant or animal species that either:

i. Causes or may cause significant displacement in range, a reduction in abundance, or otherwise threatens, native species in their natural communities; or

ii. Threatens or may threaten natural resources or their use in the state;

iii. Causes or may cause economic damage to commercial or recreational activities that are dependent upon state waters; or

iv. Threatens or harms human health (RCW 77.08.010(28))

“Jetty” means a structure usually projecting out into the water for the purpose of protecting a navigation channel, a harbor, or to influence water currents.

“Levee” means a large dike or embankment designed as part of a system to protect land from floods and often having an access road along the top.

“Littoral drift” means the movement of sand from river mouths to the beach due to the direction of prevailing currents.

“Littoral cell” or “drift cell” means a particular reach of marine or estuarine shore in which littoral drift may occur without significant interruption and which contains any natural sources of such drift and also accretion shore forms created by such drift.

“Local government” means Grays Harbor County.

“Long-term commercial significance” includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land’s proximity to population areas, and the possibility of more intense uses of the land (GHCC 18.10.020(5)).

“Low impact development (LID)” means a stormwater and land use management strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

“Low impact development (LID) best management practices (BMPs)” means distributed stormwater management practices, integrated into a project design, that emphasize pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration. LID BMPs include, but are not limited to: bioretention, rain gardens, permeable pavements, roof downspout controls, dispersion, soil quality and depth, minimal excavation foundations, vegetated roofs, and water re-use.

“Maintenance dredging” means dredging for the purpose of maintaining a previously authorized width and depth of a channel, boat basin or berthing area. Authorization is from a federal, state, or local permit as part of a specific waterway project.
"Marine" means pertaining to tidally influenced waters, including oceans, sounds, straits, marine channels, and estuaries, including the Pacific Ocean, Puget Sound, Straits of Georgia and Juan de Fuca, and the bays, estuaries and inlets associated therewith.

"Master planned resort" means a self-contained and fully integrated planned unit development, in a setting of significant natural amenities that includes permanent residential and short-term visitor accommodations, including a range of commercial and indoor and/or outdoor recreational facilities.

"Master program" or "shoreline master program" shall mean the comprehensive use plan for a described area, the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020 and the applicable guidelines. As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

i. "Comprehensive master program update" means a master program that fully achieves the procedural and substantive requirements of the department's shoreline master program guidelines effective January 17, 2004, as now or hereafter amended;
ii. "Master program amendment" means a master program amendment is not intended to meet the complete requirements of a comprehensive master program update. Master program amendments include locally initiated amendments to address specific procedural and/or substantive topics as well as amendments adopted to meet the periodic review requirements of RCW 90.58.080(2).

"May" means the action is acceptable, provided it conforms to the provisions of this chapter.

"Minerals or mineral lands" means lands primarily devoted to the extraction of minerals or that have known or potential deposits of minerals. Minerals include gravel, sand, and valuable metallic substances. GHCC 18.10.050 designates mineral lands of long-term commercial significance.

"Mining" means the removal of sand, soil, minerals, and other naturally occurring materials from the earth for commercial or economic use.

"Mitigation" means to avoid, minimize, or compensate for the adverse impacts to shoreline ecological functions and processes.

"Mooring buoy" means an anchored floating device in a waterbody used for the landing or storage of a vessel or watercraft.

"Must" means a mandate; the action is required.

"Natural or existing topography" means the topography of the lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavation or filling.

"Navigable waters" means a body of water is capable or susceptible of having been or being used for the transport of useful commerce. The State of Washington considers all
bodies of water meandered by government surveyors as navigable unless otherwise declared by a court (WAC 332-30-106).

“Nonpoint source pollution” means pollution that generally results from land runoff, precipitation, atmospheric deposition, drainage, seepage, or hydrologic modification. The “nonpoint source” is defined to mean any source of water pollution that does not meet the legal definition of “point source” in Section 502(14) of the Clean Water Act.

“Nonwater-oriented uses” means those uses that are not water-dependent, water-related, or water-enjoyment.

“Normal maintenance” means those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition.

“Normal repair” means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment.

“Noxious weeds” means non-native plants that are destructive, competitive, and difficult to control as defined by the Washington State Noxious Weed Control Board.

“Ordinary high water mark” on all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: PROVIDED, That in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water.

“Over-water structure” means a structure or other construction located waterward of the ordinary high water mark (OHWM) or a structure or other construction erected on piling above the surface of the water, or upon a float.

“Parking, Accessory” means the use of land for the purpose of accommodating motor vehicles, motorized equipment, or accessory units, such as trailers, and directly serves a permitted use.

“Parking, principal or primary” means an area of land where the principal use is the parking of motorized vehicles and is not accessory to another use.

“Party of record” includes all persons, agencies or organizations who have submitted written comments in response to a notice of application; made oral comments in a formal public hearing conducted on the application; or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail.

“Permit” means any substantial development, variance, conditional use permit, or revision authorized under chapter 90.58 RCW.
“Permitted Use” means a use that is allowed under the rules and regulations of this Master Program.

“Person” means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated.

“Pier” means a platform structure supported by piles in a water body that abuts the shore to provide landing for water-dependent recreation or moorage for vessels or watercraft and does not include above water storage.

“Planned unit development” means one or a group of specified uses, such as residential, resort, commercial, or industrial, to be planned and constructed as a unit allowed under GHC 17.56.190. Zoning or subdivision regulations with respect to lot size, building bulk, etc., may be varied to allow design innovations and special features in exchange for additional and/or superior site amenities or community benefits.

“Primary structure” means any permanent building, road, bridge, or utility requiring a permit or approval which is necessary to support the primary use of a site.

“Primary use” means the predominate use of any lot or development as determined by the comprehensive plan and development regulations.

“Priority habitat” means a habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes:

i. Comparatively high fish or wildlife density;
ii. Comparatively high fish or wildlife species diversity;
iii. Fish spawning habitat;
iv. Important wildlife habitat;
v. Important fish or wildlife seasonal range;
vi. Important fish or wildlife movement corridor;
vii. Rearing and foraging habitat;
viii. Important marine mammal haul-out;
ix. Refugia habitat;
x. Limited availability;
xi. High vulnerability to habitat alteration;
xii. Unique or dependent species; or
xiii. Shellfish bed.

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or nonpriority fish and wildlife.

“Priority species” means species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below.
i. Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the department of fish and wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.

ii. Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.

iii. Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.

iv. Criterion 4. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.

"Permit" or "project application" means any land use or environmental permit or license required from a local government for a project action, including but not limited to building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area ordinances, site-specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations except as otherwise specifically included in this subsection.

"Provisions" means policies, regulations, standards, guideline criteria or environment designations.

"Public access" is the ability of the public or, in some cases, a specific community, to reach, touch, and enjoy the water’s edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

"Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

"Public interest" means the interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from a use or development.

"Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

"Qualified professional" means a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering,
environmental studies, fisheries, geomorphology, or related field, and two years of related work experience.

i. A qualified professional for habitats or wetlands must have a degree in biology and professional experience related to the subject species.

ii. A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington.

iii. A qualified professional for wetlands is a person with professional work experience and training in wetland issues and with experience in performing delineations, analyzing wetland functions and values, analyzing wetland impacts, and recommending wetland mitigation and restoration. Qualifications include: (1) Bachelor of Science or Bachelor of Arts or equivalent degree in biology, botany, environmental studies, fisheries, soil science, wildlife or related field, and two years of related professional work experience, including a minimum of one year experience delineating wetlands using the Unified Federal Manual and preparing wetland reports and mitigation plans. Additional education may substitute for one year of related work experience; or (2) Four years of related professional work experience and training, with a minimum of two years’ experience delineating wetlands using the Unified Federal Manual and preparing wetland reports and mitigation plans. The person should be familiar with the approved federal manual and applicable regional supplements for wetland delineation, the 2014 Washington State Wetlands Rating System for Western Washington (Ecology Publication #14-06-029), Grays Harbor County wetland development regulations and the requirements of this chapter.

iv. A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessment.

“Recreational development” means development that provides opportunities for the use and enjoyment of the shorelines of the state by the public, including but not limited to fishing, hiking, swimming, and viewing. This includes both commercial and public recreational facilities.

“Recreational development, high intensity” means uses that involve indoor or outdoor activities and athletics which often require a moderate to high level of infrastructure development for structures and equipment as well as high levels of maintenance to support recreational pursuits. Facilities and uses generally support a large number of participants or teams for recreational activities. Sports fields, golf courses, skate parks, and motorized boating are examples of active recreational facilities or use.

“Recreational development, passive” means uses that generally require a low or moderate level of infrastructure development, maintenance, and support. These uses and/or
associated facilities are compatible with open space and natural resource protection such as wildlife viewing, non-vehicular trails, fishing, canoeing, and picnicking.

“Residential development” means single-family residences, multifamily development, and the creation of new residential lots through land division.

“Restore,” “restoration” or “ecological restoration” means the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

“Rural development and uses” means development and uses identified in the county comprehensive plan:

i. In which open space, the natural landscape, and vegetation predominate over the built environment;

ii. That fosters traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;

iii. That provides visual landscapes that are traditionally found in rural areas and communities;

iv. That are compatible with the use of the land by wildlife and for fish and wildlife habitat;

v. That reduces the inappropriate conversion of undeveloped land into sprawling, low-density development;

vi. That generally does not require the extension of urban governmental services; and

vii. That is consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.
“Salvage” means the action of a third party where property is saved from the peril of the sea.

“Salvage, archeological” means a type of salvage for the recovery of either cargo or artifacts usually submerged.

“Salvage operation” means any act or activity undertaken to assist a vessel or any other property in danger in navigable waters or any waters whatsoever.

“Selective clearing” for trees includes:

i. “Windowing,” the pruning major limbs that obscure a view, excluding the top third of the tree;

ii. “Interlimbing,” the removal of an entire branch or individual branches through the canopy, excluding the top third of the tree, to allow more light to pass through as well as reducing wind resistance; and

iii. “Skirting-up,” the limbing of the tree from the bottom upward to a maximum of twenty feet from the ground.

“Shall” means a mandate; the action must be done.

“Shared or joint use moorage” means moorage constructed and utilized by more than one waterfront property owner or by a homeowner’s association that owns waterfront property. Shared moorage includes moorage for pleasure craft and/or landing for water sports for use in common by shoreline residents or for use by patrons of a public park or quasi-public recreation area, including rental of non-powered craft.

“Shorelands” or “shoreland areas” means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the department of ecology.

“Shorelines” means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except

i. Shorelines of statewide significance;

ii. Shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and
iii. Shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

"Shoreline areas" and "shoreline jurisdiction" means all "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

"Shoreline modifications" means those actions generally related to construction of a physical element such as a bulkhead or pier at or near the water's edge or extending into and over the water. Other shoreline modification actions include dredging, filling, or vegetation clearing in the shoreline jurisdiction. Modifications are usually undertaken in support of or in preparation for an allowed shoreline use or development.

"Shorelines of statewide significance" means a select category of shorelines of the state, defined in RCW 90.58.030(2), where special policies apply.

"Shorelines of the state" are the total of all "shorelines" and "shorelines of statewide significance" within the state.

"Shoreline uses" means developments or activities that are located in shoreline jurisdiction, such as marinas, parks, homes, and businesses.

"Should" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.

"Significant vegetation removal" means the removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

"State master program" means the cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by the department.

"Structure" means a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels.

"Substantially degrade" means to cause significant ecological impact.

"Substantial development" shall mean any development of that the total cost or fair market value exceeds six thousand four hundred and sixteen dollars ($6,416), or as adjusted by the State Office of Financial Management, or any development that materially interferes with the normal public use of the water or shorelines of the state, except as specifically exempted pursuant to RCW 90.58.030(3e) and WAC 173-27-040. See also definition of "development" and "exemption."
“Transmit” means to send from one person or place to another by mail or hand delivery. The date of transmittal for mailed items is the date that the document is certified for mailing or, for hand-delivered items, is the date of receipt at the destination.

“Upland finfish rearing facilities” means those private facilities not located within waters of the state where finfish are hatched, fed, nurtured, held, maintained, or reared to reach the size for commercial market sale. This shall include fish hatcheries, rearing ponds, spawning channels, and other similarly constructed or fabricated facilities. Upland finfish rearing facilities constitute an agricultural activity.

“Utilities” means services and facilities that produce, convey, store, or process power, water, wastewater, stormwater, gas, communications, oil, and the like. On-site utility features serving a primary use, such as water, sewer, or gas line to a residence, are “accessory utilities” and shall be considered a part of the primary use.

“Variance” is a means to grant relief from the specific bulk, dimensional or performance standards set forth in the applicable master program and not a means to vary a use of a shoreline.

“Vegetation conservation” means activities to protect and restore vegetation along or near marine and freshwater shorelines that contribute to the ecological functions of shoreline areas. Vegetation conservation provisions include the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and nonnative species.

“Vegetation, Native” means vegetation comprised of plant species, other than noxious weeds, that are naturally occurring in the surrounding shoreline environment. Examples of trees include Douglas fir, western hemlock, western red cedar, alder, big-leaf maple, and vine maple. Examples of shrubs and plants include willow, elderberry, salmonberry, salal, sword fern, and fireweed.

“Vessel” includes ships, boats, barges, or any other floating craft which are designed and used for navigation and do not interfere with the normal public use of the water.

“Water-dependent use” means a use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations.

“Water-enjoyment use” means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public’s ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.
"Water-oriented use" means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

"Water quality" means the physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, the term "water quantity" refers only to development and uses regulated under this chapter and affecting water quantity, such as impermeable surfaces and storm water handling practices. Water quantity, for purposes of this chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

"Water-related use" means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

i. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or

ii. The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

"Wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.
Appendix A: Shoreline Environment Designation (SED) Maps
Appendix A: Shoreline Environment Designation (SED) Maps
Appendix A: Shoreline Environment Designation (SED) Maps
Appendix A: Shoreline Environment Designation (SED) Maps
Appendix A: Shoreline Environment Designation (SED) Maps
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Appendix A: Shoreline Environment Designation (SED) Maps
Appendix A: Shoreline Environment Designation (SED) Maps
Appendix A: Shoreline Environment Designation (SED) Maps
Appendix A: Shoreline Environment Designation (SED) Maps
Appendix B: List of Rivers, Streams, and Lakes Constituting Shorelines of the State in Grays Harbor County

Consistent with SMP Section 1.4.7, this master program does not apply to:

1. lands held in trust by the United States for Indian Nations, tribal governments, or individuals; or
2. lands within the boundaries of the Olympic National Park in accordance with RCW 37.08.210

Rivers and Streams (*Denotes Shorelines of Statewide Significance (SSWS))

Anderson Creek
Andrews Creek
Big Creek
Big Creek, East Fork
Big Creek, South Branch
Big Creek, West Fork
Bitter Creek
Black Creek
Black River
Boone Creek
Boulder Creek (47 25 38, 123 53 25)
Boulder Creek (47 27 38, 124 01 47)
Brittain Creek
Camp Creek (47 26 29, 124 00 19)
Camp Creek (47 23 32, 124 14 58)
Cannings Creek
Canoe Creek
Canyon River
Carter Creek
Cedar Creek (Sec. 23, 19N., R12W.)
Cedar Creek (Sec. 2, T16N., R4W.)
Cedar Creek (47 27 41, 124 08 11)
Charley Creek
Chehalis River
Chenois Creek
Chester Creek
Chikamin Creek
Cloquallum Creek
Connor Creek
Cook Creek
Copalis River
Crane Creek
Damon Creek
Davis Creek
Decker Creek
Deep Creek
Delezene Creek
Donkey Creek
Dry Creek
Duck Creek
Elk Creek

Appendix A: Shoreline Environment Designation (SED) Maps
Elk River
Elk River, East Branch
Elkhorn Creek
Fairchild Creek
Falls Creek (47 27 08, 123 50 25)
Falls Creek (47 20 36, 123 39 53)
Finley Creek
Fletcher Canyon
Garrard Creek
Garrard Creek, South Fork
Gibson Creek
Go Forth Creek
Grouse Creek
Hansen Creek
Harlow Creek
Harris Creek
Hathaway Creek
Hoquiam River
Hoquiam River, East Fork
Hoquiam River, Middle Fork
Hoquiam River, West Fork
Howe Creek
Humptulips River* (SSWS beginning at the confluence of the East and West forks)
Humptulips River, East Fork
Humptulips River, West Fork, West Fork
Independence Creek
Joe Creek (47 13 36, 124 04 52)
Joe Creek (47 23 44, 124 04 19)
Joe Creek (46 50 16, 123 44 07)
Johns River, South Fork
Johns River, North Fork
Johns River
Kestner Creek
Larson Creek
Little River
Little North River
Lower Salmon Creek
Lunch Creek
McCalla Creek
Meadow Creek
Metcalf Slough
Moclips River
Moclips River (North Fork)
Mox Chehalis Creek
Neil Creek
Newbury Creek
Newman Creek
Newskah Creek
Noname Creek
North River* (SSWS from mouth of Lower Salmon Creek)
North River (East Fork)
O’Took Creek

Appendix A: Shoreline Environment Designation (SED) Maps
Parker Creek
Pete’s Creek
Phillips Creek
Pioneer Creek
Porter Creek
Porter Creek, North Fork
Porter Creek, South Fork
Porter Creek, West Fork
Prairie Creek
Quilchena River
Quinault River
Raft River
Raft River (North Fork)
Raft River (South Fork)
Railroad Creek
Raimie Creek (Right Fork)
Ramey Creek
Red Creek
Rock Creek
Salmon Creek
Salmon River
Salmon River (North Fork)
Salmon River (South Fork)
Sand Creek
Satsop River
Satsop River, East Fork
Satsop River, Middle Fork
Satsop River, West Fork
Save Creek
Schafer Creek
Smith Creek
Spoon Creek
Stevens Creek
Stevens Creek (West Fork)
Still Creek
Sylvia Creek
Ten O’Clock Creek
Trout Creek
Unnamed tributary to Boulder Creek (47 26 26, 124 03 41)
Unnamed tributary to Humptulips River (47 28 16, 123 40 09)
Unnamed tributary to Humptulips River (East Fork) (47 21 24, 123 43 54)
Unnamed tributary to Humptulips River (West Fork) (47 25 04, 123 45 14)
Unnamed tributary to Humptulips River (West Fork) (47 26 27, 123 45 00)
Unnamed tributary to Joe Creek (47 13 40, 124 08 00)
Unnamed tributary to Joe Creek (47 04 28, 124 08 13)
Unnamed tributary to Joe Creek (47 04 05, 124 07 48)
Unnamed tributary to Joe Creek (47 07 19, 124 08 42)
Unnamed tributary to North River (46 49 07, 123 47 58)
Unnamed tributary to Red Creek (47 26 02, 124 16 43)
Unnamed tributary to Salmon Creek (46 53 05, 123 39 18)
Unnamed tributary to Wildcat Creek (East Fork) (47 03 45, 123 17 37)
Unnamed tributary to Wishkah River (47 13 13, 123 42 09)
Unnamed tributary to Wishkah River (47 16 04, 123 42 07)
Unnamed tributary to Wynoochee River (47 16 26, 123 39 18)
Unnamed tributary to Donkey Creek (47 19 15, 123 47 18)
Unnamed tributary to Cook Creek (47 20 07, 123 57 55)
Vance Creek
Vesta Creek, East Fork
Vesta Creek
Vesta Creek, West Fork
Wedekind Creek
Whale Creek
Whale Creek (North Fork)
Wildcat Creek
Wildcat Creek, West Fork
Wildcat Creek, East Fork
Williams Creek
Wishkah River, West Fork
Wishkah River, East Fork
Wishkah River
Wolf Creek
Workman Creek
Wreck Creek
Wynoochee River* (SSWS begins at the mouth of Carter Creek, S14, T19N, R8W)
Ziegler Creek

Lakes (*Denotes Shorelines of Statewide Significance)

Faior Lake
Lake Quinault*
Wynoochee Lake*
Moores Lake
Unnamed Lake (46 59 26, 123 38 51)
Wildcat Pond

Similarly named waterbodies are further identified with latitude/longitude (degrees, minutes and seconds) or section/township/range.
ORDINANCE NO. 44

AN ORDINANCE amending Ordinances 392, 393, 400, 401, and 402 repealing and replacing Grays Harbor County Code Chapter 18.06 Critical Area Protection Ordinance

WHEREAS, Grays Harbor County finds, after consultation with affected interest groups, citizens, and state agencies, that there is a need to update certain sections of Grays Harbor County Code Title 18 relating to critical areas protection to ensure compliance with the 2018 Periodic Update to the Critical Areas Protection Ordinance mandated by the Growth Management Act; and

WHEREAS, Grays Harbor County finds that the existing Critical Areas Protection Ordinance language requires significant reorganization and language revisions for clarity, consistency, and modernization,

NOW, THEREFORE, be it ordained by the Board of Commissioners of Grays Harbor County, Washington, that the following sections of Ordinances 392, 393, 400, 401, and 402 to Grays Harbor County Code Chapter 18.06 be deleted and replaced as follows:

Section 1: Ordinance 392, 393, 400 and 401, Grays Harbor County Code Chapter 18.06 shall be deleted in its entirety as follows:

((Chapter 18.06—Critical Areas Protection Ordinance

18.06.005—Title.

This chapter shall be known and may be cited as the "Grays Harbor County Critical Areas Protection Ordinance."

(Ord. No. 393, § 1, 6-7-2010)

18.06.010—Purpose and intent.

The purpose of this chapter is to identify and protect environmentally critical areas and to supplement the development requirements contained in applicable zoning classifications established in Title 17 of this code by providing for additional controls consistent with best available science.

Geologically hazardous areas, frequently flooded areas, wetland areas, fish and wildlife habitat conservation areas, and critical aquifer recharge areas constitute environmentally critical protection areas that are of special concern to the citizens of Grays Harbor County. The standards and mechanisms established in this chapter are intended to protect these environmentally critical features in Grays Harbor County. By regulating development and alterations to critical protection areas, this chapter seeks to:

1. Protect members of the public and public resources and facilities from injury, loss of life, property damage or financial losses due to flooding, erosion, landslides, or seismic events;

2. Protect unique, fragile and valuable elements of the environment including wildlife and its habitat;
3. Avoid impacts or mitigate unavoidable impacts to environmentally critical protection areas by regulating alterations in and adjacent to critical protection areas;

4. Prevent cumulative adverse environmental impacts to water availability, water quality, wetlands and streams;

5. Protect the public trust as to navigable waters and aquatic resources;

6. Meet the requirements of the National Flood Insurance Program and maintain Grays Harbor County as an eligible community for federal flood insurance benefits;

7. Alert members of the public, including but not limited to appraisers, owners, potential buyers or lessees, to the development limitations of critical protection areas;

8. Provide county officials with sufficient information to preserve critical protection areas;

9. Implement the policies of the "Washington State Environmental Policy Act" and the applicable requirements of the "Washington State Growth Management Act"; and

10. Implement the policies of the Grays Harbor County Comprehensive Land Use Plan and all Grays Harbor County functional plans.

(Ord. No. 393, § 2, 6-7-2010)

18.06.015—Applicability:

A. The regulations and standards pertaining to building construction in Title 15, land subdivision in Title 16, and zoning in Title 17 of this code shall be subject to the general provisions, requirements, and conditions set forth in this chapter. If any other provision of this code conflicts with a requirement in this chapter, the requirement providing greater preservation of critical protection areas shall apply unless specifically provided otherwise in this section. These regulations shall apply as an overlay and in addition to zoning, land use, building construction and other regulations.

B. Prior to fulfilling the requirements of this section, the county shall not grant any approval or permission to alter the condition of any land, water or vegetation, or to construct or alter any structure or improvement including, but not limited, to the following permit-related activities:

1. Commercial building permit or residential building permit
2. Binding site plan
3. Conditional use permit
4. Flood development permit
5. Grading permit
6. Planned unit development
7. Road access permit
8. Conditional shoreline substantial development permit
9. Shoreline substantial development permit
10. Shoreline substantial development permit exemption
11. Shoreline substantial development permit variance
12. Short subdivision
13. Special-use permit
14. Subdivision
15. Cluster subdivision
16. Large-lot subdivision
17. Variance
18. Washington State Forest Practices conversion and moratorium rescission activities over which the county has jurisdiction
19. Zone reclassification and text amendment

C. The county shall perform a critical protection area review for any Grays Harbor County permit or approval requested for a development proposal on a site that includes one or more critical protection areas, unless otherwise provided in this section. As part of all development applications:

1. The county shall verify the information submitted by the applicant to:
   (a) Confirm the nature and type of the critical protection area and evaluate any special critical protection area study;
   (b) Determine whether the development proposal is consistent with the provisions of this section of the county code;
   (c) Determine whether any proposed alterations to a critical protection area are necessary;
   (d) Determine if any mitigation plan, monitoring plan, and bonding measures proposed by the applicant are sufficient to protect the public health, safety, and welfare consistent with the goals, purposes, objectives, and requirements of this chapter.
   (e) Determine if the applicant has previously been found in violation of critical protection area regulations for any property in Grays Harbor County, or that any violations have been resolved to the satisfaction of the county.

2. The applicant shall submit a statement under oath that:
   (a) the applicant has no knowledge that a critical protection area(s) on the development proposal site have been illegally altered;
   (b) demonstrates that any development proposal submitted conforms to the purposes, standards and protection mechanisms of this chapter; and
   (c) if required, prepare a special critical area protection study in accordance with Section 18.06.020.

D. The county may approve, approve with conditions, or deny any development proposal in order to carry out the goals, purposes, objectives and requirements of this chapter.

E. Approval of a development proposal pursuant to the provisions of this section does not discharge the obligation of the applicant to comply with all provisions of this chapter.

F. Mitigation measures shall be completed prior to commencing development activities on the site that will alter a critical protection area or its associated buffer. In all other cases, mitigation measures shall be timed to minimize impacts to the critical protection area and shall be completed prior to the final inspection and approval for the proposal.

G. Land subject to the provisions of the Grays Harbor County Shoreline Master Program. A use or structure legally located within shorelines of the state that was established or vested on or before the effective date of this chapter, may continue as a conforming use and may be redeveloped or modified if:
1. The redevelopment of modification is consistent with the Grays Harbor County Shoreline Master Program; and
2. The County finds that the proposed redevelopment or modification will result in no net loss of shoreline ecological functions.

The county may waive the requirement set forth above in Section 18.06.015C.2, if the redevelopment or modification is found by the county to be consistent with the shoreline master program and the provisions of this chapter.

(Ord. No. 393, § 3, 6-7-2010)

18.06.020—Critical area protection—special studies;

A. Special Study Requirement. An applicant for a development proposal that includes a critical protection area, including any associated buffer, shall submit such special studies as required by the county to adequately evaluate the proposal and all probable adverse impacts. The study shall be prepared by a professional possessing the appropriate state or similar accreditation or license that demonstrates their understanding and skill in examining the scope of work.

B. Special Study Waiver. The planning director may waive the requirement for a special study if there is a written finding by the county that:
   1. There will be no alteration of the critical protection areas or any required buffer; and
   2. The development proposal is consistent with the purpose of Section 18.06.010; and
   3. The minimum standards required by this chapter are met.

C. Special Study Exception. No special study is required for the following development proposals:
   1. A building permit for the remodeling of a structure when there is no enlargement of the existing footprint and when no alteration of the critical protection area or any associated buffer will occur as a result of the remodel activity.
   2. A building permit for a lot which was subject to a previous special study of critical protection areas; provided that the previous special study contains information upon which the county can determine the impacts associated with the current development proposal.
   3. The county shall make such field investigations as are necessary to determine whether criteria for a special study exception are satisfied. In situations where a previous special study is used in determination process, the county shall determine if any proposed mitigation measures contained in the study were completed; if the mitigation measures were not completed, then they shall be completed as part of the review and approval process for the new development.

D. Contents of Special Study. The written critical area special study and accompanying plan sheet shall contain the following information, at a minimum:
   1. Be prepared by a qualified professional who is duly licensed, if required by law, for such work in the state of Washington. The county shall verify and approve such licensing or accreditation prior to accepting the study for review.
2. The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s) of the critical protection area special; a description of the proposal; identification of all the local, state, and/or federal permit(s) required for the project; and a vicinity map for the project;

3. A statement specifying the accuracy of the report and all assumptions made and relied upon;

4. Documentation of any fieldwork performed on the site, including field data sheets for delineations, function assessments, soil samples, test wells, and baseline hydrologic data;

5. A description of the methodologies used to conduct the study, such as for delineations, functional assessments or impact analyses, including references;

6. Identification and characterization of all critical protection areas and any required or proposed buffers on the proposed project area;

7. For any wetland special study for an identified on-site wetland area, provide the following: (a) the wetland rating per State Department of Ecology document entitled "Washington State Wetlands Identification and Delineation Manual"; (b) proposed or required buffers; (c) hydrogeomorphic classification; (d) wetland acreage based on a professional survey from the field delineation, including the acreage for the on-site portion and entire wetland area including off-site portions; (e) Cowardin classification of vegetation—communities; (f) habitat elements; (g) soil conditions based on site assessment and/or soil survey information; and (h) to the extent possible, hydrologic information such as location and condition of inlet/outlet, if they can be legally accessed, estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues, such as algal mats, drift lines, or flood debris. Provide acreage estimates, classifications, and ratings based on entire wetland complexes;

8. A description of the proposed or required actions, including (a) an estimation of the acreage of the critical area and, if proposed or required, buffer areas based on the field delineation or survey, and (b) an analysis of site development impacts and alternatives, including an alternative design or location that would not impact the critical protection area;

9. An assessment of the impacts to the critical protection area and buffers, where required or proposed, resulting from the proposed development;

10. A description of reasonable efforts made to apply mitigation sequencing to avoid, minimize, and mitigate impacts to critical protection areas;

11. A discussion of measures, including avoidance, minimization, and compensation, proposed to preserve the existing critical protection area and, if appropriate for the proposed mitigation, restore any critical protection area that was degraded prior to the current proposed land-use activity;

12. For any wetland area or fish and wildlife habitat conservation area special study, a conservation strategy for habitat and native vegetation that addresses methods to protect or enhance on-site habitat and function if required or proposed as a mitigation measure;

13. For any wetland area special study, an evaluation of functions of the wetland and, when required or proposed, the adjacent buffer using a functions assessment method recognized by the State Department of Ecology, including the reference for the method used and all data sheets.
14. A copy of the site plan sheet(s) for the project shall be included with the written report and must include, at a minimum, the following elements:

(a) Maps, to scale, and the square-footage estimates depicting delineated critical protection areas and, when required or proposed, on-site buffers, including buffers for off-site critical protection areas that may extend onto the project site; the development proposal; other critical protection areas; and grading limits;

(b) A depiction to scale of the proposed surface water management facilities and outlets for the development, including estimated areas of intrusion into the buffers of any critical protection areas. The written report shall contain a discussion of the potential impacts to the critical protection areas associated with anticipated hydrologic alterations from the project.

