

18.02.010 - Definitions.

For the purpose of this title and to supplement definitions set forth in Section 1.04.010 of this code, certain terms and words are defined in this chapter. Words appearing but not defined in this title shall be given the meaning as defined in the current edition of "Webster's Third New International Dictionary."

"Accessory structure" means a detached subordinate building, the use of which is necessary and incidental to that of a main building on the same lot, and which does not change or alter the character of the premises. A building permit shall be obtained prior to construction of any accessory structure in a frequently flooded area.

"Affecting" means having, or may be having, an effect on an element or elements of the environment. For purposes of deciding whether an Environmental Impact Statement (EIS) is required and what the EIS must cover, "affecting" refers to having a probable, significant adverse environmental impact or impacts.

"Agriculture" means the tilling of soil, raising of crops, horticulture, viticulture, floriculture, aquaculture including shellfish harvesting, small livestock farming, dairying, animal husbandry, including all uses customarily incidental thereto, but not including slaughter house, fertilizer works, bone yard, or plant for the reduction of animal matter.

"Altered" means a human-induced action which requires a county development permit and which changes the existing condition of a critical protection area.

"Anadromous fish" means fish that migrate from salt water to spawn in fresh water.

"Aquifer" means a saturated body of rock, sand, gravel, or other geologic material that is capable of storing, transmitting, and yielding potable water to a well.

"Area of special flood hazard" means the land in a frequently flooded area within the county subject to a one percent or greater chance of flooding in any given year. The designation of an area of special flood hazard on flood insurance rate maps (FIRM) always includes the letters "A" or "V."

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year, also referred to as the "100-year flood." The designation of an area of special flood hazard on a FIRM always includes the letters "A" or "V."

"Basement" means any area of the building having its floor sub-grade, below ground level, on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

"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.

"Built environment" means the elements of the environment as specified in Section 18.02.010, which are generally built or made by people as contrasted with natural processes.

"Channel width and gradient" means a measurement over a representative section of at least five hundred (500) linear feet, with at least ten (10) evenly-spaced measurement points along the normal stream channel, but excluding unusually wide areas of negligible gradient such as marshy or swampy areas, beaver ponds, and impoundments.

"Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone VE, V or V1 through V30.

"Conservation easement" means a restriction the scope of development placed on a piece of property to protect the natural or man-made resource associated with the site. Easements are recorded on the property deed and are held in trust by the party granted the easement. The grantee polices the terms of the easement for the duration of its existence.

"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.

"Critical protection area special study" means a report, prepared by a professional possessing the appropriate state or similar accreditation, examining a development proposal's adverse impact to a critical protection area and any associated buffer. The study shall include information as set forth in Section 18.06.020D.

"Critical facility" means a facility for which even slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, and installations that produce, use, or store hazardous materials or hazardous waste.

"Cumulative" means increasing in size or strength by successive additions without corresponding loss.

"Determination of Non-Significance" (or DNS) means the written decision by the responsible official of the lead agency that a proposal is not likely to have a significant adverse environmental impact and therefore, an Environmental Impact Statement (EIS) is not required to be prepared for the proposal.

"Determination of Significance" (or DS) means the written decision by the responsible official of the lead agency that a proposal is likely to have a significant adverse environmental impact and therefore an Environmental Impact Statement (EIS) must be prepared for the proposal.

"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.

"EDNA" means the environmental designation for noise abatement, being an area or zone (environment) within which maximum permissible noise levels are established.

"Environment" means and is limited to the following elements:

(1) Natural Environment

(a) Earth

- (i) Geology
- (ii) Soils
- (iii) Topography
- (iv) Unique physical features
- (v) Erosion/enlargement of land area (accretion)

(b) Air

- (i) Air quality
- (ii) Odor
- (iii) Climate

(c) Water

- (i) Surface water movement/quantity/quality
- (ii) Runoff/absorption
- (iii) Floods
- (iv) Ground water movement/quantity/quality
- (v) Public water supplies

(d) Plants and animals

- (i) Habitat for and numbers or diversity of species of plants, fish, or other wildlife
- (ii) Unique species
- (iii) Fish or wildlife migration routes

