

Kitsap County Critical Areas Ordinance

Title 19 Kitsap County Code

Planning Commission Draft



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**Kitsap County
Department of Community Development**

Title 19

CRITICAL AREAS ORDINANCE

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Chapter 19.100

INTRODUCTION AND APPROVAL PROCEDURES

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19.100.105 Statement of purpose.

The purpose of the ordinance codified in this title is to identify and protect critical areas as required by the Growth Management Act of 1990 (Chapter 17, Laws of 1990). This title supplements the development requirements contained in the Kitsap County Zoning Ordinance (Title 17 Kitsap County Code) by providing for additional controls and measures to protect critical areas. This chapter is adopted under the authority of Chapter 36.70A RCW, Chapter 36.70 RCW and the Kitsap County Code, as now or hereafter amended.

- A. **Goal Statement.** It is the goal of Kitsap County that the beneficial functions and values of critical areas be preserved, and potential dangers or public costs associated with the inappropriate use of such areas be minimized by reasonable regulation of uses within, adjacent to, or directly affecting such areas, for the benefit of present and future generations.
- B. **Policy Goals.** To implement the purpose and goal stated above, it is the intent of this title to accomplish the following:
1. Conserve and protect the environmental factors within the federal, state and county regulations that protect the maintenance of life for current and future residents of Kitsap County and the state of Washington.
 2. Protect the public against avoidable losses from maintenance and replacement of public facilities, property damage, costs of publicly subsidizing mitigation of avoidable impacts, and costs for public emergency rescue and relief operations.
 3. Identify critical areas and their environmental functions and values .
 4. Protect critical areas and their functions and values by regulating use and management within these areas and adjacent lands.
 5. Preserve the habitat, water quality, and water quantity functions and values of wetlands.
 6. Protect water quality by controlling erosion and carefully siting uses and activities that can detrimentally affect stream flows or aquatic habitat quality.
 7. Guide development proposals to the most environmentally suitable and stable portion of a development site.
 8. Avoid potential damage due to geological hazards or flooding.
 9. Preserve natural flood control and stormwater storage.
 10. Maintain groundwater recharge and prevent the contamination of groundwater.
 11. Prevent cumulative adverse environmental impacts to water, wetlands, fish and wildlife habitats, frequently flooded areas, geologically hazardous areas, and aquifer recharge areas.
 12. Whenever mitigation is required, pursue as a preferred option, restoration and enhancement of previously impacted critical areas and their buffers .

19.100.110 Applicability.

- A. Kitsap County shall not grant any permit, license or other development approval to alter the condition of any land, water or vegetation, or to construct or alter any structure or improvement, nor shall any person alter the condition of any land, water or vegetation, or construct or alter any structure or improvement, for any development proposal regulated by this title, except in compliance with the provisions of this title. Failure to comply with the provisions of this title shall be considered a violation and subject to enforcement procedures as provided for in this title.
- B. This title applies to all uses and activities within areas or adjacent to areas designated as regulated critical areas unless otherwise exempt. The following permits and approvals shall be subject to and coordinate with the requirements of this title: site development activity permit; site plan approval; subdivision or short subdivision; building permit; performance based development; shoreline substantial development; variance; conditional use permit; certain forest practice permits (Class IV General, Class III Conversion Option Harvest Plans); other permits leading to the development or alteration of land; and rezones if not combined with another development permit.
- C. Non-project actions including, but not limited to, rezones, annexations, and the adoption of plans and programs, shall be subject to critical area review.
- D. This title does not require any permit in addition to those otherwise required by county ordinances. This title is an overlay to the Zoning Ordinance; while it does not require any additional permits, activities regulated by the Zoning Ordinance are also subject to critical area requirements.
- E. The development standards and other requirements of this title shall be applied to uses and activities for any permit review or approval process otherwise required by county ordinances.
- F. Uses and activities in critical areas or their buffers for which no permit or approval is required by any other county ordinance remain subject to the development standards and other requirements of this title. While this title does not require a review or approval process for such uses and activities, they remain subject to this title.
- G. For the purpose of this title, the area of review is defined as the critical area and the area within two hundred fifty feet of a critical area. This defines the area of review only. Refer to Chapters 19.200 through 19.600 for specific development standards.
- H. Throughout this document, nexus and proportionality apply. Mitigation must match the impact.

19.100.115 Relationship to other county regulations.

When any provision of any other chapter of the Kitsap County Code conflicts with this title, that which provides the most protection to the critical area, as determined by the department, shall apply.

Applications for permits and approvals are subject to the provisions of this title as well as to other provisions of state and county law, which include, but are not limited to, the following:

- A. Title 2 Government
- B. Title 9 Health, Welfare and Sanitation
- C. Title 12 Stormwater Management
- D. Title 14 Buildings and Construction
- E. Title 15 Flood Hazard Areas
- F. Title 16 Land Division and Development
- G. Title 17 Zoning
- H. Title 18 Environment
- I. Title 21 Land Use and Development Procedures
- J. Title 22 Shoreline Management Master Program
- K. RCW 36.70A, Growth Management Act
- L. RCW 90.58, Shoreline Management Act
- M. RCW 43.21C, State Environmental Policy Act

19.100.120 Review authority.

- A. In evaluating a request for a development proposal regulated by this title, it shall be the responsibility of the department to determine the following:
 - 1. The nature and type of critical area and the adequacy of any special reports required in applicable sections of this title;
 - 2. Whether the development proposal is consistent with this title, by granting, denying or conditioning projects;
 - 3. Whether proposed alterations to critical areas are appropriate under the standards contained in this title, or whether it is necessary for the applicant to seek a variance or other exception; and
 - 4. Whether the protection mechanisms and the mitigation and monitoring plans and bonding measures proposed by the applicant are sufficient to protect the public health, safety and

welfare consistent with the goals, purposes and objectives of this title, and if not, condition the permit or approval accordingly.

- B. The department shall have the administrative authority reduce buffers and building setbacks as outlined in specific critical area sections of this title..
- C. Where projects have been approved with conditions to protect critical areas under previous protection policies in effect prior to the ordinance codified in this title, those conditions will apply.

D. Time Limitations.

1. Expiration of Approval.

- a. Approvals granted under this title shall be valid for the same time period as the underlying permit (e.g. preliminary plat, site development, building permit). If the underlying permit does not contain a specified expiration date, then approvals granted under this Title shall be valid for a period of three years from the date of issue, unless a longer period is specified by the department.
- b. The approval shall be considered null and void upon expiration, unless a time extension is requested and granted as set forth in subsection 2 below.

2. Time Extensions.

- a. The applicant or owner(s) may request in writing a one-year extension of the original approval.
- b. Knowledge of the expiration date and initiation of a request for a time extension is the responsibility of the applicant or owner(s).
- c. A written request for a time extension shall be filed with the department at least 60 days prior to the expiration of the approval.
- d. Upon filing of a written request for a time extension, a copy shall be sent to each party of record together with governmental departments or agencies that were involved in the original approval process. By letter, the department shall request written comments be delivered to the department within 30 days of the date of the letter.
- e. Prior to the granting of a time extension, the Department may require a new application(s), updated study(ies), and fee(s) if:
 - (1) The original intent of the approval is altered or enlarged by the renewal;
 - (2) If the circumstances relevant to the review and issuance of the original approval have changed substantially; or
 - (3) If the applicant failed to abide by the terms of the original approval.
- f. If approved, the one-year time extension shall be calculated from the date of granting said approval.

g. The department has the authority to grant or deny any requests for time extensions based upon demonstration by the applicant of good cause for the delay.

19.100.125 Exemptions.

The following activities are exempt from the requirements of this title:

- A. Emergencies that threaten the public health, safety and welfare. An "emergency" is an unanticipated and immediate threat to public health, safety, or the environment that requires action within a time too short to allow compliance with this title.
- B. Pre-existing and ongoing agricultural activities on lands containing critical areas. For the purpose of this title, "existing and ongoing" means that the activity has been conducted and/or maintained within the past five years.
- C. Normal and routine maintenance and operation of pre-existing retention/detention facilities, biofilters and other stormwater management facilities, irrigation and drainage ditches, farm ponds, fish ponds, manure lagoons, and livestock water ponds, provided that such activities shall not involve conversion of any wetland not currently being used for such activity.
- D. Structural alterations to buildings, permitted under the Kitsap County Code that do not alter the structural footprint or introduce new adverse impacts to an adjacent critical area.
- E. Normal and routine maintenance or repair of existing utility structures within a right-of-way or existing utility corridor or easements, including the cutting, removal and/or mowing of vegetation above the ground.
- F. Forest practices conducted pursuant to RCW 76.09, except Class IV (general conversions) and Conversion Option Harvest Plans (COHP).
- G. Maintenance or reconstruction of existing private roads, driveways, onsite septic systems, and wells, provided that reconstruction does not involve expansion of facilities, widening, or relocation.
- H. Reconstruction, remodeling, or maintenance of existing single-family residential structures and accessory structures that are located outside a Puget Sound shoreline flood hazard area and active landslide hazard area shall be allowed provided that the expansion of the building footprint does not harm state-listed, resident endangered or threatened species.
- I. Reconstruction, remodeling, or maintenance of structures, other than single-family structures and accessory structures that are located outside a flood hazard area and active landslide hazard area, provided that such reconstruction, remodeling, or maintenance does not increase the floor area nor extend beyond the existing ground coverage. The exemption shall not

apply to reconstruction which is proposed as a result of site or structural damage associated with a critical area, such as slope failure in a landslide hazard area or flooding in a flood hazard area.

19.100.130 Standards for existing development.

Shorelines. This section incorporates by reference the existing development standards provided in Title 22 Kitsap County Code Shoreline Management Program applicable to development on shorelines of the state (WAC 173-27-080), as now or hereafter amended.

A. Existing Nonconforming Structures

1. Existing nonconforming development means a development that was lawfully constructed, approved or established prior to the effective date of the ordinance codified in this title, but does not conform to present regulations or standards of this title.
2. Structures in existence on the effective date of the ordinance codified in this title that do not meet the setback or buffer requirements of this title may be remodeled or reconstructed provided that the new construction or related activity does not further intrude into the critical area or its associated buffers.
3. Existing nonconforming structures shall not be expanded or altered in any manner that will increase the nonconformity without a permit issued pursuant to the provisions of this title, except as allowed through the provisions of 19.100.125 G, H and I.
4. Nonconforming structures which are damaged or destroyed by fire, explosion, or other casualty, may be restored or replaced if reconstruction is commenced within 60 months of such damage. The reconstruction or restoration shall not serve to expand, enlarge or increase the nonconformity except as allowed through the provisions in 19.100.125 G, H and I.

B. Danger Tree Removal. Where a threat to human life or property is demonstrated, the landowner will photograph the tree or trees and may be allowed to remove the danger or hazard trees. The critical area or its buffer shall be replanted as determined by the property owner.

19.100.135 Variances.

A. A variance in the application of the regulations or standards of this title to a particular piece of property or a variance to the use prohibitions of this title may be granted by Kitsap County when it can be shown that the application meets all of the following criteria:

1. Because of special circumstances applicable to the subject property, including size, shape, or topography, the strict application of this title is found to deprive subject property of rights and privileges enjoyed by other properties in the vicinity; provided, however, the fact that those surrounding properties have been developed under regulations in force prior to the adoption of this ordinance shall not be the sole basis for the granting of a variance.
 2. The special circumstances referred to in subsection (1) above are not the result of the actions of the current or previous owner.
 3. The granting of the variance will not result in substantial detrimental impacts to the critical area, nor be injurious to the property or improvements in the vicinity nor be contrary to the goals, policies and purpose of this title.
 4. The granting of the variance is the minimum necessary to accommodate the permitted use.
 5. No other practicable or reasonable alternative exists. (See Definitions, Section 19.150.520 and 19.150.560.)
 6. A mitigation plan (where required) has been submitted and is approved for the proposed use of the critical area.
- B. Kitsap County shall conduct a public hearing on all non-administrative variance applications pursuant to the review process and notice requirements established in Chapter 17.500 of the Kitsap County Zoning Ordinance, as now or hereafter amended.
- C. Except when application of this title would deny all reasonable use of the property (19.100.140), an applicant who seeks an exception from the standards and requirements of this title shall pursue relief by means of a variance as provided for in this title.
- D. Requests for variances shall include the application requirements of Section 19.100.155 (General Application Requirements), or Section 19.200.240 (Wetland Application Requirements), whichever is applicable.
- E. The department shall review administrative buffer reductions based on the criteria and standards referenced in this chapter.
- F. The department may grant variances for public utilities to the substantive or procedural requirements of this title when:

1. Application of this title to the utility's activities would be inconsistent with the Comprehensive Plan or the utility's public service obligations;
2. The proposed utility activity does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site; and
3. Any alterations permitted to these critical areas shall be the minimum necessary to reasonably accommodate the proposed utility activity and shall be mitigated when feasible.

19.100.140 Reasonable use exception.

If the application of this title would deny all reasonable use of the property, the applicant may apply for a reasonable use exception pursuant to this section:

- A. The applicant shall apply to the department, and the department shall prepare a recommendation to the hearing examiner. The applicant may apply for a reasonable use exception without first having applied for a variance if the requested exception includes relief from standards for which a variance cannot be granted pursuant to the provisions of the section. The property owner and/or applicant for a reasonable use exception has the burden of proving that the property is deprived of all reasonable uses. The examiner shall review the application and shall conduct a public hearing pursuant to the provisions of Title 21 of this code, the Land Use and Development Procedures Ordinance. The examiner shall make a final decision based on the following criteria:
 1. The application of this title would deny all reasonable use of the property;
 2. There is no other reasonable use which would result in less impact on the critical area;
 3. The proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site and is consistent with the general purposes of this title and the public interest, and does not conflict with the Endangered Species Act or other relevant state or federal laws; and,
 4. Any alterations permitted to the critical area shall be the minimum necessary to allow for reasonable use of the property.
- B. Any authorized alterations of a critical area under this section shall be subject to conditions established by the examiner including, but not limited to, mitigation under an approved mitigation plan.

19.100.145 Appeals.

- A. **Appealable Actions.** The following decisions or actions required by this title may be appealed:
1. Any decision to approve, condition or deny a development proposal, or any disagreement on conclusions, methodology, rating systems, etc., between the department and such person or firm which prepares special reports pursuant to Chapter 19.700 may be appealed by the applicant or affected party to the Kitsap County hearing examiner.
 2. Any decision to approve, condition or deny an administrative variance application by the department may be appealed by the applicant or affected party to the Kitsap County hearing examiner.
 3. Any decision to require, or not require a special report pursuant to this title may be appealed by the applicant or affected party to the Kitsap County hearing examiner.
- B. **Appeal Process.** The following process shall be followed in submitting an appeal and taking action:
1. Any appeal regarding a decision to require, or not require a special report shall be made within thirty calendar days of the decision. The appeal shall be in writing stating the basis that such reports should or should not be required for the proposed development. The hearing examiner may: (i) remand the decision back to the department requesting that specific issues be reconsidered; (ii) modify the decision of the department; or (iii) uphold the decision of the department.
 2. Any appeal regarding a decision to approve, condition or deny a development proposal based on this title, or any decision to approve, condition or deny a variance, shall be made within thirty calendar days of the decision. A fee in an amount as established under the Kitsap County Code shall be paid to the department at the time an appeal is filed. The appeal shall be in writing and shall state specifically the issues that are the subject of the appeal, focusing on the specific inadequacies of the particular decision under dispute. The hearing examiner may: (i) remand the decision back to the department requesting that specific issues be reconsidered; (ii) modify the decision of the department; or (iii) uphold the decision of the department.
 3. Kitsap County shall not issue any permit, license or other development approval on the development proposal site pending the outcome of the appealed decision.