15. Studies shall propose adequate mitigation, maintenance, monitoring plans, and bonding measures as approved by the county.

(Ord. No. 393, § 4, 6-7-2010)

48.06.025—General exemptions.

The following are exempt from the provisions of this chapter:

A. Those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventative action in a timeframe too short to allow for compliance with the requirements of this chapter; provided that:

1. The activity must be the minimum necessary to alleviate the emergency in the critical area or its buffer;

2. The person or agency undertaking emergency activities shall notify the county prior to any action taken to remedy the emergency; provided, however, that if prior notification is not feasible, the project proponent shall notify the county within one working day following commencement of the emergency activity;

3. After the emergency, the person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved critical area report and mitigation plan;

4. The person or agency undertaking the action shall apply for review, and the alteration, critical area report, and mitigation plan shall be reviewed by the county in accordance with the review procedures contained herein; and

5. The person or agency shall initiate restoration and/or mitigation activities within one year of the date of the emergency and complete said activities in a timely manner.

B. Structures in existence on the date this chapter takes effect;

C. For the following agricultural activities in existence on the date this chapter takes effect:

1. Grazing of livestock;

2. Mowing of hay, grass or grain crops;

3. Tilling, disking, planting, seeding, harvesting and related activities for pasture food crops, grass seed or sod;

4. Normal and routine maintenance of existing irrigation and drainage ditches;

5. Normal and routine maintenance of farm ponds, fish ponds, manure lagoons, and livestock watering ponds;
6. This chapter does not require modification of or limitations to agricultural activities otherwise lawfully occurring on agricultural lands. For purposes of this section, agricultural activities shall include the following definitions:

(a) "Agricultural activities" means agricultural uses and practices including, but not limited to, (1) producing, breeding, or increasing agricultural products; (2) rotating and changing agricultural crops or products; (3) allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; (4) allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; (5) allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; (6) conducting agricultural operations; (7) maintaining, repairing, and replacing agricultural equipment; (8) maintaining, repairing, and replacing agricultural facilities; provided that the replacement facility is no closer to the critical protection area than the original facility; (9) maintaining agricultural lands under production or cultivation; and (10) aquaculture, including shellfish harvesting.

(b) "Agricultural products" includes, but is not limited to, (1) horticultural, viticultural, silvicultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; (2) feed or forage for livestock; (3) Christmas trees; (4) hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and (5) livestock, including both the animals themselves and animal products including but not limited to meat, upland finfish, poultry and poultry products, and dairy products.

(c) "Agricultural equipment" and "agricultural facilities" includes, but is not limited to:

(i) Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains;

(ii) Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;

(iii) Farm equipment, lands, and facilities; and

(iv) Roadside stands and on-farm markets for marketing fruit or vegetables.

(d) "Agricultural land" means those specific land areas on which agriculture activities are conducted, including aquaculture activities.

To the greatest extent practicable, the county will implement voluntary programs enhancing viability of agriculture. Voluntary programs implemented shall include measures to evaluate the successes of these programs.

D. For the following electric, natural gas, cable communications, and telephone utility-related activities, when undertaken pursuant to the best management practices contained in the current edition of State Department of Ecology's "Stormwater Management Manual for Western Washington":

1. Normal and routine maintenance or repair of existing utility structures in a developed public right-of-way or private easement, provided that the action does not expand further into a critical protection area;

2. Relocation of electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of fifty-five thousand volts or less only when required by a local governmental agency that approves the new location of the facilities;

3. Relocation of natural gas, cable communications, gas and telephone facilities, lines, pipes, mains, equipment or appurtenances only when the new location of the facilities is required and approved by the county or other governmental agency with jurisdiction;
4. Installation or construction in a public road right-of-way, and the replacement, operation or alteration, of all electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of fifty-five thousand volts or less;

5. Installation or construction in a public road right-of-way or private easement, and the replacement, operation, repair or alteration of all natural gas, cable communications and telephone facilities, lines, pipes, mains, equipment or appurtenances;

E. Public agency development proposals, but only to the extent of any construction contract awarded before the effective date of this section, provided that any regulation in effect at the time of such award shall apply to such proposal.

F. State Department of Natural Resources Class I, Class II, Class III, and Class IV Special Forest Practices.

(Ord. No. 393, § 5, 6-7-2010; Ord. No. 400, § 3, 1-9-2012)

18.06.030—Reserved.

Editor's note—Section 4 of Ord. No. 400, adopted Jan. 9, 2012, deleted § 18.06.030 which pertained to Essential public facility exception and derived from Ord. 393, adopted June 7, 2010.

18.06.035—Reasonable use exception.

A. If application of this chapter would deny all reasonable use of the property that was permitted by the applicable zoning district before the effective date of this chapter, development may be allowed that is consistent with the general purposes of this chapter and the public interest.

B. An application for a critical area protection reasonable use exception shall be filed with the planning and building division, and shall be approved, approved with conditions, or disapproved as the case may be by the board of adjustment.

C. The board of adjustment shall review an application for an exception pursuant to the provisions of Chapter 2.12 of this code. Before approving a reasonable use exception, the board must find that:

1. Application of this chapter would deny all reasonable use of the property that was permitted by the applicable zoning district before the effective date of this chapter; and

2. There is no other reasonable use with less impact on the critical protection area; and

3. The proposed development does not pose an unreasonable threat to the public health, safety, or welfare;

4. Any alterations permitted to these critical protection areas shall be the minimum necessary to allow for reasonable use of the property;

5. The proposal and the required on-site or off-site mitigation will result in no net loss of critical area functions and values consistent with the best available science; and

6. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the effective date of this chapter, or its predecessor.
D. Upon approval of a reasonable use exception, the county will not take measures to protect the property or any improvements upon it from damage caused or increased because of its location within or near a critical area.

E. Except when application of this chapter will deny all reasonable use of the property as referenced in Section 18.06.035A, an applicant seeking relief from the standards and requirements of this chapter shall obtain a variance as provided in Section 18.06.040.

(Ord. No. 393, § 7, 6-7-2010; Ord. No. 400, § 5, 1-9-2012)

48.06.040 Authority to grant variances.

The board of adjustment must approve all applications for variances from requirements of this chapter.

A. The board of adjustment may authorize variances from the standards of this chapter in accordance with procedures set forth in Chapters 2.12 and 17.80 of this code, but excepting Section 17.80.020. The board of adjustment shall review the variance request and make written findings that the request meets or fails to meet the variance criteria set forth herein below.

B. Variance Decision Criteria. A variance may be granted only if the applicant demonstrates that the requested action conforms to all of the criteria set forth as follows:

1. Special conditions and circumstances exist that are peculiar to the land, the lot, or something inherent in the land and that are not applicable to other lands in the same zoning district.

2. The special conditions and circumstances do not result from the actions of the applicant.

3. A literal interpretation of the provisions of this chapter would deprive the applicant of all reasonable economic uses and privileges permitted to other properties in the vicinity and zoning district of the subject property under the terms of this chapter.

4. The variance requested is the minimum necessary to provide the applicant with such rights.

5. Granting the variance requested will not confer on the applicant any special privilege denied by this chapter to other lands, structures, or buildings under similar circumstances.

6. The granting of the variance is consistent with the general purpose and intent of this chapter.

7. The granting of the variance will not further degrade the functions or values of the associated critical areas.

8. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the subject property.

9. The decision to grant the variance includes the best available science set forth in this chapter and gives special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish habitat.

10. The granting of the variance is consistent with the general purpose and intent of the Comprehensive Plan and adopted development regulations.

C. Conditions May Be Required. In granting any variance, the board of adjustment may prescribe such conditions and safeguards as are necessary to secure adequate protection of critical protection areas from adverse impacts, and to ensure conformity with this chapter.
D. Time Limit. The board of adjustment shall prescribe a time limit within which the action
for which the variance has been granted is required shall be begun or completed or both.
Failure to begin or complete such action within the established time limit shall result in a
recession of the variance.

E. Burden of Proof. The burden of proof shall be on the applicant to produce evidence in
support of the application.

(Ord. No. 393, § 8, 6-7-2010)

48.06.045—Criteria for granting variances in frequently flooded areas.

The board of adjustment shall hear and decide all applications for variances from the
requirements of this chapter; provided however that all requirements and criteria set forth in this
section must be satisfied before a frequently flooded area variance is granted.

The purpose of the variance procedures provided in this section is to permit the construction
and substantial improvement of structures within existing neighborhoods and areas where the
structures are in close proximity, where full compliance with the provisions of this chapter would
cause an exceptional hardship, and where granting of a variance would not result in additional
threats to the public safety. Generally, variances may be issued for new construction and
substantial improvements to be erected on a lot of one-half acre or less in size, contiguous to and
surrounded by lots with existing structures constructed below the base flood level, provided the
criteria in this section have been met. As the lot size increases, the technical justification required
for issuing the variance increases. Upon consideration of the criteria contained in this section and
in Section 17.80.020 of this code, the board of adjustment may grant those variances found to be
consistent with the decision criteria. The board shall make written findings of fact as to the
justification for the variance and may attach such conditions to the granting of variances as it
deems necessary to further the purposes of this chapter.

A. Variances may be issued for the reconstruction, rehabilitation or restoration of structures
listed on the National Register of Historical Places or the State Inventory of Historic
Places, without regard to the procedures set forth in the remainder of this section and
Section 17.80.020 of this code.

B. Variances shall not be issued within a designated floodway if any increase in flood levels
during the base flood discharge would result.

C. Variances shall only be issued upon a determination that the variance is the minimum
necessary, considering the flood hazard, to afford relief.

D. Variances shall only be issued upon: (1) a showing of good and sufficient cause; (2) a
determination that failure to grant the variance would result in exceptional hardship to
the applicant; and (3) a determination that the granting of a variance will not result in
increased flood heights; additional threats to public safety; extraordinary public expense;
create nuisances; cause fraud on or victimization of the public as identified in the criteria
below, or conflict with local laws or ordinances. In deciding variances and appeals from
administrative decisions the following factors shall be considered: (a) the danger that
materials may be swept onto other land to the injury of others; (b) the danger to life and
property due to flooding or erosion damage; (c) the susceptibility of the proposed facility
and its contents to flood damage and the effect of such damage on the individual owner;
(d) the importance of the services provided by the proposed facility to the community; (e)
the necessity to the facility of a waterfront location, where applicable; (f) the availability
of alternative locations for the proposed use which are not subject to flooding or erosion
damage; (g) the compatibility of the proposed use with existing and anticipated development; (h) the relationship of the proposed use to the comprehensive plan and flood plain management program for that area; (i) the safety of access to the property in times of flood for ordinary and emergency vehicles; (j) the expected height, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and (k) the costs of providing governmental service during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

E. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that a variance pertains to a physical piece of property; the variance is not personal in nature and does not pertain to the structure, its inhabitants, economic or financial circumstances. Variances primarily address small lots in densely populated residential neighborhoods. As such, variances from the elevation requirements should be quite rare.

F. Each applicant to whom a variance is granted shall be notified in writing that the permitted structure may be built with its lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with increased risk. Such notification shall be maintained with a record of all variance actions as required by Section 18.06.050.

(Ord. No. 393, § 9, 6-7-2010)

18.06.050—Frequently flooded area variance record requirements.

The county shall comply with the following record requirements: (A) the planning director shall maintain a record of all variance actions, including the justification for their issuance and the board's written findings of fact; (B) the county shall report the variances from the requirements of this district granted in its periodic report submitted to the federal insurance administrator.

(Ord. No. 393, § 10, 6-7-2010)

18.06.055—Appeals.

A. Any decision to approve, condition, or deny a development proposal based on the requirements of this chapter or requiring a critical protection area special study pursuant to this chapter or where no other administrative appeal procedure exists may be appealed to the board of adjustment pursuant to the provisions of Chapter 17.84.

B. In considering appeals from administrative decisions, the board of adjustment shall consider all technical evaluations, all relevant factors, and the criteria set forth in Sections 18.06.040 and 18.06.045.

C. Procedural determinations made by the planning director shall be entitled to substantial weight, as provided by RCW 43.21C.075 (3) (d) and WAC 197-11-680(3) (viii).

(Ord. No. 393, § 11, 6-7-2010)

18.06.060—Critical protection area maps and inventories.
A. The distribution of many environmentally critical protection areas in Grays Harbor County is displayed on county maps, which are hereby adopted by reference. The actual presence or absence of the features defined in Title 17.56 of this code as critical protection areas as determined by the county shall govern.

These maps are to be used as a guide, and do not provide a definitive determination as to the presence of a critical protection area. It shall be the responsibility of the developer to verify the presence of any on-site critical area.

All areas within Grays Harbor County meeting the definition of critical protection area, regardless of whether these areas have been identified or mapped, shall be subject to the provisions of this chapter.

B. All revisions, updates, or reprints of critical protection area maps and inventories shall be conformed to this chapter.

(Ord. No. 393, §12, 6-7-2010)

18.06.065—Notice on title.

A. The county shall prepare and record a notice in the office of the auditor for any site within the critical protection area identified in this chapter and on which a development proposal is submitted. Said notice shall indicate in the public record the presence of the critical protection area, the application of the requirements of this chapter to the site, and that limitations on development activities may exist. Only one such notice is required to be recorded on any individual property or lot.

The notice shall be as set forth:

"Notice: This site lies within a critical protection area as identified in Grays Harbor County Code Chapter 18.06. The site was the subject of a development proposal for [application number] filed on [date]. Restrictions on use or alteration of the site may exist due to natural conditions of the site and resulting regulation. Review of such application provides information on the location of the critical protection area and the restrictions on the site. A copy of the application site map showing the critical protection area is attached hereto."

B. For all proposed subdivision proposals within critical protection areas identified in this chapter, the applicant shall include a note on the face of the plat.

The note shall be as set forth below:

"Notice: This site lies within a critical protection area as identified in Grays Harbor County Code Chapter 18.06. The site was the subject of a development proposal for [application number], filed on [date]. Restrictions on use or alteration of the site may exist due to natural conditions of the site and resulting regulation."

The note shall be recorded as part of final plat approval for any subdivision.

(Ord. No. 393, §13, 6-7-2010)

18.06.070—Critical protection area tracts or easements and setback areas.

A. Critical protection area tracts or easements shall be used to protect all geologically hazardous areas except erosion hazard areas, fish and wildlife habitat conservation areas, critical aquifer recharge areas, or wetland areas for any proposal governed by the provisions
of Title 16 or 17 of this code to which they apply, and shall be recorded on all documents of
title of record for all affected property.

Any required critical protection area tract or easement shall be held in an undivided interest
by each owner within the development, with this ownership interest carried forward with the
ownership of the lot, to assure both the ownership and the protection of the tract or easement. A
tract or easement may be included entirely within a lot in the development.

B. Any building setback area or buffer, as determined necessary by the County to preserve the
resource, and the critical protection area shall be identified on a site plan that is filed as an
attachment for any development permit application to the county.

(Ord. No. 393, § 14, 6-7-2010)

18.06.075 — Temporary marking and permanent signage.

The following requirements shall be utilized by all development subject to the provisions of
this chapter:

A. Temporary Marking. Prior to commencing construction activities on a development site,
the applicant shall identify and mark critical protection areas in a highly visible manner,
such as through the use of yellow caution tape or signs, and these areas must remain
so marked until all development activities in the vicinity of the critical protection area have
been completed.

B. Signs. For development requiring a critical protection area special study provided in
Section 18.06.020, the boundary between a critical protection area tract or easement
and the adjacent developed land shall be identified using permanent signage. The critical
area special study prepared for the proposal shall include information concerning the
installation of the required signage, including the material to be used, signage installation
location, detailed on a site map of the property drawn to scale, and a signage
maintenance program.

The sign shall be worded as follows, or with alternative language approved by the county:

Protected Wetland Area
Do Not Disturb

Protected Fish and Wildlife Habitat Conservation Area
Do Not Disturb

Protected Geologically-Hazardous Area
Do Not Disturb

Protected Critical Aquifer Recharge Area
Do Not Disturb

Protected Frequently Flooded Area
Do Not Disturb

Temporary marking and permanent signage requirements may be modified by the planning
director as necessary to ensure the protection of the resource. The modification shall be in writing
and shall be based upon information contained in a critical protection area special study prepared
in accordance with Section 18.06.020.

(Ord. No. 393, § 15, 6-7-2010)
48.06.080 Mitigation:

1. Mitigation means the use 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 impact 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 impact;
   (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected critical protection areas;
   (d) Reducing or eliminating the impact over time by prevention and maintenance operations during the life of the actions;
   (e) Compensating for the impact by replacing, enhancing, or providing substitute critical protection areas and environments;
   (f) Monitoring the impact and taking appropriate corrective measures.

2. The protection and mitigation measures in this chapter shall achieve no overall net loss in the existing value and function of geologically hazardous areas, frequently flooded areas, wetland areas, fish and wildlife habitat conservation areas, and critical aquifer recharge areas.

3. Mitigation measures shall be in place for the critical protection areas and any associated buffer to protect the resource from adverse impacts occurring on all or portions of the site that are being developed.

4. A mitigation plan shall be required for the design, implementation, maintenance, and monitoring of the mitigation measure(s), and it shall be prepared by an individual or company that can demonstrate professional expertise in the field applicable to the critical protection area.

(Ord. No. 393, § 16, 6-7-2010)

48.06.085 Monitoring and maintenance:

The county may require monitoring when mitigation is required for the alteration of a critical protection area. A monitoring plan shall be prepared by the applicant that includes the conditions of development approval specifically designed to address critical area protection, the date of mitigation action, and a schedule for assessing the value and function of the critical area subject to the mitigation measure. Where monitoring reveals a significant deviation from predicted impacts or a failure of mitigation measures, the applicant shall be responsible for appropriate corrective action(s), referred to as adaptive management, which, when approved, shall be subject to monitoring. Access to the monitored area, for purposes of inspection, shall be provided by the applicant to insure conformance with the provisions of the monitoring program, with notice of the inspection provided by the agency to the property owner seven calendar days prior to the inspection.

4. Permanent Maintenance of Mitigation Measures. Arrangements shall be required for the permanent maintenance of all mitigation measures that are not dedicated to, and accepted by a public agency. The planning director may require that the maintenance arrangements be recorded with the property as covenants or notifications. The county
has no duty to maintain any mitigation measures that have not been dedicated to and accepted by the county. The county has no duty to enforce actual-performance of any maintenance arrangements required by this section.

2. Inspection. Required mitigation measures must be inspected to the satisfaction of the county. Such inspections shall be requested by the applicant at such stages as may be indicated by the county. All costs of inspections, plan checking, testing, sampling, and other work incidental to approval of the required improvements shall be charged to the developer and paid before final approval of the development or release of a performance bond.

3. Performance Bonds. As an alternative to complete installation of required mitigation measures prior to final development permit approval, the developer may elect to post a performance bond guaranteeing completion of the work within a stated period not to exceed one year. The bond may be for part or all of the mitigation measure.

Any such performance bond shall be in an amount acceptable to the county and in a form acceptable to the county prosecuting attorney, and in an amount not less than one hundred (100) percent of the county’s estimate of cost for completing the required mitigation measures, required inspections, and repairs to be bonded, including related engineering and incidental expenses, costs of administering construction of mitigation measures, costs of calling on the surety, any final survey monumentation, and any certified original reproducible “as built” mitigation measure plans. Separate bonds may be required for each required mitigation measure to be bonded.

Performance bonds are intended to protect the public and purchasers of the property being developed by providing guarantees that the required mitigation measures will be installed. Such performance bonds shall not be used for, or in any manner be tied to payments to contractors or sub-contractors.

4. Maintenance Bonds. A maintenance bond securing to the county the successful operation for one year of any mitigation measure required by this title may be required by the county as a condition of final inspection and approval. Any such maintenance bond shall be in an amount acceptable to the county and in a form acceptable to the prosecuting attorney.

The bonds shall be used to make any repairs or changes necessary to correct any defects, poor workmanship, or operational problems discovered one year from the date the mitigation measure was inspected and approved, if the correction is not to be undertaken by the developer.

5. Bond Administration. The county shall monitor the construction of bonded mitigation measures and the performance of mitigation measures secured by maintenance bonds. If the developer fails to carry out or violates the bond agreement, the planning and building division, after consultation with the prosecuting attorney, shall request the board of county commissioners to declare the developer in default and to instruct the county staff to obtain the funds available from the surety to construct the bonded mitigation measures and to reimburse the county for any expenses it has incurred. A developer shall be in default if he or she has (a) violated the bonding agreement and/or failed to complete the required mitigation measures in compliance with the time periods set out in the bonding agreement, or (b) if the developer has failed to correct defects in mitigation measures during the year after they were inspected and approved. The planning director or other affected county department or division may petition the board of county commissioners to declare the developer in default if he or she has failed to carry out the agreement during the specified time period.
If the amount of the surety does not exceed the cost and expense incurred by construction of the mitigation measures by the county, the remainder shall be released. If the amount of the bond or cash deposit is greater than the cost and expense incurred, the developer shall be liable to the county for the difference.

The cost of monitoring, and all county costs associated with the review of said monitoring, shall be funded by the applicant.

(Ord. No. 393, § 17, 6-7-2010)

18.06.095—Geologically hazardous areas—development standards.

A.—Classification and Designation of Geologically Hazardous Areas.

1. Geologically hazardous areas within the county include those areas susceptible to one or more of the following hazards:
   a. Erosion hazard;
   b. Landslide hazard;
   c. Seismic hazard;
   d. Tsunami hazard; and
   e. Other geologic events, including, but not limited to, mass wasting, debris flows, rock falls, and differential settlement.

2. The following plans and maps designate the approximate distribution, location, and extent of geologically hazardous areas within the county:
   a. The most recently adopted Grays Harbor County Hazard Mitigation Plan;
   b. State department of natural resources geologic information portal interactive maps:
      (i) Washington interactive geologic map;
      (ii) Landslides of Washington State;
      (iii) Tsunami evacuation map; and
      (iv) Subsurface geology information system;
   c. Grays Harbor County Tsunami Inundation Potential Map; and

B. The administrator may require a critical area special study as provided by 18.06.020 for any use, structure, or activity not exempt by 18.06.025 that is proposed in a geologically hazardous area. The study shall:

1. Assess the type and extent of the geologic hazard area within two hundred (200) feet of the use, structure, or activity;

2. Provide an analysis of the use, structure, or activity that describes its potential impact upon the hazard area, the potential impact of the hazard area to the proposed project permit, the potential impact of the geologic hazard to other critical areas within two hundred (200) feet of the use, structure, or activity and the potential impact to adjacent properties; and

3. Provide recommendations for short- and long-term mitigation actions to reduce the risk of a potential geologic hazard(s);

C. Alteration of geologically hazardous areas may occur if:

1. There will be no increase in risk from the geologic hazard to the proposed use, structure, or activity, adjacent properties or critical areas; and
2. A Washington State-licensed engineer or geologist certifies the development-design eliminates or mitigates the hazard risk to a level equal to or less than predevelopment conditions.

D. To make certain that development within geologically hazardous areas shall not increase hazard risks beyond predevelopment conditions to on-site development, adjacent properties, and other critical areas, the development standards in this section shall apply to project permits:

1. Uses, standards, or activities in erosion hazard areas shall meet the following performance standards:
   b. Minimize modification of the natural contour of slopes by conforming to the existing topography of the site.
   c. Incorporate stabilization best-management-practices, such as temporary and permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, and preservation of mature vegetation.
   d. Ensure the stabilization of all exposed and disturbed soils by appropriate and timely application of best-management practices.
   e. Minimize the removal of existing vegetation and undergrowth.
   f. Design cut and fill slopes to minimize erosion.
   g. Stabilize conveyance outlets and stream banks to prevent erosion.
   h. Reduce clearing, grading, and impervious surfaces to the minimum amount necessary to accommodate the project permit.

2. Uses, structures, or activities in landslide hazard areas shall meet the following performance standards:
   a. Establish and maintain a forty-foot buffer from the top and toe of a slope identified as a landslide hazard area. The administrator may allow the following modifications to the buffer:
      (i) Reduce the buffer if a critical area special study prepared by a qualified professional certifies that the reduction will adequately protect the proposed development, adjacent developments, and critical areas.
      (ii) Locate on-site sewage disposal systems, including drainfields, within a buffer when a qualified professional certifies that there will be no impact to existing or proposed development.
   b. On-site stormwater and drainage development shall meet the requirements of the current edition of the Stormwater Management Manual for Western Washington.
   c. Locate structures and improvements to avoid landslide areas and other critical areas.
   d. Minimize modification of the natural contour of slopes by conforming to the existing topography of the site.
   e. Minimize the removal of existing vegetation and undergrowth.
   f. Reduce clearing, grading, and impervious surfaces to the minimum amount necessary to accommodate the project permit.
   g. Avoid the location of utility improvements in landslide hazard areas except when no other practical alternative exists.

3. Project permits in seismic hazard areas shall meet the requirements of chapter 15.04 of the Grays Harbor County Code.

E. Clearing activities that disturb soils in erosion and landslide hazard areas are allowed during the dry season from May 1 to October 1, provided, however, that the county may extend or
shorten the dry season on a case-by-case basis or upon recommendation of a qualified professional. The seasonal clearing restrictions associated with timber harvest shall be pursuant to an approved forest practices permit.

F. Public facilities and essential public facilities shall not be constructed or located in geologically hazardous areas if there is a feasible alternative location outside geologically hazardous areas that would serve the intended service population. If allowed, the design and operation of the critical facility shall minimize the risk and danger to public health and safety to the maximum extent feasible.

(Ord. No. 393, § 18, 6-7-2010; Ord. No. 401, § 7, 6-11-2012)

18.06.100 Critical protection area development standards for frequently flooded areas.

A. Frequently Flooded Areas. Development proposals on sites containing frequently flooded areas shall meet the following requirements:

B. Floodplain District. The floodplain classification is designed to carry out the mandate contained in the National Flood Insurance Program (NFIP) and the protection of frequently flooded areas. The Federal Insurance Administration will determine the zone classification for those areas that are not included in the Flood Insurance Rate Map (FIRM) prior to the issuance of any development permit for the property.

C. Lands to which this chapter applies. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Grays Harbor County, and Incorporated Areas" dated February 3, 2017, and any revisions thereto, with an accompanying Flood Insurance Rate Maps (FIRM) dated February 3, 2017, and any revisions thereto, are hereby adopted by reference and declared to be part of this code. The Flood Insurance Study and FIRM shall be maintained on file in the planning and building division office, 100 West Broadway, 3rd Floor, Montesano, Washington. The best available information for flood hazard area identification shall be the basis for the regulations contained herein until such time that new FIRM is issued incorporating updated hazard identification.

No land, wetlands, or waterways shall be altered; no building or structure shall be erected, reconstructed, located, extended, expanded, converted, altered or intensified; and no land, building, or structures shall be used for any purpose except as herein after allowed in the same zone in which such building, structure, and land is located.

(Ord. No. 393, § 19, 6-7-2010; Ord. No. 434, § 2, 1-30-2017)

18.06.105 Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. The provisions in this chapter do not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damage. Nothing in this chapter shall create liability on the part of Grays Harbor County, any officer or employee thereof, or the Federal Insurance Administration, for any flood damage that results from reliance on this chapter or any administrative decision lawfully made hereunder.
18.06.110 Permits required for development within frequently flooded areas.

A permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 18.06.100C. Such permit is required for all structures, including manufactured homes and for all development including fill and other activities, as set forth in Chapter 17.08. In addition to information required for all permits, applications for permits for development within any area of special flood hazard except flood elevation certificates required pursuant to Title 15 of this code shall include:

A. The elevation in relation to mean sea level of the lowest floor (including basement) of all structures and whether or not the structure contains a basement; refers to Section 18.06.120B;

B. The elevation in relation to mean sea level to which any structure has been flood proofed;

C. Certification by a Washington State licensed professional engineer or architect that the flood-proofing methods for any non-residential structure meets the flood-proofing criteria in Section 18.06.120F and a certification upon completion that the structure was built in accordance with the criteria. These certifications shall be provided before a certificate of occupancy is issued;

D. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development;

E. A listing of the necessary permits and clearances from those governmental agencies from which approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334, and the Washington State Shorelines Management Act;

F. Evidence the permits listed in Section 18.06.110E have been received;

G. Any other information which may be reasonably required by the planning director in order to administer this chapter.

The applicant shall be responsible for the costs of providing the required information, including the costs associated with determining and setting elevations at the development site where required by this chapter.

18.06.115 Administration of frequently flooded area standards.

The planning director or his or her designee shall implement and administer the provisions of Section 18.06.100 by granting or denying development permit applications in accordance therewith. The director's duties include, but are not limited to:

A. Permit Review.

1. Review all permits requested for areas within the flood plain district to determine that the permit requirements and development standards of this chapter have been satisfied. The planning director or his or her designee may require that development proposals be reviewed by the county engineer to assure the accuracy of data and that the provisions of this chapter will be met;
2. Review all permits requested for areas within the flood plain district to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, and the Washington State Shoreline Management Act.

3. For areas where a regulatory floodway has been designated, review all permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that Section 18.06.125A encroachment provisions are met.

4. For areas where a regulatory floodway has not been designated but may be designated in the future, review all permits in the area of special flood hazard except in the coastal high-hazard area to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For purposes of this chapter, "adversely affects" means that the cumulative effect of the proposed development where combined with all other existing and anticipated development will not increase the water-surface elevation of the base-flood more than one foot at any point.

B. Obtaining Base Flood Data. When base flood elevation data has not been provided (in A or V Zones) in accordance with the "Basic for Establishing the Areas of Special-Flood Hazard" in Section 18.06.100C, the planning director or his or her designee shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source in order to administer Section 18.06.120 governing "Provisions for Flood Hazard Reduction" and Section 18.06.125 governing "Provisions for Flood Hazard Reduction in Floodways."