(e) Energy and natural resources

- (i) Amount required/rate of use/efficiency
- (ii) Source/availability
- (iii) Non-renewable resources
- (iv) Conservation and renewable resources
- (v) Scenic resources

(2) Built environment

(a) Environmental health

- (i) Noise
- (ii) Risk of explosion
- (iii) Releases or potential releases to the environment affecting public health, such as toxic or hazardous materials
- (b) Land and shoreline use
 - (i) Relationship to existing land use plans and to estimated population
 - (ii) Housing
 - (iii) Light and glare
 - (iv) Aesthetics
 - (v) Recreation
 - (vii) Historic and cultural preservation
 - (viii) Agricultural crops
- (c) Transportation
 - (i) Transportation systems
 - (ii) Vehicular traffic
 - (iii) Waterborne, rail, and air traffic
 - (iv) Parking
 - (v) Movement/circulation of people or goods
 - (vi) Traffic hazards
- (d) Public services and utilities
 - (i) Fire
 - (ii) Police
 - (iii) Schools
 - (iv) Parks or other recreational facilities
 - (v) Maintenance
 - (vi) Communications
 - (vii) Water/stormwater
 - (viii) Sewer/solid waste
 - (ix) Other governmental services or utilities

Environment and environmental quality refer to the state of the environment and are synonymous as used in this title and refers basically to physical environmental quality.

"Environmental checklist" means the form referenced in Section 18.04.240 and Washington Administrative Code section 197-11-960.

"Environmental review" means consideration of environmental factors as required by this title. The "environmental review process" is the procedure used by agencies and others under SEPA for giving appropriate consideration to the environment in agency decision making.

"Erosion hazard areas" are those areas containing soils that, according to the United States Department of Agriculture Natural Resources Conservation Service Soil Survey Program may experience significant erosion. These include areas identified as having a "moderate to severe," "severe," or "very severe" rill and inter-rill erosion hazard. Erosion hazard areas also include coastal erosion-prone areas and channel migration zones.

"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.

"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.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from: (a) the overflow of inland or tidal waters and/or (b) the unusual and rapid accumulation of runoff or surface waters from any source.

"Flood insurance rate map (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood insurance study (FIS)" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary Floodway Map, and the water surface elevation of the base flood.

"Floodplain" means an area inundated with water that is typically located adjacent to a stream, river, lake, or coastline that exhibits the potential to flood once every one hundred (100) years or have a one percent chance of being equaled or exceeded in any given year.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"Frequently flooded area" means the land in the floodplain or floodway within the county that is subject to a one percent or greater chance of flooding in any given year.

"Function" means the physical, biological, chemical, and geologic interactions among different components of the environment.

"Geologically hazardous areas" are areas that because of their susceptibility to erosion, sliding, earthquakes, or other geologic events, are not suited to siting commercial, residential, or industrial development consistent with public health or safety concerns.

"High slope instability" means a soil highly susceptible to landslides based on a combination of geologic, topographic, and hydrologic factors, such as any combination of bedrock, soil, slope gradient, slope aspect, structure or hydrology as identified in the State Department of Natural Resources (DNR) "Forest Practice Application Review System" (FPARS) resource mapping system. These soils are located in areas exhibiting a combination of topographic attributes, including (a) concave slopes with sixty-five (65) percent or greater gradient or (b) planar slopes with eighty (80) percent or greater gradient, both as identified in DNR's geospatial "slpstab" map layer.

"Highly erodible" means impermeable or minimally impermeable soil that possesses a high potential for erosion, as identified in the State Department of Natural Resources "Forest Practice Application Review System" (FPARS) resource mapping system.

"Hydrology" means the science dealing with waters of the earth.

"Impacts" are effects or consequences of actions. Environmental impacts are effects upon the elements of the environment previously listed in this section.

"Impervious surface" means a surface that impairs or prevents the recharge effect of surface water into the soil.

"Intermittent" means, when used in the context of a "Type Np Water", a stream segment that normally goes dry.

"Lands covered by water" means lands underlying the water areas of the state below the ordinary high water mark (OHWM), including salt waters, tidal waters, estuarine waters, natural water courses, lakes, ponds, artificially impounded waters, marshes, wetlands, and swamps. Certain state environmental policy act categorical exemptions do not apply to lands covered by water.