19.100.155 Application requirements, general.

- A. All applicants are required to meet with the department prior to submitting an application subject to the Kitsap County Zoning Ordinance; all applicants for construction of a single family dwelling are encouraged to do so. The purpose of this meeting is to discuss Kitsap County's zoning and applicable critical area requirements, to review any conceptual site plans prepared by the applicant and to identify potential impacts and mitigation measures. Such conference shall be for the convenience of the applicant and any recommendations shall not be binding on the applicant or the county.
- B. The applicant must comply with the standards and requirements of this title as well as standards relating to Title 12 Stormwater Management set forth by the department, as now or hereafter amended. To expedite the permit review process, the department shall be the lead agency on all work related to critical areas. Development may be prohibited in a proposed development site based on criteria set forth in this title; the applicant should first determine whether this is the case before applying for permits from the department.
- C. Application for development proposals, reasonable use exceptions or variances regulated by this title or for review of special reports shall be made with the department by the property owner, lessee, contract purchaser, other person entitled to possession of the property, or by an authorized agent as listed in Chapter 19.700 (Special Reports).
- D. A filing fee in an amount established under the Kitsap County Zoning Ordinance shall be paid to the department at the time an application for a permit relating to a critical area or a special report review is filed.
- E. Applications for any development proposal subject to this title shall be reviewed by the department for completeness and consistency with this title.
- F. At every stage of the application process, the burden of demonstrating that any proposed development is consistent with this title is upon the applicant.
- G. All site plan applications for development proposals subject to this title shall include a site plan drawn to scale identifying locations of critical areas, location of proposed structures and activities, including clearing and grading and general topographic information as required by the department. If the department determines that additional critical areas are found on the subject property, the applicant shall amend the site plan to identify the location of the critical area. Such site plans will be prepared by qualified professionals as defined by this Title. When it is determined that regulated activities subject to SEPA (Title 18 Kitsap County Code) are likely to cause a significant, adverse environmental impact to the critical areas identified in this title that cannot be adequately mitigated through compliance with this title, environmental assessment and mitigation measures may be imposed consistent with the procedures established in Title 18 Kitsap County Code.

H. Zone Reclassification or Comprehensive Plan Amendment. Prior to taking action on a zone reclassification or a Comprehensive Plan amendment, the proponent shall complete an environmental review to confirm the nature and extent of any critical areas on the property; determine if the subsequent development proposal would be consistent with this title; and determine whether mitigation or other measures would be necessary if the proposal were approved. Such review shall occur prior to any SEPA threshold determination. Findings of such review may be used to condition or mitigate the impact through the SEPA threshold determination or to deny the proposal if the impacts are significant and cannot be mitigated.

19.100.160 Inventory provisions.

The approximate location and extent of mapped critical areas within Kitsap County are shown on the maps adopted as part of this title, and incorporated herein by this reference. These maps shall be used only as a general guide for the assistance of the department and the public; the type, extent and boundaries may be determined in the field by a qualified specialist or staff person according to the requirements of this title. In the event of a conflict between a critical area location shown on the county's maps and that of an on-site determination, the on-site determination will apply.

Kitsap County will review map inventory information of all critical areas as it becomes available or on a quarterly basis. Mapping will include critical areas that are identified through site-specific analysis by local, state and federal agencies, the Kitsap Conservation District, tribal governments, citizen groups and other sources.

19.100.165 Enforcement.

- A. **Authorization.** The director is authorized to enforce this title, and to designate county employees as authorized representatives of the department to investigate suspected violations of this title, and to issue orders to correct violations and notices of infraction.
- B. **Right of Entry.** When it is necessary to make an inspection to enforce the provisions of this title, or when the director or his/her designee has reasonable cause to believe that a condition exists on property which is contrary to or in violation of this chapter, the director or his/her designee may enter the property to inspect, provided that if the property is occupied that the inspector's credentials be presented to the occupant and entry requested. If the property is unoccupied, the director or his/her designee shall first make a reasonable effort to locate the owner or other person having charge or control of the premises and request entry. If entry is refused, the director or his/her designee shall have recourse to the remedies provided by law to secure entry.

- C. **Stop Work Orders.** Whenever any work or activity is being done contrary to the provisions of this title the director or his/her designee may order the work stopped by notice in writing, served on any persons engaged in the doing or causing such work to be done, or by posting the property, and any such persons shall forthwith stop such work or activity until authorized by the director or his/her designee to proceed.
- D. **Penalties.** The violation of any provision of this title shall constitute a Class I civil infraction. Each violation shall constitute a separate infraction for each and every day or portion thereof during which the violation is committed, continued, or permitted. Infractions shall be processed in accordance with the provisions of Chapter 2.116 of this code, the Kitsap County Civil Enforcement Ordinance, as now or hereafter amended.
- E. **Imminent and Substantial Dangers.** Notwithstanding any provisions of these regulations, the director or his/her designee may take immediate action to prevent an imminent and substantial danger to the public health, welfare, safety or the environment by the violation of any provision of this chapter.
- F. **Other Legal or Equitable Relief.** Notwithstanding the existence or use of any other remedy, the director or his/her designee may seek legal or equitable relief to enjoin any acts or practices or abate any conditions which constitute or will constitute a violation of the provisions of this chapter.

Chapter 19.150 DEFINITIONS

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19.150.050 **Generally.** As used in this title, the following terms have the meanings given in this chapter.

19.150.100 **Adjacent.** "Adjacent" means an area within two hundred feet of a critical area.

19.150.105 **Agricultural activities.** "Agricultural activities" means activities related to vegetation and soil management, such as tilling of soil, control of weeds, control of plant diseases and insect pests, soil maintenance and fertilization as well as animal husbandry.

19.150.110 **Alteration.** "Alteration" means a human-induced action which changes the existing condition of a critical area. Alterations include but are not limited to: grading; grubbing; dredging; channelizing; cutting, clearing, relocating or removing vegetation, except noxious weeds identified by the Washington State Department of Agriculture or the Kitsap County Cooperative Extension; applying herbicides or pesticides or any hazardous or toxic substance;

discharging pollutants; grazing domestic animals; modifying for surface water management purposes; or any other human activity that changes the existing vegetation, hydrology, wildlife or wildlife habitat.

19.150.115 Anadromous fish. “Anadromous fish” means fish whose life cycle includes time spent in both fresh or salt water.

19.150.120 Applicant. “Applicant” means the person, party, firm, corporation or legal entity, or agent thereof, that proposes a development of property in Kitsap County.

19.150.125 Aquaculture Practices. “Aquaculture practices” means the harvest, culture or farming of food fish, shellfish, or other aquatic plants and animals including fisheries enhancement and the mechanical harvesting of shellfish and hatchery culture.

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

19.150.135 Aquifer Recharge. “Aquifer recharge” means the process by which water is added to an aquifer. It may occur naturally by the percolation (infiltration) of surface water, precipitation, or snowmelt from the ground surface to a depth where the earth materials are saturated with water. The aquifer recharge can be augmented by "artificial" means through the addition of surface water (e.g., land application of wastewater or stormwater) or by the injection of water into the underground environment (e.g., drainfields and drywells).

19.150.140 Aquifer Recharge Area. “Aquifer recharge areas” means those areas overlying aquifer(s) where natural or artificial sources of water can move downward to an aquifer(s).

19.150.145 Aquifer Vulnerability. “Aquifer vulnerability” means the combined effect of hydrogeological susceptibility to contamination and the contamination loading potential as indicated by the type of activities occurring on a project area.

19.150.150 Bank Stabilization. “Bank stabilization” means lake, stream and open water shoreline modification including vegetation enhancement, used for the purpose of retarding erosion, protecting channels or shorelines, and retaining uplands.

19.150.155 Best Available Science. “Best available science” means scientifically valid information in accordance with WAC 365-195-905, now or as amended hereafter, that is used to develop and implement critical areas policies or regulations.

19.150.160 Best Management Practices (BMPs). For the purposes of this title, “best management practices” or “BMPs” means conservation practices (physical, structural and/or managerial) or systems of practices and management measures that:

- A. Control soil loss and reduce water quality degradation caused by nutrients, pathogens, bacteria, toxic substances, pesticides, oil and grease, and sediment; and,
- B. Minimize adverse impacts to surface water and groundwater flow, circulation patterns, and to the chemical, physical, and biological characteristics of critical areas.

19.150.165 Bog. “Bogs” are a type of wetland typically composed of acidic, low nutrient soils and waters, high organic matter and that support plants specifically adapted to such conditions that are not commonly found elsewhere. Bogs may have an overstory of spruce, shore pine and may be associated with open water.

19.150.170 Buffer. “Buffer” means a non-clearing native or functionally equivalent vegetation area which is intended to protect the functions and values of critical areas.

19.150.172 Buffer, Standard. “Buffer, standard” means the size and quality of buffer required by this title for protection of a critical area.

19.150.175 Candidate Species (state-listed). “Candidate species (state listed)” means species under review by the Department of Fish and Wildlife for possible listing as endangered, threatened or sensitive. A species will be considered for state-candidate designation if sufficient scientific evidence suggests that its status may meet criteria defined for endangered, threatened, or sensitive in WAC 232-12-297. Currently listed state-threatened or state-sensitive species may also be designated as a state-candidate species if their status is in question. State-candidate species will be managed by the Department of Fish and Wildlife, as needed, to ensure the long-term survival of populations in Washington. They are listed in WDFW Policy 4802.

19.150.180 Channel Migration Zone (CMZ). “Channel migration zones” as defined by WAC 173-26-020(6), as now or hereafter amended, means the area along the Tahuya or Union Rivers within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

19.150.185 Clearing. “Clearing” means the destruction, disturbance or removal of vegetation by physical, mechanical, chemical or other means.

19.150.190 Compensation. “Compensation” means replacement of project-induced critical area (e.g., wetland) losses of acreage or functions, including but not limited to restoration, creation, or enhancement.

19.150.195 Creation. “Creation” means actions performed to intentionally establish a critical area at a site where it did not formerly exist.

19.150.200 Conversion Option Harvest Plan (COHP). As it relates to forest practices, a COHP means a plan for landowners who want to harvest their land but wish to maintain the option for conversion pursuant to WAC 222-20-050. "Conversion" to a use other than commercial timber operation shall mean a bona fide conversion to an active use that is incompatible with timber growing.

19.150.205 Critical Area Buffer. "Critical area buffer" means an area of protection around a critical area.

19.150.210 Critical Aquifer Recharge Areas. "Critical Aquifer Recharge Areas" means those land areas that contain hydrogeologic conditions that facilitate aquifer recharge and/or transmitting contaminants to an underlying aquifer.

19.150.215 Critical Areas. "Critical areas" means those areas identified as: (a) wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) geologically hazardous areas; and (e) frequently flooded areas.

19.150.220 Critical Area Protection Easement. "Critical Area Protection Easement" means an agreement shown on the face of a plat or site plan, for the purpose of perpetual or long-term conservation.

19.150.225 Critical Facilities. "Critical facilities" means those facilities necessary to protect the public health, safety and welfare and which are defined as essential facilities or Category III and IV buildings in accordance with Title 14 Kitsap County Building and Fire Code. These facilities include but are not limited to schools, hospitals, police stations, fire departments and other emergency response facilities, and nursing homes. Critical facilities also include sites of hazardous material storage or production.

19.150.230 Danger Trees. "Danger trees" means any tree of any height, dead or alive, that presents a hazard to the public because of rot, root stem or limb damage, lean or any other observable condition created by natural process or man-made activity consistent with WAC 296-54-529(28).

19.150.235 Debris. See "Refuse."

19.150.240 Department. "Department" means the Kitsap County department of community development.

19.150.245 Detention Facilities. "Detention facilities" means stormwater facilities designed to store runoff while gradually releasing it at a predetermined controlled rate. "Detention facilities" shall include all appurtenances associated with their designed function, maintenance and security. stormwater

19.150.250 Development Proposal Site. “Development proposal site” means for purposes of this title, the legal boundaries of the parcel or parcels of land on which an applicant has applied for authority from Kitsap County to carry out a development proposal.

19.150.255 Director. “Director” means the director of the Kitsap County Department of Community Development or a duly authorized designee in the department.

19.150.260 Draining (related to wetland). “Draining” means any human activity that diverts or reduces wetland groundwater and/or surface water sources.

19.150.265 Endangered Species (state listed). “Endangered species” means a species native to the state of Washington that is seriously threatened with extinction throughout all or a significant portion of its range within the state. Endangered species are legally designated in WAC 232-12-014.

19.150.270 Enhancement. “Enhancement” means actions performed to improve the condition of an existing degraded critical area (e.g., wetlands or streams) such that the functions or values are of a higher quality, provided that this activity does not significantly degrade another existing function or value.

19.150.275 Erosion. “Erosion” means the process whereby the land surface is worn away by the action of water, wind, ice or other geologic agents, by processes such as gravitational creep or events such as landslides caused by natural or manmade impacts.

19.150.280 Erosion Hazard Areas. “Erosion hazard areas” means land characterized by any of the soil types identified by the Natural Resources Conservation Service as "highly erodible land." This designation pertains to water erosion and not wind erosion. These areas may not be highly erodible until or unless the soil is disturbed by activities such as clearing or grading.

19.150.285 Excavation. “Excavation” means the removal of more than 10 cubic yards of earth material.

19.150.290 Existing and Ongoing Agriculture. “Existing and ongoing agriculture” means those activities conducted within the last five years on lands defined in RCW 84.34.020(2) or defined as “agricultural practices” in this title. For example, the operation and maintenance of existing farm and stock ponds or drainage ditches, operation and maintenance of ditches, irrigation systems including irrigation laterals, canals, or irrigation drainage ditches, changes between agricultural activities, such as rotating crops or grasses used for grazing, and normal maintenance, repair, or operation of existing serviceable structures, facilities, or improved areas can be existing and ongoing agriculture, provided that alteration of the contour of wetlands or streams by leveling or filling other than that which results from normal cultivation, or draining of wetlands shall not be considered normal or necessary farming or ranching activities.

19.150.295 Exotic. “Exotic” means any species of plant or animal that is not indigenous (native) to an area.

19.150.300 Extraordinary Hardship. “Extraordinary hardship” means where the application of this title and/or other programs adopted to implement this title by the regulatory authority would prevent reasonable use of the parcel.

19.150.305 Farm Pond. “Farm pond” means an open-water habitat of less than five acres and not contiguous with a stream, river, lake or marine water created from a non-wetland site in connection with agricultural activities.

19.150.310 Feeder Bluff. “Feeder bluff” means an eroding and/or retreating shore bluff that is part of natural coastal processes yielding sediment to area beaches.

19.150.315 Fen. “Fen” means a wetland with peat soils sixteen inches or more in depth, or any depth of organic soil over bedrock, and vegetation such as certain sedges, hardstem bulrush and cattails. Fens may have an overstory of spruce and may be associated with open water.

19.150.320 Filling or Fill. “Filling or fill” means a deposit of more than 10 cubic yards of earth or other natural or manmade material placed by artificial means, including, but not limited to, soil materials, debris, or dredged sediments.