C. Obtaining and maintaining the following information:

1. Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in Section 18.06.115B, obtain and record the actual as-built elevation in relation to mean sea level of the lowest floor, including basement, of all new or substantially improved structures, and whether or not the structure contains a basement;

2. For all new or substantially improved flood-proofed non-residential structures where base flood elevation data is provided through the FIS, FIRM, or as required in Section 18.06.115B: (a) obtain and record the actual elevation, in relation to mean sea level, to which the structure was flood-proofed; and (b) maintain the flood-proofing certifications required in Section 18.06.110C;

3. For all new construction and substantially improved structures within coastal high hazard areas, certification shall be obtained from a Washington State licensed professional engineer or architect that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters;

4. Maintain for public inspection all records pertaining to the provisions of this chapter.

D. Alteration of Watercourses:

1. Notify adjacent communities and the State Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;

2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

E. Interpretation of FIRM boundaries: make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

The applicant contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be adjudicated consistent with the standards of
Section 60.6 of the Rules and Regulations of the National Flood Insurance Program 44 Code of Federal Regulations (CFR) 59-76 or as amended.

(Ord. No. 393, § 22, 6-7-2010; Ord. No. 434, § 3, 1-30-2017)

18.06.120—Provisions for flood hazard reduction.

In all areas of special flood hazards, the following standards are required:

A. General Development Standards.

1. All development proposals shall be consistent with the need to minimize flood damage.

2. All public utilities and facilities, such as sewer, gas, electrical, and water systems proposed for construction within all development proposals shall be located and constructed to minimize or eliminate flood damage.

3. All development proposals shall provide adequate drainage to reduce exposure to flood damage.

4. All subdivision proposals shall comply with the following:
   (a) All subdivision proposals shall be consistent with the need to minimize flood damage.
   (b) All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical, and water systems located and installed to minimize or eliminate flood damage.
   (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
   (d) Where base flood elevation data has not been provided or is not available from another authorized source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty lots or five acres (whichever is less).

5. All recreational-vehicle use in frequently flooded areas shall comply with Chapter 8.20 requirements.

6. All development proposals in shallow flooding areas shall comply with the standards contained in this subsection.

Shallow flooding areas appear on a FIRM as AO zones with depth designations. The base flood depths in these zones range from one foot to three feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions shall apply:

(a) New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor, including basement, elevated above the highest adjacent grade to the structure, one foot or more above the BFE depth number specified in feet on the community's FIRM or at least two feet above the highest adjacent grade to the structure if no depth number is specified.

(b) New construction and substantial improvements of non-residential structures within AO zones shall either:

(i) Have the lowest floor, including basement, elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM or at least two feet if no depth number is specified. This improvement shall be noted on a current elevation certificate Form FF81-31, with Section E completed, and the form recorded; or
(ii) Together with attendant utility and sanitary facilities, be completely flood-proofed to or
above that level so that any space below that level is watertight with walls substantially
impermeable to the passage of water and with structural components having the
capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If
this method is used, compliance shall be certified by a registered professional engineer
or architect.
(c) Require adequate drainage paths around structures on slopes to guide floodwaters
around and away from proposed structures.
(d) Recreational vehicles placed on sites within AO Zones on the community's FIRM must
comply with all provisions of Chapter 8.20 of this code.
(e) Recreational vehicles placed on sites within AO Zones must be fully licensed and ready
for highway use, on its wheels or jacking systems, is attached to the site by quick
disconnect-type utilities and security devices, and has no permanently attached
additions.

B. Permit Review Where Elevation Data is not Available. Where elevation data is not
available either through a Flood Insurance Study, FIRM, or from another authoritative
source such as provided in Section 18.06.115B, applications for permits shall be
reviewed to assure that the proposed construction will be reasonably safe from flooding.
The test of reasonableness is a local judgment and includes use of historical data, high
water marks, photographs of past flooding, etc., where available. Failure to elevate at
least two feet above the highest adjacent grade in these zones may result in higher
insurance rates.

C. Anchoring Standards.
1. All new construction and substantial improvements shall be anchored to prevent
flotation, collapse or lateral movement of the structure.
2. All manufactured homes to be placed or substantially improved on a site located within
a floodplain shall be elevated on a permanent foundation such that the lowest floor of the
manufactured home is elevated one foot or more above the base flood elevation and be
securely anchored to an adequately anchored foundation system to resist flotation,
collapse and lateral movement, with the installation using methods and practices that
minimize flood damage. Anchoring methods may include, but are not limited to, use of
over-the-top or frame ties to ground anchors. For more detailed information, refer to
guidebook FEMA-85 entitled "Manufactured Home Installation in Flood-Hazard Areas."

D. Construction Materials and Methods.
1. All new construction and substantial improvements shall be constructed with materials
and utility equipment resistant to flood damage.
2. All new construction and substantial improvements shall be constructed using methods
and practices that minimize flood damage.
3. Electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service
facilities shall be designed, and/or otherwise elevated, or located so as to prevent water
from entering or accumulating within the components during conditions of flooding.

E. Elevation Standards for Residential Structures.
1. New construction and substantial improvement of any residential structure shall have
the lowest floor, including basement, elevated one foot or more above the base flood
elevation.
2. All manufactured homes to be placed or substantially improved within Zones A, AI
through A30, AH, and AE shall be elevated on a permanent foundation so that the
lowest floor is one foot or more above the base flood elevation and is securely anchored to an adequately anchored foundation system, in compliance with Section 18.06.120.C.2., to resist flotation, collapse and lateral movement.

3. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a Washington State licensed professional engineer or architect or must meet or exceed the following minimum criteria: (a) a minimum of two openings having a total net area of not less than one square inch for each one square foot of enclosed area subject to flooding shall be provided; (b) the bottom of all openings shall be no higher than one foot above grade; (c) the openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

F. Elevation and Flood-Proofing Standards for Non-Residential Structures. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall either:

1. Have the lowest floor, including basement, elevated one foot or more above the base flood elevation; or
2. Have the structure together with attendant utility and sanitary facilities flood-proofed in compliance with the following requirements:
   (a) Be flood-proofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water,
   (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy,
   (c) Be certified by a Washington State licensed professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the planning director or his or her designee in accordance with Section 18.06.110.C.

3. Non-residential structures that are elevated, but not flood-proofed, must meet the same standards for space below the lowest floor as described in Section 18.06.120.E.3.

G. Utility System Standards.

1. All new and replacement water-supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.
2. New and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
4. Water wells shall be located on high ground that is not in the floodway.

H. AE and A1-30 Zones with base flood elevations but no floodways. In areas with base flood elevations but where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development including fill shall be permitted within Zones A1-30 and AE on the county's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the county.
18.06.125—Provisions for flood-hazard reduction in floodways.

Located within areas of special flood hazard established in Section 18.06.100C are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris, and increase erosion potential, the following provisions apply:

A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a Washington State licensed professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.

B. Construction or reconstruction of residential structures is prohibited within designated floodways, except for (i) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (ii) repairs, reconstruction or improvements to a structure, the cost of which does not exceed fifty (50) percent of the market value of the structure either (1) before the repair or construction is started, or (2) if the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or to structures identified as historic places, may be excluded from the fifty (50) percent portion.

C. If requirements in Section 18.06.125A are satisfied, all new construction and substantial improvements shall comply with all applicable flood-hazard-reduction provisions of Section 18.06.120.

(Ord. No. 393, § 24, 6-7-2010)

18.06.130—Provisions for flood-hazard reduction in coastal high-hazard areas.

In addition to standards prescribed in Section 18.06.120, the following standards shall be met for developments sited within coastal high hazard areas (V zones) to lessen the special hazards associated with high velocity waters from tidal surges. The planning director or his or her designee shall review each development proposal within a coastal high hazard area prior to issuing a permit to assure that the following standards are met:

A. All new construction, including buildings or structures shall be located landward of the reach of mean high tide.

B. Located within areas of special flood hazard are Coastal High Hazard Areas, designated as Zone V1 through and including V-30, VE, and/or V. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions in this chapter, the following provisions shall also apply:

1. All new construction and substantial improvements in Zone V1 through and including V-30, Zone VE, and Zone V if base flood elevation data is available on the county’s FIRM, shall be elevated on pilings and columns so that:
   (i) The bottom of the lowest horizontal structural member of the lowest floor, excluding the pilings or columns, is elevated one foot or more above the base flood level; and
   (ii) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads
acting simultaneously on all building components. Wind and water-loading values shall each have a one percent chance of being equaled or exceeded in any given year at a one-hundred-year mean recurrence interval.

A registered professional engineer or architect shall develop and/or review the structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for compliance with the provisions of Sections 18.06.030B.1.(i) and 18.06.030B.1.(ii).

2. Obtain the elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor, excluding pilings and columns, of all new and substantially improved structures in Zone V1 through and including V-30, Zone VE, and Zone V on the county's FIRM, and determine whether or not such structures contain a basement. The planning director or his or her designee shall maintain a record of all such information.

3. All new construction within Zone V1 through and including Zone V30, Zone VE, and Zone V on the county's FIRM shall be located landward of the reach of the mean high tide.

4. Provide that all new construction and substantial improvements within Zone V1 through and including Zone V30, Zone VE, and Zone V on the county's FIRM have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open-wood lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation. For the purposes of this subsection, a breakaway wall shall have a design safe loading resistance of not less than ten pounds per square foot and no more than twenty pounds per square foot. The use of breakaway walls that exceed a design safe loading resistance of twenty pounds per square foot, either by design or when so required by county or state codes, may be permitted only if a registered professional engineer or architect certifies that the proposed design meets the following criteria:

(i) Breakwater wall collapse shall result from water load less than that which would occur during the base flood; and

(ii) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all structural and non-structural building components. Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year at a one-hundred-year mean recurrence interval.

If breakwater walls are utilized, such enclosed space shall be useable solely for the parking of vehicles, building access, or storage. Such space shall not be used for human habitation.

5. Prohibit the use of fill for structural support of buildings within Zone V1 through and including Zone V30, Zone VE, and Zone V on the county's FIRM.

6. Prohibit manmade alteration of sand dunes within Zones V1 through and including Zone V30, Zone VE, and Zone V on the county's FIRM which would increase potential flood damage.

7. All manufactured homes to be placed or substantially improved within Zones V1-30, Zone V, and Zone VE on the community's FIRM and on sites that are (a) located outside of a manufactured home park or subdivision, or (b) located in a new manufactured home park or subdivision, or (c) located in an expansion to an existing manufactured home park or subdivision, or (d) located in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, shall meet the standards in Sections 18.06.130B.1. through 18.06.130B.6., inclusive, and manufactured homes placed or substantially improved on other sites in an
existing manufactured home park or subdivision within Zones V1-30, Zone V, and VE on
the county's FIRM shall meet requirements of Sections 18.06.130B.2. through
18.06.130B.3., inclusive.
8.—Recreational vehicles placed on sites within Zone V1 through and including Zone V30,
Zone V, and Zone VE on the county's FIRM shall comply with all provisions of Chapter
8.20 of this code.
9.—Recreational vehicles placed on sites within Zone V1 through and including Zone V30,
Zone V, and Zone VE must:
   Be fully licensed and ready for highway use, on its wheels or jacking system, be attached
to the site only by quick disconnect-type utilities and security devices, and have no
permanently attached additions.

(Ord. No. 393, § 25, 6-7-2010; Ord. No. 434, § 5, 1-30-2017)

48.06.135—Development standards for wetland areas.

A.—The county shall utilize the United States Department of the Interior Fish and Wildlife
Service's National Wetlands Inventory Map and the current edition of the State Department
of Ecology document entitled "Washington State Wetlands Identification and Delineation
Manual" in determining the location of wetland areas, and utilize the current edition of State
Department of Ecology's "Washington State Wetlands Identification Manual" for the
delineation of wetland areas, the current edition of the "Washington State Wetland Rating
System for Western Washington" for categorizing wetland areas, and the current editions of
Mitigation in Washington State Part 2: Developing Mitigation Plans", "Wetlands in
Volume 2: Managing and Protecting Wetlands" for the mitigation of wetland area impacts
except as superseded by those protection measures contained in Section 18.06.135B.6.

B.—Wetland Areas—Development proposals on sites containing wetland areas shall meet the
following requirements:

1.—Wetland areas and any proposed or required buffers shall not be altered except as
expressly authorized by this chapter.

2.—All approved alterations shall have an appropriate mitigation plan where the county
determines, upon review of a critical protection area special study completed by a
qualified professional, that either:

   (a) The wetland area does not serve any of the existing value and functions of wetland
       areas identified in Section 18.06.135B.5., including, but not limited to, existing wildlife
       habitat and natural drainage functions; or
   (b) The proposed development would protect wildlife habitat, natural drainage, and/or
       other existing valuable functions of wetlands and would be consistent with the purposes
       of this chapter. The required studies may include habitat value, hydrology, erosion and
deposition, and/or water quality studies. Such studies shall include specific
       recommendations for mitigating measures that should be required as a condition of any
       approval for the development. The recommendations may include, but are not limited to,
       construction techniques or design, drainage, or density specifications.

3.—If a wetland area is in a frequently flooded area, the county shall notify the State
Department of Ecology, Quinault Indian Nation and the Confederated Tribes of the
Chehalis Indian Reservation of alteration plans prior to the initiation of any alteration and
submit evidence of such notification to the Federal Insurance Administration. Any alterations must be consistent with the provisions of Section 18.06.135B.6. (g).

4. No plant or wildlife not indigenous to the Pacific Northwest may be introduced into any wetland area unless authorized by a state or federal license or permit.

5. Wetland Classifications.

(a) Category 1 Wetland means a wetland area that represents a unique or rare wetland type, or is more sensitive to disturbance than most wetlands, or that is relatively undisturbed and contains ecological attributes that are impossible to replace within a human lifetime, or provide a high level of functions. Refer to Section 18.06.135A for specific classification document.

(b) Category 2 Wetland means a wetland area that is difficult though not impossible to replace and provides high levels of some functions. Refer to Section 18.06.135A for specific classification document.

(c) Category 3 Wetland means a wetland area of a moderate level of function or an interdunal wetland area between 0.1 acre and one acre in size. Refer to Section 18.06.135A for specific classification document.

(d) Category 4 Wetland means a wetland area that has the lowest levels of function and is often heavily disturbed. Refer to Section 18.06.135A for specific classification document.

6. Wetland Area Protection Standards.

(a) Buffers.

(i) All buffers are measured from the wetland edge as marked in the field. The wetland edge shall be delineated by use of the method described in State Department of Ecology's "Washington State Wetlands Identification and Delineation Manual."

(ii) The following buffers are minimum requirements for development:

1. Category 1 Wetlands shall be protected with a buffer width as set forth in Table A.Wetland Buffers, provided that all the following impact mitigation measures are implemented:

(1) Outdoor lighting from the development shall be designed and installed to prevent direct casting into adjacent wetland areas. Final design shall be reviewed and approved by the planning and building division prior to permit issuance.

(2) The county adopts Chapter 173-60 WAC and classifies wetlands as Class A EDNA receiving properties for managing intruding noise levels.

(3) Any treated surface water proposed for discharge into any on-site delineated wetland area shall be conveyed in a manner consistent with those practices set forth in "Guide Sheet 2: Wetland Protection Guidelines" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.

(4) The applicant shall prepare a restrictive covenant, to be placed upon the deed for the property that prohibits use of pesticides within one hundred fifty feet of the delineated on-site wetland area. The covenant shall be recorded by the county prior to permit issuance.

(5) The applicant shall utilize integrated pest management practices as set forth in the county's current "Best Management Practices Plan."

(6) Existing on-site drainage system facilities shall be reviewed by a Washington State-licensed engineer to determine such facilities' ability to accommodate the increased volume of surface water created by the new development. The facilities shall be modified as necessary with facility design
consistent with the direction provided in "Volume III" of the 2006 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.

(7) Surface water from areas adjacent to on-site delineated wetland areas shall be channelized and treated prior to discharge into wetland buffer areas. Surface water treatment shall be consistent with "BMP T514" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.


(9) Surface water from impervious surfaces and lawns located adjacent to on-site delineated wetland areas shall be channelized and treated prior to discharge into wetland buffer areas. Surface water treatment shall be consistent with all practices prescribed in "Volume V" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.

(10) The county may require construction of temporary or permanent fencing on the boundary of a wetland buffer to protect its functions and values. Fencing design shall not interfere with fish and wildlife migration and shall minimize impacts to the wetland and its associated habitat.

(11) The applicant shall utilize dust control best management practices (BMP) during development activities. Such practices shall be consistent with "BMP C140" of the 2005 State Department of Ecology document entitled "Stormwater Management."

(12) The delineated on-site wetland area shall be placed in a tract or easement as prescribed in Section 18.06.070.

(13) Absent the mitigation measures noted in Section 18.06.135B.6.(a)(ii)(l)(1) through and including Section 18.06.135B.6.(a)(ii)(l)(11), Category 1 wetlands shall be protected with a three hundred-foot-wide buffer.

(II) Category 2 Wetlands shall be protected with a buffer width set forth in Table A Wetland Buffers, provided that the following impact mitigation measures are also implemented:

(1) Outdoor lighting from the development shall be designed and installed to prevent direct casting into adjacent wetland areas. Final design shall be reviewed and approved by the planning and building division prior to permit issuance.

(2) The county adopts Chapter 173-60 WAC and classifies wetlands as Class A EDNA receiving properties for managing intruding noise levels.

for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.

(4) The applicant shall prepare a restrictive covenant to be placed upon the deed for the property prohibiting use of pesticides within one hundred fifty feet of the delineated on-site wetland area. The covenant shall be recorded by the county prior to permit issuance.

(5) The applicant shall utilize integrated pest management practices as set forth in the county's current "Best Management Practices Plan."

(6) Existing on-site drainage system facilities shall be reviewed by a Washington State-licensed engineer to determine their ability to accommodate the increased volume of surface water created by the new development. The facilities shall be modified as necessary, with facility design consistent with the direction provided in "Volume III" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.

(7) Surface water from areas adjacent to on-site delineated wetland areas shall be channelized and treated prior to discharge into wetland buffer areas. Surface water treatment shall be consistent with "BMP T511" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.


(9) Surface water from impervious surfaces and lawns located adjacent to on-site delineated wetland areas shall be channelized and treated prior to discharge into wetland buffer areas. Surface water treatment shall be consistent with those practices contained in "Volume V" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.

(10) The county may require construction of temporary or permanent fencing on the boundary of a wetland buffer to protect its functions and values. Fencing design shall not interfere with fish and wildlife migration and shall minimize impacts to the wetland and its associated habitat.

(11) The applicant shall utilize dust control best management practices (BMP) during development activities. All such practices shall be consistent with "BMP C140" of the 2005 State Department of Ecology document entitled "Stormwater Management."

(12) The delineated on-site wetland area shall be placed in a tract or easement as prescribed in Section 18.06.070.

(13) Absent the mitigation measures noted in Section 18.06.135B.6.(a)(ii)(II)(1) through and including Section 18.06.135B.6.(a)(ii)(II)(11), Category 2 wetlands shall be protected with a three-hundred-foot-wide buffer.
(III) Category 3 Wetlands shall be protected with a buffer width set forth in Table A Wetland Buffers, provided that the following impact mitigation measures are also implemented:

1. Outdoor lighting from the development shall be designed and installed to prevent direct casting into adjacent wetland areas. Final design shall be reviewed and approved by the planning and building division prior to permit issuance.

2. The county adopts Chapter 173-60 WAC and classifies wetlands as Class A EDNA receiving properties for managing intruding noise levels.

3. All treated surface water proposed for discharge into any on-site delineated wetland area shall be conveyed in a manner consistent with those practices set forth in "Guide Sheet 2: Wetland Protection Guidelines" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.

4. The applicant shall prepare a restrictive covenant to be placed upon the deed for the property prohibiting the use of pesticides within one hundred fifty feet of the delineated on-site wetland area. The covenant shall be recorded by the county prior to permit issuance.

5. The applicant shall utilize integrated pest management practices as set forth in the county's current "Best Management Practices Plan."

6. Existing on-site drainage system facilities shall be reviewed by a Washington State-licensed engineer to determine their ability to accommodate the increased volume of surface water created by the new development. The facilities shall be modified as necessary, with facility design consistent with the direction provided in "Volume III" of the 2006 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.

7. Surface water from areas adjacent to on-site delineated wetland areas shall be channelized and treated prior to discharge into wetland buffer areas. Surface water treatment shall be consistent with "BMP-T511" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.


9. Surface water from impervious surfaces and lawns located adjacent to on-site delineated wetland areas shall be channelized and treated prior to discharge into wetland buffer areas. Surface water treatment shall be consistent with those practices contained in "Volume V" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.
(10) The county may require construction of temporary or permanent fencing on the boundary of a wetland buffer to protect its functions and values.
Fencing design shall not interfere with fish and wildlife migration and shall minimize impacts to the wetland and its associated habitat.

(11) The applicant shall utilize dust control best management practices (BMP) during all development activities. The practices shall be consistent with "BMP C140" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington."

(12) The delineated on-site wetland area shall be placed in a tract or easement as prescribed in Section 18.06.079.

(13) Absent the mitigation measures noted in Section 18.06.135B.6.(a)(ii)(III)(1) through and including Section 18.06.135B.6.(a)(ii)(III)(11), Category 3 Wetlands shall be protected with a one hundred fifty-foot-wide buffer.

(IV) Category 4 Wetlands shall be protected with a buffer width set forth in Table A Wetland Buffers, provided that the following impact mitigation measures are also implemented:

(1) Outdoor lighting from the development shall be designed and installed to prevent direct casting into adjacent wetland areas. Final design shall be reviewed and approved by the planning and building division prior to permit issuance.

(2) The county adopts Chapter 173-60 WAC and classifies wetlands as Class A EDNA-receiving properties for managing intruding noise levels.

(3) All treated surface water proposed for discharge into any on-site delineated wetland area shall be conveyed in a manner consistent with those practices set forth in "Guide Sheet 2: Wetland Protection Guidelines" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.

(4) The applicant shall prepare a restrictive covenant, to be placed upon the deed for the property that prohibits use of pesticides within one hundred fifty feet of the delineated on-site wetland area. The covenant shall be recorded by the county prior to permit issuance.

(5) The applicant shall utilize integrated pest management practices as set forth in the county's current "Best Management Practices Plan."

(6) Existing on-site drainage system facilities shall be reviewed by a Washington State-licensed engineer to determine their ability to accommodate the increased volume of surface water created by the new development. The facilities shall be modified as necessary with facility design consistent with the direction provided in "Volume III" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.

(7) Surface water from areas adjacent to on-site delineated wetland areas shall be channelized and treated prior to discharge into wetland buffer areas. Surface water treatment shall be consistent with "BMP T511" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.

(8) Surface water management shall be consistent with low impact development (LID) practices as set forth in the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western
Washington" and the 2005 Puget Sound Action Team and Washington-State University-Pierce County-Extension document entitled "Low Impact Development: Technical Guidance Manual for Puget Sound." Final design shall be reviewed and approved by the public works division prior to permit issuance.

(9)—Surface water from impervious surfaces and lawns located adjacent to on-site delineated wetland areas shall be channelized and treated prior to discharge into wetland buffer areas. Surface water treatment shall be consistent with those practices contained in "Volume V" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.

(10)—The county may require construction of temporary or permanent fencing on the boundary of a wetland buffer to protect its functions and values. Fencing design shall not interfere with fish and wildlife migration and shall minimize impacts to the wetland and its associated habitat.

(11)—The applicant shall utilize dust control best management practices (BMP) during development activities. Such practices shall be consistent with "BMP C140" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington."

(12)—The delineated on-site wetland area shall be placed in a tract or easement as prescribed in Section 18.06.070.

(13)—Absent the mitigation measures noted in Section 18.06.135B.6.(a)(ii)(IV)(1) through and including Section 18.06.135B.6.(a)(ii)(IV)(11), Category 4 wetlands shall be protected with a fifty-foot wide buffer.

Table A: Wetland-Buffers

<table>
<thead>
<tr>
<th>Wetland Category</th>
<th>Standard Buffer-Width</th>
<th>Additional-buffer width-if wetland scores 20—28 habitat-points</th>
<th>Additional-buffer width-if wetland scores 29—36 habitat-points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category-I</td>
<td>75-feet</td>
<td>Add-75-feet</td>
<td>Add-100-feet</td>
</tr>
<tr>
<td>Bogs</td>
<td>100-feet</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Estuarine</td>
<td>150-feet</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Coastal Lagoons</td>
<td>150-feet</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Natural Heritage Wetlands</td>
<td>100-feet</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Category-II</td>
<td>75-feet</td>
<td>Add-75-feet</td>
<td>Add-100-feet</td>
</tr>
<tr>
<td>Interdunal</td>
<td>110-feet</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Wetlands</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Category III</td>
<td>60-feet</td>
<td>Add 50-feet</td>
<td>N/A</td>
</tr>
<tr>
<td>Category-IV</td>
<td>40-feet</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Table notes:

1. Standard buffer widths assume the buffer is vegetated with native plant communities that are appropriate for the ecoregion or with a plant community that provides similar functions.


   (V) Any wetland restored, relocated, replaced or enhanced because of wetland alterations should have at least the minimum buffer required for the class of the wetland involved.
   (VI) Any wetland area located within seventeen feet of the bottom of a slope greater than forty percent shall have the following minimum buffers:
   (1) Where the horizontal length of the slope, including small benches and terraces, extends into a buffer for that wetland class, the required wetland buffer width for that wetland class shall be extended onto the sloped area and increased an additional distance of seventeen feet onto the sloped area.
   (2) The county may permit buffer averaging in instances where such averaging provides additional resource protection, provided that the total area on-site contained in buffer remains the same.

   (b) Additional Buffers Requirements for Wetlands. The county may require increased buffer widths as necessary to protect wetland areas. The additional buffer width and other issues shall be determined by an examination of the wetland area's relationship to critical drainage areas, the location of hazardous materials, critical fish and wildlife habitat, the presence of landslide hazard areas or erosion hazard areas adjacent to wetlands, groundwater recharge and discharge areas, and the location of a trail or utility corridor.

   (e) Critical-protect area tracts or easements and setback areas for wetland areas. Wetland areas and their buffers shall be placed in a separate critical area tract or easement as provided in Section 18.06.070.

   (d) Building Setback Lines. Unless otherwise specified in this chapter, a building setback line (BSBL) shall be established at the outside edge of the wetland area buffer. Prohibitions on the use of hazardous or toxic substances and pesticides and certain fertilizers in this setback area may be imposed.

   (e) Temporary marking and permanent signs shall be installed as detailed for wetland areas and buffers in Section 18.05.075.

   (f) Alterations to Wetland Areas and Buffers.
(1) The county may grant exemptions or exceptions from the wetland area requirements of this chapter in accordance with Sections 18.06.025 through 18.06.035, inclusive.

(2) Utilities in a Wetland Area Buffer:

(i) The construction of utilities shall be permitted in the outer twenty-five percent of a Category III or Category IV wetland area buffer only when no practical alternative location is available, the location of such facilities will not degrade the functions or values of the wetland, and the utility corridor meets the criteria set forth in Section 18.06.135B.6.(g)(ii) for installation, replacement of vegetation, and maintenance.

(ii) Sewer Utility. The joint use of the sewer utility corridor by other utilities may be allowed. The construction of sewer lines may only be permitted in a wetland area buffer when the applicant demonstrates it is necessary for gravity flow, and proposal meets the following requirements:

(A) Utility corridors shall not be allowed when the wetland area or the buffer is used by a species listed as endangered or threatened by federal or state law, or where critical or outstanding actual habitat is present for those species;

(B) Utility corridor alignment, including any allowed maintenance roads, shall follow a path beyond a distance from wetland area edge equal to seventy-five percent of the buffer width.

(C) Utility corridor construction and maintenance shall protect the wetland area and buffer environment, shall be aligned to avoid cutting trees greater than twelve inches in diameter at breast height when possible and shall not use pesticides, herbicides or other hazardous or toxic substances;

(D) Utility corridors shall require an additional, adjacent, undisturbed buffer width equal to the proposed corridor width, including any allowed maintenance roads;

(E) Utility corridors shall be re-vegetated with appropriate native vegetation at pre-construction densities or greater immediately upon completion of construction or as soon thereafter as possible and the sewer utility shall ensure that such vegetation survives;

(F) Any additional corridor access for maintenance shall be provided as much as possible at specific points rather than by parallel roads. If parallel roads are necessary, they shall be of a minimum width but no greater than seventeen feet; shall be maintained without the use of herbicides, pesticides or other hazardous or toxic substances; and shall be contiguous to the location of the utility corridor on the side away from the wetland.

(3) Wetland Area Buffer Averaging. Buffer averaging shall be a mechanism for balancing protection with specific site needs for development, or for tailoring a buffer to maximize protection of natural features in the wetland or surrounding upland area, or for providing a connection with an adjacent habitat, or for addressing those situations where pre-existing development has reduced a buffer area to a width less than the required standard.

The widths of buffers may be averaged if this will improve the protection of wetland functions, or if it is the only way to allow for reasonable use of a lot. There is no scientific information available to determine if averaging the widths of buffers actually protects functions of wetlands. Averaging may not be used in conjunction with any of the other provisions for the reduction in buffer width. Averaging shall be allowed in the following situations:

(i) Averaging to improve wetland protection may be permitted when all of the following conditions are met:
(1) 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.

(2) 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.

(3) The total area of the buffer after averaging is equal to the area required without averaging.

(4) The buffer at its narrowest point is never less than seventy-five percent of the required width.

(ii) Averaging to allow reasonable use of a lot may be permitted when all of the following are met:

(1) There are no feasible alternatives to the site design that could be accomplished without buffer averaging.

(2) 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.

(3) The total buffer area after averaging is equal to the area required without averaging.

(4) The buffer at its narrowest point is never less than seventy-five percent of the required width.

A county determination that the proposed wetland area buffer averaging complies with this chapter shall be based upon scientific documentation provided by the applicant that demonstrates the buffer averaging complies with the provision of this subsection.

(g) Surface Water Management. Stormwater dispersion outfalls and biofiltration swales may be allowed only in the outer twenty-five percent of a Category III or Category IV wetland area buffer subject to the following requirements:

(1) New surface water discharges to wetland areas may be allowed provided that the discharge does not increase the rate of flow nor decrease the water quality of the wetland;

(2) The surface water management facility is designed consistent with the State Department of Ecology's "Stormwater Management Manual for Western Washington";

(3) The use of the outer twenty-five percent of a Category III or Category IV wetland area buffer shall be allowed only if the applicant demonstrates:

(i) No other practicable alternative or alternative location exists;

(ii) The existing value and function of the buffer will not be degraded.