"Landslide hazard area" includes areas at risk of mass movement due to a combination of geologic, topographic, and hydrologic factors. They include the following areas:

- (1) Areas of historic failures, such as:
 - (a) Those areas delineated by the United States Department of Agriculture Natural Resources Conservation Service as having a significant limitation for building site development;
 - (b) Those costal areas mapped as class u (unstable), uos (unstable old slides), and urs (unstable recent slides) in the State Department of Ecology Washington Coastal Atlas; or
 - (c) Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the United States Geological Survey or State Department of Natural Resources.
- (2) Areas with all three of the following characteristics:
 - (a) Slopes steeper than fifteen (15) percent;
 - (b) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
 - (c) Springs or groundwater seepage.
- (3) Areas that have shown movement during the Holocene epoch (from ten thousand (10,000) years ago to the present) or which are underlain or covered by mass wastage debris of this epoch;
- (4) Slopes that are parallel or subparallel to places of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;
- (5) Slopes having gradients steeper than eighty (80) percent subject to rockfall during seismic shaking;
- (6) Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action, including stream channel migration zones;
- (7) Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and

- (8) Any area with a slope of thirty-three and one-third (33 1/3) percent or steeper and with a vertical relief of ten (10) or more feet except areas composed of bedrock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten (10) feet of vertical relief.

"Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this code.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include "recreational vehicle."

"Manufactured home park or subdivision" means a parcel or contiguous parcels of land divided into three or more manufactured home lots or spaces for rent, lease, or sale. Manufactured home parks or subdivisions are regulated under Chapter 16.24.

"Market value" means the theoretical price a buyer willing but not compelled to buy would pay and the lowest price a seller willing but not compelled to sell, would accept.

"Mean high tide" means the average of all high tides observed during the most recent nineteen (19) year period.

"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.

"Mitigated Determination of Non-Significance" (or MDNS), means a Determination of Non-Significance (DNS) that includes measures intended to mitigate a proposal's probable significant adverse impacts to elements of the natural and/or built environment.

"Moderate slope instability" means a soil that is moderately susceptible to landslides based on a combination of geologic, topographic, and hydrologic factors, such as a combination of bedrock, soil, slope gradient, slope aspect, structure or hydrology as identified in the Washington State Department of Natural Resources (DNR) "Forest Practice Application Review System" (FPARS) resource mapping system. These soils are located in areas exhibiting a combination of topographic attributes, including (a) concave slopes with fifteen (15) percent or greater gradient, (b) planar slopes with seventy (70) percent or greater gradient, or (c) convex slopes with eighty (80) percent or greater gradient, all as identified on DNR's geospatial "slpstab" map layer.

"Natural environment" means those aspects of the environment previously described in this section frequently referred to as natural elements or resources, such as earth, air, water, wildlife, and energy.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this chapter.

"No-rise certification" means a certification by a state-licensed engineer that a project will not cause a set increase in flood heights.

"Ordinary high water mark" means a 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 it may naturally change thereafter or at it may change thereafter in accordance with permits issued by the county or State Department of Ecology; 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.

"Outdoor storage" means the placement of equipment or materials on a property. This does not include storage within a structure.

"Planning director" means the director of the county planning and building division or the director or head of the division's successor or the designee of the director or head.

"Pole building" means a building supported by poles placed vertically into the ground. Refer to Chapter 15.04.010.

"Probable" means likely or reasonably likely to occur, as in a reasonable probability of more than a moderate effect on the quality of the environment. Probable is used to distinguish likely impacts from those that merely have a possibility of occurring, but are remote or speculative. This is not meant as a strict statistical probability test.

"Project permit" or "project permit application" means any land use or environmental permit or license required from Grays Harbor County 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 definition. Where the term "development" or "permit-related activities" is used in this code, it should have the same meaning as project permit or permit project application.

"Public facilities" includes 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 (WAC 365-190-030).

"Recreational vehicle" means a vehicle that is (a) built on a single chassis, (b) four hundred (400) square feet or less when measured at the largest horizontal projection,

(c) designed to be self-propelled or permanently towable by a light duty truck, and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Responsible official" means the planning and building director.