19.150.325 Fish, Plant and Wildlife Critical Habitat. “Fish, plant and wildlife critical habitat” means those parcels of land and water specifically identified through the Planning Commission public process as being of critical importance to the maintenance of state-listed endangered and threatened species, anadromous fish and plant and animal species resident to Kitsap County. These areas would include named commercial and recreational areas, kelp and eelgrass beds, forage fish spawning areas, naturally occurring ponds and their submerged aquatic beds that provide habitat for named species, waters of the State, lakes, State natural area preserves and natural resource conservation areas.

19.150.330 Fisheries biologist. “Fisheries biologist” means a person with experience and training in fisheries who is able to submit substantially correct reports on fish population surveys, stream surveys and other related data analyses of fisheries resources. *Substantially correct* is interpreted to mean that technical or scientific errors, if any, will be minor and do not delay or affect the site plan review process. Qualifications of a fisheries biologist include:

- A. Certification by the American Fisheries Society;
- B. A Bachelor of Science degree in fisheries or the biological sciences from an accredited institution and two years of professional fisheries experience; or

- C. Five or more years professional experience as a practicing fisheries biologist with a minimum three years professional field experience.

19.150.335 Floodplain. “Floodplain” means the floodway and associated special flood hazard areas having the potential to flood once every one hundred years, or having a one percent chance of being equaled or exceeded in any given year. The regulatory flood hazard areas, floodplains and floodways are depicted on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps for Kitsap County.

19.150.340 Floodway. “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.

19.150.345 Forage Fish. “Forage fish” means anchovy, herring, sand lance and smelt.

19.150.350 Forest Practices. “Forest practices” means, as defined in WAC 222-16-010(21), as now or hereafter amended, any activity conducted on or directly pertaining to forest land that is related to growing, harvesting, or processing timber, including but not limited to:

- A. Road and trail construction;
- B. Harvesting, final and intermediate;
- C. Pre-commercial thinning;
- D. Reforestation;
- E. Fertilization;
- F. Prevention and suppression of diseases and insects;
- G. Salvage of trees; and,
- H. Brush control.

"Forest practices" shall not include preparatory work such as tree marking, surveying and road flagging, or the removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

19.150.355 Frequently Flooded Areas. “Frequently flooded areas” means all Kitsap County lands, shorelands and waters that are within the one-hundred-year floodplain as designated by the Federal Emergency Management Agency on Flood Insurance Rate and Boundary Maps (FIRM).

19.150.360 Geologically Hazardous Areas. “Geologically hazardous areas” means, as defined by WAC 365-190-030(8), as now or hereafter amended, areas, that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to siting commercial, residential or industrial development consistent with public health or safety concerns.

19.150.365 Geologist. “Geologist” means a person who is licensed in the State of Washington and meets all experience and training requirements in accordance with Washington Administrative Code 308-15, as now or hereafter amended.

19.150.370 Geotechnical Engineer. “Geotechnical engineer” means a practicing geotechnical/civil engineer licensed as a professional civil engineer with the state of Washington, with professional training and experience in geotechnical engineering, including at least four years of professional experience in evaluating geologically hazardous areas.

19.150.375 Geotechnical Report and Geological Report. “Geotechnical report and geological report” means a study of potential site development impacts related to retention of natural vegetation, soil characteristics, geology, drainage, groundwater discharge, and engineering recommendations related to slope and structural stability. The geotechnical report shall be prepared by or in conjunction with a licensed geotechnical engineer meeting the minimum qualifications as defined by this title. Geological reports may contain the above information with the exception of engineering recommendations, and may be prepared by a geologist (See Chapter 19.700, Special Reports, for minimum qualifications).

19.150.380 Grading (relating to construction). “Grading” means any excavating, filling, grubbing, recontouring or removal in excess of 10 cubic yards of earth materials on the surface layer or any combination thereof.

19.150.385 Grazed Wet Meadows. “Grazed wet meadows” means wetlands whose vegetative cover has been greatly modified as a result of grazing, seeding, or cutting for hay. Grazed wet meadows are typically dominated by a pasture species (such as blue grass, orchard grass, fescue, clovers, reed canary grass, etc.) as well as non-native wetland species such as soft rush and buttercup. They are saturated or have standing water during the wet season and part of the growing season but are dry during the summer months. Grazed wet meadows are used, or have been used within the last five years, for livestock grazing, seeding or cutting for hay.

19.150.390 Grubbing. “Grubbing” means the removal of vegetative matter from underground, such as sod, stumps, roots buried logs, or other debris, and includes the incidental removal of more than 10 cubic yards of topsoil to a depth not exceeding twelve inches.

19.150.395 Groundwater. “Groundwater” means water in a saturated zone or stratum beneath the surface of land or water.

19.150.400 Habitat Management Plan. “Habitat Management Plan” means a report prepared by a professional wildlife biologist or fisheries biologist which discusses and evaluates critical fish and wildlife habitat functions and evaluates the measures necessary to maintain, enhance and improve habitat conservation on a proposed development site.

19.150.405 Habitat of Local Importance. “Habitat of local importance” means a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or areas of high vulnerability to alteration, such as cliffs, talus, and wetlands.

19.150.410 Hazardous Substance(s). “Hazardous substance” means any liquid, solid, gas or sludge, including any materials, substance, product, commodity or waste, regardless of quantity, that exhibits any of the characteristics or criteria of hazardous waste described in WAC 173-303-090 and WAC 173-303-100 including waste oil and petroleum products.

19.150.415 Hearing Examiner. “Hearing examiner” means a person appointed to hear or review certain land use decisions pursuant to RCW 36.70.970.

19.150.420 Hydric Soils. “Hydric soils” means soils which are wet long enough to periodically produce anaerobic conditions, thereby influencing the growth of hydrophytic plants.

19.150.423 Hydrogeologist. “Hydrogeologist” means a person who is qualified to engage in the practice of hydrogeology, has met the qualifications in hydrogeology established under RCW 18.220, and has been issued a license in hydrogeology by the Washington State Geologist Licensing Board.

19.150.425 Hydrologist. “Hydrologist” means a person who is qualified to engage in the practice of hydrology, the scientific study of the properties, distribution, and effects of water on the earth's surface, in the soil and underlying rocks, and in the atmosphere.

19.150.430 Infiltration Rate. “Infiltration rate” means a general description of how quickly or slowly water travels through a particular soil type.

19.150.435 Landslide Hazard Areas. “Landslide hazard areas” means areas potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors.

19.150.440 Liquefaction. “Liquefaction” means a process in which a water-saturated soil, upon shaking, suddenly loses strength and behaves as a fluid.

19.150.445 Lot. “Lot” shall mean a platted or unplatted parcel of land which has the minimum area, setbacks, widths and open space required by Title 17 Kitsap County Code – Zoning, for occupancy by a principal use and meets the access requirements of Title 17 Kitsap County Code – Zoning

19.150.450 Low Impact Activities. “Low impact activities” means activities that do not require a development permit and/or do not result in any alteration of hydrology or adversely impact the environment.

19.150.465 Mitigation. “Mitigation” means avoiding, minimizing or compensating for adverse critical area impacts. Mitigation includes the following specific categories:

- A. Compensatory mitigation: replacing project-induced critical area losses or impacts, including, but not limited to, restoration, creation, or enhancement.
- B. Creation mitigation: mitigation performed to intentionally establish a critical area (e.g., wetland) at a site where it does not currently exist.
- C. Enhancement mitigation: mitigation performed to improve the condition of existing degraded critical areas (e.g., wetlands) so that the functions they provide are of a higher quality.
- D. Restoration mitigation: mitigation performed to reestablish a critical area (e.g., wetland), or its functional characteristics and processes, which have been lost by alterations, activities or catastrophic events within an area which no longer meets the definition of a critical area.

19.150.470 Native Vegetation. “Native vegetation” means vegetation indigenous to the Puget Sound coastal lowlands.

19.150.475 Non-conforming Use or Structure. “Non-conforming use or structure” means a use of land or structure which was lawfully established or built and which has been lawfully continued, but which does not conform to the current regulations of the zone in which it is located as established by the provisions of Title 17 the Kitsap County Zoning Ordinance

19.150.480 Normal Maintenance. “Normal maintenance” means those usual acts to prevent a decline, lapse or cessation from a lawfully established condition. Normal maintenance includes

removing debris from and cutting or manual removal of vegetation in crossing and bridge areas. Normal maintenance does not include:

- A. Use of fertilizer or pesticide application in wetlands, fish and wildlife habitat conservation areas, or their buffers;
- B. Re-digging ditches in wetlands or their buffers to expand the depth and width beyond the original ditch dimensions;
- C. Re-digging existing drainage ditches in order to drain wetlands on lands not classified as existing and ongoing agriculture under Section 19.100.120 (General Exemptions).

19.150.485 Open Space. “Open space” means land used for outdoor recreation, critical area or resource land protection, amenity, safety or buffer, and includes structures incidental to these open space uses, but excludes yards required by this title and land occupied by dwellings or impervious surfaces not related to the open space uses.

19.150.490 Ordinary High Water Mark. “Ordinary high water mark” means that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department. This definition is further guided by the additional criteria to clarify this mark in salt and fresh water environments, as contained in WAC 173-22-030, now or hereafter amended.

19.150.493 Out-of-Category Compensation. “Out-of-category compensation” means to replace a critical area (e.g. wetland) with a substitute critical area whose characteristics do not closely approximate those destroyed or degraded by a regulated activity. An example of “out-of-category” replacement might be a forest being substituted for a wetland.

19.150.495 Out-of-Kind Compensation. “Out-of-kind compensation” means to replace a critical area (e.g., wetland) with a substitute critical area (e.g., wetland) whose characteristics do not closely approximate those destroyed or degraded by a regulated activity. It does not refer to replacement “out-of-category” such as replacement of wetland loss with new stream segments.

19.150.500 Performance Based Development (PBD) “Performance Based Development” means development characterized by comprehensive planning of the total project, though it may contain a variety of individual lots and/or uses. Typically a project may include clustering of structures and preservation of open space with a number of flexible and customized design features specific to the natural features of the property and the uses sought to be implemented.

Specific lot area and setback requirements may be reduced or deleted in order to allow maximization of open space, critical areas and other components of the project.

19.150.505 Permeability. “Permeability” means the capacity of an aquifer or confining bed to transmit water.

19.150.510 Permit. “Permit” means any development, variance, conditional use permit, or revision authorized under RCW 90.58 or Kitsap County regulations.

19.150.515 Pond. “Pond” means a naturally existing or artificially created body of standing water less than twenty acres in size and not defined as "Shorelines of the State" by Chapter 90.58 RCW (Shoreline Management Act).

19.150.520 Practicable Alternative. “Practicable alternative” means an alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and having less impacts to critical areas. It may include an area not owned by the applicant for which an easement has been obtained in order to fulfill the basic purpose of the proposed activity.

19.150.525 Priority Habitat. “Priority habitat” means a seasonal range or habitat element with which a given species has a primary association, and which, if altered may reduce the likelihood that the species will maintain and reproduce over the long term. These might include areas of high relative density or species richness; breeding, nesting, feeding, foraging, and migratory habitat; winter range, movement corridors; and/or habitats that are of limited availability or high vulnerability to alteration. Priority habitats are established by the Washington State Department of Fish and Wildlife within their Priority Habitats and Species Database.

19.150.530 Priority Species. “Priority species “ means species requiring protective measures and/or management to ensure their persistence at genetically viable population levels. Priority species include state-listed or state proposed endangered, threatened or sensitive species and candidate and monitored species.

19.150.535 Public Facilities. “Public facilities” means facilities which are owned, operated and maintained by a public agency.

19.150.540 Public Project of Significant Importance. “Public project of significant importance” means a project funded by a public agency, department or jurisdiction that is found to be in the best interests of the citizens of Kitsap County and is so declared by the Kitsap County board of commissioners in a resolution.

19.150.545 Public Right-of-Way. “Public right-of-way” means any road, alley, street, avenue, arterial, bridge, highway, or other publicly owned ground or place used or reserved for the free passage of vehicular and/or pedestrian traffic or other services, including utilities.

19.150.550 Public Utility. “Public utility” means a business or service, either governmental or having appropriate approval from the state, which is engaged in regularly supplying the public with some commodity or service which is of public consequence and need, such as, electricity, gas, sewer and/or wastewater, water, transportation or communications.

19.150.552 Public Welfare. “Public welfare” means the health, happiness, and well being of the public at large.

19.150.555 Ravine. “Ravine” means a V-shaped landform, generally having little to no floodplain and normally containing steep slopes, which is deeper than ten vertical feet as measured from the centerline of the ravine to the top of the slope. Ravines are typically created by the wearing action of streams.

19.150.559 Reasonable. “Reasonable” means not excessive or extreme; fair.

19.150.560 Reasonable Alternative. “Reasonable alternative” means an activity that could feasibly attain or approximate a proposal's objectives, but at a lower environmental cost or decreased level of environmental degradation.

19.150.565 Reasonable Use. “Reasonable use” means allowing, as a minimum, the construction of a single-family dwelling on an otherwise dimensionally-acceptable lot.

19.150.570 Reasonable Use Exception. “Reasonable use exception” means an exception to the standards of this title that allows for the use of a property that cannot otherwise conform to the requirements set forth in this title, including the variance criteria. (See Section 19.100.140 for Reasonable Use Exception procedures.)

19.150.575 Refuse. “Refuse” means material placed in a critical area or its buffer without permission from any legal authority. Refuse includes, but is not limited to, stumps, wood and other organic debris, as well as tires, automobiles, construction and household refuse. This does not include large woody debris used with an approved enhancement plan.

19.150.580 Regulated Use or Activity. “Regulated use or activity” means any development proposal which includes or directly affects a critical area or its buffer, or occurs within two hundred fifty feet of a critical area (See definition of "adjacent" and "development").

19.150.585 Restoration. “Restoration” means the return of a critical area (e.g., stream or wetland) to a state in which its functions and values approach its unaltered state as closely as possible.

19.150.590 Retention Facilities. “Retention facilities” means drainage facilities designed to store runoff for gradual release by evaporation, plant transpiration, or infiltration into the soil. Retention facilities shall include all such drainage facilities designed so that none or only a portion of the runoff entering the facility will be eventually discharged as surface water. Retention facilities shall include all appurtenances associated with their designed function, maintenance and security.

19.150.595 Riparian Area. “Riparian area” means an area of land that supports riparian vegetation and may include some upland areas, depending on site conditions. These generally occur adjacent to water bodies where specific measures are needed to protect fish and wildlife habitat and watershed functions.

19.150.600 Salmonid. “Salmonid” means a member of the fish family salmonidae. This family includes chinook coho, chum, sockeye and pink salmon; rainbow, steelhead, cutthroat, brook and brown trout; and Dolly Varden char, kokanee, and whitefish.

19.150.605 Sensitive Species (state listed). “Sensitive species” means a species, native to the state of Washington, that is vulnerable or declining and is likely to become endangered or threatened in a significant portion of its range within the state without cooperative management or the removal of threats. Sensitive species are legally designated in WAC-232-12-011.

19.150.610 Shorelines. For the purposes of this title, “shorelines” means all of the water areas of the state, including reservoirs, and their associated wetlands, together with the lands underlying them; except (i) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (ii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

19.150.612 Significant. “Significant” means having or likely to have a major effect; important.

19.150.615 Single-Family Dwelling. “Single family dwelling” means a building or structure which is intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes by one family and including accessory structures and improvements.

19.150.620 Special Flood Hazard Areas. “Special flood hazard area” means the area adjoining the floodway which is subject to a one percent or greater chance of flooding in any

year, as determined by engineering studies acceptable to Kitsap County. The coastal high hazard areas are included within special flood hazard areas.