(h) Trails. The construction of public and private trails may be allowed in wetland area buffers only upon adoption of development permit conditions that implement the following guidelines:

(1) Trail surfaces shall not be of impervious materials, except that impervious public multi-purpose trails may be allowed if they meet all other requirements including water-quality; and

(2) Where trails are provided, buffers shall be expanded equal to the width of the trail corridor, including any disturbed areas.

(i) Docks. The construction of a dock, pier, moorage, float or launch facility may be permitted, subject to provisions of the Grays Harbor County Shoreline Master Program, provided that wetland impact mitigation measures consistent with this chapter are included as conditions of development permit issuance.
(j) Isolated Wetland Areas. Isolated wetlands are those wetlands that are isolated and less than one thousand square feet in area. These areas may be altered where (1) it has been documented by the applicant that they are not associated with a riparian corridor, and where (2) it has been documented by the applicant that they are not part of a wetland mosaic, and where (3) it has been documented by the applicant that the wetland does not contain habitat identified as essential for local populations of priority species by the State Department of Fish and Wildlife. Impacts allowed under this provision to these wetlands shall be mitigated as required in Section 18.06.135B.7.

7. Wetland Area Mitigation Standards.

(a) Mitigation shall be conducted in accordance with Section 18.06.080.

(b) Standards for Restoration, Enhancement or Replacement.

(i) Restoration. Restoration is required when a wetland area or its buffer has been substantially degraded in violation of this chapter. The following minimum performance standards shall be met for the restoration of a wetland, provided that if it can be demonstrated by the applicant that pre-existing functional and habitat values can be obtained, these standards may be modified:

(1) The original wetland configuration shall be replicated including depth, width, length, and gradients at the original location;

(2) The original soil types and configuration shall be replicated;

(3) The edge and buffer configuration shall be restored to the original condition;

(4) The wetland, edge, and buffer areas shall be replanted with native vegetation that replicates the original in species, sizes, and densities; and

(5) The pre-violation functional values shall be restored, including water quality and wildlife habitat functions.

(ii) Replacement and Enhancement.

(1) Replacement is required when an approved development proposal substantially degrades a buffer or uses a wetland area for regional surface water retention or detention facility or other approved use. The minimum standards required for restoration of a wetland area shall be followed.

(2) Enhancement may be allowed when a development proposal will substantially degrade a wetland area but will improve the existing habitat and/or hydrologic functions. Surface water management or flood control alterations may be considered enhancement if other existing functions and values are simultaneously increased. The minimum performance standards for enhancement shall be included in the critical protection area special study prepared for the proposed enhancement.

(3) The replacement or enhancement for approved wetland area alterations shall comply with the following requirements:

Protecting Wetlands except as superseded by those protection measures contained in Section 18.06.135B.6.

Any replacement shall conform to the mitigation ratios set forth in Table 1a on page 73 of the current edition of the Washington State Department of Ecology document entitled "Wetland Mitigation in Washington State Part 1: Agency Policies and Guidance," and shall provide equal or greater biological values, including habitat value, and equivalent hydrological values, including storage capacity.

(B) Off-site Replacement and In-kind Replacement. The county may consider and approve off-site replacement or enhancement where the applicant can demonstrate that the off-site location is in the same drainage basin and equal or greater biological and hydrological values will be achieved. The direction for the replacement and/or enhancement formulas required in subsection (A) above shall apply for off-site replacement.

(iii) Wetponds. Wetponds established and maintained for control of surface water shall not constitute replacement or enhancement for wetland alterations.

(iv) Monitoring. Monitoring shall be required in accordance with the provisions of Section 18.06.085.

(Ord. No. 393, § 26, 6-7-2010; Ord. No. 400, § 6, 1-9-2012)

18.06.140 Development standards for fish and wildlife habitat conservation areas.

A. Fish and Wildlife Habitat Conservation Areas. Development proposals on sites containing fish and wildlife habitat conservation areas shall meet the requirements of this subsection:

1. The county shall utilize the State Department of Natural Resources "Forest Practices Application Review System (FPARS)" and the "Priority Habitats and Species (PHS)" in determining the need for protection measures for fish, habitat, and wildlife habitat conservation areas.

2. The county shall utilize the State Department of Fish and Wildlife's "Priority Habitat and Species Database and Wildlife Heritage Database," United States Department of Fish and Wildlife "Critical Habitat for Threatened and Endangered Species" database and other applicable databases in determining the location of wildlife habitat conservation areas, and shall use the State Department of Fish and Wildlife's "Priority Habitat and Species Management Recommendations," for determining protection measures for wildlife conservation areas, except as superseded by those protection measures contained in section 18.06.140(A)(B). These maps are intended as a guide and do not provide a definitive determination as to the presence of a critical protection area.

3. The county adopts the State Department of Fish and Wildlife publication, Priority Habitats and Species List, August 2008, and as may hereafter be revised.

4. Fish and wildlife habitat conservation areas and associated buffers shall not be substantially degraded. The applicant is responsible for ensuring that the requirements of all other agencies with jurisdiction have been met. Any development discharge into a fish and wildlife habitat conservation area shall not contribute to a violation of the State Water Quality Standards.

5. If a fish and wildlife habitat conservation area is in a frequently flooded area, the county shall notify the State Department of Ecology, the State Department of Fish and Wildlife, the Quinault Indian Nation, and the Confederated Tribes of the Chehalis Indian Reservation of any alteration plans prior to initiating any alteration.
6. There shall be no deliberate or intentional introduction of any vegetation or wildlife that is not indigenous to the Pacific Northwest into any fish and wildlife habitat conservation areas, unless authorized by a state or federal license or permit.

7. A project located within a fish and wildlife habitat conservation area shall be required to prepare a critical protection area special study as provided in Section 18.06.020. The study shall be prepared by a professional habitat biologist and contain information on the location of the habitat area in relation to the proposal, direct measures to avoid impacts to the habitat conservation area or through the application of mitigation measures, and an analysis of the completed project effect to the habitat conservation area and its function.

8. Fish and Wildlife Habitat Conservation Areas Protection Standards.

(a) Standard buffer widths required for Type S, F, Np, and Ns Waters:
(1) Buffers are necessary to protect the integrity, function, and value of riparian areas along Type S, F, Np and Ns waters from the potential impacts created by a project permit.
(2) The standard width of buffers for Type S, F, Np, and Ns waters shall extend landward perpendicularly from the ordinary high water mark in accordance with the following provisions:
(I) Type S waters: One hundred fifty (150) feet;
(II) Type F waters: One hundred fifty (150) feet;
(III) Type Np waters: Sixty (60) feet;
(IV) Type Ns waters: Fifty (50) feet; and
(V) Undifferentiated Type N waters: All undifferentiated Type N waters designated on FPAR maps shall be considered as Type Np waters unless verified otherwise by a qualified professional.

(b) The following uses and structures may be located within a standard buffer width required by 18.06.140A(8)(a), provided, however, that the location within the buffer shall be the minimum necessary to accommodate the use:
(1) Permitted water dependent and water enjoyment structures and uses in accordance with the Grays Harbor Shoreline Master Program;
(2) Permitted water dependent and water enjoyment structure and uses in accordance with the Grays Harbor Estuary Management Plan;
(3) Boating facilities accessory to a single family residence, such as boat houses, docks, rails, piers and floats;
(4) Road and railroad construction and maintenance when location outside of the buffer area is not feasible;
(5) Utilities construction and maintenance when location outside of the buffer is not feasible; and
(6) Watershed restoration, fish and wildlife habitat, and fish passage projects.

(c) When the ordinary high water mark (OHWM) of any Type S, F, Np or Ns waters is located within seventeen (17) feet of the bottom of a slope that is greater than forty (40) percent the following minimum buffers shall be provided:
(1) Where the horizontal length of the slope, including small benches and terraces, extends into the buffer, the required buffer width shall extend an additional seventeen (17) feet onto the sloped area.
(2) The county may permit buffer averaging in instances where it will provide additional resource protection, provided that the total area on-site contained in buffer remains the same.
(d) Whenever Type S, F, Np or Ns waters abut or intersect a critical area that also has a required buffer, the buffer width will be whichever of the two is greater.

(e) Any restored, relocated, replaced, or enhanced Type S, F, Np or Ns waters shall include a buffer in accordance with the provisions of this title.

(f) Buffer averaging for Type S, F, Np or Ns waters.

(1) A project permit application may request the modification of the standard buffer boundary after completing a critical area special study as provided under 18.06.020. The critical area special study shall evaluate if the modified boundary will:

(i) Reduce the function or value of the adjacent water body;

(ii) Improve the protection of the water body by increasing the buffer width at areas of higher value or function;

(iii) Show that the total area contained in the buffer area after averaging is not less than the amount contained within a standard buffer, and

(iv) Provide a modified buffer boundary that is not reduced more than twenty-five (25) percent of the standard buffer width at any location.

(2) After reviewing the critical area special study, the administrator may approve, approve with conditions, or deny buffer averaging for the project permit application.

(g) Division of buffers by roads and highways.

(1) A project permit application may request a buffer reduction in width when an existing private road serving four or more houses, a county road, or a state highway divides a standard buffer required by 18.06.140A(8)(a) after completing a critical area special study as provided under 18.06.020.

(2) After reviewing the critical area study, the administrator may reduce all or part of the required buffer from the road shoulder to the landward standard buffer boundary, if there is no net loss of function or value to the adjacent water body.

(h) Reduction of buffer for riparian enhancement.

(1) A project permit application may request a reduction of the standard buffer width required under 18.06.140A(8)(a) by twenty-five (25) percent as compensation for riparian enhancement.

(2) A buffer may qualify for a buffer reduction under this section when:

(i) Nonnative and/or invasive plant species cover more than forty (40) percent of the buffer area; and

(ii) Native tree and/or shrub vegetation covers less than twenty-five (25) percent of the buffer area; and

(iii) The stream buffer has slopes of less than twenty-five (25) percent.

(3) The project permit application shall prepare a critical area special study as provided under 18.06.020 to determine whether the proposed enhancement meets the intent of this section. The critical area study shall:

(i) Inventory existing riparian conditions within the proposed buffer in relation to subsection (2)(i) through (iii) above;

(ii) Evaluate the existing value and function of the proposed buffer to the adjacent Type S, F, Np or Ns waters;

(iii) Propose an enhancement plan for the reduced buffer that includes planting or appropriate native tree and shrub species at a minimum planting density of ten (10) feet on-center for trees and five feet on-center for shrubs;

(iv) Compare how the proposed enhancement plan will benefit the value and function of Type S, F, Np or Ns waters as opposed to retaining the required buffer without enhancement; and

(v) Provide a monitoring and maintenance plan for the enhanced buffer for five years from the date of completing the enhancement.
(4) After reviewing the critical area special study, the administrator may approve, approve with conditions, or deny buffer enhancement for the project permit application.

(5) The county shall not issue a certificate of occupancy for a project permit until such time that the buffer enhancement planting is complete in accordance with the administrator’s decision.

(6) The reduction of a buffer for enhancement cannot be used in combination with buffer averaging as provided under section 18.06.140A(8)(d).

(i) Buffer reduction for nonconforming lots.

(1) A project permit application for a single-family dwelling unit on a nonconforming lot that is unable to meet the standard buffer width requirements under 18.06.140A(8)(a) may request a buffer reduction under the following conditions:

(I) There is no opportunity to consolidate adjacent lots under common ownership to alleviate the nonconformity;

(II) The proposed building area, excluding the on-site sewage disposal system and driveway, does not exceed two thousand five hundred (2,500) square feet;

(III) The proposed location of the building area is within the area that has the least impact to the value and function of the habitat adjacent water body; and

(IV) The proposed building area is as far landward as is possible and not closer than fifty (50) feet from the ordinary high water mark.

(2) The project permit application shall prepare a critical area special study as provided under 18.06.020 to evaluate the need for the buffer reduction and its affect to the function and value of the riparian habitat adjacent to the water body. The critical area study shall:

(I) Inventory of the existing riparian habitat conditions on the parcel;

(II) Show the location of the proposed building area, on-site sewage disposal area, and driveways; and

(III) Recommend actions to enhance the undisturbed riparian habitat, if needed.

(3) After reviewing the critical area special study, the administrator may approve, approve with conditions, or deny buffer reduction for the project permit application.

(4) The county shall not issue a certificate of occupancy for a project permit until such time that any buffer enhancement plantings required in the administrator’s decision is complete.

(j) Nonconforming structures located within a standard buffer width.

(1) Any structure legally existing as of the effective date of these regulations, and is located within a standard buffer width required under 18.06.140A(8)(a), may undergo normal maintenance and repair, or replacements; provided, however, that such action does not increase the degree of nonconformity.

(2) The administrator may approve a project permit application to expand any structure legally existing as of the effective date of these regulations that is located within a standard buffer width required under 18.06.140A(8)(a) provided that:

(I) There is no expansion of the structure towards the ordinary high water mark at grade level; and

(II) The expansion does not result in a total building area greater than two thousand five hundred (2,500) square feet at grade level.

(k) Alterations to Type S, F, Np or Ns waters and buffers.

(1) The county may grant exceptions from the requirements of this chapter pursuant to section 18.06.035.

(2) Crossings. Crossings may be allowed only if they meet the following requirements:

(I) All road crossings shall use bridges or other construction techniques that protect fish and wildlife habitat conservation areas;
(II)—All crossings shall be constructed to avoid disturbance of fish and wildlife habitat conservation areas, except, however, as provided in section 18.06.025A;
(III)—Crossings shall not occur over salmonid spawning areas, unless no other possible crossing site exists;
(IV)—Bridge piers or abutments shall not be placed within the Federal Insurance Administration (FIA) designated floodway;
(V)—Crossings shall not diminish the natural channel or the flood carrying capacity of the waters;
(VI)—Underground utility crossings shall be laterally drilled or directionally drilled and located at a depth of four feet below the maximum depth of scour for the base flood, as determined by a state-licensed civil engineer; and
(VII)—Crossings shall be minimized and serve multiple purposes and properties whenever possible.

(3) The following relocation of Type S, F, Np or Ns waters may be allowed if they meet all requirements and are approved by all agencies with jurisdiction:
(I)—Type F waters shall not be relocated, except as follows:
(1)—For public road projects duly authorized by the exemption process in section 18.06.025;
(2)—Under a mitigation plan for the purpose of enhancement of water resources. Appropriate frequently flooded area protection measures shall be used. The stream relocation shall occur on-site, except that when it is demonstrated that the on-site relocation is impracticable, the county may consider off-site relocation if the location is in the same drainage basin and subject to the applicant providing all necessary easements and waivers from affected property owners.

(II)—An applicant must demonstrate, based on information provided by a civil engineer and a qualified biologist, that:
(1)—The equivalent base flood storage volume and existing function will be maintained;
(2)—There will be no significant adverse impact to local groundwater;
(3)—There will be no increase in velocity;
(4)—There will be no inter-basin transfer of water;
(5)—Performance standards, as set out in the mitigation plan, are met;
(6)—The relocation conforms to other applicable laws; and
(7)—All work will be carried out under the direct supervision of a qualified biologist.

(4)—Construction of public and private trails may be allowed in buffers for Type S, F, Np and Ns waters pursuant to the following guidelines:
(I)—Trail surface shall not be of impervious materials, except that impervious public multi-purpose trails may be allowed if they meet all other requirements, including water quality; and
(II)—Where trails are provided, buffers shall be expanded, where possible, equal to the width of the trail corridor, including disturbed areas.

(5)—The channel of Type S, F, Np or Ns waters may be stabilized when its movement threatens existing residential or commercial structures, public improvements, unique natural resources, or the only possible existing access to property and is performed in accordance with the requirements in section 18.06.100.

An applicant proposing channel stabilization shall first consider state department of fish and wildlife stream bank protection techniques that feature natural-bio-engineered practices, such as the use of large woody debris.
(6) The following surface water management actions may be allowed only if they meet the following requirements:

(I) Surface water discharges to streams from detention facilities, pre-settlement ponds, or other surface water management structures may be allowed provided that the discharge complies with the provisions of the state department of ecology's "Surface Water Management Manual for Western Washington."

(7) Utilities in buffers of Type S, F, Np or Ns waters.

(I) Construction of utilities shall be permitted in buffers of Type S, F, Np or Ns waters only when no practical alternative location is available and the utility corridor meets the criteria for installation, replacement of vegetation and maintenance set forth in section 18.06.135(B)(6)(F)(2).

(II) Sewer utility corridors may only be located in buffers of Type S, F, Np or Ns waters when the applicant demonstrates it is necessary for gravity flow. The joint use of the sewer utility corridor by other utilities is allowed. The location requirements for utility corridors in wetland areas contained in section 18.06.135(B)(6) shall also apply to streams.

(8) Enhancement independent of a development proposal.

(I) Enhancement of Type S, F, Np or Ns waters not associated with any other development proposal may be allowed when the project would enhance existing functions, as determined by the county and state department of fish and wildlife. Such enhancement shall be performed under a plan for the design, implementation, maintenance, and monitoring of the project prepared by a civil engineer, qualified biologist, fluvial geomorphologist or similarly qualified individual, with the plan implemented under the direct supervision of the individual preparing the plan.

(II) Restoration projects for fish and wildlife habitat conservation areas unassociated with the mitigation of a specific development proposal may be allowed.

(9) Drainage ditch maintenance. Roadside drainage ditches and agricultural drainage ditches may be maintained through use of best management practices developed in consultation with county, state and federal agencies with expertise of jurisdiction.

(I) Mitigation for fish and wildlife habitat conservation areas.

(1) Mitigation shall be conducted pursuant to section 18.06.080. Any proposed mitigation measure shall be consistent with the state department of fish and wildlife's "Priority Habitat and Species Management Recommendations," except as superseded by protection measures set forth in section 18.06.140A(6) and shall be reviewed by state department of fish and wildlife prior to any approval for the proposal.

(2) Standards for restoration, enhancement, or replacement.

(I) Restoration is required when a fish and wildlife habitat conservation area or its buffer has been substantially degraded in violation of this chapter or any prior code applicable to the treatment of streams, or when an unapproved or unanticipated alteration occurs during the construction of an approved development proposal, provided that a mitigation plan for the restoration demonstrates that:

(1) The habitat is degraded and will not be further degraded by the restoration activity;

(2) The restoration will reliably and demonstrably improve habitat quality;

(3) The restoration will have no lasting significant adverse impacts;

(4) All work will be carried out under the direct supervision of a qualified biologist;
(5) The following minimum performance standards shall be met for restoration of Type S, F, Np, or Ns waters, provided that these standards may be modified if the applicant can demonstrate that greater habitat value can be obtained:

(i) The natural channel dimensions should be replicated, including identical depth, width, length, and gradient at the original location, and the original horizontal alignment or meander length should be replaced;

(ii) The bottom should be restored with identical or similar materials;

(iii) The bank and buffer configuration should be restored to the original conditions;

(iv) The channel, bank and buffer areas should be replanted with native vegetation which replicates the original in species, sizes and densities; and

(v) The original habitat value should be recreated.

(6) The following minimum performance standards shall be met for restoration of wildlife habitat; provided, that these standards may be modified if the applicant can demonstrate that greater habitat value can be obtained:

(i) The area square footage of the habitat should be replicated;

(ii) The habitat should be restored with identical or similar materials;

(iii) Any water features should be restored to the original condition;

(iv) Impacted areas shall be replanted with native vegetation which replicates the original in species, sizes and densities; and

(v) The original habitat value should be recreated.

(II) Replacement or enhancement may be required when the county permits or approves the alteration of a fish and wildlife habitat conservation area. There will be no net loss of existing functions on a development proposal site and no impact on functions above or below the site due to the approved alterations.

(1) Replacement or enhancement may be required when the county permits or approves alteration of a wildlife habitat conservation area. There will be no net loss of existing functions on a proposed development site due to the approved alterations.

(2) Replacement. The performance standards in section 18.06.135B(7)(b) are required in order to replicate the structure and function of the habitat, unless the applicant can demonstrate that greater habitat value can be obtained through varying these standards.

(3) Enhancement. When allowed, enhancement should improve the functions and values of the wildlife habitat. Surface water management or flood-control alterations may not be considered enhancement if other functions and values are simultaneously increased.

(III) Monitoring shall be required in accordance with section 18.06.086.

B. Lake Quinault Fish and Wildlife Habitat Conservation Area. Development proposals on sites in this area shall meet the requirements of this subsection:

1. The bed of Lake Quinault up to the ordinary high water mark (OHWM) is within the exterior boundaries of the Quinault Indian Reservation and owned by the Quinault Indian
Any activity below the OHWM of Lake Quinault shall be approved in writing by the Quinault Indian Nation prior to the issuance of any development permit.

2. Lake Quinault is an important fish habitat area and an irreplaceable component of local ecosystems and processes. Lake Quinault provides habitats for various life history stages of nine salmon (Genus Oncorhynchus) species/races, two species of char, and several other aquatic species. Lake Quinault provides important rearing habitats for a depressed stock of spring Chinook salmon, a population of bull trout, which are currently listed as a threatened species under the Federal Endangered Species Act, and the only juvenile rearing habitat for the depressed Quinault sockeye salmon. In addition, water-quality attributes of the lake are carried downstream and affect salmon habitats the entire length of the lower Quinault River.

3. Uses and activities carried out pursuant to this section shall result in equivalent or greater habitat functions, as determined by the responsible approval authority in a manner consistent with best available science. All actions and uses shall be designed and constructed to avoid adverse impacts to Lake Quinault. No activity or use shall be allowed that results in a net loss of important habitat area functions, destroys, damages, or disrupts fish habitat, adversely affects water quality, creates unstable earth conditions, or causes erosion.

4. Applications for uses and activities within two hundred feet of the Lake Quinault OHWM shall include a critical protection area special study prepared by a qualified professional that evaluates the potential impacts of the proposed use or activity on the applicable habitat and/or species. The approval authority shall establish buffers for the habitat or species on a case-by-case basis in consultation with the Quinault Indian Nation based on the critical protection area special study. Any buffers proposed in the study shall reflect the sensitivity of the specific habitat(s) and/or species to be protected.

(a) The width of any buffer proposed in the critical protection area special study shall be measured on a horizontal plane, outward from the OHWM or, if the OHWM cannot be identified, from the top of the bank. These buffers shall be maintained in their existing condition, except as explicitly authorized by this chapter.

(b) The perimeter of the habitat area and associated buffer, and those areas to be disturbed pursuant to an approved permit or authorization, shall be marked in the field and inspected by the approval authority prior to the commencement of permitted activities. This temporary marking shall be maintained throughout the duration of the development activity.

5. Trees within two hundred feet of Lake Quinault shall be retained. Limbs may be removed to maintain views.

6. Trees that fall into Lake Quinault shall be left where they fall.

7. Trees and logs that float onto the shoreline between OHWM and summer low water shall be retained where they land.

8. Bank stabilization, if necessary, shall be accomplished with bioengineering or similar soft/nonstructural stabilization techniques. Materials used for soft/nonstructural stabilization include natural vegetation, submerged aquatic vegetation (SAV), sand fill, and biodegradable organic materials such as natural fiber logs (bio-logs) and organic matting. A state-licensed professional engineer with demonstrated expertise regarding hydraulic actions along shorelines shall design stabilization projects along Lake Quinault in consultation with a qualified biologist. The stabilization shall be designed and installed to minimize adverse impacts on the habitat's functions. Approved stabilization shall only
use materials that do not pose a risk to water quality. Stabilization must be installed above the OHWM. Bank stabilization measures shall be approved by the Quinault Indian Nation and the county prior to permit issuance.

(Ord. No. 393, § 27, 6-7-2010; Ord. No. 400, § 7, 1-9-2012; Ord. No. 401- § 8, 6-11-2012)

18.06.145—Critical-protection-area development standards for critical-aquifer recharge areas.


B. Critical Aquifer Recharge Areas. Development proposals on sites containing critical aquifer recharge areas shall meet the following requirements:

1. Critical aquifer recharge areas are those areas with a critical recharging effect on aquifers used for potable water or are areas where an aquifer serving as the source for drinking water is vulnerable to contamination that would affect the potability of the water. A project shall be reviewed for its potential adverse impact to a critical aquifer recharge area.

2. The sanitary control area for Group A or Group B public water systems, wellfields, springs or their State Department of Health Recognized Wellhead Protection Area (WHPA) are hereby designated as critical aquifer recharge areas.

3. All rezones, subdivisions, and development proposals resulting in the creation of a dwelling unit or dwelling units within a critical aquifer recharge area shall be required to prepare and implement a best management practices plan that contains (a) hazardous material best management practices, (b) integrated pest management practices, and (c) landscape maintenance best management practices. Educational materials pertaining to the plan shall be provided to each property owner.

The plan shall be reviewed by the environmental health division prior to any county decision on the proposal.

The environmental health division may require preparation of a best management plan for any development proposal in the event that it finds that the pre-development condition of the critical aquifer recharge area warrants the preparation of the plan as an assurance that the proposal provides a reasonable margin of safety for the critical aquifer recharge area.

4. The county shall prepare and record a notice with the auditor for any site within the critical aquifer recharge areas for which a plan has been prepared. The notice shall indicate in the public record the existence of the plan for the property. The notice shall be as set forth below:

"Notice: This site lies within a critical aquifer recharge area as identified in Grays Harbor County Code Section 18.06.145. The site was the subject of a development proposal for [application number] filed on [date]. A best management practices plan has been prepared for this site that
contains (a) hazardous material best management practices, (b) integrated pest best management practices, and (c) landscape maintenance best management practices. A copy of the plan is attached hereto.”

5. Any surface water management plan prepared for a development within a critical aquifer recharge area shall include low impact development techniques consistent with those contained in the January 2005 Puget Sound Action Team and Washington State University Pierce County Extension document entitled “Low Impact Development; Technical Guidance Manual for Puget Sound.” The plan shall be reviewed and approved by the public works division prior to any county decision on the proposal.


7. All rezones and subdivisions within the critical aquifer recharge areas identified in Section 18.06.145B.2. shall be required to prepare a hydrogeologic assessment, prepared by a licensed hydrogeologist, that demonstrates conclusively that the proposed development will not threaten down gradient drinking water or adversely affect aquifer recharge.

The assessment shall be reviewed by the environmental health division prior to any county decision on the proposal. In the event that said division finds that the proposal does not provide a reasonable margin of safety for the critical aquifer recharge area, the proposal shall be (a) required to be revised to increase the margin of safety, including a reduction in lot density, or (b) shall be denied based upon evidence that the proposal represents a probable significant adverse impact to the critical aquifer recharge area.

The environmental health division may require preparation of a hydrogeologic assessment for any development proposal in the event that it finds that the pre-development condition of the critical aquifer recharge area warrants the assessment to determine whether or not the proposal provides a reasonable margin of safety for the critical aquifer recharge area.

(Ord. No. 393, § 28, 6-7-2010)

48.06.150—Violations and penalties.

A. Criminal Penalty. Any person convicted of a violation of this chapter shall be guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars ($1,000.00), or by imprisonment in jail for a period not to exceed ninety (90) days, or by both such fine and imprisonment. Each day's violation constitutes a separate offense.

B. Civil Penalty. Any person who violates any provisions of this chapter shall be guilty of a civil offense and may be fined a sum not to exceed one thousand dollars ($1,000.00) for each violation. Each day a violation exists shall constitute a separate violation. Any violation of this chapter is a public nuisance. The planning director or his or her designee is authorized to impose a civil penalty in accordance with this section.

C. Other Relief. The prosecuting attorney may enforce compliance with this chapter by such injunctive, declaratory or other actions as deemed necessary to ensure that violations are prevented, ceased, or abated.
D. Form of the Civil Penalty. A civil penalty imposed under this section shall be in writing signed by the planning director, or his or her designee, directed to the person violating this chapter, which notice thereof shall be served either by certified mail with return receipt requested or by personal service. Such written notice shall also include the following: (1) a description of the violation with reasonable particularity; (2) a legal description of the property on which the violation occurred or is occurring; (3) the amount of the penalty; (4) a statement that the penalty and order may be appealed within thirty (30) days of the date the notice is received with brief explanation of how to appeal the penalty and order; and (5) ordering such violation or violations immediately cease and desist or, in appropriate cases, require necessary corrective action to be taken within a specified deadline.

(Ord. No. 393, § 29, 6-7-2010)

18.06.155 Appeal of civil penalties:

A. Any civil penalty imposed by the planning director or his or her designee under authority of Section 18.06.150B is final and conclusive unless appealed to the board of adjustment. The burden of proof in any appeal hereunder shall fall on the appellant and only a person against whom such civil penalty is imposed may prosecute an appeal.

B. Any civil penalty imposed jointly by the planning director or his or her designee and State Department of Ecology is final and conclusive unless appealed to said department.

C. Appeal Submittal Requirements. A person appealing a civil penalty imposed solely by the county shall submit a brief written statement to the planning director or his or her designee containing the following information:

1. The date of the order appealed;

2. Identify explicit exceptions or objections to the civil penalty appealed or identify specific errors in fact or conclusion;

3. Describe the relief sought;

D. Time Within Which an Appeal Must be Filed. Any appeal filed under this section shall be filed with the planning director or his or her designee not more than thirty (30) days from the date of service of the written civil penalty notice as provided in Section 18.06.150D.

E. Upon timely filing of any appeal hereunder, all county enforcement action of the order and penalty contested is stayed. The stay is lifted upon issuance of a written decision on said appeal by the board of adjustment.

F. Procedures for Processing Appeals of Civil Penalties.

1. After an appeal in accordance with the provisions of this section is filed, the planning director or his or her designee shall request the board of adjustment to schedule a public hearing on the appeal. Such scheduling request shall be filed with the secretary of the board of adjustment not later than twenty-one (21) days from the date the appeal is filed.

2. Upon setting the date of appeal hearing, the secretary of the board of adjustment shall provide notice of the hearing as follows: (a) publishing notice of the public hearing in the legal newspaper for the county; (b) mailing notice of the public hearing to the appellant and the owner of the property on which the violation for which the penalty was imposed, if different from the appellant, at least twelve (12) days prior to the date of hearing; (c) the notice shall include the following information: (i) the name of the appellant and, if applicable, the project name; (ii) a description in non-legal terms sufficient to identify the
location of the property for which the civil penalty was imposed; (iii) a brief description of the reason the civil penalty was imposed; (iv) a brief description of the error as stated in the appeal; (v) the date, time, and place of the public hearing; (vi) a statement of the right of any person to participate in the public hearing and the ways they may participate; (vii) a statement that any appeal of the decision of the board must be filed and served within twenty-one (21) days from the date of the board’s decision on the appeal as provided in (F)(8) of this section.