"Repetitive loss" means a residential property that is covered under the National Flood Insurance Program (NFIP) flood insurance policy and (a) that has at least four NFIP claim payments, including building and contents, over five thousand dollars (\$5,000.00) each and the cumulative amount of such claims payments exceeds twenty thousand dollars (\$20,000.00) or (b) for which at least two separate building only claims payments have been made with the cumulative amount of the building portion of such claims exceeding the market value of the building. For both (a) and (b), at least two of the referenced claims must have occurred within any ten (10) year period and must be more than ten (10) days apart.

"Riparian" means that area of land adjacent to a body of water that is the transition between the aquatic system and the upland. Some riparian areas contain wetland areas.

"SEPA" means the State Environmental Policy Act. The "SEPA process" means all measures necessary for compliance with the act's requirements.

"Seasonal low flow" or "seasonal low water" means the conditions of the seven-day, two-year low water situation, as measured or estimated by accepted hydrologic techniques.

"Seismic hazard areas" are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, debris flows, lahars, or tsunamis. Settlement and soil liquefaction conditions occur in areas underlain by cohesionless soils of low density, typically in association with a shallow groundwater table. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage and ground settlement may occur with shaking (WAC 365-190-120(7)). These include areas identified by the State Department of Natural Resources Interactive Geologic Map as having:

- (1) Liquefaction susceptibility of "moderate," "moderate to high," "high," and "peat deposit;" and
- (2) NEHRP Seismic Site Class "D," "D to E," and "F."

"Setback" means, when used in conjunction with the Grays Harbor County Shoreline Master Program, that buffer area adjacent to a fish habitat conservation area that can reduce impacts from adjacent land uses through various physical, chemical, and/or biological processes.

"Shallow flooding areas" means those areas that appear on a Flood Insurance Rate Map (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.

"Significant" as used in this title means a reasonable likelihood of more than a moderate adverse impact on environmental quality. Significance involves context and intensity and does not lend itself to a formula or quantifiable test. The context may vary with the physical setting. Intensity depends on the magnitude and duration of an impact. The severity of an impact should be weighed along with the likelihood of its occurrence. An impact may be significant if its chance of occurrence is not great, but the resulting environmental impact would be severe if it occurred. Section 18.04.080 and Washington Administrative Code (WAC) section 197-11-330 specify the process, including criteria and procedures, for determining whether a proposal is likely to have a significant adverse environmental impact.

"Slope top and toe" is defined in accordance with the building code adopted under Chapter 15.04 of the Grays Harbor County Code.

"Special flood hazard area" means frequently flooded area, as identified on the Federal Insurance Administration (FIA) Flood Insurance Rate Map (FIRM).

"Start of construction" includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty (180) days of the date the permit was issued. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns; or the placement of a manufactured home on a foundation. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Storage of equipment and material" means the accumulation of equipment or materials associated with the continuous or seasonal purpose that are to be drawn upon as needed, such as lumber yards or automobile junkyards, and located within any special flood hazard area.

"Structure" means a walled and roofed building, including a gas or liquid storage tank that is principally above ground.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored before the damage occurred. For the purposes of this definition substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. For the purpose of this definition, the following shall not be considered substantial improvements: (a) any project for improvement of a structure to correct and comply with pre-cited existing

violations of state or local health, sanitary, or safety code specifications that have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or (b) any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places.

"Surface water retention or detention facility" means a surface water management facility designed in accordance with the provisions of the current edition of the State Department of Ecology document entitled "Surface Water Management for Western Washington."

"Temporary storage of materials or equipment" means the transient placement of equipment or materials, such as the short-term parking of equipment on a construction site or the short-term placement of materials associated with a planned activity, on property located within any special flood hazard area. Temporary storage shall not mean the accumulation of equipment or materials associated with a continuous or seasonal purpose that are to be drawn upon as needed, such as lumber yards or automobile junkyards, and located within any special flood hazard area. The temporary storage of equipment or materials within any special flood hazard area is prohibited from November 15 through March 15 inclusive.

"Threshold determination" means the decision by the responsible official of the lead agency as to whether or not an Environmental Impact Statement (EIS) is required for a proposal that is not categorically exempt.