19.150.625 Species of Concern. “Species of concern” means those species that have been classified as endangered, threatened, sensitive, candidate, or monitored by the Washington State Department of Fish and Wildlife.

19.150.630 State Environmental Policy Act or SEPA. “State Environmental Policy Act or SEPA” means the state environmental law (Chapter 43.21C RCW) and rules (Chapter 197-11 WAC) as implemented by Kitsap County Code, Title 18 Environment.

19.150.635 Streams. “Streams” means those areas in Kitsap County where the surface water flows are sufficient to produce a defined channel or bed. A defined channel or bed is an area that demonstrates clear evidence of the passage of water and includes but is not limited to bedrock channels, gravel beds, sand and silt beds and defined-channel swales. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff devices or other artificial watercourses unless they are used by fish or used to convey streams naturally occurring prior to construction.

19.150.640 Swale. “Swale” means a shallow drainage conveyance with relatively gentle side slopes, generally with flow depths less than one foot.

19.150.645 Threatened Species (state listed). “Threatened species” means a species, native to the state of Washington, that is likely to become endangered in the foreseeable future throughout a significant portion of its range within the state without cooperative management or the removal of threats. Threatened species are legally designated in WAC 232-12-011.

19.150.650 Toe of Slope. “Toe of slope” means a distinct topographic break in a slope. Where no distinct break exists, this point shall be the lowermost limits of the landslide hazard area as defined and classified in Chapter 19.400.

19.150.655 Top of Slope. “Top of slope” means a distinct topographic break in a slope. Where no distinct break in a slope exists, this point shall be the uppermost limit of the geologically hazardous area as defined and classified in Chapter 19.400.

19.150.660 Unavoidable and Necessary Impacts. “Unavoidable and necessary impacts” means an impact to a critical area that remains after an applicant proposing to alter such an area has demonstrated that no practicable alternative exists for the proposed project.

19.150.665 Utilities. “Utilities” means facilities and/or structures that produce or carry electric power, gas, sewage, water, communications, oil, publicly maintained stormwater facilities, etc.

19.150.670 Utility Corridor. “Utility corridor” means areas identified in the Comprehensive Plan for utility lines, including electric, gas, sewer, water lines; and public right-of-way and other dedicated utility right-of-way on which one or more utility lines are currently located. The term "other dedicated utility right-of-way" means ownership, easements, permits, licenses or other authorizations affording utilities the right to operate and maintain utility facilities on private property.

19.150.671 Wellhead Protection Area. “Wellhead protection area” means the surface and subsurface area surrounding a well or well field that supplies a public water system.

19.150.675 Wetland Determination. “Wetland determination” means an on-site determination as to whether a wetland exists on a specific parcel, conditioned by either a wetland specialist or the department.

19.150.680 Wetland Edge. “Wetland edge” means the line delineating the outer edge of a wetland established in Section 19.200.210.

19.150.685 Wetlands. “Wetlands” means those areas that are 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, but are not limited to swamps, marshes, estuaries, bogs, and ponds less than twenty acres, including their submerged aquatic beds 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, stormwater 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 include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands (WAC 365-195-200(17)).

19.150.690 Wetlands, Isolated. “Wetlands, isolated” or “isolated wetlands” means wetlands that (1) are outside of and not contiguous to any one-hundred-year floodplain of a lake, river, or stream; and (2) have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water or other wetland within a 100 foot radius.

19.150.695 Wetlands, Mosaic. “Wetlands, mosaic” or “mosaic wetlands” means groups of isolated wetlands, any one or more of which may be smaller than any of the regulated categories, but which in aggregate may be as valuable as any of the regulated categories.

19.150.700 Wetlands of Regional Significance. “Wetlands of regional significance” means those regulated wetlands determined by the department, or otherwise determined, to have

characteristics of exceptional resource value which should be afforded the highest levels of protection

19.150.705 Wetlands of Statewide Significance. “Wetlands of statewide significance” means those regulated wetlands recommended by the Washington State Department of Ecology and determined by the department to have characteristics of exceptional resource value which should be afforded the highest levels of protection.

19.150.710 Wetlands Report. “Wetlands report” means a wetland delineation characterization and analysis of potential impacts to wetlands consistent with applicable provisions of Chapter 19.200 (Wetlands) and 19.700.710.

19.150.715 Wetlands Specialist. “Wetlands specialist” means a person with experience and training in wetland issues who is able to submit substantially correct reports on wetland delineations, classifications, functional assessments and mitigation plans. Substantially correct is interpreted to mean that errors, if any, will be minor and do not delay or affect the site plan review process. Qualifications of a wetlands specialist include:

- A. Certification as a Professional Wetland Scientist (PWS) or Wetland Professional In Training (WPIT) through the Society of Wetland Scientists;
- B. A Bachelor of Science degree in the biological sciences from an accredited institution and two years of professional field experience; or,
- C. Five or more years professional experience as a practicing wetlands biologist with a minimum three years professional experience delineating wetlands.

19.150.720 Wildlife Biologist. “Wildlife biologist” means a person with experience and training in the principles of wildlife management and with practical knowledge in the habits, distribution and environmental management of wildlife. Qualifications include:

- A. Certification as Professional Wildlife Biologist through The Wildlife Society;
- B. Bachelor of Science or Bachelor of Arts degree in wildlife management, wildlife biology, ecology, zoology, or a related field, from an accredited institution and two years of professional field experience; or,
- C. Five or more years of experience as a practicing wildlife biologist with a minimum of three years of practical field experience.

Chapter 19.200 WETLANDS

19.200.205	Purpose.
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19.200.220	Regulated and Non-Regulated Wetlands Classification.
19.200.225	Development Standards.
19.200.230	Regulated Uses and Activities.
19.200.235	Additional Development Standards for Regulated Uses
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19.200.260	Incentives for wetlands protection

19.200.205 Purpose

This section applies to all regulated uses within or adjacent to areas designated as wetlands, as categorized in Section 215 below. The intent of this Section is to:

- A. Achieve no net loss and increase the quality and function of wetland acreage, functions and values within Kitsap County. Mitigation measures, as conditions of permits, must have a reasonable expectation of success. Under the conditions of this Section, the Department may deny development proposals that would irreparably impact regulated wetlands;
- B. Protect the public's health, safety and welfare, while preventing public expenditures that could arise from improper wetland uses and activities;
- C. Plan wetland uses and activities in a manner that allows property holders to benefit from wetland property ownership wherever allowable under the conditions of this Section and Ordinance.
- D. Preserve natural flood control, stormwater storage and drainage or stream flow patterns; and,
- E. Prevent turbidity and pollution of wetlands, and fish or shellfish bearing waters and to maintain the wildlife habitat.

19.200.207 Measurement

The County shall incorporate site-specific scientific measurements of water quality and species population into the Critical Areas Ordinance before establishing site-specific restrictions on land parcels.

19.200.215 Wetland Categories

Wetlands are those areas that are 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, estuaries, marshes, bogs, and similar areas. For regulatory purposes, wetland delineations shall be determined by using the Washington State Wetlands Identification and Delineation Manual, March 1997, or as amended hereafter.

Kitsap County uses the Department of Ecology's Washington State Wetland Rating System for Western Washington, 2nd Edition, 1993, or as amended hereafter to categorize wetlands for the purposes of establishing wetland buffer widths, wetland uses and replacement ratios for wetlands. This system consists of four wetland categories (see Section 800 Appendices, Appendix "A" for Wetland Categories).

19.200.220 Regulated and Non-Regulated Wetlands Classification

A. Regulated Wetlands: (See Definition in Section 800)

1. **Category I Wetlands: All**
2. **Category II Wetlands: All**
3. **Category III Wetlands: 2,500 square feet or greater.**
4. **Category IV Wetlands: 10,000 square feet or greater.**
5. **Wetlands intentionally created** from non-wetland areas to mitigate conversion of other wetlands.
6. **Groups of isolated wetlands**, any one or more of which may be smaller than any of the above categories, but which in aggregate may be as valuable as any of the above categories.

B. Non-Regulated Wetlands:

1. **Category III Wetlands: Isolated wetlands less than 2,500 square feet.**
2. **Category IV Wetlands: Isolated wetlands less than 10,000 square feet.**

3. **Created Wetlands:** Wetlands created intentionally from a non-wetland site that were not required to be constructed as mitigation for adverse wetland impacts. These may include, but are not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment ponds, farm ponds not contiguous, as defined in this Ordinance, and landscape amenities. The applicant shall bear the burden of proving that the wetland was intentionally created from a non-wetland site. Where enhancements or restorations are made to non-regulated, or Category IV or III Wetlands for purposes other than mitigation, the original rating shall be maintained even if the changes would otherwise result in a higher classification.

19.200.225 Development Standards

For the purpose of this Ordinance a regulated wetland and its buffer is a critical area.

- A. There shall be no activity allowed within a regulated wetland or its buffer unless specifically allowed under this Ordinance in Table 2. Any regulated uses not specifically listed in Table 2 shall be considered unclassified and may be allowed if granted a Special Use Review in accordance with this Ordinance (see Section 240, Special Use Review).
- B. **Buffers:** Buffers shall remain undisturbed natural vegetation areas except where the buffer can be enhanced to improve its functional attributes. Any buffer enhancement and/or limited view clearing activity must be reviewed and approved by the Department. No refuse shall be placed in the buffer.
- C. **Buffer Widths:** All regulated wetlands shall be surrounded by a buffer zone as follows:

Table 1: Wetland Development Standards			
Wetland Category	Buffer Width Standard	Minimum Building Setback	Other Development Standards
I	100 feet	15 feet beyond buffer	See subsections E, F, and G below for criteria relating to buffer averaging, decreased buffer provisions and increased buffer provisions.
II	100 feet	15 feet beyond buffer	
III	50 feet	15 feet beyond buffer	
IV	25 feet	15 feet beyond buffer	

- D. **Buffer Measurement:** All buffers shall be measured on a horizontal plane from the regulated wetland edge as marked in the field.

- E. **Buffer Averaging:** Standard buffer widths may be modified by the Department for a development proposal by averaging buffer widths. The total area contained within the buffer after averaging shall be no less than that contained within the standard buffer prior to averaging. The buffer shall not be reduced by more than 50% of the standard buffer width at any point. The Department may allow wetland buffer averaging where it can be demonstrated that such averaging can clearly provide as great or greater functions and values as would be provided under the standard buffer requirement. Averaging of buffer widths may be allowed where the applicant demonstrates one or more of the following:
1. That the wetland contains variations in sensitivity due to existing physical characteristics;
 2. That low intensity uses would be located within 200 feet of areas where buffer width is reduced, and that such low intensity uses are guaranteed in perpetuity by covenant, deed restriction, easement, or other legally binding mechanism;
 3. That averaging is necessary to avoid an extraordinary hardship to the applicant caused by circumstances peculiar to the property.
- F. **Decreased Buffer Provisions:** The Department may decrease buffer widths upon granting of a variance, according to the procedures of this Ordinance or through buffer averaging as outlined above. Granting of a reduced buffer shall be the minimum necessary to accommodate the permitted use. In lieu of going through the formal variance process, an administrative reduction to buffer widths may be granted subject to the following criteria:
1. For minor new development, the Department may administratively reduce the buffer by up to 25%, pursuant to the variance criteria listed in Section 18.16.135. Where an administrative buffer reduction is granted, fencing or signage of the buffer edge shall be required. The order of sequence for such buffer reductions shall be as follows:
 - a. use of buffer averaging maintaining 100% of the buffer area under the standard buffer requirement;
 - b. reduction of the overall buffer area by no more than 25% of the area required under the standard buffer requirement;
 - c. enhancement of existing degraded buffer area and replanting of the disturbed buffer area;
 - d. the use of alternative on-site wastewater systems in order to minimize site clearing;
 - e. infiltration of stormwater where soils permit; and,

- f. retention of existing native vegetation on other portions of the site in order to off set habitat loss from buffer reduction.
- 2. For major new development, the Department may reduce the buffer by up to 25%, where it can be demonstrated in a Special Report that enhancement of the existing low quality buffer can clearly provide as great or greater functions and values, as would be provided under the standard buffer requirement.
- 3. A buffer enhancement plan must utilize native vegetation.
- 4. The minimum buffer shall be no less than 25 feet, except as allowed under a formal variance or reasonable use approval.

G. Fencing and Signs: This section applies to those wetlands and their buffers that are within 200 feet of regulated development activities.

- 1. Wetland buffers shall be temporarily fenced or otherwise suitably marked, as required by the Department, between the area where the construction activity occurs and the buffer. Fences shall be made of a durable protective barrier and shall be highly visible. Silt fences and plastic construction fences may be used to prevent encroachment on wetlands or their buffers by construction. Temporary fencing shall be removed after the site work has been completed and the site is fully stabilized per County approval.
- 2. The Department may require that permanent signs and/or fencing be placed on the common boundary between a wetland buffer and the adjacent land. Such signs will identify the wetland buffer. The Department may approve an alternate method of wetland and buffer identification, if it provides adequate protection to the wetland and buffer.

H. Building or Impervious Surface Setback Lines: A building or impervious surface setback line of 15 feet is required from the edge of any wetland buffer. Minor structural or impervious surface intrusions into the areas of the setback may be permitted if the Department determines that such intrusions will not adversely impact the wetland. The setback shall be identified on a site plan

19.200.230 Regulated Uses and Activities

Major and minor new development activities on properties containing regulated wetlands and buffers are subject to the development standards in this section, as permitted in the underlying zoning designation. Requirements for additional activities are specified in Table 2. Kitsap County may grant exceptions to these uses and activities according to the intent and specifications of this Ordinance. All authorized uses and activities in a regulated wetland or its buffer shall be subject to conditions established by the Department and may be subject to mitigation as required by this Ordinance.

Development shall be classified as “allowed,” “permitted,” “special use” (Section 240) or “prohibited” according to this Section. Any regulated uses not specifically listed in Table 2 shall be considered unclassified and may be allowed if granted a special use review in accordance with this Ordinance. The wetland categories in Table 2 are defined in the appendices. For the purpose of Table 2, “W” and “B” refer to the terms “wetland” and “buffer.”