3. The planning director or his or her designee shall prepare a written report on the order and penalty being appealed setting forth the facts and conclusions on which the order and penalty are based. The planning director or his or her designee shall mail the written report to the appellant at least twelve (12) days prior to the date of hearing.

4. Upon receipt of appellant’s statement as provided herein above, the planning director or his or her designee shall provide copies of the appellant’s written statement and the planning director or his or her designee’s written report to the board not less than four days prior to the date of hearing.

5. The board shall conduct the public hearing on the appeal. At the hearing, members of the board may request such additional information as in their sole discretion is reasonably necessary to adjudicate the appeal. Any person may participate in the public hearing by submitting written comments to the secretary of the board before the public hearing or by submitting written comments or making oral statements to the board during the designated time at the public hearing. The secretary shall transmit all written comments received before the public hearing to the board not later than the public hearing.

6. After the public hearing has concluded, the board of adjustment shall decide the appeal.

(a) The board’s decision may be made at the same public meeting that the public hearing on the appeal is heard, or at a subsequent public meeting of the board, provided however that the decision of the board thereon shall be issued not later than thirty (30) days following the initial appeal hearing date.

(b) Decisions on appeals shall be based on the decision criteria in (F)(7) of this section.

(c) The board of adjustment may reverse or affirm, wholly or partly, or may modify the order and/or civil penalty.

(d) The board shall adopt written findings of fact and conclusions that support the decision on the appeal and any required conditions.

(e) Subject to 6.(a) above, the board may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information prior to the time the decision is rendered. Other than an announcement on the record at the time continuance is approved by the board, no additional notice of any continued hearing need be given.

7. Appeal Decision Criteria. In deciding appeals of civil penalties and in addition to applying the burden of proof under A. above, the board of adjustment shall consider the following criteria:

(a) Whether the evidence presented at the hearing demonstrates that a violation of this chapter has or is occurring;

(b) Whether the imposition of the civil penalty was done in the required manner;

(c) Whether the amount of the civil penalty is reasonable considering the violation type, number of violations, and actual or potential adverse effects on the public and/or public resources or facilities.
8. The decision of the board of adjustment with written findings of fact and conclusions shall be reduced to writing and mailed to the appellant by the secretary of the board within twelve (12) calendar days of the date of decision.

9. The decision of the board of adjustment on any appeal hereunder is the final decision of the county. Unless appealed to superior court within twenty-one (21) days of the date of decision, the board's decision on appeal is not subject to further appeal and is final. Any issue not raised by the time of appeal to superior court is waived.

10. Bar on Refiled Penalty Appeals. After a decision by the planning director or his or her designee under this chapter is final on appeal, the planning director or his or her designee shall not accept any additional or renewed appeals of a civil penalty previously appealed and final.

(Ord. No. 393, § 30, 6-7-2010)

18.06.160—Amendments:

A. All amendments to the text and requirements of this chapter pertaining to frequently flooded areas and areas of special flood hazard shall be submitted to the State Department of Ecology for review and approval prior to adoption.

B. Amendments to this chapter pertaining to frequently flooded areas and areas of special flood hazard shall become effective thirty (30) days after receipt by State Department of Ecology, unless otherwise disapproved in writing by said department prior to expiration of such thirty (30) day period.

(Ord. No. 393, § 31, 6-7-2010)
18.06.165—Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this chapter is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this chapter.

(Ord. No. 393, § 32, 6-7-2010)

(Ord. No. 392, § 1, 6-7-2010; Ord. No. 400, § 2, 1-9-2012; Ord. No. 401, §§ 1, 2, 6-11-2012; Ord. No. 434, § 1, 1-30-2017))

Section 2: Grays Harbor County Code Chapter 18.06 shall be replaced with the following:

Draft Critical Areas Protection Ordinance

Article I. General Provisions
Article II. Wetlands
Article III. Critical Aquifer Recharge Areas
Article IV. Frequently Flooded Areas
Article V. Geologically Hazardous Areas
Article VI. Fish and Wildlife Habitat Conservation Areas

ARTICLE I. GENERAL PROVISIONS

Section 1 Title
This chapter shall be known and may be cited as the “Grays Harbor County Critical Areas Protection Ordinance.”

Section 2 Purpose

A. The purpose of this chapter is to identify and protect the value and function of critical areas while allowing for the reasonable use of private and public property.

B. Critical areas consist of wetlands, critical aquifer recharge areas, frequently flooded areas, geologically hazardous areas, and fish and wildlife habitat conservation areas.

C. The county finds that critical areas provide a variety of valuable functions and values that benefit the citizens and economy of the county, and/or may pose a threat to human safety, or to public and private property.

D. The regulations in this Title are intended to protect critical areas in accordance with the Growth Management Act, Chapter 36.70A RCW and through the application of the best available science, as determined per WAC 365-195-900 through 365-195-925, and in consultation with state and federal agencies and other qualified professionals.
E. It is not the intent of this Title to make a parcel of private property unusable by denying its owner reasonable economic use of the property.

Section 3 **Goals**
A. By managing development on or the alteration of critical areas, this chapter seeks to:
B. Protect private and public property, resources, and facilities from injury, loss of life, damage or financial losses due to flooding and geologically hazardous events;
C. Protect unique, fragile, and valuable elements of the environment, including ground and surface waters, wetlands, and the habitats and biodiversity of plants and animals; and
D. Avoid or mitigate unavoidable short- or long-term impacts to critical areas by directing development activities not dependent on critical areas to less environmentally sensitive sites.

Section 4 **Severability**
If any clause, sentence, paragraph, section, or part of this Title or the application thereof to any person or circumstances shall be judged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered. The decision shall not affect or invalidate the remainder of any part thereof and to this end the provisions of each clause, sentence, paragraph, section, or part of this law are hereby declared to be severable.

**Article II. General Requirements**

Section 5 **Authority**
A. The Director of Planning & Building, or his or her designee, is the administrator of this chapter and has the authority to interpret and apply the provisions of this chapter to accomplish its Purpose.
B. The county may withhold, condition, or deny development permits or activity approvals to ensure consistency with this Title.

Section 6 **Definitions Adopted**
The definitions provided under Chapter 18.02, Grays Harbor County Code (GHCC), shall extend to this ordinance.

Section 7 **Relationship to Other Regulations**
A. These critical areas regulations shall apply as an overlay and in addition to the following permit-related procedures:
   1. State Environmental Policy Act review;
   2. Commercial building permit or residential building permit;
   3. Binding site plan;
4. Flood development permit;
5. Grading permit, including clearing in excess of one acre, or any clearing within a critical area or buffer;
6. Planned unit development;
7. Road access permit;
8. All Shoreline Permits;
9. Short subdivision; Large Lot Subdivision, Long Subdivision;
10. Special use permit;
11. Zoning Variance;
12. Zoning Conditional Use permit;
13. Washington State Forest Practices conversion and moratorium rescission activities over which the county has jurisdiction; and/or
14. Zone reclassification and text amendment

Section 8  Administrative Procedures
The administrator is authorized to adopt such administrative rules and regulations as necessary and appropriate to implement these chapters, and to prepare and require the use of such forms as necessary for its administration.

Section 9  Interpretation
In the interpretation and application of the ordinance codified in this chapter, the provisions of this chapter shall be considered to be the minimum requirements necessary, shall be liberally construed to serve the purpose of the ordinance codified in this chapter, and shall be deemed to neither limit nor repeal any other provisions under state statute.

Section 10  Jurisdiction within Critical Areas
A. The county shall regulate all uses, activities, and developments within, adjacent to, or likely to affect, one or more critical areas, consistent with the best available science and the provisions herein.
B. Critical areas regulated by this chapter include wetlands, critical aquifer recharge areas, frequently flooded areas, geologically hazardous areas, fish and wildlife habitat conservation areas, as defined in Chapter 18.02, Grays Harbor County Code.
C. All areas within the county meeting the definition of one or more critical areas, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this ordinance.
Section 11  Areas Adjacent to Critical Areas

The county shall regulate all development or activities on adjacent land that lie within a required critical area buffer.

Section 12  Overlapping Critical Areas

A critical area may overlap with other identified critical areas. When a critical area overlaps with one or more critical areas, all the performance standards established for the overlaying critical area(s) shall apply. If multiple critical areas overlap in an area, the most restrictive conditions shall apply.

Section 13  Exemptions

A.  The following developments, activities, and associated uses shall be exempt from the provisions of this title provided that they are otherwise consistent with the provisions of other local, state and federal laws and requirements:

1.  Emergencies,
   a.  Emergency activities are those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property, and that require remedial or preventative action in a timeframe too short to allow for compliance with the requirements of these provisions.
   b.  An emergency response shall utilize reasonable methods to address the emergency considering the applicable critical area(s); in addition, they must have the least possible impact to the critical area or its management zone. The person or agency undertaking such action shall notify the county within four days following commencement of the emergency activity. If the administrator determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then enforcement will commence;
   c.  After the emergency, the person or agency undertaking the action shall fully restore and/or mitigate any impacts to the critical area and management zones resulting from the emergency action in accordance with an approved critical area report and mitigation plan. Restoration and/or mitigation activities must be initiated within one year of the date of the emergency, and completed in a timely manner; and
   d.  Any emergency structures deemed necessary within the jurisdiction of the Shoreline Master Program shall be removed following the emergency or else obtain the appropriate shoreline permit;

2.  Operation, Maintenance or Repair, Operation, maintenance or repair of existing structures, infrastructure improvements, utilities, public or private roads, dikes, levees or drainage systems that do not further alter or increase the impact to, or encroach further within, the critical area or management;
3. Passive Outdoor Activities. Recreation, education, and scientific research activities that do not degrade the critical area, including fishing, hiking, and bird watching. Trails must be constructed pursuant to Section 15(D)(4); and

4. Forest Practices. Forest practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practices regulations, Title 222 WAC, and those that are exempt from county jurisdiction, provided that forest practice conversions are not exempt.

5. Agricultural Activities
   a. Agricultural activities in place prior to [date VSP approved].
   b. New agricultural activities sponsored by the Voluntary Stewardship Program (VSP) technical provider as part of an Individual Stewardship Plan.
   c. For the purpose of this exemption, agricultural activities shall mean those uses and activities listed in RCW 90.58.065(2)(a).

6. New Agricultural Facilities and Flood Refuge Pads

The director or designee may issue an administrative exemption for a new agricultural facility or farm refuge pad provided that the proposal meets all of the following criteria:
   a. The project is sponsored by the VSP technical provider.
   b. Pre-Development Review is required pursuant to Section 16.
   c. The administrator may require a Critical Area Report pursuant to Section 18.
   d. The project is a minor alteration of a critical area buffer. Flood refuge pads up to 3,000 square feet shall be considered minor.
   e. The agricultural facility avoids critical areas and critical area buffers to the greatest extent practicable and can demonstrate no-net-loss of the buffer function or is balanced through VSP buffer enhancements.
   f. For the purpose of this exemption, agricultural facilities shall mean those facilities listed in RCW 90.58.065(2)(c) except farm residences.

B. All exempted activities shall use reasonable methods to avoid potential impacts to critical areas. To be exempt from these provisions does not give permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party’s expense.
Section 14  Best Available Science References

A. Critical area reports and decisions to alter critical areas shall rely on the best available science to protect the functions and values of critical areas and must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish, such as salmon and bull trout, and their habitat.

B. 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.

C. Where there is an absence of valid scientific information or incomplete scientific information relating to a critical area leading to uncertainty about the risk to critical area function of permitting an alteration of or impact to the critical area, the administrator shall:
   1. Limit development and land use activities until the uncertainty is sufficiently resolved; and
   2. Require an effective adaptive management program that relies on scientific methods to evaluate how well regulatory and nonregulatory actions protect the critical area.

Section 15  Allowed Activities

A. Allowed activities are similar to exemptions in that they do not require critical area review. However, unlike exemptions, allowed activities shall be consistent with critical area requirements. Conditions may be applied to the underlying permit, such as a building permit, to ensure critical area protection.

B. Activities that have been reviewed and permitted or approved by the county, or other agency with jurisdiction, for impacts to critical or sensitive areas, may not require submittal of a new critical area report or application under this chapter, unless such submittal was required previously for the underlying permit.

C. All allowed activities shall be conducted using the best management practices, adopted pursuant to other provisions contained in this code, that result in the least amount of impact to the critical areas. Best management practices shall be used for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications. The county shall monitor the use of best management practices to ensure that the activity does not result in degradation to the critical area. Any incidental damage to, or alteration of, a critical area shall be restored, rehabilitated, or replaced at the responsible party's expense.

D. The following activities are allowed:
   1. Permit Requests Subsequent to Previous Critical Area Review. Development permits and approvals that involve both discretionary land use approvals (such
as subdivisions, rezones, or conditional use permits) and construction approvals (such as building permits) if all of the following conditions have been met:

a. There have been no material changes in the potential impact to the critical area or management zone since the prior review.

b. There is no new information available that is applicable to any critical area review of the site or particular critical area.

c. The permit or approval has not expired or, if no expiration date, no more than five years has elapsed since the issuance of that permit or approval, and

d. Compliance with any standards or conditions placed upon the prior permit or approval has been achieved or secured;

2. Structural modifications, additions to, or replacement of an existing legally constructed structure that does not further alter or increase the impact to the critical area or management zone, and where there is no increased risk to life or property as a result of the proposed modification or replacement, provided that restoration of structures substantially damaged by fire, flood, or act of nature must be initiated within one year of the date of such damage, as evidenced by the issuance of a valid building permit, and diligently pursued to completion;

3. Activities within improved rights-of-way that include replacement, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the improved portion of the public right-of-way or a county-authorized private roadway, except those activities that alter a wetland or watercourse, such as culverts or bridges, or results in the transport of sediment or increased stormwater;

4. Public and private pedestrian trails, except in wetlands, fish and wildlife habitat conservation areas, or their buffers, subject to the following:

a. Existing public and private trails may be maintained, replaced, or extended, provided there is no increase in the impact to the critical area;

b. The critical area and/or buffer shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas; and

c. Trails proposed in landslide or erosion hazard areas shall be constructed in a manner that does not increase the risk of landslide or erosion, and in accordance with an approved geotechnical report.

5. The following selective vegetation removal activities, if approved by the administrator:

a. The removal with hand labor or light power equipment, such as powered string and hedge trimmers, of invasive plant species identified by the Washington State Noxious Weed Control Board.
e. The removal of trees that pose an immediate threat or danger to health, safety, property, or environmental degradation caused by pest or disease infestation.

f. Selective pruning limited to limbing and crown thinning for views within a buffer that does not compromise slope stability, and ecological functions, and

g. Removal of trees that provide critical habitat, such as an eagle perch, shall not occur until a qualified wildlife biologist determines the timing and methods for removal that minimize impacts to fish and wildlife;

6. Measures to control a fire or halt the spread of disease or damaging insects consistent with the State Forest Practices Act; Chapter 76.09 RCW; provided, that the removed vegetation shall be replaced in-kind or with similar native species within one year in accordance with an approved restoration plan;

7. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, provided that their use shall be restricted in accordance with Department of Fish and Wildlife Management Recommendations, and the regulations of the Department of Agriculture and the U.S. Environmental Protection Agency;

8. Minor site investigative work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation or clearing. In every case, impacts to the critical area shall be minimized and disturbed areas shall be immediately restored; and

9. Construction or modification of navigational aids and boundary markers.

Section 16 Pre-Development Review

A. Any person preparing to submit an application for permit-related procedures under Section 7 and allowed activities under Section 15 shall submit a Pre-Development Review.

B. The result of the Pre-Development Review is a written summary of the requirements of this ordinance. The review will include pertinent critical area maps, scientific information, other source materials, and an outline of permitting procedures and requirements.

C. The administrator shall make a determination as to whether any critical areas may be affected by the proposal and if a more detailed critical area report shall be submitted with an application for development.

D. If the administrator determines that there are critical areas within or adjacent to the project area, but that the best available science shows that the proposed activity is unlikely to degrade the functions or values of the critical area, the administrator may waive the requirement for a critical area report. A decision to waive the critical area
report will be based on the 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.

E. If the administrator determines that a critical area or areas may be affected by the proposal, then the administrator shall notify the applicant that a critical area report must be submitted prior to further review of the project, and indicate each of the critical area types that should be addressed in the report.

F. If the administrator determines the absence of one or more critical areas, it is not an expert certification regarding the presence of critical areas and the determination is subject to possible reconsideration and reopening if new information is received. If the applicant wants greater assurance of the accuracy of the critical area review determination, the applicant may choose to hire a qualified professional to provide such assurances.

G. The following provisions shall apply to the Pre-Development Review process:
   1. The Pre-Development Review is valid for two years from the date of approval and is advisory only.
   2. Future permit applications will be reviewed to current regulations upon submittal of a complete application.
   3. Minor revisions to the proposal or site plan may be made within the approval period, and
   4. Substantial changes in land conditions or land use may require a new review.

Section 17 Critical Area Inspections

An applicant for a development permit shall provide reasonable access to the subject site for inspections by county staff during any proposal review, restoration, emergency action, or monitoring period.

Section 18 Critical Area Reports

A. If the administrator determines a critical area report is required for a development application, the applicant shall submit a critical area report prepared by a qualified professional. The cost for initiating, preparing, submitting the report, including any required peer review(s), shall be the responsibility of the permit applicant.

B. The critical area report shall use scientifically valid methods and studies in the analysis of critical area data and field reconnaissance and reference the source of science used. The critical area report shall evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this ordinance.
At a minimum, the report shall contain the following:

1. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;

2. A copy of the site plan for the development proposal including:
   a. A map to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared; and
   b. A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations.

3. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;

4. Identification and characterization of all critical areas, wetlands, water bodies, and buffers adjacent to the proposed project area;

5. A statement specifying the accuracy of the report, and all assumptions made and relied upon;

6. An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;

7. An analysis of site development alternatives including a no development alternative;

8. A description of reasonable efforts made to apply mitigation sequencing pursuant to Mitigation Sequencing, Section 20, to avoid, minimize, and mitigate impacts to critical areas;

9. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with Mitigation Plan Requirements, Section 21, including, but not limited to:
   a. The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area; and
   b. The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties and the environment;

10. A discussion of the performance standards applicable to the critical area and proposed activity;

11. Financial guarantees or bond to ensure compliance; and

12. Any additional information required for the critical area as specified in the corresponding section.

Unless otherwise provided, a critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the administrator.
E. The administrator may limit the required geographic area of the critical area report as appropriate if:

1. The applicant, with assistance from the county, cannot obtain permission to access properties adjacent to the project area; or

2. The proposed activity will affect only a limited part of the subject site.

F. The applicant may consult with the administrator prior to or during preparation of the critical area report to obtain county approval of modifications to the contents of the report where, in the judgment of a qualified professional, more or less information is required to adequately address the potential critical area impacts and required mitigation.

G. The administrator may require additional information to be included in the critical area report when determined to be necessary to the review of the proposed activity in accordance with this Title. Additional information that may be required includes, but is not limited to:

1. Historical data, including original and subsequent mapping, aerial photographs, data compilations and summaries, and available reports and records relating to the site or past operations at the site;

2. Grading and drainage plans; and

3. Information specific to the type, location, and nature of the critical area.

Section 19 Mitigation Requirements

A. The applicant shall avoid all impacts that degrade the functions and values of a critical area or areas. Unless otherwise provided in this ordinance, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated using the best available science in accordance with an approved critical area report and SEPA documents, so as to result in no net loss of critical area functions and values.

B. Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.

C. Mitigation shall not be implemented until after county approval of a critical area report that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical area report.

Section 20 Mitigation Sequencing

A. Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the following sequential order of preference:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;

3. Rectifying the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the historical conditions or the conditions existing at the time of the initiation of the project;

4. Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;

5. Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;

6. Compensating for the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and

7. Monitoring the hazard or other required mitigation and taking remedial action when necessary.

B. Mitigation for individual actions may include a combination of the above measures.

Section 21 Mitigation Plan Requirements

A. When mitigation is required, the applicant shall submit for approval by county a mitigation plan as part of the critical area report. The mitigation plan shall include:

1. A written report identifying environmental goals and objectives of the compensation proposed and including:

   a. A description of the anticipated impacts to the critical areas, the mitigating actions proposed and the purposes of the compensation measures, including:

      i. The site selection criteria;
      ii. Identification of compensation goals;
      iii. Identification of resource functions; and
      iv. The dates for beginning and completion of site compensation construction activities;

   b. The relatedness of the goals and objectives to the functions and values of the impacted critical area. A review of the best available science supporting the proposed mitigation and a description of the report author’s experience to date in restoring or creating the type of critical area proposed; and

   c. An analysis of the likelihood of success of the compensation project.
B. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this ordinance have been met.

C. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as:
   1. The proposed construction sequence, timing, and duration;
   2. Grading and excavation details;
   3. Erosion and sediment control features;
   4. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and
   5. Measures to protect and maintain plants until established.

D. The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years 1, 3, 5, and 7 after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years.

E. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

F. The mitigation plan shall include financial guarantees, as determined by the approval authority, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the compensation project, monitoring program, and any contingency measures shall be posted consistent with these provisions.

Section 22 Innovative Mitigation

A. The county may encourage, facilitate, and approve innovative mitigation projects. Advance mitigation or mitigation banking are examples of alternative mitigation projects allowed under the provisions of this section wherein one or more applicants, or an organization with demonstrated capability, may undertake a mitigation project together if it is demonstrated that all of the following circumstances exist:
   1. Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation of many individual habitat areas;
   2. The group demonstrates the organizational and fiscal capability to act cooperatively;
3. The group demonstrates that long-term management of the habitat area will be provided;
4. There is a clear potential for success of the proposed mitigation at the identified mitigation site; and
5. Conducting mitigation as part of a cooperative process does not reduce or eliminate the required replacement ratios.

Section 23 Mitigation Plan Review Criteria
A. Any alteration to a critical area, unless otherwise provided for in this Title, shall be reviewed and approved, approved with conditions, or denied based on the proposal’s ability to comply with all of the following criteria:
   1. The proposal minimizes the impact on critical areas in accordance with Mitigation Sequencing Section 20;
   2. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
   3. The proposal is consistent with the general purposes of this Title and the public interest;
   4. Any alterations permitted to the critical area are mitigated in accordance with Mitigation Requirements, Section 19;
   5. The proposal protects the critical area functions and values consistent with the best available science and results in no net loss of critical area functions and values; and
   6. The proposal is consistent with other applicable regulations and standards.
B. The county may condition the proposed activity as necessary to mitigate impacts to critical areas and to conform to the standards required by this Title.
C. Except as provided for by this chapter, any project that cannot adequately mitigate its impacts to critical areas in the sequencing order of preferences in Section 20 shall be denied.

Section 24 Bonds to Ensure Mitigation, Maintenance, and Monitoring
A. When mitigation required pursuant to a development proposal is not completed prior to the county final permit approval, such as final plat approval, the county shall require the applicant to post a performance bond or other security in a form and amount deemed acceptable by the county. If the development proposal is subject to mitigation, the applicant shall post a mitigation bond or other security in a form and amount deemed acceptable by the county to ensure mitigation is fully functional.
B. The bond shall be in the amount of one hundred twenty-five percent of the estimated cost of the uncompleted actions, or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater.
C. The bond may be in the form of a surety bond, performance bond, assignment of savings account, or an irrevocable letter of credit guaranteed by an acceptable financial institution with terms and conditions acceptable to the County Prosecuting Attorney's Office.

D. Bonds or other security authorized by this section shall remain in effect until the county determines, in writing, that the standards bonded for have been met.

E. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.

F. Public development proposals may be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.

G. Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within thirty days after it is due, or comply with other provisions of an approved mitigation plan, shall constitute a default, and the county may demand payment of any financial guarantees or require other action authorized by the county code or any other law.

H. Any funds recovered pursuant to this section shall be used to complete the required mitigation.

Section 25 Building Setbacks

A. Unless otherwise provided, buildings and other structures shall be set back a distance of ten feet from the edges of all critical area buffers or from the edges of all critical areas, if no buffers are required. The following may be allowed in the building setback area:

1. Landscaping:
2. Uncovered decks:
3. Building overhangs extending up to twenty-four inches into the setback area; and
4. Impervious ground surfaces, such as driveways and patios.

Section 26 Critical Area Markers, Signs, and Fencing

A. Signs and Fencing of Wetlands and Buffers:

1. Temporary markers. The outer perimeter of the wetland buffer and the clearing limits identified by an approved permit or authorization shall be marked in the field with temporary “clearing limits” fencing in such a way as to ensure that no unauthorized intrusion will occur. The marking is subject to inspection by the Administrator prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.
2. Permanent signs. As a condition of any permit or authorization issued pursuant to this Chapter, the Administrator may require the applicant to install permanent signs along the boundary of a wetland or buffer.

   a. Permanent signs shall be made of an enamel-coated metal face and attached to a metal post or another non-treated material of equal durability. Signs must be posted at an interval of one (1) every fifty (50) feet, or one (1) per lot if the lot is less than fifty (50) feet wide, and must be maintained by the property owner in perpetuity. The signs shall be worded as follows or with alternative language approved by the Administrator:

      Protected Wetland Area
      Do Not Disturb
      Contact Grays Harbor County
      Regarding Uses, Restrictions, and Opportunities for Stewardship

   b. The provisions of Subsection (a) may be modified as necessary to assure protection of sensitive features or wildlife.

3. Fencing

   a. The applicant shall be required to install a permanent fence around the wetland or buffer when domestic grazing animals are present or may be introduced on site.

   b. Fencing installed as part of a proposed activity or as required in this Subsection shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the critical area and associated habitat.

Section 27 Critical Area Tracts or Easements and Setback Area

A. Critical area tracts or easements shall be used in development proposals for subdivisions, short subdivisions, planned unit developments, and binding site plans to delineate and protect those contiguous critical areas and buffers listed below that total five thousand (5,000) or more square feet:

1. All landslide hazard areas and buffers;
2. All wetlands and buffers;
3. All habitat conservation areas; and
4. All other lands to be protected from alterations as conditioned by project approval.

B. Critical area tracts shall be recorded on all documents of title of record for all affected lots.
Critical area tracts shall be designated on the face of the plat or recorded drawing in a format approved by the County Prosecuting Attorney's Office. The designation shall include the following restriction:

1. An assurance that native vegetation will be preserved to prevent harm to property and the environment, including but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering, and protecting plants, fish, and animal habitat; and

2. The right of the county to enforce the terms of the restriction.

The county may require that any critical area tract be dedicated to the county, held in an undivided interest by each owner of a building lot within the development with the ownership interest passing with the ownership of the lot, or held by an incorporated homeowner's association or other legal entity, such as a land trust, which ensures the ownership, maintenance, and protection of the tract.

Section 28 Notice on Title

A. The proponent of any new development proposal that involves a critical area or management zone shall be required to file a notice on title with the Grays Harbor County Auditor. The notice shall state the presence of the critical area or management zone on the property, of the application of these provisions to the property, and the fact that limitations on actions in or affecting the critical area or management zone may exist. Only one such notice is required to be recorded on any individual property or lot. The notice shall run with the land.

1. The notice shall be as set forth below:

"Notice: This site lies within a critical protection area as identified in Grays Harbor County Code Chapter 18.06. The site was the subject of a development proposal for [application number] filed on [date]. Restrictions on use or alteration of the site may exist due to natural conditions of the site and resulting regulation. Review of such application provides information on the location of the critical protection area and the restrictions on the site. A copy of the application site map showing the critical protection area is attached hereto."

B. For all proposed subdivision proposals within critical protection areas identified in this chapter, the applicant shall include a note on the face of the plat.

1. The note shall be as set forth below:

"Notice: This site lies within a critical protection area as identified in Grays Harbor County Code Chapter 18.06. The site was the subject of a development proposal for [application number], filed on [date]. Restrictions on use or alteration of the site may exist due to natural conditions of the site and resulting regulation."

2. The note shall be recorded as part of final plat approval for any subdivision

C. This notice on title shall not be required for a development proposal by a public agency, or public or private utility:
1. Within a recorded easement or right-of-way;
2. Where the agency or utility has been adjudicated the right to an easement or right-of-way; or
3. On the site of a permanent public facility.

D. The applicant shall submit proof that the notice has been filed for public record before the county approves any development proposal for the property or, in the case of subdivisions, short subdivisions, planned unit developments, and binding site plans, at or before recording.

Section 29 Unauthorized Critical Area Alterations and Enforcement

A. When a critical area or its management zone has been altered in violation of these provisions, all ongoing development work shall stop and the critical area shall be restored. The county shall have the authority to issue a stop work order to cease all ongoing development work, and order restoration, rehabilitation, or replacement measures at the owner's or other responsible party's expense to compensate for violation of these provisions.

B. Where a violation has occurred, all development work shall remain stopped until a restoration plan is submitted by the property owner and/or violator (applicant) and approved by the county. Such a plan shall be prepared by a qualified professional and shall describe how the actions proposed meet the intent of requirements described in subsection C of this section. The administrator may, at the applicant's expense, seek expert advice in determining the adequacy of the plan and may impose additional requirements to mitigate critical areas issues.

C. The following minimum performance standards for restoration shall apply:

1. For alterations to critical aquifer recharge areas and frequently flooded areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:
   a. The historic structural and functional values shall be restored, including water quality and habitat functions;
   b. The historic soil types and configuration shall be replicated;
   c. The critical area shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities; and
   d. The historic functions and values should be replicated at the location of the alteration.

2. For alterations to frequently flooded and geological hazardous areas, the following minimum performance standards shall be met for the restoration of a
critical area, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

a. The hazard shall be reduced to a level equal to, or less than, the predevelopment hazard;
b. Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and
c. The hazard area and management zones shall be replanted with native vegetation sufficient to minimize the hazard.

D. Enforcement. Violations and compliance issues under these provisions are subject to enforcement under Chapter 17.96 of the Grays Harbor County Code.

Section 30 Reasonable Use Exceptions

A. If the application of this title would deny all reasonable use of the subject property that was permitted by zoning prior to the effective date of this chapter or its predecessor, the property owner may apply for an exception pursuant to this section.