"Tsunami hazard areas" are coastal areas and large lake shoreline areas susceptible to flooding and inundation as the result of excessive wave action derived from seismic or other geologic events.

"Type S Water" means all waters, within their bankfull width, as inventoried as "shorelines of the state" by chapter 90.58 of the Revised Code of Washington and the rules promulgated there under, including periodically inundated areas of their associated wetlands.

"Type F Water" means segments of natural waters, excluding water conveyance systems that are artificially constructed and actively maintained for irrigation, other than "Type S Waters" that are within the bankfull widths of defined channels and periodically inundated areas of their associated wetlands, or within lakes, ponds, or impoundments having a surface area of one-half acre or greater at seasonal low water and which in any case contain fish habitat or are described by one of the following four categories:

- (a) Waters, which are diverted for domestic use by more than ten (10) residential dwelling units or ten (10) camping units or by a public accommodation facility licensed to serve more than ten (10) persons, where such diversion is determined by the state to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be "Type F Water" upstream from the-point of such diversion for one thousand five hundred (1,500) feet or until the drainage area is reduced by fifty (50) percent, whichever is less;
- (b) Waters, which are diverted for use by federal, state, tribal or private fish hatcheries. Such waters shall be considered a "Type F Water" upstream from

the point of diversion for one thousand five hundred (1,500) feet, including tributaries if highly significant for protection of downstream water quality.

- (c) Waters that are within a federal, state, local, or private campground having more than ten (10) camping units, provided that the water shall not be considered as entering a campground until it reaches the boundary of the park lands available for public use and comes within one hundred (100) feet of a camping unit, trail, or other park improvement;
- (d) Riverine ponds, wall-based channels, and other channel features that are used by fish for off-channel habitat. These areas are critical to the maintenance of optimum survival of fish. This habitat shall be identified based on the following criteria:
 - (1) The site must be connected to a fish habitat stream and accessible during some period of the year; and
 - (2) The off-channel water must be accessible to fish.

"Type Np Water" means all segments of natural waters, excluding water conveyance systems that are artificially constructed and actively maintained for irrigation, within the bankfull width of defined channels that are perennial non-fish habitat streams. Perennial streams are flowing waters that do not go dry anytime of a year of normal rainfall, and include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.

"Type Ns Water" means all segments of natural waters, excluding water conveyance systems that are artificially constructed and actively maintained for irrigation, within the bankfull width of the defined channels that are not "Type S Water", "Type F Water", or "Type Np Water". These are seasonal, non-fish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a "Type Np Water." "Type Ns Water" must be physically connected by an above-ground channel system to a "Type S Water", a "Type F Water", or a "Type Np Water."

"Water dependent use" means a use or a portion of a use that cannot exist in any other location and requires a location on the shoreline and is dependent on the water by reason of the intrinsic nature of its operation.

"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.

"Wetland" means an area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990 that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

"Wetland function" means the physical, biological, chemical, and geologic interactions among different components of the environment that occur within a wetland. A Wetland performs many valuable functions are grouped into three categories: functions that improve water quality, functions that change the water regime in a watershed such as flood storage, and functions that provide habitat for plants and animals.

"Wetland rating", also called a wetland rating system, is a tool for dividing or grouping wetlands into groups having similar needs for protection. One method used in Washington is the state wetland rating systems, which places wetlands in categories based on their rarity, sensitivity, our inability to replace them, and their functions.

"Wetland value" means the wetland processes, characteristics, or attributes that are considered to benefit society.

"Wet flood-proofing" means any combination of materials and techniques used to construct a structure to allow the entry and exit of floodwaters in a way which will cause no structural damage.

"Wildlife habitat conservation areas" means land management for maintaining wildlife species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean cooperative and coordinated land use planning is critically important among counties and cities in a region.

(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)

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 or 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 18.06.015G.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 remodel 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 sample, 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/outlets, 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)

18.06.025 - 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 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)

18.06.040 - 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 rescission 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)

18.06.045 - 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 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 (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 reprintings 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)

18.06.080 - Mitigation.

1. Mitigation means the use of the following actions that are listed in descending order of preference:
 - (a) Avoiding the impact all together 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)

18.06.085 - 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.