Key:

- A** = Allowed Outright
- P** = Permitted Subject to Development Standards and Underlying Permit
- S** = Special Use Review Required
- X** = Prohibited

Table 2: Regulated Uses and Activities in Regulated Wetlands and Buffers	<u>Category I</u>		<u>Category II</u>		<u>Category III</u>		<u>Category IV</u>	
	<u>W</u>	<u>B</u>	<u>W</u>	<u>B</u>	<u>W</u>	<u>B</u>	<u>W</u>	<u>B</u>
1. Agriculture-existing & ongoing	A	A	A	A	A	A	A	A
2. Agriculture-Building (Grazed Wet Meadows)	X	X	X	S	S	P	S	P
3. A. Agriculture Conversion (Wetland dependent)	X	X	X	S	S	S	S	S
B. (Non-wetland dependent)	X	X	X	X	S	S	S	S
4. Bank stabilization	X	X	S	S	S	S	P	P
5. Boat ramp	X	X	S	S	S	S	S	S
6. Dock/float	S	S	S	S	S	S	P	P
7. Draining Wetlands (associated with no other permitted use, except as allowed under Section 120.C.)	X	N/A	X	N/A	X	N/A	X	N/A
8. Education and Scientific Research (no permanent structures)	P	P	P	P	P	P	A	P
9. Enhancement	S	S	P	P	P	P	P	P
10. Excavation (not associated with enhancement)	X	X	S	S	S	S	S	S

Table 2: Regulated Uses and Activities in Regulated Wetlands and Buffers	<u>Category I</u>		<u>Category II</u>		<u>Category III</u>		<u>Category IV</u>	
	<u>W</u>	<u>B</u>	<u>W</u>	<u>B</u>	<u>W</u>	<u>B</u>	<u>W</u>	<u>B</u>
11. Fill (associated with no other use)	X	X	X	X	X	X	X	X
12. Fish Hatchery	X	X	S	S	S	S	S	S
13. Flooding (associated with no other use)	X	X	S	S	S	S	S	S
14. Forest Practice-Class IV General or COHP	X	X	X	S	S	S	S	S
15. Golf Course	X	X	S	S	S	S	S	S
16. Land Division	P	P	P	P	P	P	P	P
17. Mineral extraction	X	X	S	S	S	S	S	S
18. Mooring Buoy	P	P	P	P	P	P	P	P
19. Navigational Aid	P	P	P	P	P	P	P	P
20. Parks-Public & Private	S	S	S	S	S	S	P	P
21. Ponds-Stock Watering	X	X	X	S	X	S	S	P
22. Public Facility	X	X	X	S	S	S	S	S
23. Public Project of Significant Importance	S	S	S	S	S	S	S	S
24. Radio/TV Towers	X	X	S	S	S	S	S	S
25. Restoration/Revegetation of Site	S	S	P	P	P	P	P	P
26. Road/Street-Public/Private Access								
A. Expand within existing ROW	S	S	S	S	S	S	P	P

Table 2: Regulated Uses and Activities in Regulated Wetlands and Buffers	Category I		Category II		Category III		Category IV	
	W	B	W	B	W	B	W	B
B. New Facilities	X	X	S	S	S	S	P	P
27. Signs-(Interpretation, Hazard, Critical Area Boundary, Survey Markers)	P	P	P	P	P	P	P	P
28. Site Investigation	A	A	A	A	A	A	A	A
29. Stormwater, Private R/D Facility	X	X	X	S	S	S	S	S
30. Stormwater, Regional R/D Facility	X	X	X	S	S	S	S	S
31. Trails and Trail Related Facilities	S	S	S	S	P	P	P	P
32. Utility Facility	X	X	S	S	S	S	S	S
33. Utility-On-Site Sewage Facility	X	X	X	S	X	S	X	S
34. Utility Line-Overhead	S	S	S	S	S	S	P	P
35. Utility Line-Underground	X	S	S	S	S	S	S	S

19.200.235. Additional Development Standards for Regulated Uses

In addition to meeting the Development Standards above (Section 225), those regulated uses identified below shall also comply with the standards of this section and other applicable state, federal and local ordinances.

- A. **Docks:** Construction of a dock, pier, moorage, float or launch facility may be permitted subject to criteria in the Kitsap County Shoreline Master Program and where no existing buffer or wetland vegetation would be significantly altered.
- B. **Forest Practice, Class IV General, and Conversion Option Harvest Plans (COHPs):** All timber harvesting and associated development activity, such as construction of roads, shall

comply with the provisions of this Ordinance, including the maintenance of buffers around regulated wetlands. Existing roads and current developments are considered grandfathered prior to the acceptance of this document.

- C. **Agricultural Restrictions:** In all development proposals which would permit introduction of agricultural uses, damage to Category I, II and III regulated wetlands shall be avoided. These restrictions shall not apply to those regulated wetlands defined as grazed wet meadows, regardless of their classification only where grazing has occurred within the last five (5) years. Wetlands shall be avoided by one of the following methods:
1. Implementation of a farm conservation plan agreed upon by the Conservation District and the applicant to protect and enhance the water quality of the wetland; and/or,
 2. Fencing located not closer than the outer buffer edge.
- D. **Road/Street Repair and Construction:** Any private or public road or street repair, maintenance, expansion or construction which is allowed shall comply with the following minimum development standards:
1. No other reasonable or practicable alternative exists and the road or street crossing serves multiple properties whenever possible;
 2. Publicly owned or maintained road or street crossings should provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc.; and,
 3. The road or street repair and construction are the minimum necessary to provide safe roads and streets.
 4. Mitigation shall be performed in accordance with specific project mitigation plan requirements.
- E. **Land Divisions and Land Use Permits:** All proposed divisions of land and land uses (including but not limited to the following: Boundary or Lot Line Adjustments, Short Plats, Large Lot Subdivisions, Master Planned Fully Contained Communities, Master Planned Resorts, Planned Unit Developments, Conditional Use Permits, Site Plan Reviews, Binding Site Plans) which include regulated wetlands, shall comply with the following procedures and development standards:
1. Regulated wetlands, except the area with permanent open water, and wetland buffers may be included in the calculation of minimum lot area for proposed lots provided that other standards, including (3) below, are met.

2. Land division approvals shall be conditioned to require that regulated wetlands and regulated wetland buffers be dedicated as open space tracts, or an easement or covenant encumbering the wetland and wetland buffer. Such dedication, easement or covenant shall be recorded together with the land division and represented on the final plat, short plat or binding site plan, and title.
3. In order to implement the goals and policies of this Ordinance, to accommodate innovation, creativity, and design flexibility, and to achieve a level of environmental protection that would not be possible by typical lot-by-lot development, the use of the clustered development or similar innovative site planning is strongly encouraged for projects with regulated wetlands on the site.
4. After preliminary approval and prior to final land division approval, the Department may require the common boundary between a regulated wetland or associated buffer and the adjacent land be identified using permanent signs and/or fencing. In lieu of signs and/or fencing, alternative methods of wetland and buffer identification may be approved when such methods are determined by the Department to provide adequate protection to the wetland and buffer.

- F. **Surface Water Management:** The following stormwater management activities within wetland or buffer areas may be allowed only if they meet the following requirements, in addition to the Development Standards in this Section and in conformance with the Stormwater Management Ordinance:

Surface water discharges from stormwater facilities or structures may be allowed provided that the new surface water discharges to regulated wetlands from retention/detention facilities, pre-settlement ponds, or other surface water management structures may be allowed provided that the discharge does not significantly increase or decrease the rate of flow and/or hydro-period, nor decrease the water quality of the wetland. Water quality treatment best management practices will be required prior to discharge. Pre-treatment of surface water discharge through biofiltration or other means shall be required.

- G. **Trails and Trail-Related Facilities:** Construction of public and private trails and trail-related facilities, such as benches and viewing platforms may be allowed in wetlands or wetland buffers pursuant to the following guidelines:

1. Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed areas.

2. Trails and related facilities shall be planned to minimize removal of trees, soil disturbance and existing hydrological characteristics, shrubs, snags and important wildlife habitat.
3. Viewing platforms and benches, and access to them, shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected wetland.
4. Trails and related facilities shall generally be located outside required buffers. Where trails are permitted within buffers they shall be located in the outer portion of the buffer and a minimum of 25 feet from the wetland edge, except where wetland crossings or viewing areas have been approved.
5. Trails shall generally be limited to pedestrian use unless other more intensive uses, such as bike or horse trails have been specifically allowed and mitigation has been provided.

H. Utilities in Wetlands or Wetland Buffers:

1. The utility development authorized in Section 120 shall be allowed, subject to best management practices in wetlands and wetland buffers in accordance with Table 1.
2. Construction of new utilities outside the road right-of-way or existing utility corridors may be permitted in wetlands or wetland buffers, only when no reasonable alternative location is available and the utility corridor meets the requirements for installation, replacement of vegetation and maintenance outlined below, and as required in the filing and approval of applicable permits and Special Reports (Section 700) required by this Ordinance.
3. **Sewer or On-site Sewage Utility.** Construction of sewer lines or on-site sewage systems may be permitted in regulated wetland buffers only when: 1) The applicant demonstrates it is necessary to meet state and/or local health code minimum design standards (not requiring a variance for either horizontal setback or vertical separation), and/or 2) There are no other practicable or reasonable alternatives available and construction meets the requirements of this section. Joint use of the sewer utility corridor by other utilities may be allowed. Special Use Review (subsection 18.16.240) will be required when such activities occur in wetland buffers.

4. **New utility corridors** shall not be allowed when the regulated wetland or buffer has known locations of federal or state listed endangered, threatened or sensitive species, heron rookeries or nesting sites of raptors which are listed as state candidate or state monitor, except in those circumstances where an approved Habitat Management Plan indicates that the utility corridor will not significantly impact the wetland or wetland buffer;
5. **New utility corridor construction and maintenance** shall protect the regulated wetland and buffer environment by utilizing the following methods:
 - a. New utility corridors shall be aligned when possible to avoid cutting trees greater than 12 inches in diameter at breast height (four and one-half feet), measured on the uphill side.
 - b. New utility corridors shall be revegetated with appropriate native vegetation at preconstruction densities or greater, immediately upon completion of construction, or as soon thereafter as possible, if due to seasonal growing constraints. The utility shall ensure that such vegetation survives;
 - c. Any additional utility 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 15 feet; and shall be contiguous to the location of the utility corridor on the side away from the wetland. Mitigation will be required for any additional access through restoration of vegetation in disturbed areas.
 - d. The Department may require other additional mitigation measures.
6. Utility Corridor maintenance shall include the following measures to protect the regulated wetland and buffer environment:
 - a. Where feasible, painting of utility equipment such as power towers shall not be sprayed or sandblasted, nor should lead-based paints be used.
 - b. No pesticides, herbicides or fertilizers shall be applied within sixty feet of wetlands, streams, roadside ditches or shorelines. No aerially-applied pesticides, herbicides or fertilizers shall be applied within 300 feet of wetlands, streams, roadside ditches or shorelines. Spraying in lakes for control of vegetation must be authorized by the Washington State Department of Ecology.

I. Roads and Structures Within Buffers:

In the event a buffer intersects the previously-built environment such as maintained roads or structures, the buffer will terminate at that point and not cross the built environment.

J. Parks. Development of public park and recreation facilities may be permitted provided that the following standards are followed:

No alteration of wetlands or wetland buffers is allowed except for such uses which are allowed in Table 2. For example, enhancement of wetlands and development of trails may be allowed in wetlands and wetland buffers subject to special use requirements and approval of a Wetland Mitigation Plan.

19.200.240 Special Use Review

Development identified as a Special Use Review in Table 2 may be approved, with conditions, or denied according to the procedures and criteria outlined in this section. Special Use Review is an administrative process unless the underlying permit requires a public hearing.

A. The Department is authorized to take action on permits as required by this Ordinance.

1. The Department may approve a permit after review of the application and a Wetland Mitigation Plan submitted in accordance with this Ordinance. The Department shall determine whether the use or activity cannot be avoided because no reasonable or practicable alternative exists, the proposed use is consistent with the spirit and intent of this Ordinance and it will not cause adverse impacts to the wetland or the wetland buffer which cannot be mitigated. In taking action to approve a Special Use Review, the Department may attach reasonable conditions as necessary to minimize impacts, rectify impacts or compensate for impacts to the wetland or wetland buffer.
2. The Department shall deny a Special Use Review request when it finds that the proposed use or activity is inconsistent with this Ordinance and/or will cause adverse impacts to the wetland or wetland buffer, which cannot be adequately mitigated and/or avoided.
3. Special use review determinations are appealable to the Hearings Examiner pursuant to Section 145 of this Ordinance (Appeals).

19.200.245 Application Requirements

A. Application Procedures for New Development. Any new development containing a regulated wetland or its buffer, or within 200 feet of a regulated wetland or its buffer, shall

provide the following Special Reports, as required by the Department, prior to any development authorization by Kitsap County. The Department may require additional reports or information to further identify potential impacts to any part of the environment:

1. Wetland Report;
2. Wetland Mitigation Plan; and,
3. Erosion and sedimentation control measures and/or a Site Development Activity Permit as required by the Kitsap County Stormwater Management Ordinance.

B. **Time Limitations.** Special reports submitted in accordance with this section shall be valid for a period of three years from the date of issue unless a negotiated agreement defines a longer time period.

19.200.250 Determination of Wetland Boundaries

- A. The determination of the wetland edge or boundary shall be done in accordance with the delineation methodology specified in the currently accepted County manual.
- B. The applicant shall be responsible for hiring a qualified wetlands specialist to determine the wetland boundaries through a field survey. This specialist shall stake or flag the wetland boundary. For all new development, as required by the Department, this line shall be surveyed by a professional land surveyor licensed in the State of Washington. The regulated wetland boundary and regulated wetland buffer shall be identified on all grading, landscaping, site, on-site septic system designs (BSAs), utility or other development plans submitted in support of the project.
- C. The Department may perform a delineation of a wetland boundary on parcels where no more than one single-family dwelling unit is allowed.
- D. Where the applicant has provided a delineation of a wetland boundary, the Department may verify the wetland boundary at the cost of the applicant and may request that adjustments to the boundary be made by a wetland specialist.

19.200.255 Wetland Mitigation Requirements

A. Mitigation Sequence

1. Projects permitted under this Ordinance will be reviewed in the following order of preference with regard to regulated wetlands:

- a. **Avoid** the impact by not performing a certain action or parts of an action;
 - b. **Minimize** the impact by limiting the degree or magnitude of the action and its implementation;
 - c. **Mitigate** through one of the following methods:
 - (1) **Restore** the impact by repairing or rehabilitating the affected environment;
 - (2) **Reduce** or eliminate the adverse impact over time; and/or,
 - (3) **Compensate** for the impact by replacing, enhancing or providing alternative resources or environments within the same drainage basin that substitute as closely as possible for the affected resources or environments (see subsection B).
2. Mitigation for individual projects may include any combination of the above measures.

B. Scope of Compensatory Mitigation:

In making a determination of the extent to which mitigation shall be required, the Department will consider all of the following:

- 1. The functional characteristics of the wetland and its resource value within the watershed or sub-basin in which the wetland is located.
- 2. The short and long term adverse impacts of the action upon the wetland and associated ecosystem, and the potential for repair of the impairment or loss.
- 3. The category, size, and location of the wetland altered, and the effect it may have upon the surrounding system, watershed or wetland;
- 4. Observed or predicted trends of gains or losses of this category of wetland in the watershed, considering qualitative and/or quantitative information about natural and human processes; and,
- 5. The likely success of the possible mitigation measures.

C. Mitigation Plan Requirements:

Any applicant required to perform compensatory wetland mitigation or contribute to a mitigation bank as a condition of approval for a development project shall submit a Wetlands Mitigation Plan to the Department (see Section 700 Special Reports for wetland mitigation requirements).

D. On-Site Compensatory Mitigation: General Requirements

Compensatory mitigation shall be required for projects in regulated Category I, II, III or IV Wetlands or buffers when alteration of the wetland or buffer results in a loss to either wetland or buffer. The preferred compensation is on-site, in-kind; the least preferred compensation is off-site, out-of-kind compensation. For exceptions to this requirement see Section 225. The following requirements apply to compensatory mitigation plans:

1. Any person who alters wetlands, such that they require compensatory mitigation, shall restore or enhance equivalent areas or greater areas of those wetlands in order to compensate for the loss (see Table 3).
2. Where feasible, restored or enhanced wetlands shall be a higher category than the altered wetland.
3. Compensation areas shall be determined according to function, size, type, location, time factors, ability to be self-sustaining and likelihood of mitigation success. Wetland functions shall be determined by a qualified wetland specialist using the best available information and technology.
4. Compensation (mitigation) plans shall be completed and approved by the Department prior to wetland alteration. Compensation shall be completed concurrent with the development activity unless a delay of the compensation project will reduce adverse impacts to the wetlands or improve the likelihood of success.
5. Construction of compensation projects shall be timed to reduce adverse impacts to the wetlands. Grading and related earthwork should normally be limited to the period between May 1 and September 30. Planting of vegetation shall be specifically timed to the needs of these plants. This may require the construction of the compensation area over several seasons.
6. Areas that are used for compensatory mitigation must be protected from development and degradation. The applicant shall provide for long-term preservation of the compensation

area through such protective mechanisms as conservation easements, critical area tracts, deed restrictions, or dedication to a local jurisdiction or a private or public land trust.