1. Except when the critical area is located within the jurisdiction of the Shoreline Management Plan, the applicant seeking relief from the standards and requirements of this chapter shall obtain a shoreline substantial development permit with variance.

B. Exception request and review process:

1. An application for a reasonable use exception shall be made to the county and shall include: a critical area application and fee; critical area report, including mitigation plan, if necessary; and, any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act Procedures, Chapter 18.04, GHCC.

2. A staff report shall be prepared to include a recommendation to the approval authority based on review of the submitted information, a site inspection, and the proposal’s ability to comply with reasonable use exception criteria in subsection 4.

3. A request for an exception under this section shall require a public hearing before the Board of Adjustment or Hearing Examiner.

4. Before approving a Reasonable Use Exception, the Board of Adjustment or Hearing Examiner must find that:

a. The application of these provisions would deny all reasonable use of the property that was permitted by the applicable zoning district before the effective date of this chapter;
b. There is no other reasonable use of the property has less impact on the critical area;
c. Any alteration is the minimum necessary to allow for reasonable use of the property;

d. The granting of the reasonable use exception is consistent with the general purpose and intent of this Title, and will not further degrade the functions or values of the associated critical areas or otherwise be materially detrimental to the public welfare, injurious to the property or improvements in the vicinity of the subject property; or the proposed improvements or the occupants or users of the proposed use or activity; and,

e. The inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant or prior owner in title after the effective date of these provisions or its predecessor.

5. Upon approval of a reasonable use exception, the county will not take measures to protect the property or any improvements upon it from damage caused or increased because of its location within or near a critical area.

6. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

7. When application of this chapter will deny all reasonable use of the property as referenced in Section 30A, an applicant seeking relief from the standards and requirements of this chapter shall obtain a variance as provided in Section 31.

Section 31 Variances

A. The county may authorize variances from the standards of this ordinance in accordance with the procedures set forth in Chapter 17.80 of the Grays Harbor County Code. The Board of Adjustment shall review the request and make a written finding that the request meets or fails to meet the variance criteria.

B. A variance may be granted only if the applicant demonstrates that the requested action conforms to all of the criteria set forth as follows:

1. Special conditions and circumstances exist that are peculiar to the land, the lot, or something inherent in the land, and that are not applicable to other lands in the same zoning district;

2. The special conditions and circumstances do not result from the actions of the applicant;

3. A literal interpretation of the provisions of this Title would deprive the applicant of the uses and privileges permitted to other properties in the vicinity and zoning district of the subject property under the terms of this Title;

4. The variance requested is the minimum necessary to provide the applicant with such rights;
5. Granting the variance requested will not confer on the applicant any special privilege that is denied by this Title to other lands, structures, or buildings under similar circumstances;

6. The granting of the variance is consistent with the general purpose and intent of this Title, and will not further degrade the functions or values of the associated critical areas or otherwise be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the subject property;

7. The decision to grant the variance includes the best available science and gives special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish habitat; and

8. The granting of the variance is consistent with the general purpose and intent of the county comprehensive plan and adopted development regulations.

C. In granting any variance, the county may prescribe such conditions and safeguards as are necessary to secure adequate protection of critical areas from adverse impacts, and to ensure conformity with this Chapter.

D. The county shall prescribe a time limit within which the action for which the variance is required shall be begun, completed, or both. Failure to begin or complete such action within the established time limit shall void the variance.

E. The burden of proof shall be on the applicant to bring forth evidence in support of the application and upon which any decision that is made on the application.

F. Variances for frequently flooded areas shall meet the criteria of Section 55.

Section 32  Appeals of Administrative Decisions

A. Procedural determinations made by the planning director shall be entitled to substantial weight, as provided by RCW 43.21C.075 (3) (d) and WAC 197-11-680(3) (viii).

B. Any decision to approve, condition, or deny a development proposal based on the requirements of this chapter or requiring a critical protection area special study pursuant to this chapter or where no other administrative appeal procedure exists may be appealed to the board of adjustment pursuant to the provisions of Chapter 17.84, Grays Harbor County Code.

C. In considering appeals from administrative decisions, the board of adjustment shall consider all technical evaluations, all relevant factors, and the criteria set forth in Section 31.

D. In considering appeals from administrative decisions within frequently flooded areas, the board of adjustment shall consider all technical evaluations, all relevant factors, and the criteria set forth in Section 51.
ARTICLE II. WETLANDS

Section 33  Purpose

A.  To recognize and protect the beneficial functions performed by many wetlands, which include, but are not limited to, providing food, breeding, nesting and/or rearing habitat for fish and wildlife; recharging and discharging ground water; contributing to stream flow during low flow periods; stabilizing stream banks and shorelines; storing storm and flood waters to reduce flooding and erosion; and improving water quality through biofiltration, adsorption, and retention and transformation of sediments, nutrients, and toxicants.

B.  Regulate land use to avoid adverse effects on wetlands and maintain the functions and values of wetlands throughout Grays Harbor County.

C.  Establish review procedures for development proposals in and adjacent to wetlands.

1.  Compliance with the provisions of the Chapter 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 Chapter.

Section 34  Best Available Science for Designating and Classifying Wetlands

A.  The designation of wetlands shall rely on the following best available science:

1.  U.S. Fish and Wildlife Service, National Wetlands Inventory Maps; provided, however, that if the location, designation, or classification of a wetland shown on any map adopted by reference conflicts with the determination of any field investigation, the latter shall prevail;


B.  Identification and Rating

1.  Identification and Delineation. Identification of wetlands and delineation of their boundaries pursuant to this Chapter shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplement. All areas within the county meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this Chapter.
Wetland delineations are valid for five years; after such date the county shall determine whether a revision or additional assessment is necessary.

2. Rating. Wetlands shall be rated according to the Washington Department of Ecology wetland rating system, as set forth in the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication #14-06-029, or as revised and approved by Ecology), which contains the definitions and methods for determining whether the criteria below are met.

   a. Category I. Category I wetlands are: (1) relatively undisturbed estuarine wetlands larger than 1 acre; (2) wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; (3) bogs; (4) mature and old-growth forested wetlands larger than 1 acre; (5) wetlands in coastal lagoons; (6) interdunal wetlands that score 8 or 9 habitat points and are larger than 1 acre; and (7) wetlands that perform many functions well (scoring 23 points or more). These wetlands: (1) represent unique or rare wetland types; (2) are more sensitive to disturbance than most wetlands; (3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (4) provide a high level of functions.

   b. Category II. Category II wetlands are: (1) estuarine wetlands smaller than 1 acre, or disturbed estuarine wetlands larger than 1 acre; (2) interdunal wetlands larger than 1 acre or those found in a mosaic of wetlands; or (3) wetlands with a moderately high level of functions (scoring between 20 and 22 points).

   c. Category III. Category III wetlands are: (1) wetlands with a moderate level of functions (scoring between 16 and 19 points); (2) can often be adequately replaced with a well-planned mitigation project; and (3) interdunal wetlands between 0.1 and 1 acre. Wetlands scoring between 16 and 19 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

   d. Category IV. Category IV wetlands have the lowest levels of functions (scoring fewer than 16 points) and are often heavily disturbed. These are wetlands that we should be able to replace, or in some cases to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree.

   e. Illegal modifications. Wetland rating categories shall not change due to illegal modifications.

C. The county adopts the following general guidance for the protection of wetland functions and values:
Section 35 Regulated Activities

A. For any regulated activity, a critical area report may be required to support the requested activity.

B. The following activities are regulated if they occur in a regulated wetland or its buffer:
   1. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;
   2. The dumping of, discharging of, or filling with any material;
   3. The draining, flooding, or disturbing of the water level or water table;
   4. Pile driving;
   5. The placing of obstructions;
   6. The construction, reconstruction, demolition, or expansion of any structure;
   7. The destruction or alteration of wetland vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland;
   9. Activities that result in:
      a. A significant change of water temperature;
      b. A significant change of physical or chemical characteristics of the sources of water to the wetland;
      c. A significant change in the quantity, timing, or duration of the water entering the wetland; and/or
      d. The introduction of pollutants;

C. The subdivision and/or short subdivision of land in wetlands and associated buffers are subject to the following provisions:
   1. Land that is located wholly within a wetland or its buffer may not be subdivided;
   2. Land that is located partially within a wetland or its buffer may be subdivided if an accessible and contiguous portion of each new lot located outside of the wetland and its buffer is demonstrated to contain adequate area for a single-family residence with normal appurtenances or the greater area required by health regulations for the intended method of sewage disposal and water system.
Section 34 Exemptions and Allowed Uses in Wetlands

A. The following wetlands may be exempt from the requirement to avoid impacts and they may be filled if the impacts are fully mitigated based on the remaining actions in Chapter XX.070.A.2 through 6. If available, impacts should be mitigated through the purchase of credits from an in-lieu fee program or mitigation bank, consistent with the terms and conditions of the program or bank. In order to verify the following conditions, a critical area report for wetlands meeting the requirements in Chapter XX.060 must be submitted.

1. All isolated Category IV wetlands less than 4,000 square feet that:
   a. Are not associated with riparian areas or their buffers
   b. Are not associated with shorelines of the state or their associated buffers
   c. Are not part of a wetland mosaic
   d. Do not score 6 or more points for habitat function based on the 2014 update to the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication #14-06-029, or as revised and approved by Ecology)
   e. Do not contain a Priority Habitat or a Priority Area for a Priority Species identified by the Washington Department of Fish and Wildlife, do not contain federally listed species or their critical habitat, or species of local importance identified in Section 58.

2. Wetlands less than 1,000 square feet that meet the above criteria and do not contain federally listed species or their critical habitat are exempt from the buffer provisions contained in this Chapter.

B. Activities Allowed in Wetlands. The activities listed below are allowed in wetlands. These activities do not require submission of a critical area report, except where such activities result in a loss of the functions and values of a wetland or wetland buffer. These activities include:

1. Grays Harbor County has chosen to participate in the Voluntary Stewardship Program. So long as the County participates in the Voluntary Stewardship Program, this ordinance shall not apply to agricultural activities.

2. Those activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, WAC 222-12-030, where state law specifically exempts local authority, except those developments requiring local approval for Class 4 – General Forest Practice Permits (conversions) as defined in RCW 76.09 and WAC 222-12.

3. Conservation or preservation of soil, water, vegetation, fish, shellfish, and/or other wildlife that does not entail changing the structure or functions of the existing wetland.
4. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.

5. Drilling for utilities/utility corridors under a wetland, with entrance/exit portals located completely outside of the wetland buffer, provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column will be disturbed.

6. Enhancement of a wetland through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal unless permits from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Re-vegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

7. Educational and scientific research activities.

8. Normal and routine maintenance and repair of existing public or private facilities within an existing right-of-way, provided that the maintenance or repair does not expand the footprint of the facility or right-of-way.

9. Stormwater management facilities. A wetland or its buffer can be physically or hydrologically altered to meet the requirements of an LID, Runoff Treatment or Flow Control BMP if ALL of the following criteria are met:
   a. The wetland is classified as a Category IV or a Category III wetland with a habitat score of 3-5 points;
   b. There will be “no net loss” of functions and values of the wetland;
   c. The wetland does not contain a breeding population of any native amphibian species;
   d. The hydrologic functions of the wetland can be improved as outlined in questions 3, 4, 5 of Chart 4 and questions 2, 3, 4 of Chart 5 in the “Guide for Selecting Mitigation Sites Using a Watershed Approach,” (available here http://www.ecy.wa.gov/biblio/0906032.html); or the wetland is part of a priority restoration plan that achieves restoration goals identified in a Shoreline Master Program or other local or regional watershed plan;
   e. The wetland lies in the natural routing of the runoff, and the discharge follows the natural routing;
f. All regulations regarding stormwater and wetland management are followed, including but not limited to local and state wetland and stormwater codes, manuals, and permits; and

g. Modifications that alter the structure of a wetland or its soils will require permits. Existing functions and values that are lost shall be compensated/replaced.

10. Stormwater LID BMPs required as part of New and Redevelopment projects can be considered within wetlands and their buffers. However, these areas may contain features that render LID BMPs infeasible. A site-specific characterization is required to determine if an LID BMP is feasible at the project site.

Section 35 Additional Requirements for Wetland Critical Area Reports

A. The administrator may require a permit applicant to prepare a critical area report prepared by a qualified wetland professional whenever proposed development is on or adjacent to a wetland. The cost for preparing the report shall be the responsibility of the permit applicant.

B. A qualified professional for wetlands must be a professional wetland scientist with at least two years of full-time work experience as a wetlands professional, including delineating wetlands using the federal manual and supplements, preparing wetlands reports, conducting function assessments, and developing and implementing mitigation plans.

C. In addition to the general critical area report requirements of Section 18, the minimum standard for a wetland critical area report shall contain the following information:

1. The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s) of the wetland critical area report; a description of the proposal; identification of all the local, state, and/or federal wetland-related permit(s) required for the project; and a vicinity map for the project.

2. A statement specifying the accuracy of the report and all assumptions made and relied upon. Documentation of any fieldwork performed on the site, including field data sheets for delineations, rating system forms, baseline hydrologic data, etc.

3. A description of the methodologies used to conduct the wetland delineations, rating system forms, or impact analyses including references.

4. Identification and characterization of all critical areas, wetlands, water bodies, shorelines, floodplains, and buffers on or adjacent to the proposed project area. For areas off site of the project site, estimate conditions within 300 feet of the project boundaries using the best available information.

5. For each wetland identified on site and within 300 feet of the project site provide; the wetland rating, including a description of and score for each function; required buffers; hydrogeomorphic classification; wetland acreage based on a professional survey from the field delineation (acreages for on-site portion and
entire wetland area including off-site portions); Cowardin classification of vegetation communities; habitat elements; soil conditions based on site assessment and/or soil survey information; and to the extent possible, hydrologic information such as location and condition of inlet/outlets (if they can be legally accessed), estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g., algal mats, drift lines, flood debris, etc.). Provide acreage estimates, classifications, and ratings based on entire wetland complexes, not only the portion present on the proposed project site.

6. A description of the proposed actions, including an estimation of acreages of impacts to wetlands and buffers based on the field delineation and survey and an analysis of site development alternatives, including a no-development alternative.

7. An assessment of the probable cumulative impacts to the wetland and buffers resulting from the proposed development.

8. A description of reasonable efforts made to apply mitigation sequencing pursuant to Section 20 to avoid, minimize, and mitigate impacts to critical areas.

9. A discussion of measures, including avoidance, minimization, and compensation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land-use activity.

10. A conservation strategy for habitat and native vegetation that addresses methods to protect and enhance on-site habitat and wetland functions.

11. A discussion of the potential impacts to the wetland associated with anticipated hydroperiod alterations from the project.

12. An evaluation of the functions of the wetland and adjacent buffer. Include reference for the method used and data sheets.

13. A copy of the site plan sheet(s) for the project that contains the following items:
   a. Maps to scale depicting delineated and surveyed wetland and required buffers on site, including buffers for off-site critical areas that extend onto the project site; the development proposal; other critical areas; grading and clearing limits; areas of proposed impacts to wetlands and/or buffers, including square footage estimates.
   b. A depiction of the proposed stormwater management plan for the development, including estimated areas of intrusion into the buffers of any critical areas.

Section 36 Wetland Buffers

A. Buffer Requirements. The following buffer widths have been established in accordance with the best available science. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology
Publication #14-06-029, or as revised and approved by Ecology). The adjacent land use intensity is assumed to be high.

1. For wetlands that score 6 points or more for habitat function, the buffers in Table 37.1 can be used if both of the following criteria are met:
   a. A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other Priority Habitats as defined by the Washington State Department of Fish and Wildlife. The latest definitions of priority habitats and their locations are available on the WDFW website at: http://wdfw.wa.gov/hab/phshabs.htm

      The corridor must be protected for the entire distance between the wetland and the Priority Habitat by some type of legal protection such as a conservation easement.

      Presence or absence of a nearby habitat must be confirmed by a qualified biologist. If no option for providing a corridor is available, Table 37.1 may be used with the required measures in Table 37.2 alone.

   b. The measures in Table 37.2 are implemented, where applicable, to minimize the impacts of the adjacent land uses.

2. For wetlands that score 3-5 habitat points, only the measures in Table 37.2 are required for the use of Table 37.1.

3. If an applicant chooses not to apply the mitigation measures in Table 37.2, or is unable to provide a protected corridor where available, then Table 37.3 must be used.

4. The buffer widths in Table 37.1 and 37.3 assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.

5. Category III wetlands that meet the following criteria may have reduced buffers:
   - Score high for habitat (8-9 points)
   - Are less than 4,000 square feet in size
   - Are connected to any other relatively undisturbed area* by a 100-foot wide corridor that is well vegetated with a native plant community appropriate for the ecoregion and that is protected by some sort of legal protection such as a conservation easement. Protective buffers in critical areas ordinances and shoreline environment designations (SED) that restrict development (e.g. Natural SED) may qualify as legal protection. For protective buffers to qualify,
they should not be subject to reduction or variance. *(The definition of a relatively undisturbed area is found in the most recent version of the Washington State Wetlands Rating System.)*

If the above criteria are met, the buffer widths for habitat scores of 6-7 in Table 37.1 may be used. This exemption does not apply to Category I or II wetlands.

6. The administrator may allow a required buffer to be reduced in accordance with a critical area report when the buffer is divided by roads and highways when:
   a. An existing private road serving four or more houses, a county road, or a state highway divides a standard buffer;
   b. There is no net loss of function or value to the adjacent water body; and
   c. The reduction is limited to the area from the road shoulder to the landward standard buffer boundary.

B. Wetland buffers do not apply to isolated Category 3 and 4 wetlands when the following four criteria are present:
   1. The wetland is less than 1,000 square feet in area;
   2. The wetland is not associated with a riparian area or buffer;
   3. The wetland is not part of a wetland mosaic; and
   4. The wetland does not contain habitat identified as essential for local populations of priority species identified by the Washington Department of Fish and Wildlife.

C. Buffers need not include areas that are functionally isolated and physically disconnected from the wetland by a substantial developed surface, such as an existing dike, private road serving four or more houses, a county road, or a state highway, or development. Functionally isolated buffer areas are those areas separated from a wetland that do not protect the wetland from adverse impacts. In determining whether a buffer area is functionally isolated, the administrator shall take into consideration if the isolated buffer area is used by wildlife to gain access to the wetland. In instances where substantial wildlife use is documented, the area shall be retained as buffer despite being otherwise isolated or disconnected from the wetland.

Table 37.1 Wetland Buffer Requirements for Western Washington
   if Table 37.2 is Implemented and Corridor Provided

<table>
<thead>
<tr>
<th>Wetland Category</th>
<th>Buffer width (in feet) based on habitat score</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>3-5</td>
</tr>
<tr>
<td></td>
<td>6-7</td>
</tr>
<tr>
<td></td>
<td>8-9</td>
</tr>
<tr>
<td>Category I:</td>
<td></td>
</tr>
<tr>
<td>Based on total score</td>
<td>75</td>
</tr>
<tr>
<td>Category I:</td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td><strong>Bogs and Wetlands of High Conservation Value</strong></td>
<td>190</td>
</tr>
<tr>
<td><strong>Category I:</strong></td>
<td></td>
</tr>
<tr>
<td>Estuarine and Coastal Lagoons</td>
<td>150</td>
</tr>
<tr>
<td>Interdunal</td>
<td>225</td>
</tr>
<tr>
<td>Forested</td>
<td>75</td>
</tr>
<tr>
<td><strong>Category II:</strong></td>
<td></td>
</tr>
<tr>
<td>Based on score</td>
<td>75</td>
</tr>
<tr>
<td>Interdunal Wetlands</td>
<td>110</td>
</tr>
<tr>
<td>Estuarine</td>
<td>110</td>
</tr>
<tr>
<td><strong>Category III (all)</strong></td>
<td>60</td>
</tr>
<tr>
<td><strong>Category IV (all)</strong></td>
<td>40</td>
</tr>
<tr>
<td>Disturbance</td>
<td>Required Measures to Minimize Impacts</td>
</tr>
<tr>
<td>-----------------------------</td>
<td>-------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Lights</td>
<td>• Direct lights away from wetland</td>
</tr>
<tr>
<td>Noise</td>
<td>• Locate activity that generates noise away from wetland</td>
</tr>
<tr>
<td></td>
<td>• If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source</td>
</tr>
<tr>
<td></td>
<td>• For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10’ heavily vegetated buffer strip immediately adjacent to the outer wetland buffer</td>
</tr>
<tr>
<td>Toxic runoff</td>
<td>• Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</td>
</tr>
<tr>
<td></td>
<td>• Establish covenants limiting use of pesticides within 150 ft of wetland</td>
</tr>
<tr>
<td></td>
<td>• Apply integrated pest management</td>
</tr>
<tr>
<td>Stormwater runoff</td>
<td>• Retrofit stormwater detention and treatment for roads and existing adjacent development</td>
</tr>
<tr>
<td></td>
<td>• Prevent channelized flow from lawns that directly enters the buffer</td>
</tr>
<tr>
<td></td>
<td>• Use Low Intensity Development techniques (for more information refer to the drainage ordinance and manual)</td>
</tr>
<tr>
<td>Change in water regime</td>
<td>• Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns</td>
</tr>
<tr>
<td>Pets and human disturbance</td>
<td>• Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion</td>
</tr>
<tr>
<td></td>
<td>• Place wetland and its buffer in a separate tract or protect with a conservation easement</td>
</tr>
<tr>
<td>Dust</td>
<td>• Use best management practices to control dust</td>
</tr>
<tr>
<td>Wetland Category</td>
<td>Buffer width (in feet) based on habitat score</td>
</tr>
<tr>
<td>------------------------------------------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td><strong>Category I:</strong></td>
<td></td>
</tr>
<tr>
<td>Based on total score</td>
<td>100</td>
</tr>
<tr>
<td>Bogs and Wetlands of High Conservation Value</td>
<td>250</td>
</tr>
<tr>
<td>Category I: Estuarine and Coastal Lagoons</td>
<td>200</td>
</tr>
<tr>
<td>Category I: Interdunal</td>
<td>300</td>
</tr>
<tr>
<td>Category I: Forested</td>
<td>100</td>
</tr>
<tr>
<td><strong>Category II:</strong></td>
<td></td>
</tr>
<tr>
<td>Based on score</td>
<td>100</td>
</tr>
<tr>
<td>Interdunal Wetlands</td>
<td>150</td>
</tr>
<tr>
<td>Category II: Estuarine and Coastal Lagoons</td>
<td>150</td>
</tr>
<tr>
<td>Category III (all)</td>
<td>80</td>
</tr>
<tr>
<td>Category IV (all)</td>
<td>50</td>
</tr>
</tbody>
</table>
1. **Increased Wetland Buffer Area Width.** Buffer widths shall be increased on a case-by-case basis as determined by the Administrator when a larger buffer is necessary to protect wetland functions and values. This determination shall be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the wetland. The documentation must include but not be limited to the following criteria:

   a. **The wetland is used by a state or federally listed plant or animal species or has essential or outstanding habitat for those species, or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees; or**

   b. **The adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or**

   c. **The adjacent land has minimal vegetative cover or slopes greater than 30 percent.**

2. **Buffer 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 as demonstrated by a critical areas report from a qualified wetland professional,**

   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 either ¾ of the required width or 75 feet for Category I and II, 50 feet for Category III, and 25 feet for Category IV, whichever is greater.**

3. **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 critical areas 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 either ¾ of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.

D. To facilitate long-range planning using a landscape approach, the Administrator may identify and pre-assess wetlands using the rating system and establish appropriate wetland buffer widths for such wetlands. The Administrator will prepare maps of wetlands that have been pre-assessed in this manner.

E. Measurement of Wetland Buffers. All buffers shall be measured perpendicular from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Buffers must be fully vegetated in order to be included in buffer area calculations. Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers or included in buffer area calculations.

F. Buffers on Wetland Mitigation Sites. All wetland mitigation sites shall have buffers consistent with the buffer requirements of this Chapter. Buffers shall be based on the expected or target category of the proposed wetland mitigation site.

G. Buffer Maintenance. Except as otherwise specified or allowed in accordance with this Chapter, wetland buffers shall be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive non-native weeds is required for the duration of the mitigation bond (Section XX.070.J.2.a.x).

H. Impacts to Buffers. Requirements for the compensation for impacts to buffers are outlined in Section XX.070 of this Chapter.

I. Overlapping Critical Area Buffers. If buffers for two contiguous critical areas overlap (such as buffers for a stream and a wetland), the wider buffer applies.

J. Allowed Buffer Uses. The following uses may be allowed within a wetland buffer in accordance with the review procedures of this Chapter, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:
1. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.

2. Passive recreation facilities designed and in accordance with an approved critical area report, including:
   a. Walkways and trails, provided that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five (5) feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.
   b. Wildlife-viewing structures.

3. Educational and scientific research activities.

4. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way provided that the maintenance or repair does not increase the footprint or use of the facility or right-of-way.

5. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.

6. Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column would be disturbed.

7. Enhancement of a wetland buffer through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.
8. Repair and maintenance of non-conforming uses or structures, where legally established within the buffer, provided they do not increase the degree of nonconformity.

Section 37 Wetland Mitigation

A. The mitigation of wetlands shall rely on the following best available science:
   1. Wetland Mitigation in Washington State, Parts 1 and 2, 2006, Publication Nos. 06-06-011a and 06-06-011b, or as revised.

B. Compensatory mitigation for alterations to wetlands shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with Sections 19 and 31.

C. Impacts to wetland functions may be mitigated by enhancement of existing significantly degraded wetlands, but must be used in conjunction with restoration and/or creation. Applicants proposing to enhance wetlands must produce a critical area report that identifies how enhancement will increase the functions of the degraded 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.

D. Tables 2.A through .C establishes mitigation ratios for wetland types described in Table 1.

Table 2A: Mitigation Ratios for Category 1 Wetlands

<table>
<thead>
<tr>
<th>Type of wetland impact</th>
<th>Forested</th>
<th>Based on score for functions</th>
<th>Natural heritage</th>
<th>Coastal lagoon</th>
<th>Bog</th>
<th>Estuarine</th>
</tr>
</thead>
<tbody>
<tr>
<td>Re-establishment or creation</td>
<td>6:1</td>
<td>4:1</td>
<td>Not possible</td>
<td>Not possible</td>
<td></td>
<td>Not possible</td>
</tr>
<tr>
<td>Rehabilitation only</td>
<td>12:1</td>
<td>8:1</td>
<td>6:1</td>
<td>6:1</td>
<td>6:1</td>
<td>6:1</td>
</tr>
<tr>
<td>Re-establishment or creation (RC) &amp; enhancement (RH)</td>
<td>1:1 R/C &amp; 10:1 RH</td>
<td>1:1 R/C &amp; 6:1 RH</td>
<td>R/C not an option</td>
<td>R/C not an option</td>
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Table 2C: Mitigation Ratios for Category 3 and 4 Wetlands

Section 38 Wetland Mitigation Banks

A. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

1. The bank is certified under Chapter 173-700 WAC and located within the county and the watershed;

2. The administrator determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and

3. The proposed use of credits is consistent with the terms and conditions of the bank's certification.

B. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.
C. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank’s certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions.

ARTICLE III. CRITICAL AQUIFER RECHARGE AREAS

Section 39 Purpose

To protect the public health and safety, prevent the degradation of ground water aquifers used for potable water, and to provide for regulations that prevent and control risks to the degradation of ground water aquifers in Grays Harbor County.

Section 40 Identification

Aquifer recharge areas are those areas with geologic and hydrologic conditions that promote rapid infiltration of recharge waters to groundwater aquifers. The following classifications define critical aquifer recharge areas.

A. Group A Public Water System (PWS)Wellhead Protection Areas (WHPA) - Wellhead protection areas determined in accordance with delineation methodologies specified by the Washington Department of Health under authority of Chapter 246-290 WAC;

B. Group B Public Water System Sanitary Control Areas and Proposed Sanitary Control Areas when creation of a new PWS is required as a part of a development proposal - Sanitary Control Areas are determined in accordance with requirements under authority of Chapter 246-291 WAC or as determined by the Local Health Officer through Local Board of Health rules and requirements;

C. Special protection areas designated by the Washington Department of Ecology under Chapter 173-200-090 WAC;

D. Sole-source aquifers designated by the U.S. Environmental Protection Agency in accordance with the Safe Drinking Water Act of 1974 (Public Law 93-523);

E. Groundwater management areas designated by the Washington Department of Ecology in cooperation with local government under Chapter 173-100 WAC.

F. Wildcat Creek Wellhead Protection Areas – Means those WHPA depicted on the Grays Harbor County map identified as the ‘Wildcat Creek Aquifer’ dated June 2008;

G. Wildcat Creek Aquifer Protection Area – Means within the aquifer boundaries as depicted on the Grays Harbor County map identified as the ‘Wildcat Creek Aquifer’ dated June 2008.
Section 41 Protection Standards

A. New Development Prohibitions. The following types of new development shall not be permitted within designated critical aquifer recharge areas:

1. Solid waste landfills;
2. Septage application;
3. Underground storage of heating oil in excess of 1,100 gallons for consumptive use on the parcel where stored;
4. Creosote manufacturing or treatment;
5. Chemical manufacture or reprocessing of any extremely hazardous waste as defined by RCW 70.105.010(6) and listed in Chapter 173-303 WAC;
6. Mining of any type below the water table;
7. Processing, storage, and disposal of radioactive substances;
8. Dry cleaning;
9. Auto wrecking facilities;
10. Hazardous waste transfer and treatment; and
11. Hydrocarbon extraction.

Section 42 Development Standards

A. All rezones, subdivisions, and development proposals resulting in the creation of a dwelling unit or dwelling units within a critical aquifer recharge area shall be required to prepare and implement a best management practices plan that contains (a) hazardous material best management practices, (b) integrated pest management practices, and (c) landscape maintenance best management practices. Educational materials pertaining to the plan shall be provided to each property owner. Within the Wildcat Creek Aquifer Protection Area this requirement only applies to rezones and subdivisions.

The plan shall be reviewed by the environmental health division prior to any county decision on the proposal.

B. The environmental health division may require preparation of a best management plan for any development proposal in the event that it finds that the pre-development condition of the critical aquifer recharge area warrants the preparation of the plan and/or assessment as an assurance that the proposal provides a reasonable margin of safety for the critical aquifer recharge area.