1. **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, inspections, 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 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
 - d. Federal Emergency Management Administration Flood Insurance Rate Maps for Grays Harbor County.

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:
 - a. On-site stormwater and drainage development shall meet the requirements of the current edition of the Stormwater Management Manual for Western Washington.
 - 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.

(Ord. No. 393, § 20, 6-7-2010)

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.

(Ord. No. 393, § 21, 6-7-2010)

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 "Basis 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 system, is attached to the site only 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 18.06.120C.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.

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 18.06.110C.
- (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.

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.

(Ord. No. 393, § 23, 6-7-2010; Ord. No. [434](#), § 4, 1-30-2017)

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 system. 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) 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 one hundred-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.

- 5. 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.
- 6. 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.
- 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)

18.06.135 - 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 "Wetland Mitigation in Washington State Part 1: Agency Policies and Guidance", "Wetland Mitigation in Washington State Part 2: Developing Mitigation Plans", "Wetlands in Washington State Volume 1: A Synthesis of Science", and "Wetlands in Washington State 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.
 - (l) 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 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 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)(I)(1) through and including Section 18.06.135B.6.(a)(ii)(I)(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.
 - (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 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. 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 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 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 18.06.070.

- (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

Wetland	Standard	Additional buffer width if	Additional buffer width if
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Category	Buffer Width	wetland scores 20—28 habitat points	wetland scores 29—36 habitat points
Category I	75 feet	Add 75 feet	Add 150 feet
Bogs	190 feet	N/A	N/A
Estuarine	150 feet	N/A	N/A
Coastal Lagoons	150 feet	N/A	N/A
Natural Heritage Wetlands	190 feet	N/A	N/A
Category II	75 feet	Add 75 feet	Add 150 feet
Interdunal Wetlands	110 feet	N/A	N/A
Category III	60 feet	Add 50 feet	N/A
Category IV	40 feet	N/A	N/A

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.

2. Wetland habitat points shall be determined using the methodology set forth in "Appendix 8-C: Guidance on Widths of Buffers and Ratios for Compensatory Mitigation for Use with the Western Washington Wetland Rating System" of the current edition of the State Department of Ecology document "Wetlands in Washington State Volume 2 — Protecting and Managing Wetlands."

- (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 to 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.
- (c) Critical protection 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 or 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 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
 - (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:
 - (A) On-site Replacement and In-kind Replacement. Unless otherwise approved, all alteration of wetlands shall be replaced or enhanced on-site using the methodology utilized by the State Department of Ecology, as contained in the current editions of the State Department of Ecology documents entitled "Washington State Wetlands Identification and Delineation Manual", "Washington State Wetlands Identification Manual", "Washington State Wetland Rating System for Western Washington", "Wetland Mitigation in Washington State Part 1: Agency Policies and Guidance", "Wetland Mitigation in Washington State Part 2: Developing Mitigation Plans", "Wetlands in Washington State Volume 1: A Synthesis of Science", and "Wetlands in Washington State Volume 2: Managing and 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)(8). 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 18.06.085.

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 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.

(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.

- A. The county shall utilize state-approved municipal water system plans, the 1986 United States Department of Agriculture's Soil Survey of Grays Harbor Area, Pacific County, and Wahkaikum County, Washington, the 2005 State Department of Ecology's "Critical Aquifer Recharge Areas: Guidance Document", the State Department of Health 1995 document entitled "Wellhead Protection Program Guidance Document", the State Department of Ecology 2005 document entitled "Critical Aquifer Recharge Areas: Guidance Document", and the State Department of Health-approved Water System Plans (WSP), Regional Water System Plan (RWSP), or Satellite Management Agency (SMA) Plan for the municipalities, water districts, and water system operators located within Grays Harbor County in identifying and determining the application of protection measures 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 of Group B public water system, 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.
6. The installation and use of underground and above-ground automotive motor fuel and liquefied natural gas fuel-dispensing and storage facilities within a critical aquifer recharge area shall comply with the requirements set forth in the current edition of the International Fire Code (IFC), the underground storage tank regulations set forth in Washington Administrative Code chapter 173-360, and the tank system requirements set forth in Washington Administrative Code section 173-303-640.
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)

18.06.150 - 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 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)