7. The applicant shall demonstrate sufficient scientific expertise, supervisory and financial ability to fully implement the compensation measures. A performance bond, assignment of savings, or other like security will be required by the Department in an amount necessary to provide for future site monitoring and possible corrective action required for compensatory mitigation projects. This bond, assignment of savings, or the security will be released no later than five years after completion of the mitigation project.
8. **Site Selection: Compensation sites** shall be selected in the following order of preference:
 - a. Filled, drained, or cleared sites which were formerly viable wetlands and where appropriate hydrology exists;
 - b. Upland sites within 200 feet of wetlands, if the upland is significantly disturbed and does not contain a mature forested or shrub community of native species, and where appropriate natural sources of water exist.

E. Wetland Replacement Ratios:

1. The following ratios, as well as consideration of the factors listed in Section 255.B and Subsection 2 below, shall be used to determine the appropriate amounts of on-site created, restored or enhanced wetland that will be required to replace impacted wetlands. The first number specifies the amount of wetland area requiring replacement and the second specifies the amount of wetland area altered.

Table 3: Wetland Replacement Ratios		
	Enhancement	Creation/Restoration
Category I:	6:1	3:1
Category II and III:		
Forested Class:	4:1	2:1
Scrub/Shrub Class:	3:1	1.5:1
Emergent Class:	3:1	1.5:1
Open Water:	*	1:1
Category IV:	2:1	1:1

* Open water may be enhanced by replacing structure that may have been removed in the past (large woody material, rocks, reefs, etc.).

2. The Department may increase or decrease the ratios based on one or more of the following:
 - a. The probable success of the proposed restoration or enhancement;
 - b. The period of time between destruction and replication of wetland functions;
 - c. Projected losses in functions and value;
 - d. Replacement as a result of an illegal action.

F. Off-Site Compensatory Mitigation:

1. The Department may allow off-site compensation mitigation if on-site compensation is not scientifically feasible due to natural conditions; or is not practical due to potentially adverse impacts from existing surrounding land uses; or proposed functions at the site of the proposed restoration are greater than the lost wetland functions.
2. Off-site compensation will occur within an area where mitigation success is most likely and where there will be significant improvement to the water resource.
3. Off-site compensation will occur in the same watershed (drainage basin) which is adversely impacted.
4. Off-site mitigation will be accomplished through the purchase of credit in an established mitigation bank and/or other sites approved by the Department.

1 **G. Monitoring Requirements:**

2
3 Kitsap County shall require monitoring reports on an annual basis for a minimum of three years, or
4 until the Department determines that the mitigation project has achieved success. The Wetlands
5 Mitigation Plan shall provide specific criteria for monitoring the mitigation project. Criteria shall be
6 project-specific and a scientifically acceptable means to aid the Department in evaluating whether or
7 not the project has achieved success (see Section 700, D.4 for wetland mitigation performance
8 standards).

9
10 **H. Mitigation Banking:**

11
12 Kitsap County encourages the creation of a public or private mitigation banking system when feasible.

13
14 **19.200.260 Incentives for Wetland Protection**

15
16 Kitsap County recognizes that property owners wish to gain economic benefits from their land. The
17 County encourages such mechanisms as the Open Space Tax program, conservation easements and
18 donations to land trusts, in order to provide taxation relief upon compliance with the regulations in this
19 Ordinance. Buffers dedicated as permanent open space tracts will qualify for the open space taxation
20 program and will be automatically entered into this program unless expressly declined by the property
21 owner. Kitsap County may offer to purchase these lands through the Conservation Futures Fund.
22

23
24
25 **Chapter 19.300**

26 **FISH AND WILDLIFE HABITAT CONSERVATION AREAS**

27
28 **19.300.305 Purpose.**

29 **19.300.310 Fish and Wildlife Habitat Conservation Area Categories.**

30 **19.300.315 Development Standards.**

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38 **19.300.305 Purpose.**

39 This section applies to all regulated uses included in this title, or uses within two hundred fifty feet of
40 areas designated as fish and wildlife habitat conservation areas, as categorized in Section 19.300.310.
41 The purpose of this chapter is to identify regulated fish and wildlife habitat conservation areas and
42 establish habitat protection procedures and mitigation measures that are designed to achieve no net loss
43 of fish and wildlife species and habitats due to new development or regulated activities. It is further
44 stated that the intent of this chapter is to:

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51 A. Preserve natural flood control, stormwater storage and drainage or stream flow patterns;
52
53 B. Prevent turbidity and pollution, control siltation, protect nutrient reserves and maintain water flows
54 and water quality for anadromous and resident fish, marine shellfish and forage fish;
55

1 C. Encourage non-regulatory methods of habitat retention whenever practical, through mechanisms
2 such as education and the open space tax program.

3
4 **19.300.307 Measurement.**

5
6 The County shall incorporate site-specific scientific measurements of water quality and species
7 population into the Critical Areas Ordinance before establishing site-specific restrictions on land
8 parcels.

9
10 **19.300.310 Fish and wildlife habitat conservation area categories.**

11
12 **A. Classification and Designation.** The following categories shall be used in classifying and
13 designating fish and wildlife habitat conservation areas:

- 14
15 1. **Streams.** All streams which meet the criteria for Type S, F, Np or Ns waters as set forth in
16 WAC 222-16-030 of the DNR Water Typing System (See Chapter 19.800, Appendix "B").
17
18 2a. **Saltwater Shorelines, and Lakes 20 Acres and Greater in Surface Area.** Those
19 saltwater shorelines and lakes defined as shorelines of the state in the Shoreline
20 Management Act of 1971 and the Kitsap County Shoreline Management Master Program,
21 as now or hereafter amended. Shorelines include: Type S waters as set forth in WAC 222-
22 16-030 (DNR Water Typing System) as now or hereafter amended; commercial and
23 recreational shellfish areas; kelp and eelgrass beds; and forage fish spawning areas.
24
25 b. **Lakes Less Than 20 Acres in Surface Area.** Those lakes which meet the criteria for
26 Type F, Np, Ns waters as set forth in WAC 222-16-030, as now or hereafter amended.
27 This includes lakes and ponds less than twenty acres in surface area and their
28 submerged aquatic beds, and lakes and ponds planted with game fish by a governmental
29 or tribal authority.
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34 **19.300.315 Development standards.**

35
36 For the purposes of this title, a designated fish and wildlife habitat conservation area with its buffer is a
37 critical area. Those regulated uses identified below within designated fish and wildlife habitat
38 conservation areas shall comply with the performance standards outlined in this chapter. A habitat
39 management plan (HMP) is a site investigation to evaluate the potential presence or absence of a
40 regulated fish or wildlife species or habitat affecting a subject property and proposed development.
41

42 **A. Buffers and Building Setbacks.**

- 43
44 1. **Buffers.** Buffers or setbacks shall remain undisturbed natural vegetation areas except where the
45 buffer can be enhanced to improve its functional attributes. Buffers shall be maintained along
46 the perimeter of fish and wildlife habitat conservation areas, as listed in Table 4.

2. **Buffer Measurement.** Distances shall be measured from the ordinary high water mark (OHM) or from the top of the bank where the OHM cannot be identified. Buffers shall be retained in their natural condition. It is acceptable, however, to enhance the buffer by planting indigenous vegetation, as approved by the department. Alteration of buffer areas and building setbacks may be allowed for water-dependent and water-related activities subject to subsection 6 below, and for development authorized by Section 19.100.140 (Reasonable Use Exception), Section 19.100.125 (Exemptions), Section 19.100.130 (Standards for Existing Development) or Section 19.100.135 (Variances). The buffer width shall be increased to include streamside wetlands which provide overflow storage for stormwaters, feed water back to the stream during low flows or provide shelter and food for fish. In braided channels, the ordinary high water mark or top of bank shall be defined so as to include the entire stream feature. Refuse shall not be placed in buffers.

Water Type	
Current DNR Water Typing	Previous DNR Water Typing
Type S	Type 1
Type F	Type 2 and 3
Type Np	Type 4
Type Ns	Type 5

Table 4: Fish and Wildlife Habitat Conservation Area Development Standards			
Streams			
Water Type	Buffer Width	Minimum Building Setback	Other Development Standards
S Segments of Big Beef Creek, Curley Creek, Chico Creek, Burley Creek, Union River, Blackjack Creek and Tahuya River	100 feet	15 feet beyond buffer	Where applicable, refer to the development standards in Chapters 19.200 (Wetlands) and 19.400 (Geologically Hazardous Areas). Where such features occur on site, the more restrictive buffer or building setback shall apply.
F	100 feet	15 feet beyond buffer	
Np	50 feet	15 feet beyond buffer	
Ns	25 feet	15 feet beyond buffer	
Saltwater Shorelines and Lakes			
Shoreline Designation ¹	Buffer Width	Minimum Building Setback	Other Development Standards
Urban, Seri-Rural and Rural shorelines and Lakes less than 20 acres	35 feet	15 feet beyond buffer	See subsection 19.300.315.A. Where applicable, refer to the development standards in Chapters
Conservancy	50 feet	15 feet beyond buffer	

Natural	100 feet	15 feet beyond buffer	19.200 (Wetlands) and 19.400 (Geologically Hazardous Areas). Where such features occur on site, the more restrictive buffer or building setback shall apply.

¹as defined in the Kitsap County Shoreline Management Master Program, Title 22 Kitsap County Code

3. **Buffer Widths and Setbacks for Shorelines.** The building setback or buffer width for new development shall be based on the Kitsap County Shoreline Management Master Program environment designation, or as required by Chapter 17.450, the View Blockage Requirements, as now or hereafter amended, whichever is greater. (Note: Setbacks for Conservancy-Public Lands to be determined by the Kitsap County Shoreline Management Master Program.)
4. **Provision for Decreasing Buffer.** In lieu of going through the formal variance process, an administrative reduction to buffer widths may be granted subject to the requirements of this section. Where an applicant demonstrates pursuant to the variance criteria that buffer widths cannot be met, a habitat management plan (HMP) will be required that shall meet the requirements as described in Chapter 19.700 of this Title. The department may decrease the buffer if, after consultation with the Washington State Department of Fish and Wildlife, and review of the HMP the department determines that conditions are sufficient to protect the affected habitat. The department may reduce the buffer width by up to fifty percent for construction of a single family dwelling or up to twenty five percent for all other development, but the buffer shall not be less than twenty-five feet. Granting of reduced buffer shall be the minimum necessary for the permitted use.
 - a. When applicable, the order of sequence for buffer reductions shall be as follows:
 - i. Use of buffer averaging maintaining one hundred percent of the buffer area under the standard buffer requirement;
 - ii. Reduction of the overall buffer area by no more than twenty-five percent of the area required under the standard buffer requirement;
 - iii. Enhancement of existing degraded buffer area and replanting of the disturbed buffer area;
 - iv. The use of alternative on-site wastewater systems in order to minimize site clearing;
 - v. Infiltration of stormwater where soils permit; and,

1
2 vi.. Retention of existing native or functionally equivalent vegetation on other
3 portions of the site in order to offset habitat loss from buffer reduction.
4
5

- 6 5. **Provision for Increasing Buffer.** The department may increase the buffer width whenever a
7 development proposal has known locations of endangered or threatened species for which a
8 habitat management plan indicates a larger buffer is necessary to protect habitat values for such
9 species, or when the buffer is located within a landslide or erosion hazard area.
10
11 6. **Buffers for Streams in Ravines.** For streams in ravines with ravine sides ten feet or greater in
12 height, the minimum buffer width shall be the minimum buffer required for the stream type, or
13 a buffer width that extends twenty-five feet beyond the top of the slope, whichever is greater.
14
15 7. **Channel Migration Zones.** In areas where channel migration zones occur outside of Urban
16 Growth Areas (as of the date of the adoption of this ordinance), the buffer distance shall be
17 measured from the edge of the channel migration zone.
18
19 8. **Buffer and Building Setback Alterations for Water-dependent and Water-related**
20 **Activities.** The department may allow an administrative alteration to the required buffer and
21 building setback for water-dependent and water-related when no other reasonable or practicable
22 alternative exists and the development is consistent with the Kitsap County Shoreline
23 Management Master Program. Any alteration of a buffer and building setback shall be the
24 minimum_necessary and shall require, an approved habitat management plan which adequately
25 protects habitat values.
26
27 9. **Dedication of Buffers.** Buffer areas may be dedicated by the property owner as permanent
28 open space tracts. The buffer shall be identified on a site plan.
29
30 10. **Building or Impervious Surface Setback Lines:** A building or impervious surface setback
31 line of 15 feet is required from the edge of any fish and wildlife habitat conservation area
32 buffer. Minor structural or impervious surface intrusions into the areas of the setback may be
33 permitted if the department determines that such intrusions will not adversely impact the fish
34 and wildlife habitat conservation area. The setback shall be identified on a site plan.
35
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38 B. **Stream Crossings.** Any private or public road expansion or construction which is allowed and
39 must cross streams classified within this title, shall comply with the following minimum
40 development standards:
41

- 42 1. Bridges or bottomless culverts shall be required for all Type S or F streams that have salmonid
43 breeding habitat. Other alternatives may be allowed upon submittal of a habitat management
44 plan that demonstrates that other alternatives would not result in significant impacts to the fish
45 and wildlife conservation area, as determined appropriate through the Washington State

1 Department of Fish and Wildlife, Hydraulics Project Approval process. The plan must
2 demonstrate that salmon habitat will be replaced on a 1:1 ratio.
3

- 4 2. Crossings shall not occur in salmonid spawning areas unless no other feasible crossing site
5 exists. For new development proposals, if existing crossings are determined to adversely impact
6 salmon spawning or passage areas, new or upgraded crossings shall be located as determined to
7 be necessary through coordination with the Washington State Department of Fish and Wildlife.
8
- 9 3. Bridge piers or abutments shall not be placed in either the floodway or between the ordinary
10 high water marks unless no other feasible alternative placement exists.
11
- 12 4. Crossings shall not diminish flood carrying capacity.
13
- 14 5. Crossings shall serve multiple properties whenever possible.
15
- 16 6. Where there is no reasonable alternative to providing a culvert, the culvert shall be the
17 minimum length necessary to accommodate the permitted activity.
18

19 **C. Stream Relocations.** Stream relocations for the purpose of flood protection and/or fisheries
20 restoration shall only be permitted when adhering to the following minimum performance
21 standards and when consistent with Washington State Department of Fish and Wildlife hydraulic
22 project approval:
23

- 24 1. The channel, bank and buffer areas should be replanted with native or functionally equivalent
25 vegetation that replicates a natural, undisturbed riparian condition; and
26
- 27 2. For those shorelands and waters designated as frequently flooded areas pursuant to Chapter
28 19.500, a professional engineer licensed in the state of Washington shall provide information
29 demonstrating that the equivalent base flood storage volume and function will be maintained.
30
- 31 3. Relocated stream channels shall be designed to meet or exceed the functions and values of the
32 stream to be relocated.
33

34 **D. Pesticides, Fertilizers and Herbicides.** No pesticides, herbicides or fertilizers shall be applied
35 within sixty feet of wetlands, streams, roadside ditches or shorelines. No aerially-applied
36 pesticides, herbicides or fertilizers shall be applied within 300 feet of wetlands, streams, roadside
37 ditches or shorelines. Spraying in lakes for control of vegetation must be authorized by the
38 Washington State Department of Ecology.
39

40 **E. Land Divisions and Land Use Permits.** All proposed divisions of land and land uses
41 (subdivisions, short subdivisions, short plats, long and large lot plats, performance based
42 developments, conditional use permits, site plan reviews, binding site plans) that include fish and
43 wildlife habitat conservation areas shall comply with the following procedures and development
44 standards:
45

1. The open water area of lakes, streams, and tidal lands shall not be permitted for use in calculating minimum lot area.
2. Land division approvals shall be conditioned so that all required buffers are dedicated as open space tracts, or as an easement or covenant encumbering the buffer. Such dedication, easement or covenant shall be recorded together with the land division and represented on the final plat, short plat or binding site plan, and title.
3. In order to avoid the creation of non-conforming lots, each new lot shall contain at least one building site that meets the requirements of this title, including buffer requirements for habitat conservation areas. This site must also have access and a sewage disposal system location that are suitable for development and does not adversely impact the fish and wildlife conservation area.
4. After preliminary approval and prior to final land division approval, the department may require that the common boundary between a required buffer and the adjacent lands be identified using permanent signs. In lieu of signs, alternative methods of buffer identification may be approved when such methods are determined by the department to provide adequate protection to the buffer.
5. In order to implement the goals and policies of this title, to accommodate innovation, creativity, and design flexibility, and to achieve a level of environmental protection that would not be possible by typical lot-by-lot development, the use of the performance based development process is strongly encouraged for projects within designated fish and wildlife habitat conservation areas.