C. The county shall prepare and have the applicant record a notice with the auditor for any site within the critical aquifer recharge areas for which a plan has been prepared. The notice shall indicate in the public record the existence of the plan for the property. The notice shall be as set forth below:

"Notice: This site lies within a critical aquifer recharge area as identified in Grays Harbor County Code Title 18.06 Section 41. The site was the subject of a development proposal for [Application Number] filed on [Application Date], A best management practices plan (BMPP) has been prepared for this site that contains (a) hazardous material best management practices, (b) integrated pest best management practices, and (c) landscape maintenance best management practices." A copy of the plan has been recorded under AUDITOR'S FILE NUMBER 2015-060900005 and is also available upon request from the Grays Harbor County Public Services.

D. New subdivisions and new short subdivisions in critical aquifer recharge areas shall require a storm water collection, treatment, and disposal system designed by a Professional Engineer and approved by the county. This requirement does not apply to short subdivisions in which each lot is at least one acre in size.
E. All rezones and subdivisions within the critical aquifer recharge areas identified in Section 41 shall be required to prepare a hydrogeologic assessment, prepared by a licensed hydrogeologist, that demonstrates conclusively that the proposed development will not threaten down-gradient drinking water or adversely affect aquifer recharge. This requirement also applies to all land use permits within the Wildcat Creek Wellhead Protection Areas.

The assessment shall be reviewed by the environmental health division prior to any county decision on the proposal. In the event that said division finds that the proposal does not provide a reasonable margin of safety for the critical aquifer recharge area, the proposal shall be (a) required to be revised to increase the margin of safety, including a reduction in lot density, or (b) shall be denied based upon evidence that the proposal represents a probable significant adverse impact to the critical aquifer recharge area.

The environmental health division may require preparation of a hydrogeologic assessment for any development proposal in the event that it finds that the pre-development condition of the critical aquifer recharge area warrants the assessment to determine whether or not the proposal provides a reasonable margin of safety for the critical aquifer recharge area.

Section 43 Additional Critical Area Report Requirements for all Critical Aquifer Recharge Areas

A. A person seeking the following types of new construction activities within a critical aquifer recharge area is responsible for preparing a critical area report for critical aquifer recharge areas:

1. Industrial and commercial agricultural facilities applying fertilizers or pesticides in excess of agronomic rates;
2. Golf courses or other recreational or institutional facilities that involve extensive turf cultivation or maintenance;
3. Above ground storage tanks, with the exception of water tanks;
4. Industrial or commercial facilities that, when completed, will use, store, or handle dangerous wastes in quantities in excess of five (5) gallons or twenty-five (25) pounds or more of any one substance, or in aggregate quantities of twenty (20) gallons or 100 pounds or more of all dangerous wastes;
5. Fossil fuel exploration or development;
6. Commercial underground storage tanks in excess of 1,100 gallons; and
7. Subdivision of land into more than four lots.

B. In addition to the critical area report requirements of Section 18 of this Ordinance, the report shall include the following information:
1. A detailed description of the project including all processes and other activities that have the potential for contaminating groundwater; and

2. A hydrogeologic evaluation that includes, at a minimum, a description and/or evaluation of the following:
   i. Site location, topography, drainage, and surface water bodies;
   ii. Soils and geologic units, underlying the site;
   iii. Groundwater characteristics of the area, including flow direction, gradient, and existing groundwater quality;
   iv. The location and characteristics of wells and springs within 300 feet of the perimeter of the property;
   v. An evaluation of existing on-site groundwater recharge; and
   vi. An evaluation of the potential impact of the proposal on groundwater quantity and quality, including potential effects related to saltwater intrusion and effects on senior water rights holders both short and long term, based on an assessment of the cumulative impacts of the proposal in combination with existing and potential future land use activities.

C. Qualifications of Report Preparers.

1. Critical area reports for critical aquifer recharge areas shall be prepared by:
   a. A Professional Engineer registered by the State of Washington, and trained and qualified to analyze geologic, hydrologic, and groundwater flow systems; or
   b. A geologist or hydrogeologist who has received a degree from an accredited four-year college or university and who has relevant training and experience in analyzing geologic, hydrologic, and groundwater flow systems.

2. Such qualifications shall be demonstrated to the satisfaction of the Environmental Health Division.

ARTICLE IV. FREQUENTLY FLOODED AREAS

Section 44 Best Available Science for Designating Frequently Flooded Areas

A. The designation of frequently flood areas shall include those areas identified by the Federal Insurance Administration in the following report “The Flood Insurance Study for Grays Harbor County, and Incorporated Areas,” dated February 3, 2017, and any revisions thereto, with accompanying Flood Insurance Rate Maps (FIRM). The Flood Insurance Study and FIRM shall be maintained on file in the planning and building division office, 100 West Broadway, 3rd Floor, Montesano, Washington. The best available information for flood hazard area identification shall be the basis for the
regulations contained herein until such time that new FIRM is issued incorporating updated hazard identification.

B. The floodplain classification is designed to carry out the mandate contained in the National Flood Insurance Program (NFIP) and the protection of frequently flooded areas. The Federal Insurance Administration will determine the zone classification for those areas that are not included in the Flood Insurance Rate Map (FIRM) prior to the issuance of any development permit for the property.

Section 45  Warning and Disclaimer of Liability

A. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. The provisions in this chapter do not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damage. Nothing in this chapter shall create liability on the part of Grays Harbor County, any officer or employee thereof, or the Federal Insurance Administration, for any flood damage that results from reliance on this chapter or any administrative decision lawfully made hereunder.

Section 46  Permits Required for Development within Frequently Flooded Areas

A. A permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 44. Such permit is required for all structures, including manufactured homes and for all development including fill and other activities, as set forth in Chapter 17.08, Grays Harbor County Code. In addition to information required for all permits, applications for permits for development within any area of special flood hazard except flood elevation certificates required pursuant to Title 15 of the Grays Harbor County Code shall include:

1. The elevation in relation to mean sea level, of the lowest floor (including basement) of all structures and whether or not the structure contains a basement;

2. The elevation in relation to mean sea level to which any structure has been flood proofed;

3. Certification by a Washington State-licensed professional engineer or architect that the flood-proofing methods for any non-residential structure meets the flood-proofing criteria in Section 18.06.120F and a certification upon completion that the structure was built in accordance with the criteria. These certifications shall be provided before a certificate of occupancy is issued;

4. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development;

5. A listing of the necessary permits and clearances from those governmental agencies from which approval is required by federal or state law, including but
not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334, and the Washington State Shorelines Management Act.

6. Evidence the permits listed in Section 18.06.110E have been received;
7. Any other information which may be reasonably required by the planning director in order to administer this chapter.

B. The applicant shall be responsible for the costs of providing the required information, including the costs associated with determining and setting elevations at the development site where required by this chapter.

Section 47 Administration of Frequently Flooded Area Standards
A. The administrator shall implement and administer the provisions of Section 44 by granting or denying development permit applications in accordance therewith. The administrator's duties include, but are not limited to:

1. Reviewing permits:
   - Review all permits requested for areas within the flood plain district to determine that the permit requirements and development standards of this chapter have been satisfied. The planning director may require that development proposals be reviewed by the county engineer to assure the accuracy of data and that the provisions of this chapter will be met;
   - Review all permits requested for areas within the flood plain district to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, and the Washington State Shoreline Management Act.
   - For areas where a regulatory floodway has been designated, review all permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that Section 18.06.125A encroachment provisions are met;
   - For areas where a regulatory floodway has not been designated but may be designated in the future, review all permits in the area of special flood hazard except in the coastal high-hazard area to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For purposes of this chapter, "adversely affects" means that the cumulative effect of the proposed development where combined with all other existing and anticipated development will not increase the water-surface elevation of the base flood more than one foot at any point.
2. Obtaining Base Flood Data:

c. When base flood elevation data has not been provided (in A or V Zones) in accordance with the "Basis for Establishing the Areas of Special Flood Hazard" in Section 18.06.100C, the planning director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source in order to administer Section 18.06.120 governing "Provisions for Flood Hazard Reduction" and Section 18.06.125 governing "Provisions for Flood Hazard Reduction in Floodways."

3. Obtaining and maintaining the following information:

a. Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in Section 18.06.115B, obtain and record the actual as-built elevation in relation to mean sea level of the lowest floor, including basement, of all new or substantially improved structures, and whether or not the structure contains a basement;

b. For all new or substantially improved flood-proofed non-residential structures where base flood elevation data is provided through the FIS, FIRM, or as required in Section 18.06.115B: (a) obtain and record the actual elevation, in relation to mean sea level, to which the structure was flood-proofed; and (b) maintain the flood-proofing certifications required in Section 18.06.110C;

c. For all new construction and substantially improved structures within coastal high hazard areas, certification shall be obtained from a Washington State licensed professional engineer or architect that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters;

d. Maintain for public inspection all records pertaining to the provisions of this chapter.

4. Alteration of watercourses.

1. Notify adjacent communities and the State Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;

2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

B. The applicant contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be adjudicated consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program 44 Code of Federal Regulations (CFR) 59-76 or as amended.
Section 48  
Provisions for Flood Hazard Reduction

A.  
In all areas of special flood hazards, the following standards are required:

1.  
General development standards:

b.  
All development proposals shall be consistent with the need to minimize flood damage.

c.  
All public utilities and facilities, such as sewer, gas, electrical, and water systems proposed for construction within all development proposals shall be located and constructed to minimize or eliminate flood damage.

h.  
All development proposals shall provide adequate drainage to reduce exposure to flood damage.

i.  
All subdivision proposals shall comply with the following:

i.  
All subdivision proposals shall be consistent with the need to minimize flood damage.

ii.  
All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical, and water systems located and installed to minimize or eliminate flood damage.

iii.  
All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

iv.  
Where base flood elevation data has not been provided or is not available from another authorized source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

j.  
All recreational vehicle use in frequently flooded areas shall comply with Chapter 8.20 requirements.

k.  
All development proposals in shallow flooding areas shall comply with the standards contained in this subsection.

B.  
Shallow flooding areas appear on a FIRM as AO zones with depth designations. The base flood depths in these zones range from one foot to three feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions shall apply:

1.  
New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor, including basement, elevated above the highest adjacent grade to the structure, one foot or more above the BFE depth number specified in feet on the community's FIRM or at least two feet above the highest adjacent grade to the structure if no depth number is specified.
2. New construction and substantial improvements of non-residential structures within AO zones shall either:

i. Have the lowest floor, including basement, elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM or at least two feet if no depth number is specified. This improvement shall be noted on a current elevation certificate Form FF81-31, with Section E completed, and the form recorded; or

ii. Together with attendant utility and sanitary facilities, be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect.

a. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

b. Recreational vehicles placed on sites within AO Zones on the community's FIRM must comply with all provisions of Chapter 8.20 of this code.

c. Recreational vehicles placed on sites within AO Zones must be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

C. Where elevation data is not available either through a Flood Insurance Study, FIRM, or from another authoritative source such as provided in Section 18.06.115B, applications for permits shall be reviewed to assure that the proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.

D. Anchoring standards,

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

2. All manufactured homes to be placed or substantially improved on a site located within a floodplain shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement, with the installation using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to
ground anchors. For more detailed information, refer to guidebook FEMA-85 entitled "Manufactured Home Installation in Flood-Hazard Areas".

E. Construction materials and methods.
   1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
   2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
   3. Electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities shall be designed, and/or otherwise elevated, or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

F. Elevation standards for residential structures
   1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation.
   2. All manufactured homes to be placed or substantially improved within Zones A, AI through A30, AH, and AE shall be elevated on a permanent foundation so that the lowest floor is one foot or more above the base flood elevation and is securely anchored to an adequately anchored foundation system, in compliance with Section 18.06.120C.2., to resist flotation, collapse and lateral movement.
   3. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a Washington State licensed professional engineer or architect or must meet or exceed the following minimum criteria: (a) a minimum of two openings having a total net area of not less than one square inch for each one square foot of enclosed area subject to flooding shall be provided; (b) the bottom of all openings shall be no higher than one foot above grade; (c) the openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

G. Elevation and Flood-Proofing Standards for Non-Residential Structures. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall either:
   1. Have the lowest floor, including basement, elevated one foot or more above the base flood elevation; or
   2. Have the structure together with attendant utility and sanitary facilities flood-proofed in compliance with the following requirements:
d. Flood-proofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water,

e. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy,

f. Be certified by a Washington State licensed professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection based on their development or review of the structural design, specifications and plans. Such certifications shall be provided to the planning director in accordance with Section 18.06.110C.

3. Non-residential structures that are elevated, but not flood-proofed, must meet the same standards for space below the lowest floor as described in Section 18.06.120E.3.

H. Utility system standards

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.

2. New and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4. Water wells shall be located on high ground that is not in the floodway.

I. AE and A1-30 Zones with base flood elevations but no floodways. In areas with base flood elevations but where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development including fill shall be permitted within Zones A1-30 and AE on the county's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the county.

Section 49 Provisions for Flood Hazard Reduction in Floodways

A. Located within areas of special flood hazard established in Section 18.06.100C are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris, and increase erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a Washington State licensed professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice
that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.

2. Construction or reconstruction of residential structures is prohibited within designated floodways, except for (i) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (ii) repairs, reconstruction or improvements to a structure, the cost of which does not exceed fifty (50) percent of the market value of the structure either (1) before the repair or construction is started, or (2) if the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or to structures identified as historic places, may be excluded from the fifty (50) percent portion.

3. If requirements in Section 18.06.125A are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 50.

Section 50 Provisions for Flood Hazard Reduction in Coastal High Hazard Areas

A. In addition to standards prescribed in Section 50, the following standards shall be met for developments sited within coastal high hazard areas (V zones) to lessen the special hazards associated with high velocity waters from tidal surges. The planning director or his or her designee shall review each development proposal within a coastal high hazard area prior to issuing a permit to assure that the following standards are met:

1. All new construction, including buildings or structures shall be located landward of the reach of mean high tide.

2. Located within areas of special flood hazard are Coastal High Hazard Areas, designated as Zone V1 through and including V-30, VE, and/or V. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions in this chapter, the following provisions shall also apply:

   I. All new construction and substantial improvements in Zone V1 through and including V-30, Zone VE, and Zone V if base flood elevation data is available on the county's FIRM, shall be elevated on pilings and columns so that:

   i. The bottom of the lowest horizontal structural member of the lowest floor, excluding the pilings or columns, is elevated one-foot or more above the base flood level; and

   ii. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all
building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year at a 100-year mean recurrence interval.

iii. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for compliance with the provisions of Sections 18.06.030B.1.(i) and 18.06.030B.1.(ii).

m. Obtain the elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor, excluding pilings and columns, of all new and substantially improved structures in Zone V1 through and including V-30, Zone VE, and Zone V on the county's FIRM, and determine whether or not such structures contain a basement. The planning director shall maintain a record of all such information.

n. All new construction within Zone V1 through and including Zone V30, Zone VE, and Zone V on the county's FIRM shall be located landward of the reach of the mean high tide.

o. Provide that all new construction and substantial improvements within Zone V1 through and including Zone V30, Zone VE, and Zone V on the county's FIRM have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purposes of this subsection, a breakaway wall shall have a design safe loading resistance of not less than ten (10) pounds per square foot and no more than twenty (20) pounds per square foot. The use of breakaway walls that exceed a design safe loading resistance of twenty (20) pounds per square foot, either by design or when so required by county or state codes, may be permitted only if a registered professional engineer or architect certifies that the proposed design meets the following criteria:

i. Breakaway wall collapse shall result from water load less than that would occur during the base flood; and

ii. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all structural and non-structural building components. Maximum wind and water loading values to be used in this determination shall each have a one-percent chance of
being equaled or exceeded in any given year at a 100-year mean recurrence interval.

If breakaway walls are utilized, such enclosed space shall be useable solely for the parking of vehicles, building access, or storage. Such space shall not be used for human habitation.

p. Prohibit the use of fill for structural support of buildings within Zone V1 through and including V30, Zone VE, and Zone V on the county’s FIRM.

q. Prohibit manmade alteration of sand dunes within Zones V1 through and including V30, Zone VE, and Zone V on the county FIRM which would increase potential flood damage.

r. All manufactured homes to be placed or substantially improved within Zones V1-30, Zone V, and Zone VE on the community’s FIRM and on sites that are (a) located outside of a manufactured home park or subdivision, or (b) located in a new manufactured home park or subdivision, or (c) located in an expansion to an existing manufactured home park or subdivision, or (d) located in an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as the result of a flood, shall meet the standards in Sections 18.06.130B.1., through 18.06.130B.6., inclusive, and manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision within Zones V1-30, Zone V, and VE on the county’s FIRM shall meet requirements of Sections 18.06.130B.2., through 18.06.130B.3., inclusive.

s. Recreational vehicles placed on sites within Zone V1 through and including V30, Zone V, and Zone VE on the county's firm must:

i. Comply with all provisions of Chapter 8.20 of this code.

ii. Be fully licensed and ready for highway use; and,

iii. Be on its wheels, or jacking system; and,

iv. Be attached to the site only by quick disconnected type utilities and security devices, and have no permanently attached additions.

Section 51 Conditions for Variances in Frequently Flooded Areas

A. The board of adjustment shall hear and decide all applications for variances in frequently flooded areas; provided, however that all requirements and criteria set forth in this section must be satisfied before a frequently flooded area variance is granted.

B. The purpose of the variance procedures provided in this section is to permit the construction and substantial improvement of structures within existing neighborhoods and areas where the structures are in close proximity, where full compliance with the provisions of this chapter would cause an exceptional hardship, and where granting of a
variance would not result in additional threats to the public safety. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided the criteria in this section have been met. As the lot size increases, the technical justification required for issuing the variance increases. Upon consideration of the criteria contained in this section and in Section 17.80.020 of the Grays Harbor County Code, the board of adjustment may grant those variances found to be consistent with the decision criteria. The board shall make written findings of fact as to the justification for the variance and may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

C. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historical Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section and Section 17.80.020 of the Grays Harbor County Code.

D. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

F. Variances shall only be issued upon:

1. A showing of good and sufficient cause;

2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,

3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in the criteria below, or conflict with local laws or ordinances.

G. In deciding variances and appeals from administrative decisions the following factors shall be considered:

1. The danger that materials may be swept onto other land to the injury of others;

2. The danger to life and property due to flooding or erosion damage;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. The importance of the services provided by the proposed facility to the community;

5. The necessity to the facility of a waterfront location, where applicable; (f) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
6. The compatibility of the proposed use with existing and anticipated development;
7. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
8. The safety of access to the property in times of flood for ordinary and emergency vehicles;
9. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
10. The costs of providing governmental service during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

H. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that a variance pertains to a physical piece of property; the variance is not personal in nature and does not pertain to the structure, its inhabitants, economic or financial circumstances. Variances primarily address small lots in densely populated residential neighborhoods. As such, variances from the elevation requirements should be quite rare.

I. Each applicant to whom a variance is granted shall be notified in writing that the permitted structure may be built with its lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with increased risk. Such notification shall be maintained with a record of all variance actions as required by Section 18.06.050.

Section 52 Frequently Flooded Area Variance Record Requirements
A. The county shall comply with the following record requirements:
   1. The Administrator shall maintain a record of all variance actions, including the justification for their issuance and the board's written findings of fact;
   2. The county shall report the variances from the requirements of this district granted in its periodic report submitted to the federal insurance administrator.

ARTICLE V. GEOLOGICALLY HAZARDOUS AREAS

Section 53 Designation and Classification of Geologically Hazardous Areas
A. Areas susceptible to one or more of the following types of hazards shall be designated as a geologically hazardous area:
   1. Erosion hazard;
   2. Landslide hazard;
   3. Seismic hazard;
   4. Tsunami hazard;
5. Other geologic events, including, but not limited to, channel migration zones, mass wasting, debris flows, rock falls, and differential settlement.

B. The following plans and maps designate the approximate distribution, location, and extent of geologically hazardous areas within the county:
1. The Grays Harbor County Hazard Mitigation Plan;
2. State department of natural resources geologic information portal interactive maps;
   a. Seismic scenarios catalog;
   b. Natural hazards;
   c. Tsunami evacuation map; and
   d. Subsurface geology information system;
3. Coastal Zone Atlas for the location of marine bluffs and dunegrass;
4. Coastal Sand Dunes Study: Pacific and Grays Harbor Counties, Washington, Department of Ecology, April 1975; and,

A. All geographic hazard areas should be classified according to the following categories for each geologic hazard type:
1. Known or suspected risk. A qualified professional has documented or projected the existence of a hazard.
2. Risk unknown. There is a lack of documentation or projection of a hazard by a qualified professional, or data are not available to determine the presence or absence of a geologic hazard.

Section 54  Additional Requirements for Critical Area Reports in Geologically Hazardous Areas

A. The administrator may require a permit applicant to prepare a critical area report as provided in Section 18 for any use, structure, or activity not exempt under Section 13, that is proposed in a geologically hazardous area.

B. The critical area report shall be prepared by an engineer or geologist, licensed in the state of Washington, with experience analyzing geologic, hydrologic, and ground water flow systems, and who has experience preparing reports for the relevant type of hazard.

C. Except as provided in Subsections D and E below of this section, a critical area report for geologically hazardous areas shall first contain a site evaluation and, if required, an assessment of geological hazards.
   1. A site evaluation shall include:
a. Identification of any geologically hazardous area that has a potential to
damage any proposed buildings, utilities, and accesses including the type
and extent of the geological hazard, and the reason the area is or is not
likely to be impacted by the proposed development plan.

b. A description of the project including, where applicable:
   i. Proposed structures;
   ii. Proposed grading;
   iii. Areas proposed for storage of materials;
   iv. Proposed storm drainage areas;
   v. Related project impacts which have a potential to adversely affect
      the geological hazard; and
   vi. If available for the proposed activity, a site development plan may
      be included to illustrate proposed project impacts. The
      development plan when provided will show the geological hazard
      area, potential and historic landslide runout areas, proposed site
      improvements, two-foot contours, proposed storm water treatment
      facilities, proposed or known existing septic drain fields, proposed
      stockpile areas, or proposed areas of mass grading.

c. Identification of proportionate and appropriate mitigation measures and a
description of how they will adequately protect the proposed
development, adjacent developments, and the subject geologically
hazardous area.

d. A recommendation based on the proposed site activities of the level of
study, construction monitoring, or site design changes which may be
needed during the final design process.

2. If recommended by the site evaluation, or determined necessary by the
administrator, a geotechnical assessment for geologically hazardous areas shall
include the following site- and proposal-related information at a minimum:

   a. The report shall include a copy of the site plans for the proposal showing:
   vii. The type and extent of geologic hazard areas that have the
potential to damage any proposed buildings, utilities, and
accesses. Also identify the type and extent of any other critical
areas, and management zones on, adjacent to, within three
hundred feet of, or that are likely to impact the proposal;
   viii. Proposed development, including the location of existing and
proposed structures, fill, storage of materials, and storm drainage
facilities, with dimensions indicating distances to hazard areas;
including site-specific identification of landslide top of slope and
slope faces subject to failure and sliding, toe of slope areas
subject to impact from down slope run-out, and buffers for areas subject to landslide hazards.

ix. The topography, in two-foot contours, of the project area and all hazard areas addressed in the report.

b. The report shall include an assessment of the geologic characteristics and engineering properties of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, landslide runout areas, erosion and prior grading. Soils analysis shall be accomplished in accordance with accepted taxonomic classification systems in use in the region. The assessment shall include, but note be limited to:

i. A description of the surface and subsurface geology, hydrology, soils, and vegetation found in the project area, and in generally all hazard areas addressed in the report;

ii. A detailed overview of the field investigations, published data, and references; data and conclusions from past assessments of the site; and site specific measurements, test, investigations, or studies that support the identification of geologically hazardous areas; and

iii. A description of the vulnerability of the site to seismic and other geologic events

c. The report shall contain a geotechnical analysis, including a detailed description of the project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the subject property, and affected adjacent properties.

e. Summary and Recommendation. The report shall make a recommendation for the minimum no disturbance management zone, or minimum building setback from any geologic hazard, or other appropriate mitigation measures based upon the geotechnical analysis.

D. Where a valid critical areas report has been prepared within the last five (5) years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, said report may be incorporated into the required critical area report. The applicant shall submit a hazards assessment detailing any changed environmental conditions associated with the site.

E. Where the applicant can demonstrate that the proposed project or activity has no direct impact on the identified geologically hazardous area, or that the site evaluation requirements above are not applicable to the proposed project or activity, the administrator may not require additional site assessment work or may limit the scoping of the site evaluation based on identified site specific geologic hazards.
F. When hazard mitigation is required, the mitigation plan shall specifically address how the activity maintains or reduces the pre-existing level of risk to the site and adjacent properties on a long-term basis (equal to or exceeding the projected lifespan of the activity or occupation). Proposed mitigation techniques shall be considered to provide long-term hazard reduction only if they do not require regular maintenance or other actions to maintain their function. Mitigation may also be required to avoid any increase in risk above the pre-existing conditions following abandonment of the activity.

Section 55 Critical Area Report Requirements for Specific Hazards

A. Erosion and Landslide Hazard Areas. In addition to the basic geological hazard area report requirements, a report for an erosion hazard or landslide hazard area shall include the following information at a minimum:

1. Site Plan. The report shall include a copy of the site plan for the proposal showing:
   a. The height of slope, slope gradient, and cross section of the project area,
   b. The location of springs, seeps, or other surface expressions of ground water on or within three hundred feet of the project area, or that have potential to be affected by the proposal, and
   c. The location and description of surface water runoff;
   d. The location of historic landslide runout area and modelling of potential landslide runout.

2. Geotechnical Analysis. The geotechnical analysis shall specifically include:
   a. A description of the extent and type of vegetative cover,
   b. An estimate of load capacity, including surface and ground water conditions, public and private sewage disposal systems, fills and excavations, and all structural development,
   c. An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure,
   d. An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a one-hundred-year storm event,
   e. Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down slope properties,
   f. A study of slope stability, including an analysis of proposed angles of cut and fill, and site grading.

Identification of landslide top of slope and slope faces subject to failure and sliding, toe of slope area subject to areas subject to impact from down slope run-out and buffers areas subject to landslides.
g. Recommendations for building limitations, structural foundations, and an estimate of foundation settlement, and

h. An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion, including coastal erosion and river and stream erosion.

3. **Erosion and Sediment Control Plan.** For any development proposal on a site containing an erosion hazard area, an erosion and sediment control plan shall be required. The erosion and sediment control plan shall be prepared in compliance with requirements set forth in the current edition of the Stormwater Management Manual for Western Washington.

4. **Drainage Plan.** The report shall include a drainage plan for the collection, transport, treatment, discharge, and/or recycle of water prepared in accordance with the current edition of the Stormwater Management Manual for Western Washington.

5. **Mitigation Plans.** Hazard and environmental mitigation plans for erosion and landslide hazard areas shall include the location and methods of drainage, surface water management, locations and methods of erosion control, a vegetation management and/or replanting plan, and/or other means for maintaining long-term soil stability.

6. **Monitoring Surface Waters.** If the administrator determines that there is a significant risk of damage to downstream waters due to potential erosion from the site, based on the size of the project, the proximity to the receiving waters, or the sensitivity of the receiving waters, the critical area report shall include a plan to monitor the surface water discharge from the site. The monitoring plan shall include a recommended schedule for submitting monitoring reports to the administrator.

B. **Seismic Hazard Areas.** In addition to the basic report requirements, a critical area report for a seismic hazard area shall also meet the following requirements:

1. The site map shall show all known and mapped faults within three hundred feet of the project area, or that have potential to be affected by the proposal.

2. The geotechnical analysis shall include a complete discussion of the potential impacts of seismic activity on the site (for example, forces generated and fault displacement).

C. **Other Geologically Hazardous Areas.** In addition to the basic report requirements, the administrator may require additional information to be included in the critical area report when determined to be necessary to review the proposed activity and the subject hazard. Additional information that may be required includes, but is not limited to:
1. **Site Plan.** The site plan shall show all known hazard areas located within three hundred feet of the project area, or that have potential to be affected by the proposal; and

2. **Geotechnical Analysis.** The geotechnical analysis shall include a complete discussion of the potential impacts of the hazard on the project area and of the proposal on the hazard.

**Section 56 Performance Standards**

**A.** Alterations of geologically hazardous areas may only occur for activities that will not adversely impact or pose a threat to adjacent properties or critical areas, and are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions.

**B.** Uses, structures, and activities in erosion hazard areas shall meet the following performance standards:


2. Minimize modification of the natural contour of slopes by conforming to the existing topography of the site.

3. Incorporate stabilization best management practices, such as temporary and permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, and preservation of mature vegetation.

4. Ensure the stabilization of all exposed and disturbed soils by appropriate and timely application of best management practices.

5. Minimize the removal of existing vegetation and undergrowth.

6. Design cut and fill slopes to minimize erosion.

7. Stabilize conveyance outlets and stream banks to prevent erosion.

8. Reduce clearing, grading, and impervious surfaces to the minimum amount necessary to accommodate the project permit.

9. **Uses, structures, or activities shall be located outside areas likely to be subject to coastal erosion or river and stream bank erosion during the life of the use, structure, and activities.**

**C. Uses, structures, or activities in landslide hazard areas shall meet the following performance standards:**

1. Establish and maintain a forty-foot buffer from the top and toe of a slope identified as a landslide hazard area. The administrator may allow the following modifications to the buffer:
a. Reduce the buffer if a critical area special study prepared by a qualified professional certifies that the reduction will adequately protect the proposed development, adjacent developments, and critical areas.

b. Locate on-site sewage disposal systems, including drainfields, within a buffer when a qualified professional certifies that there will be no impact to existing or proposed development.

2. On-site stormwater and drainage development shall meet the requirements of the current edition of the Stormwater Management Manual for Western Washington.

3. Locate structures and improvements to avoid landslide areas and other critical areas.

4. Minimize modification of the natural contour of slopes by conforming to the existing topography of the site.

5. Minimize the removal of existing vegetation and undergrowth.

6. Reduce clearing, grading, and impervious surfaces to the minimum amount necessary to accommodate the project permit.

7. Avoid the location of utility improvements in landslide hazard areas except when no other practical alternative exists.

8. Avoid the location of utility improvements in landslide hazard areas except when no other practical alternative exists.

9. Locate new subdivision access roads outside landslide hazard areas and their buffers.

D. Uses, structures, or activities in tsunami hazard areas shall meet the following minimum performance standards:

1. On sites large enough to develop outside a tsunami hazard, development within the tsunami hazard should be prohibited.