F. **Agricultural Restrictions.** In all development proposals that would permit introduction of agriculture to fish and wildlife habitat conservation areas, damage to the area shall be avoided by the installation of fencing located not closer than the outer buffer edge.

G. **Trails and Trail-Related Facilities.** Construction of public and private trails and trail-related facilities, such as benches, interpretive centers, and viewing platforms, may be allowed in fish and wildlife habitat conservation areas or their buffers pursuant to the following standards:

1. Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or other such previously disturbed areas.
2. Trails and related facilities shall be planned to minimize removal of trees, shrubs, snags and important wildlife habitat.
3. Viewing platforms, interpretive centers, benches and access to them, shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected conservation area.
4. Trails and related facilities shall generally be located outside required buffers. Where trails are permitted within buffers they shall be located in the outer portion of the buffer

1 and a minimum of twenty-five feet from the stream edge, except where stream crossings
2 or viewing areas have been approved.

- 3
4 5. Trails shall generally be limited to pedestrian use unless other more intensive uses, such
5 as bike or horse trails have been specifically allowed and mitigation has been provided.
6 Trail width shall not exceed five feet unless there is demonstrated need, subject to
7 review and approval by the department. Trails shall be constructed with pervious
8 materials unless otherwise approved by the department.
9

10 H. **Utilities.** Placement of utilities within designated fish and wildlife habitat conservation areas may
11 be allowed pursuant to the following standards:

- 12
13 1. The normal and routine utility maintenance or repair authorized in Section 19.100.125
14 shall be allowed within designated fish and wildlife habitat conservation areas, subject
15 to best management practices.
16
17 2. Construction of utilities may be permitted in fish and wildlife habitat conservation areas
18 or their buffers, only when no practicable or reasonable alternative location is available
19 and the utility corridor meets the requirements for installation, replacement of
20 vegetation and maintenance outlined in 5 and 6 below, and as required in the filing and
21 approval of special reports (Chapter 19.700) which may be required by this title.
22
23 3. **Sewer or On-site Sewage Utility.** Construction of sewer lines or on-site sewage
24 systems may be permitted in fish and wildlife habitat conservation areas or their buffers
25 when the applicant demonstrates it is necessary to meet state and/or local health code
26 requirements, there are no other practicable alternatives available, and construction
27 meets the requirement of this section. Joint use of the sewer utility corridor by other
28 utilities may be allowed.
29
30 4. **New Utility Corridors.** New utility corridors shall not be allowed in fish and wildlife
31 habitat conservation areas with known locations of federal or state listed endangered,
32 threatened or sensitive species, heron rookeries or nesting sites of raptors which are
33 listed as state candidate or state monitor, except in those circumstances where an
34 approved habitat management plan indicates that the utility corridor will not
35 significantly impact the conservation area.
36
37 5. **New Utility Corridor Construction.** Utility corridor construction and maintenance
38 shall protect the environment of fish and wildlife habitat conservation areas and their
39 buffers.
40
41 a. New utility corridors shall be aligned when possible to avoid cutting trees
42 greater than twelve inches in diameter at breast height (four and one-half feet)
43 measured on the uphill side.
44
45 b. New utility corridors shall be revegetated with appropriate native or functionally
46 equivalent vegetation at not less than pre-construction vegetation densities or

1 greater, immediately upon completion of construction, or as soon thereafter as
2 possible due to seasonal growing constraints. The utility shall ensure that such
3 vegetation survives.
4

- 5 c. Any additional corridor access for maintenance shall be provided wherever
6 possible at specific points rather than by parallel roads. If parallel roads are
7 necessary, they shall be of a minimum width but no greater than fifteen feet; and
8 shall be contiguous to the location of the utility corridor on the side away from
9 the conservation area.

10
11 6. Utility corridor maintenance shall include the following measures to protect the
12 environment of regulated fish and wildlife habitat conservation areas.

- 13
14 a. Utility towers should be painted with brush, pad or roller and should not be
15 sandblasted or spray painted, nor should lead base paints be used.
16
17 b. Pesticides, Fertilizers and Herbicides. No pesticides, herbicides or fertilizers
18 shall be applied within sixty feet of wetlands, streams, roadside ditches or
19 shorelines. No aerially-applied pesticides, herbicides or fertilizers shall be
20 applied within 300 feet of wetlands, streams, roadside ditches or shorelines.
21 Spraying in lakes for control of vegetation must be authorized by the
22 Washington State Department of Ecology.
23

- 24 I. **Bank Stabilization.** A stream channel and bank, bluff, and shore may be stabilized when naturally
25 occurring earth movement threatens existing structures (defined as requiring a building permit
26 pursuant to the Kitsap County Building and Fire Code), public improvements, unique natural
27 resources, public health, safety or welfare, or the only feasible access to property, and, in the case
28 of streams, when such stabilization results in maintenance of fish and wildlife habitat, flood control
29 and improved water quality. Bluff, bank and shoreline stabilization shall also be subject to the
30 standards of Title 22 Kitsap County Shoreline Management Master Program, and Title 15 Kitsap
31 County Flood Hazard Areas. Refer to 19.700.725 (Special Reports) for geological and geotechnical
32 report requirements.
33

34 Where bank stabilization is determined to be necessary, soft-shore protective techniques may be
35 required over other types of shoreline protection. Techniques include but are not limited to: beach
36 nourishment, coarse beach fill, gravel berms, vegetation plantings, and placement of large, woody
37 debris (logs and stumps). Special consideration shall be given to protecting the functions of feeder
38 bluffs. Bulkheads and retaining walls may only be utilized as an engineering solution where it can
39 be demonstrated through a geotechnical report that an existing residential structure cannot be safely
40 maintained without such measures, and that the resulting retaining wall is the minimum length
41 necessary to provide a stable building area for the proposed structure. A variance pursuant to
42 Section 19.100.135, must be obtained in all other cases. The department may require that bank
43 stabilization be designed by a professional engineer licensed in the state of Washington with
44 demonstrated expertise in hydraulic actions of shorelines. Bank stabilization projects may also
45 require a Kitsap County Site Development Activity Permit per Title 12 Stormwater Management
46 and Hydraulic Project Approval from the Washington Department of Fish and Wildlife.

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J. **Fencing and Signs.** Prior to approval or issuance of permits for land divisions and new development, the department may require that the common boundary between a required buffer and the adjacent lands be identified using fencing or permanent signs. In lieu of fencing or signs, alternative methods of buffer identification may be approved when such methods are determined by the department to provide adequate protection to the buffer.

K. **Forest Practice, Class IV General and Conversion Option Harvest Plans (COHPs).** All timber harvesting and associated development activity, such as construction of roads, shall comply with the provisions of this title, and the Stormwater Management Ordinance, including the maintenance of buffers, where required.

L. **Road/Street Repair and Construction.** Any private or public road or street expansion or construction that is allowed in a fish and wildlife habitat conservation area or its buffer shall comply with the following minimum development standards:

1. No other reasonable or practicable alternative exists and the road or street crossing serves multiple properties whenever possible;
2. Expansion or construction of any private or public road shall only be allowed when adverse impacts cannot be avoided;
3. Public and private roads should provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc.; and
4. The road or street construction is the minimum necessary, as required by the department of public works, and shall comply with the department of public works' guidelines to provide public safety and mitigated stormwater impacts.
5. Construction time limits shall be determined in consultation with the Washington Department of Fish and Wildlife in order to ensure habitat protection.
(Ord. 217 (1998) § 3 (part), 1998)

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Chapter 19.400
GEOLOGICALLY HAZARDOUS AREAS

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19.400.405 Purpose.

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19.400.410 Geologically hazardous area categories.

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19.400.415 Development standards.

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19.400.405 Purpose.

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This section applies to all regulated uses included in this title within two hundred fifty feet of areas designated as geologically hazardous areas, as categorized in Section 19.400.410 below. The intent of this section is to:

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- A. Provide standards to protect human life and property from potential risks;
 - B. Regulate uses of land in order to avoid damage to structures and property being developed and damage to neighboring land and structures;
 - C. Control erosion, siltation, and water quality to protect anadromous and resident fish and marine shellfish;
 - D. Provide controls to minimize shoreline erosion caused by human activity;
 - E. Use innovative site planning by placing geologically hazardous areas and buffers in open space and transferring density to more suitable areas on the site.
(Ord. 217 (1998) § 3 (part), 1998)

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30

19.400.410 Geologically hazardous area categories.

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A. **Classification.** The following categories shall be used in classifying geologically hazardous areas:

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34

1. Areas of High Geologic Hazard.

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- a. Areas with slopes greater than thirty percent and mapped by the Coastal Zone Atlas, Quaternary Geology and Stratigraphy of Kitsap County or by Light Distance and Radar (LiDAR) mapping as "Unstable" (U), "Unstable Old Land Slides" (UOS) or "Unstable Recent Slides" (URS).
 - b. Areas with slopes greater than thirty percent in grade and deemed by a qualified geologist or geotechnical engineer to meet the criteria of U, UOS, or URS.

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44

2. Areas of Moderate Geologic Hazard.

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46
- a. Areas designated U, UOS, or URS in the Coastal Zone Atlas, Quaternary Geology and Stratigraphy of Kitsap County, or LiDAR maps with slopes less than thirty percent; or areas

1 found by a qualified geologist to meet the criteria for U, URS, and UOS with slopes less
2 than thirty percent;

- 3
- 4 b. Slopes identified as "Intermediate" (I) in the Coastal Zone Atlas, Quaternary Geology and
5 Stratigraphy of Kitsap County or LiDAR maps, or areas found by a qualified geologist to
6 meet the criteria of I;
- 7
- 8 c. Slopes fifteen percent or greater, not classified as I, U, UOS, or URS, with soils classified
9 by the Natural Resources Conservation Service as "highly erodible" or "potentially highly
10 erodible;"
- 11
- 12 d. Slopes of fifteen percent or greater with springs or groundwater seepage not identified in a
13 or b above; or,
- 14
- 15 e. Seismic areas subject to liquefaction from earthquakes (seismic hazard areas) such as
16 hydric soils as identified by the Natural Resources Conservation Service, and areas that
17 have been filled to make a site more suitable. Seismic areas may include former wetlands
18 which have been covered with fill.

19

20 **B. Site Specific Determinations.**

21

22 A geologic or geotechnical report is a site investigation process to evaluate the on-site geology
23 affecting a subject property and proposed development. Should the applicant question the information
24 the county must rely on to determine whether a location contains a geologically hazardous area, the
25 county may ask the applicant to submit the appropriate site specific geotechnical or geologic report to
26 confirm or modify the existing information known about the area. The requirements for reports are
27 contained in Special Reports, Chapter 19.700.

28

29 The intent of this provision is to allow obviously non-geologically hazardous sites to be determined as
30 such. Where there is any ambiguity about the potential for geologic hazards whatsoever, the
31 department will require a geotechnical or geological report, rather than make a non-geologically
32 hazardous determination.

33 (Ord. 217 (1998) § 3 (part), 1998)

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36 **19.400.415 Development standards.**

37

38 This section applies to all regulated uses in this title or within two hundred fifty feet of areas
39 designated as geologically hazardous areas. Submittal documents prepared by a licensed engineer may
40 also be required by the department, pursuant to Title 12 Kitsap County Stormwater Management
41 Ordinance.

- 42
- 43 A. **Review.** Where applicable the department will approve, approve with conditions or deny the
44 development proposal based on the department's evaluation of specific site conditions. The
45 department will also consider any proposed mitigation measures included in a geotechnical report,
46 if one is required.