2. If a part of the site has a lower tsunami risk, development should be clustered on that part of the site.

3. New Subdivisions, commercial uses, and recreational uses must prepare and maintain an evacuation plan including evacuation routes and provide for warnings and training for employees, residents, and those who will use the development on when and how to evacuate. These evacuation plans should be reviewed by the county for effectiveness and consistency with community evacuation plans.

E. Project permits in seismic hazard areas shall meet the requirements of Chapter 15.04, Grays Harbor County Code.

F. Clearing activities that disturb soils in erosion and landslide hazard areas are allowed during the dry season from May 1 to October 1; provided, however, that the county may
extend or shorten the dry season on a case-by-case basis or upon recommendation of a qualified professional. The seasonal clearing restrictions associated with timber harvest shall be pursuant to an approved forest practices permit.

G. Public facilities and essential public facilities shall not be constructed or located in geologically hazardous areas if there is a feasible alternative location outside geologically hazardous areas that would serve the intended service population. If allowed, the design and operation of the critical facility shall minimize the risk and danger to public health and safety to the maximum extent feasible.

ARTICLE VI. FISH AND WILDLIFE HABITAT CONSERVATION AREAS

Section 57 Designating Fish and Wildlife Habitat Conservation Areas

A. Fish and wildlife habitat conservation areas include:

1. Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association;

2. State priority habitats and areas associated with state priority species;

3. Habitats of local importance;

4. Critical saltwater habitats with:
   a. Kelp and eelgrass beds;
   b. Spawning and holding areas for forage fish
   c. Subsistence, commercial, and recreational shellfish beds;
   d. Mudflats, intertidal habitats with vascular plants; and
   e. Areas with which priority species have a primary association.

5. Naturally occurring ponds under twenty acres;

6. Waters of the state as classified under WAC 222-16-031;

7. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;

8. State natural area preserves, natural resource conservation areas, and state wildlife areas.

B. The county adopts the following critical area maps for reference only and do not provide a final critical area designation:

1. Washington Department of Fish and Wildlife Priority Habitat and Species Database;

2. Washington Department of Fish and Wildlife SalmonScape maps;

3. Washington State Department of Natural Resources, Official Water Type Reference maps, as amended;

5. Washington State Department of Natural Resources Shorezone Inventory;
6. Washington State Department of Natural Resources Natural Heritage Program mapping data;
7. Washington State Department of Health Annual Inventory of Shellfish Harvest Areas; and
8. Washington State Department of Natural Resources State Natural Area Preserves and Natural Resource Conservation Area maps.

Section 58 Best Available Science References for Fish and Wildlife Habitat Conservation Areas

A. The county adopts the following general guidance for the protection of functions and values of fish and wildlife habitat conservation areas:
1. Priority Habitats and Species List, Department of Fish and Wildlife, most recent edition;
2. Management Recommendations for Washington's Priority Habitats – Riparian, Department of Fish and Wildlife, December 1997 or its most recent edition;
3. Management Recommendations for Washington's Priority Habitats and Species, Department of Fish and Wildlife, May 1991 or its most recent edition;
8. Management Recommendations for Washington's Priority Species: Dungeness Crab, December 2008 or its most recent edition;
9. Management Recommendations for Washington's Priority Species: Great Blue Heron, March 2012 or its most recent edition; and
10. Additional Management Recommendations as adopted by the State Department of Natural Resources;
Section 59  Additional Requirements for Fish and Wildlife Habitat Conservation Area Critical Area Reports

A. The administrator may require a permit applicant to submit a critical area report on or adjacent to a fish and wildlife habitat conservation area for state and/or federal threatened and endangered species. The critical area report shall be prepared by a qualified professional who is a biologist with experience preparing reports for the relevant type of habitat.

B. In addition to the general critical area report requirements of Section 18, the minimum standard for a fish and wildlife habitat conservation area critical area report shall contain the following information:

1. The following areas shall be identified in the critical area report for fish and wildlife habitat conservation areas:
   a. The project area of the proposed activity;
   b. All habitat conservation areas and recommended buffers within three hundred (300) feet of the project area; and
   c. All shoreline areas, floodplains, other critical areas, and related buffers within three hundred (300) feet of the project area.

2. A habitat assessment evaluates the potential presence or absence of designated critical fish or wildlife species or habitat. The critical area report for a fish and wildlife habitat conservation area shall contain an assessment of habitats including the following site- and proposal-related information at a minimum:
   a. Detailed description of vegetation on and adjacent to the project area and its associated buffer;
   b. Identification of any species of local importance, priority species, or threatened, sensitive, or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;
   c. A discussion of any federal, state, or local special management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;
   d. A detailed discussion of the direct and indirect potential impacts on habitat by the project, including potential impacts to water quality;
   e. A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with Mitigation Sequencing Section 20; and
f. A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.

C. When appropriate due to the type of habitat or species present or the project area conditions, the administrator may also require the habitat management plan to include:

1. An evaluation by an independent qualified professional regarding the applicant’s analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate;

2. A request for consultation with the Washington Department of Fish and Wildlife or the local Native American Indian Tribe or other appropriate agency; and

3. Detailed surface and subsurface hydrologic features both on and adjacent to the site.

Section 60 Performance Standards for Fish and Wildlife Habitat Conservation Areas

A. A habitat conservation area may be altered only if the proposed alteration of the habitat or the mitigation proposed does not degrade the quantitative and qualitative functions and values of the habitat. All new structures and land alterations shall be prohibited from habitat conservation areas, except in accordance with this ordinance.

B. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a state or federal permit or approval.

C. Mitigation sites shall be located to preserve or achieve contiguous wildlife habitat corridors in accordance with a mitigation plan that is part of an approved critical area report to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.

D. The administrator shall condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary to minimize or mitigate any potential adverse impacts. Conditions shall be based on the best available science and may include, but are not limited to, the following:

1. Establishment of buffer zones;

2. Preservation of critically important vegetation and/or habitat features such as snags and downed wood;

3. Limitation of access to the habitat area, including fencing to deter unauthorized access;

4. Seasonal restriction of construction activities;

5. Establishment of a duration and timetable for periodic review of mitigation activities; and

6. Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation.
E. Mitigation of alterations to habitat conservation areas shall achieve equivalent or greater biologic and hydrologic functions and shall include mitigation for adverse impacts upstream or downstream of the development proposal site. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis.

F. Any approval of alterations or impacts to a habitat conservation area shall be supported by the best available science.

G. The administrator shall require the establishment of buffer areas for activities adjacent to habitat conservation areas when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation or areas identified for restoration established to protect the integrity, functions, and values of the affected habitat. Required buffer widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby and shall be consistent with the management recommendations issued by the Washington Department of Fish and Wildlife. Habitat conservation areas and their buffers shall be preserved in perpetuity and recorded in accordance with Section 28.

H. When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Larger buffers may be required and activities may be further restricted during the specified season.

I. If a fish and wildlife habitat conservation area is in a frequently flooded area, the county shall notify the State Department of Ecology, the State Department of Fish and Wildlife, the Quinault Indian Nation, and the Confederated Tribes of the Chehalis Indian Reservation of any alteration plans prior to initiating any alteration.

Section 61 Buffer Requirements for Fish and Wildlife Habitat Conservation Areas

A. Riparian buffers shall be required for Type S, F, Np, and Ns waters and shall extend landward perpendicularly from the ordinary high water mark as follows:

1. Type S waters: 150 feet
2. Type F waters: 150 feet
3. Type Np waters: 60 feet
4. Type Ns waters: 50 feet
5. Undifferentiated Type N waters shall be considered as Type Np waters unless verified otherwise by a qualified professional.

B. When the ordinary high water mark (OHWM) of any Type S, F, Np or Ns waters is located within seventeen (17) feet of the bottom of a slope that is greater than forty (40) percent the following minimum buffers shall be provided:
1. Where the horizontal length of the slope, including small benches and terraces, extends into the buffer, the required buffer width shall extend an additional seventeen (17) feet onto the sloped area.

2. The county may permit buffer averaging in instances where it will provide additional resource protection, provided that the total area on-site contained in buffer remains the same.

C. Any restored, relocated, replaced, or enhanced Type S, F, Np or Ns waters shall include a buffer in accordance with Section 61 (A).

D. Where any Type S, F, Np or Ns waters abut or intersect a critical area that also has a required buffer, the buffer width will be whichever of the two is greater.

E. Buffers for all other fish and wildlife habitat conservation areas not covered under subsection A of this section shall be established to protect the ecological integrity, structure and functions of the resource from development induced impacts. Buffer widths shall reflect the sensitivity of the species or habitat present and the type and intensity of the proposed adjacent human use or activity, consistent with the following guidance.

F. The administrator may allow a required buffer width to be reduced in accordance with a critical area report if:

1. The width reduction will not reduce stream or habitat functions, including those of nonfish habitat;

2. The width reduction will not degrade the habitat, including habitat for anadromous fish;

3. The proposal will provide additional habitat protection;

4. The total area contained in the riparian habitat area of each stream on the development proposal site is not decreased;

5. The recommended riparian habitat area width is not reduced by more than twenty-five percent (25%) in any one location;

6. The width reduction will not be located within another critical area or associated buffer; and

7. The reduced riparian habitat area width is supported by the best available science.

G. The administrator may allow a required buffer width to be reduced by 25 percent as compensation for riparian enhancement when a critical area report demonstrates that:

1. Nonnative and/or invasive plant species cover more than 40 percent of the buffer area;

2. Native tree and/or shrub vegetation covers less than 25 percent of the buffer area;

3. The stream buffer has slopes of less than 25 percent; and
4. Includes an enhancement plan for the reduced buffer
   a. Includes planting or appropriate native tree and shrub species at a minimum planting density of ten feet on-center for trees and five feet on-center for shrubs;
   b. Compares how the proposed enhancement will benefit the value and functions of the subject area as opposed to retaining the required buffer without enhancement; and
   c. Provides a monitoring and maintenance plan for the enhanced buffer for five years from the date of completing the enhancement.

H. Subsection G and H within this section cannot be used in combination.

I. The administrator may allow a required buffer to be reduced in accordance with when the buffer is divided by roads and highways when:
   1. An existing private road serving four or more houses, a county road, or a state highway divides a standard buffer;
   2. There is no net loss of function or value to the adjacent water body; and
   3. The reduction is limited to the area from the road shoulder to the landward standard buffer boundary.

J. A project permit application for a single-family dwelling unit on a nonconforming lot that is unable to meet the standard buffer width requirements under this section may request a buffer reduction under the following conditions:
   1. There is no opportunity to consolidate adjacent lots under common ownership to alleviate the nonconformity;
   2. The proposed building area, excluding the on-site sewage disposal system and driveway, does not exceed two thousand five hundred (2,500) square feet;
   3. The proposed location of the building area is within the area that has the least impact to the value and function of the habitat adjacent water body; and
   4. The proposed building area is as far landward as is possible and not closer than fifty (50) feet from the ordinary high water mark.

K. The county shall not issue a certificate of occupancy for a project until such time that all buffer requirements are satisfied.

L. Any structure legally existing as of the effective date of these regulations, and is located within a standard buffer width required under this section, may undergo normal maintenance and repair, or replacements; provided, however, that such action does not increase the degree of nonconformity.

M. The administrator may approve a project permit application to expand any structure legally existing as of the effective date of these regulations that is located within a standard buffer width required under this section provided that:
1. There is no expansion of the structure towards the ordinary high water mark at grade level; and

1. The expansion does not result in a total building area greater than 2,500 square feet at grade level.

Section 62 Permitted Activities within Fish and Wildlife Habitat Conservation Areas and Buffers

A. Limited public park or public recreational access; provided, that all of the following are satisfied:

1. The access is part of a public park that is dependent on the access for its location and recreational function; and

2. The access is limited to the minimum necessary to accomplish the recreational function; and

3. The removal of trees and native vegetation is minimized.

B. Low-impact uses and activities that are consistent with the purpose and function of the buffer when such improvements are limited to the minimum amount necessary and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the habitat involved; provided, that such activity shall not result in a decrease in the functions and values and shall not prevent or inhibit the buffer's recovery to at least pre-altered condition or function.

C. The following modifications may be permitted within a critical area or its buffer in accordance with an approved critical area report that demonstrates that proposed measures follow mitigation sequencing and will not degrade fish or wildlife habitat conservation areas functions or processes on-site or in the surrounding area.

1. New, replacement, or substantially improved erosion control measures.

2. Streambank Stabilization through bioengineering or soft armoring techniques.

3. Watershed restoration, fish and wildlife habitat, and fish passage projects.

4. Public or private docks.

5. New, expanded, or reconfigured roads, railroads, trails, bridges, and rights-of-way, provided:
   a. There is no other feasible alternative route with less impact on the environment;
   
   b. Crossings minimize interruption of downstream movement of wood and gravel;
   
   c. Roads shall not run parallel to the water body;
   
   d. Trails shall be located on the outer edge of the riparian area or buffer, except for limited viewing platforms and crossings;
e. Crossings, where necessary, shall only occur as near to perpendicular with the water body as possible; and

f. Piers or abutments shall not be placed within a Federal Insurance Administration (FIA) designated floodways.

6. New, expanded, or reconfigured utility facilities, including utility lines, facilities, and stormwater conveyance, provided:

a. Fish and wildlife habitat conservation areas shall be avoided to the maximum extent possible;

b. Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the water body and channel migration zone, where feasible;

c. The utilities shall cross at an angle greater than sixty (60) degrees to the centerline of the channel in streams or perpendicular to the channel centerline whenever boring under the channel is not feasible;

d. Crossings shall be contained within the footprint of an existing road or utility crossing where possible;

e. The utility route shall avoid paralleling the stream or following a down-valley course near the channel; and

f. The utility installation shall not increase or decrease the natural rate of shore migration or channel migration.

7. Clearing and grading as part of an authorized activity, or as otherwise allowed in these standards, when the following standards are applied:

g. Grading is allowed only during the dry season, which is typically regarded as beginning on May 1 and ending on October 1. The administrator may extend or shorten the dry season on a case-by-case basis, determined on actual weather conditions.

h. The soil duff layer remains undisturbed to the maximum extent possible. Where feasible, any soil disturbed shall be redistributed to other areas of the project area.

i. The moisture-holding capacity of the topsoil layer is maintained by minimizing soil compaction or reestablishing natural soil structure and infiltrative capacity on all areas of the project area not covered by impervious surfaces.

j. Erosion and sediment control meets or exceeds county standards.
A. Development proposals on sites in this area shall meet the requirements of this subsection.

1. The bed of Lake Quinault up to the ordinary high water mark (OHWM) is within the exterior boundaries of the Quinault Indian Reservation and owned by the Quinault Indian Nation. Any activity below the OHWM of Lake Quinault shall be approved in writing by the Quinault Indian Nation prior to the issuance of any development permit.

2. Lake Quinault is an important fish habitat area and an irreplaceable component of local ecosystem attributes and processes. Lake Quinault provides habitats for various life history stages of nine salmon (Genus Oncorhynchus) species/races, two species of char, and several other aquatic species. Lake Quinault provides important rearing habitats for a depressed stock of spring Chinook salmon, a population of bull trout, which are currently listed as a threatened species under the Federal Endangered Species Act, and the only juvenile rearing habitat for the depressed Quinault sockeye salmon. In addition, water quality attributes of the lake are carried downstream and affect salmon habitats the entire length of the lower Quinault River.

3. Uses and activities carried out pursuant to this section shall result in equivalent or greater habitat functions, as determined by the responsible approval authority in a manner consistent with best available science. All actions and uses shall be designed and constructed to avoid adverse impacts to Lake Quinault. No activity or use shall be allowed that results in a net loss of important habitat area functions, destroys, damages, or disrupts fish habitat, adversely affects water quality; creates unstable earth conditions, or causes erosion.

4. Applications for uses and activities within two hundred feet of the Lake Quinault OHWM shall include a critical protection area special study prepared by a qualified professional that evaluates the potential impacts of the proposed use or activity on the applicable habitat and/or species. The approval authority shall establish buffers for the habitat or species on a case-by-case basis in consultation with the Quinault Indian Nation based on the critical protection area special study. Any buffers proposed in the study shall reflect the sensitivity of the specific habitat(s) and/or species to be protected.

   a. The width of any buffer proposed in the critical protection area special study shall be measured on a horizontal plane, outward from the OHWM or, if the OHWM cannot be identified, from the top of the bank. These buffers shall be maintained in their existing condition, except as explicitly authorized by this chapter.

   b. The perimeter of the habitat area and associated buffer, and those areas to be disturbed pursuant to an approved permit or authorization, shall be marked in the field and inspected by the approval authority prior to the commencement of permitted activities. This temporary marking shall be maintained throughout the duration of the development activity.
5. Trees within two hundred feet of Lake Quinault shall be retained. Limbs may be removed to maintain views.

6. Trees that fall into Lake Quinault shall be left where they fall.

7. Trees and logs that float onto the shoreline between OHWM and summer low water shall be retained where they land.

8. Bank stabilization, if necessary, shall be accomplished with bioengineering or similar soft/nonstructural stabilization techniques. Materials used for soft/nonstructural stabilization include natural vegetation, submerged aquatic vegetation (SAV), sand fill, and biodegradable organic materials such as natural fiber logs (bio-logs) and organic matting. A state-licensed professional engineer with demonstrated expertise regarding hydraulic actions along shorelines shall design stabilization projects along Lake Quinault in consultation with a qualified biologist. The stabilization shall be designed and installed to minimize adverse impacts on the habitat's functions. Approved stabilization shall only use materials that do not pose a risk to water quality. Stabilization must be installed above the OHWM. Bank stabilization measures shall be approved by the Quinault Indian Nation and the county prior to permit issuance.

APPROVED AND ADOPTED this 3rd day of August, 2019.

Randy Ross, Chair

Wes Cormier, Commissioner

Vickie L. Raines, Commissioner

ATTEST:

Senior Deputy Prosecuting Attorney

Clerk of the Board
ORDINANCE NO.

AN ORDINANCE amending Ordinances 392, 393, 400, 401, 402
repealing or modifying certain sections of Grays Harbor
County Code Title 18 Definitions and adding new sections
relating to definitions for Title 18.06 Critical Area Protection
Ordinance

WHEREAS, Grays Harbor County finds, after consultation with affected interest groups, citizens,
and state agencies, that there is a need to update certain sections of Title 18 relating to critical
areas protection to ensure compliance with the 2018 Periodic Update to the Critical Areas
Protection Ordinance mandated by the Growth Management Act;

NOW, THEREFORE, be it ordained by the Board of Commissioners of Grays Harbor County,
Washington, that the following sections of Ordinances 392, 393, 400, 401 to Grays Harbor County
Title 18 be amended or deleted:

Section 1: Ordinance 392, 393, 400 and 401 Section 18.02.010 is amended to add the following
definitions:

"Adaptive management program" means a formal and deliberate scientific
approach to taking action and obtaining information in the face of uncertainty. An
adaptive management program shall:

a. Address funding for the research component of the adaptive management
program,

b. Change course based on the results and interpretation of new information that
resolve uncertainties; and,

c. Commit to the appropriate timeframe and scale necessary to reliably evaluate
regulatory and non-regulatory action affecting protection of critical areas and
anadromous fisheries.

"Agricultural Activities, Existing and Ongoing" means those activities conducted on lands
defined in RCW 84.34.020(2), and those activities involved in the production of crops and
livestock, including but not limited to operation, maintenance and conservation measures of
farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural
activities, and normal operation, maintenance or repair of existing serviceable structures,
facilities or improved areas. Activities which bring an area into agricultural use are not part of
an ongoing activity. An operation ceases to be ongoing when the area in which it was conducted
is proposed for conversion to a nonagricultural use or has lain idle for a period of longer than
five years, unless the idle land is registered in a federal or state soils conservation program.

"Alteration" means any human-induced change in an existing condition of a critical area or its
buffer. Alterations include, but are not limited to, grading, filling, channelizing, dredging, clearing
of vegetation, construction, compaction, excavation, or any other activity that changes the
character of the critical area.

"Best Available Science" means the current scientific information used in the process to
designate, protect, or restore critical areas; that is, derived from a valid scientific process as
defined by WAC 365-195-900 through 925.
“Best Management Practices (BMPs)” are conservation practices or systems of practices and management measures that:

(a) Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, or sediment;
(b) Minimize adverse impacts to surface water and ground water flow and circulation patterns and to the chemical, physical, and biological characteristics of wetlands;
(c) Protect trees, vegetation, and soils designated to be retained during and following site construction and use native plant species appropriate to the site for re-vegetation of disturbed areas; and
(d) Provide standards for proper use of chemical herbicides within critical areas.


“Buffers or buffer area” means that area of land immediately adjacent to a critical protection area that maintains the functions and/or structural stability of the critical area. Buffers consist of undisturbed native vegetation or areas identified for restoration established to protect the integrity, functions, and values of the affected habitat.

“Critical areas” include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. “Fish and wildlife habitat conservation areas” does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

“Development” means a land use consisting of the construction or exterior alteration of structures; grading, dredging, drilling, or dumping; filling; removal of sand, gravel, or minerals; bulk heading; driving of pilings; or any project of a temporary or permanent nature which modifies structures, land, wetlands, or shorelines and which does not fall within the allowable exemptions contained in the county code.

“Enhancement” means the manipulation of the physical, chemical, or biological characteristics of a wetland to heighten, intensify, or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in wetland function(s) and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Examples are planting vegetation, controlling non-native or invasive species, and modifying site elevations to alter hydroperiods.

“Essential public facilities” include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities as defined in RCW 81.112.020, state and local correctional facilities, solid waste handling facilities, and inpatient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020.

“Functions and Values” means the services provided by critical areas to society, including, but not limited to, improving and maintaining water quality, providing fish and wildlife habitat, supporting terrestrial and aquatic food chains, reducing flooding and erosive flows, wave attenuation, historical or archaeological importance, educational opportunities, and recreation.

“Impervious Surface” means surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under pre-development or pre-developed conditions. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater.

“In-Kind Compensation” means to replace critical areas with substitute areas whose characteristics and functions closely approximate those destroyed or degraded by a regulated activity.

“In-Lieu-Fee Program” means an agreement between a regulatory agency (state, federal, or local) and a single sponsor, generally a public natural resource agency or non-profit organization. Under an in-lieu-fee agreement, the mitigation sponsor collects funds from an individual or a number of individuals who are required to conduct compensatory mitigation required under a wetland regulatory program. The sponsor may use the funds pooled from multiple permittees to create one or a number of sites under the authority of the agreement to satisfy the permittees’ required mitigation.

“Infiltration” means the downward entry of water into the immediate surface of soil.

“Interdunal Wetland” means wetland that forms in the deflation plains and swales that are geomorphic features in areas of coastal dunes, as described in Washington State Wetland Rating System for Western Washington: 2014 Update (Washington State Department of Ecology).

“Isolated Wetland” means wetland that is hydrologically isolated from other aquatic resources, as determined by the United States Army Corps of Engineers (USACE). Isolated wetlands may perform important functions and are protected by state law (RCW 90.48) whether or not they are protected by federal law.


“Mitigation” means avoiding, minimizing, or compensating for adverse critical areas impacts. Mitigation, in the following sequential order of preference, is:

(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 to wetlands, critical aquifer recharge areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project.
(d) Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action; 
(e) Compensating for the impact to wetlands, critical aquifer recharge areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and
(f) Monitoring the hazard or other required mitigation and taking remedial action when necessary. Mitigation for individual actions may include a combination of the above measures.

“Monitoring” means evaluating the impacts of development proposals on the biological, hydrological, and geological elements of such systems, and assessing the performance of required mitigation measures through the collection and analysis of data by various methods for the purpose of understanding and documenting changes in natural ecosystems and features. Monitoring includes gathering baseline data.

“Native Vegetation” means plant species that occur naturally in a particular region or environment and were present before European colonization.

“Preservation” means the removal of a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This term includes the purchase of land or conservation easements, repairing water control structures or fences, or structural protection. Preservation does not result in a gain of wetland acres but may result in a gain in functions over the long term.

“Prior Converted Croplands” (PCCs) are defined in federal law as wetlands that were drained, dredged, filled, leveled, or otherwise manipulated, including the removal of woody vegetation, before December 23, 1985, to enable production of an agricultural commodity, and that: 1) have had an agricultural commodity planted or produced at least once prior to December 23, 1985; 2) do not have standing water for more than 14 consecutive days during the growing season, and 3) have not since been abandoned.

“Re-establishment” means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Re-establishment results in rebuilding a former wetland and results in a gain in wetland acres and functions. Activities could include removing fill, plugging ditches, or breaking drain tiles.

“Repair or Maintenance” means an activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter critical areas are not included in this definition.

“Restoration” means measures taken to restore an altered or damaged natural feature, including:
   (a) Active steps taken to restore damaged wetlands, streams, protected habitat, or their buffers to the functioning condition that existed prior to an unauthorized alteration; and
   (b) Actions performed to re-establish structural and functional characteristics of a critical area that have been lost by alteration, past management activities, or catastrophic events.

"Septage" means the mixture of solid wastes, scum, sludge, and liquids pumped from within septic tanks, pump chambers, holding tanks, and other On-site Septic System (OSS) components.
“Service Area (for critical area mitigation)” means the geographic area within which impacts can be mitigated at a specific mitigation bank or an in-lieu-fee program, as designated in its instrument.

“Soil Survey” means the most recent soil survey for the local area or county by the National Resources Conservation Service, U.S. Department of Agriculture.

“Species” means any group of animals or plants classified as a species or subspecies as commonly accepted by the scientific community.

“Species of Local Importance” means those species of local concern designated by State Department of Fish & Wildlife, Priority Habitats and Species List, August 2008, as may hereafter be revised due to their population status or their sensitivity to habitat manipulation.

“Species, Listed” means any species listed under the federal Endangered Species Act or state endangered, threatened, and sensitive, or priority lists (see WAC 232-12-297 or page 6 of “Priority Habitat and Species List,” Washington Department of Fish and Wildlife, 2008, Olympia, Washington. 177 pp.)

“Stream” means an area where open surface water produces a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses, unless they are used by salmonids or are used to convey a watercourse naturally occurring prior to construction. A channel or bed need not contain water year-round, provided there is evidence of at least intermittent flow during years of normal rainfall.

“Unavoidable Impacts” means adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.


“Wetland Creation” means the manipulation of the physical, chemical, or biological characteristics to develop a wetland on an upland or deepwater site where a wetland did not previously exist. Creation results in a gain in wetland acreage and function. A typical action is the excavation of upland soils to elevations that will produce a wetland hydroperiod and hydric soils, and support the growth of hydrophytic plant species.

“Wetland of High Conservation Value” means a wetland that has been identified by scientists from the Washington Natural Heritage Program (WHNHP) as an important ecosystem for maintaining plant diversity in Washington State. See http://www.dnr.wa.gov/data-information-natural-heritage-features.

“Wetland Mitigation Bank” means a site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved, expressly for the purpose of providing compensatory mitigation in advance of unavoidable impacts to wetlands or other aquatic resources that typically are unknown at the time of certification to compensate for future, permitted impacts to similar resources.

“Wetland Mosaic” means an area with a concentration of multiple small wetlands, in which each patch of wetland is less than one acre; on average, patches are less than 100 feet from each other; and areas delineated as vegetated wetland are more than 50% of the total area of the entire mosaic, including uplands and open water.
Section 2: Ordinances 392, 393, 400, 401 and 402 Section 18.02.010 is amended to delete the following definitions:

"Altered" means a human-induced action which requires a county-development permit and which changes the existing condition of a critical protection area.

"Buffer or buffer area" means that vegetated area adjacent to critical protection area that can reduce impacts from adjacent land uses through various physical, chemical, and/or biological processes.

"Critical protection areas" are the values and functions of geologically hazardous areas; frequently flooded areas, wetland areas, fish and wildlife habitat conservation areas, and critical aquifer recharge areas as defined in this chapter.

"Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or the outdoor storage of equipment or materials on property containing a critical protection area.

"Impervious surface" means a surface that impairs or prevents the recharge effect of surface water into the soil.

"Mitigation" means (1) avoiding the impact altogether by not taking a certain action or parts of an action, (2) minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts, (3) rectifying the impact by repairing, rehabilitating, or restoring the affected environment, (4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action, (5) compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or (6) monitoring the impact and taking appropriate corrective measures.

Section 3: Ordinance 393 and Section 18.06.025, General Exemptions, is amended to read as follows:

"Fish and wildlife habitat conservation areas" means land management for maintaining populations of species in suitable habitats within their natural geographic distribution so that the habitat available is sufficient to support viable populations over the long-term and isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean not degrading or reducing populations or habitats so that they are no longer viable over the long term. Cooperative planning and coordination should occur to help assure long-term population viability.

Fish and wildlife habitat conservation areas contribute to the state's biodiversity and occur on both publicly and privately owned lands. Designing these areas is an important part of land use planning and appropriate development densities, urban growth area boundaries, open space corridors, and incentive-based land conservation and stewardship programs.

Fish and wildlife habitat conservation areas include:
1. Areas where endangered, threatened, and sensitive species have a primary association;
2. Habitats and species of local importance, as determined locally;
3. Commercial and recreational shellfish areas;
4. Kelp and eelgrass beds; herring, smelt, and other forage fish spawning areas;
5. Naturally occurring ponds under twenty (20) acres and their submerged aquatic beds that provide fish or wildlife habitat;
6. Waters of the state;
7. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity; and
8. State natural area preserves, natural resource conservation areas, and state wildlife areas; however,
9. Fish and wildlife habitat conservation areas do not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

"SEPA" means the Washington State Environmental Policy Act, 43.21C RCW State Environmental Policy Act. The "SEPA process" means all measures necessary for compliance with the act's requirements.

"Responsible official" means the planning and building director or his or her assign."

(Ord. No. 392, § 1, 6-7-2010; Ord. No. 400, § 2, 1-9-2012; Ord. No. 401, §§ 1, 2, 6-11-2012; Ord. No. 434, § 1, 1-30-2017)

APPROVED AND ADOPTED this 3rd day of September, 2019.

BOARD OF COMMISSIONERS
GRAYS HARBOR COUNTY

Randy Ross, Chair

Wes Cornier, Commissioner

Vickie L. Raines, Commissioner

ATTEST:

Clerk of the Board

APPROVED AS TO FORM:

Senior Deputy Prosecuting Attorney

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