1
2 **B. Minimum Buffer Requirement.** The buffer for all geologically hazardous areas shall include
3 native or functionally equivalent vegetation from the toe of the slope to twenty-five feet beyond the
4 top of the slope unless otherwise allowed through a geological report or a site-specific
5 determination (Refer to Section 19.400.410(B)).
6

7 **C. Building/Impervious Surface Setback Requirements.**
8

- 9 1. **Areas of High Geologic Hazard.** Minimum building and impervious surface setback
10 from the top of slope shall be equal to the height of the slope (1:1 horizontal to vertical)
11 plus the greater of 1/3 of the vertical slope height or twenty-five feet.
12
- 13 2. **Areas of Moderate Geologic Hazard.** A minimum forty foot building and impervious
14 surface setback shall be maintained from the top of slope. As required in subsection B
15 above, the twenty-five feet adjacent to the top of the slope shall be retained as a native
16 or functionally equivalent vegetation buffer, with an additional minimum fifteen-foot
17 building and impervious surface setback. The department may decrease the setback
18 when such a setback would result in a greater than 1:1 slope setback or as may be
19 allowed under Section 19.400.410(B) (Site Specific Determinations).
20
- 21 3. **Toe of Slope Building Setback.** A geotechnical report may be required for any new
22 construction within two hundred feet of an area of high geologic hazard. The
23 department will make a determination based on slope height and stability indicators.
24 Where slope hazard indicators are not identified, the requirements of Title 14.04 Kitsap
25 County Building and Fire Codes will apply.
26

27 **D. Buffer and Building Setback Modifications.**
28

- 29 1. **Report Recommendations.** The minimum native or functionally equivalent vegetation
30 buffer and/or building setback requirement may be decreased if a geotechnical report
31 demonstrates that a lesser distance, through design and engineering solutions, will
32 adequately protect both the proposed development and the erosion hazard and/or
33 landslide hazard area (see Chapter 19.700, Special Reports, for geological and
34 geotechnical report requirements). Should the geotechnical report indicate that a greater
35 buffer and/or building setback is required than specified in subsections B and/or C
36 above, the greater buffer and/or building setback shall be required. The department may
37 determine through a site visit, a special report or mapping, that an increased buffer
38 and/or building setback is required from the critical area.
39
- 40 2. **Vegetation Removal.** Minor pruning of vegetation or tree removal for view
41 enhancement, or elimination of danger trees to maintain slope integrity may be allowed,
42 provided that such activity is approved by the department. The thinning of limbs on
43 individual trees is preferred to the removal or topping of trees for view corridors. At a
44 minimum, no more than thirty percent of the live tree crowns shall be removed. Total
45 buffer thinning shall not exceed twenty-five percent.
46

- 1 E. **Seasonal Restrictions.** Clearing and grading shall be limited to the period between May 1 to
2 October 1, unless the applicant provides an erosion and sedimentation control plan prepared by
3 a professional geotechnical engineer licensed in the state of Washington that specifically and
4 realistically identifies methods of erosion control for wet weather conditions.
5
- 6 F. **Field Marking Requirements.** The proposed clearing for the project and all critical area
7 buffers shall be marked in the field for inspection and approval by the department prior to
8 beginning work. Field marking requirements for construction of a single-family dwelling will
9 be determined on a case-by-case basis by the department. The field marking of all buffers shall
10 remain in place until construction is completed and final approval is granted by the department.
11 Permanent marking may be required as determined necessary to protect critical areas or its
12 buffer.
13
- 14 G. **Cut and Fill Slopes.** The faces of all cut and fill slopes shall be protected to prevent erosion as
15 required by the engineered erosion and sedimentation control plan.
16
- 17 H. **Stormwater Standards.** Stormwater discharges shall be in compliance with Title 12
18 Stormwater Management.
19
- 20 I. **Development Risk Standard.** In cases where a special report indicates a significant risk to
21 public health, safety and welfare, the department shall deny or require revision of the site
22 development proposal.
23
- 24 J. **Additional Clearing Standards.**
25
- 26 1. Only the clearing necessary to install temporary erosion control measures will be allowed
27 prior to the clearing for roads and utilities construction.
28
 - 29 2. Clearing for roads and utilities shall be the minimum necessary and shall remain within
30 marked construction limits.
31
 - 32 3. Clearing for overhead power lines shall be the minimum necessary for construction and will
33 provide the required minimum clearances of the serving utility.
34
- 35 K. **Existing Logging Roads.** Where existing logging roads occur in geologically hazardous areas,
36 a geological or geotechnical report may be required prior to use as a temporary haul road or
37 permanent access road under a conversion or COHP forest practices application.
38
- 39 L. **Clustering Requirements.** The department may require clustering to increase protection to
40 geologically hazardous areas.
41
- 42 M. **Vegetation Enhancement.** The department may require enhancement of buffer vegetation to
43 increase protection to geologically hazardous areas.
44
- 45 N. **Seismic Hazard Area Development Standards.**
46

1. Proposed new development within a seismic hazard area shall be in accordance with Title 14.04 Kitsap County Building and Fire Code.
2. Applicants for public and commercial building proposals within seismic hazard areas shall submit a geotechnical report addressing any fill or grading that has occurred on the subject parcel. Any fill placed for such development shall have documented construction monitoring as required by Title 14.04 Kitsap County Building and Fire Code.
3. The development proposal may be approved, approved with conditions or denied based on the departments evaluation of the proposed mitigation measures to reduce seismic risk.

O. **Prohibitions.**

1. Critical facilities, as defined in Section 19.150, are prohibited in areas of high geologic hazard.
2. In areas of high geologic hazard with slopes greater than eighty percent, no development will be allowed either on or within the defined buffer area, unless approved by the department after review of a geotechnical report. The defined buffer zone for geologically hazardous areas is defined in subsection C of this section.
3. On-site sewage disposal should be avoided in areas of high geologic hazard and their buffers. In cases where such areas cannot be avoided, review by a geologist or a geotechnical engineer licensed in the state of Washington will be required in coordination with the Kitsap County Health District.
(Ord. 217 (1998) § 3 (part), 1998)

Chapter 19.500 FREQUENTLY FLOODED AREAS

19.500.505 Purpose.

The purpose of this chapter is to protect the public health, safety and welfare from harm caused by flooding. It is also the intent to prevent damage and/or loss to both public and private property. In addition, this section will give special consideration to anadromous fish habitat in combination with Chapter 19.300 Fish and Wildlife Habitat Conservation Areas. To fulfill this purpose, Kitsap County uses Title 15 Kitsap County Flood Hazard Areas Ordinance, adopted by reference, which designates special flood hazard areas and establishes permit requirements for these areas.

In addition, the Kitsap County Geographic Information System (GIS) database for critical drainage areas, as defined in Chapter 12.28 of this code, will be included for areas of review under frequently flooded areas.

1 **Chapter 19.600**
2 **CRITICAL AQUIFER RECHARGE AREAS**
3

4 **19.600.605 Purpose.**

5 **19.600.610 Critical aquifer recharge area categories.**

6 **19.600.615 Development standards.**

7 **19.600.620 Additional requirements**
8

9 **19.600.605 Purpose.**

10
11 Potable water is an essential life sustaining element. The majority of Kitsap County drinking water
12 comes from groundwater supplies in aquifers. Critical aquifer recharge areas are very important to
13 shallow and deepwater aquifer recharge. The intent of this chapter is to identify and classify aquifer
14 recharge areas and address land use activities that pose a potential to contaminate or otherwise threaten
15 aquifer water quality. It is the policy of Kitsap County to accomplish the following:
16

- 17 1. Identify, preserve and protect aquifer recharge areas, identify areas susceptible to
18 contamination and prevent degradation of the quality of potable groundwater;
19
- 20 2. Recognize the relationship between surface and groundwater resources; and,
21
- 22 3. Balance competing needs for water supply while preserving essential natural functions and
23 processes.
24 (Ord. 217 (1998) § 3 (part), 1998)
25

26 **19.600.610 Critical aquifer recharge area categories.**
27

28 As defined at 19.150.210, a Critical Aquifer Recharge Areas means those land areas that contain
29 hydrogeologic conditions that facilitate aquifer recharge and/or transmit contaminants to an underlying
30 aquifer. Critical aquifer recharge areas under this title may be established based on general criteria,
31 specifically designated due to special circumstances, or based on scientific studies and mapping
32 efforts. Factors considered in the identification of critical aquifer recharge areas include depth to water
33 table, presence of highly permeable soils (specifically Group A Hydrologic Soils), presence of flat
34 terrain, and the presence of more permeable surficial geology.
35

36 **A. Category I**
37

38 Category I critical aquifer recharge areas are those areas where there is a high potential for certain land
39 use activities to adversely affect certain high-valued groundwater resources. Category I critical aquifer
40 recharge areas include:
41

- 42 1. Areas inside the five-year time of travel zone for Group A water system wells, calculated in
43 accordance with the Washington State Well Head Protection Program.
44

- 1 2. Areas inside the ten-year time of travel zones in wellhead protection areas when the well draws
2 its water from an aquifer that is at or above sea level and is overlain by permeable soils without
3 an underlying protective poorly permeable layer.
4
- 5 3. Areas identified herein as Significant Recharge Areas due to special circumstances. These
6 include the following.
7
 - 8 a. Hansville Significant Recharge Area. The Hansville aquifer is a significant potable water
9 supply that is highly susceptible to the introduction of pollutants. Its recharge area has been
10 designated as a critical recharge area under the county's SEPA Ordinance (Chapter 18.04 of
11 this code). Additional information regarding this aquifer is available from the Kitsap Public
12 Utility District.
13
 - 14 b. Seabeck Significant Recharge Area. The Seabeck aquifer is a significant potable water
15 supply that is being developed for use in central and north Kitsap County. Additional
16 information regarding this aquifer is available from the Kitsap Public Utility District.
17
 - 18 c. Island Lake Significant Recharge Area. The Island Lake aquifer is a significant potable
19 water supply for the Silverdale area. Additional information regarding this aquifer is
20 available from the Silverdale Water District.
21
 - 22 d. Gorst Significant Recharge Area: Aquifers in the Gorst basin are highly susceptible to the
23 introduction of pollutants and provide significant potable water supplies for the City of
24 Bremerton.
25
 - 26 e. Poulsbo Significant Recharge Area: The Poulsbo aquifer is highly susceptible to the
27 introduction of pollutants and provides a significant potable water supply for the Kitsap
28 Public Utility District and City of Poulsbo.
29
30
- 31 4. Future updates to the chapter may include additional Significant Recharge Areas identified
32 through wellhead protection analysis or other studies which identify areas of special
33 circumstances, including but not limited to saltwater intrusion advisory areas.
34

35 B. Category II

36
37 Category II critical aquifer recharge areas are in areas that are vulnerable to groundwater
38 contamination from some types of land use activities, based upon the underlying soil and geology
39 and concentration of water supply wells. These include the following:
40

- 41 1. Highly Permeable Soils (Group A Hydrologic Soils). The general location and characteristics
42 of Group A Hydrogeologic soils in Kitsap County is given in the Soil Survey of Kitsap County
43 by the U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS). The
44 soil survey information is available on the Kitsap County geographic information system (GIS).
45

- 1 2. Areas above Shallow Aquifers. Surface areas above shallow, aquifer(s) which lack an
2 underlying aquitard(low permeability layer) that provides adequate protections against
3 contaminating the shallow aquifer(s) below, are considered aquifer recharge areas of concern.
4 The general location of shallow aquifers in Kitsap County is based upon the professional
5 judgment of licensed hydrogeologists with knowledge of the area. The location of shallow
6 aquifers is available on the Kitsap County geographic information system (GIS).
7
- 8 3. Areas above the Vashon Aquifer. Surface areas above the Vashon Aquifer which are not
9 separated from the underlying aquifers by a poorly permeable layer that provides adequate
10 protections to preclude the proposed land use from contaminating the Vashon aquifer below.
11 Vashon aquifers in Kitsap County are typically mapped as “Qva” (Vashon advance aquifer) or
12 “Qvr” (Vashon recessional aquifer) on geologic maps. Best available information concerning
13 the location of Vashon aquifers is available on the Kitsap County geographic information
14 system (GIS).
15
- 16 4. Areas with high concentration of potable water supply wells.
17

18 C. Mapping

19
20 Kitsap County, in coordination with water purveyors and other agencies, will produce maps indicating
21 the location of critical aquifer recharge areas.
22

23 **19.600.615 Development Review Process.**

- 24
25
26 A. A hydrogeological report will be required on sites that have been identified as having
27 characteristics with high infiltration rates, or having a high aquifer recharge or infiltration
28 potential for land uses identified in Table 5, unless determined unnecessary upon coordination
29 with agencies with jurisdiction (Kitsap County Health District and/or affected water
30 purveyors). This evaluation shall apply to impacts on both groundwater and surface water, as it
31 relates to recharge areas (See requirements in Special Reports, Chapter 19.700).
32
- 33 B. Affected and interested parties, water purveyors, tribes and the Kitsap County Health District
34 will be notified and invited to comment during the preliminary phases of the county's review
35 process on the proposed land use and potential impacts, and may recommend or request
36 mitigation to reduce potential impacts. The department will consider these recommendations to
37 develop appropriate permit conditions.
38
- 39 C. This section shall not affect any right to use or appropriate water as allowed under state or
40 federal law. In addition, these requirements do not apply to those activities which have
41 potential contaminant sources below threshold amounts as set forth in applicable statutes of the
42 Revised Code of Washington, or local regulations.
43
- 44 D. Stormwater infiltration best management practices shall be encouraged to the maximum extent
45 possible as a first priority in stormwater management.
46

1 E. Land use decisions within Category I and II critical aquifer recharge areas may be appealed to
2 the Kitsap County Hearing Examiner.

3
4 F. The department will also notify the health district and affected water purveyors through the
5 environmental review process, when those development activities listed in Table 5 are
6 proposed outside the areas designated critical aquifer recharge areas.
7

8 **19.600.620 Requirements**
9

10
11 Standards for development shall be in accordance with the provisions below and the requirements of
12 the underlying zoning.
13

14 **A. Category I.**
15

16 Land uses identified in Table 5 are prohibited in Category I critical aquifer recharge areas
17 unless a waiver is granted by the County. Requests for waivers shall include a
18 hydrogeological report (Special Reports, Chapter 19.700) that includes a detailed risk-benefit
19 analysis that considers credible, worst-case scenarios. The hydrogeological report shall
20 evaluate potential impacts of a proposed land use or activity on both groundwater and surface
21 water quality. The waiver will be evaluated and treated as a special use review and be
22 reviewed by the department, the health district, affected tribes, and the affected water
23 purveyors.
24

25 **B. Category II.**
26

27 Applicants proposing operations that pose a potential threat to groundwater as defined in
28 Table 5 shall submit a hydrogeological report if they are within a Category II critical aquifer
29 recharge area, unless it is determined unnecessary upon coordination with agencies with
30 jurisdiction (Kitsap County Health District and affected water purveyors)(Special Reports,
31 Chapter 19.700). The scope of the report shall be based on site-specific conditions. The need
32 for additional information will be determined by the department, the health district and the
33 affected water purveyor. Based on the results of the report, controls, mitigation, and/or other
34 requirements will be established as a prerequisite for the development proposal being
35 approved.
36
37

38 (Ord. 217 (1998) § 3 (part), 1998)

1 **Table 5: Activities With Potential Threat to Groundwater**

2	A. Above & Below ground storage tanks	44	E. De-icing salts storage piles
3	1. Hazardous and industrial waste	45	F. Industrial operations
4	treatment	46	1. Furniture strippers/painters/finishers
5	2. Hazardous and industrial waste storage	47	2. Concrete/asphalt/tar/coal companies
6	3. Hazardous material storage	48	3. Industrial manufacturers: chemicals,
7	B. Animal feedlots	49	pesticides/herbicides, paper, leather
8	C. Commercial operations	50	products, textiles, rubber,
9	1. Gas stations/service stations/truck	51	plastic/fiberglass, silicone/glass,
10	terminals	52	pharmaceuticals, electrical equipment
11	2. Petroleum distributors/storage	53	4. Metal platers/heat treaters/smelters/
12	3. Auto body repairs shops/rust proofers	54	annealers/descalers
13	4. Auto chemical supply storers/retailers	55	5. Wood preserves
14	5. Truck, automobile, and combustion	56	6. Chemical reclamation facilities
15	engine repair shops	57	7. Boat refinishers
16	6. Dry cleaners	58	8. Hydrocarbon extraction
17	7. Photo processors	59	G. Land application
18	*8. Auto washes	60	1. Waste-water application (spray
19	*9. Laundromats	61	irrigation)
20	*10. Beauty Salons	62	2. Waste-water byproduct (sludge)
21	11. Research or chemical testing	63	application
22	laboratories which handle significant	64	3. Petroleum refining waste application
23	quantities of hazardous materials	65	4. Hazardous waste applications
24	12. Food processors/meat packers/slaughter	66	H. Landfills
25	houses	67	1. Industrial hazardous and non-hazardous
26	13. Airport maintenance/fueling operation	68	landfill
27	areas	69	2. Municipal sanitary landfill
28	14. Junk and salvage yards	70	I. Material transfer operations
29	15. Storing or processing manure, feed, or	71	1. Hazardous and industrial waste transfers
30	other agriculture by products by	72	2. Hazardous material transfers
31	commercially permitted businesses	73	J. Materials stockpiles
32	16. Large scale storage or use of pesticides,	74	K. Mining and mine drainage
33	insecticides, herbicides, or fertilizer by	75	L. On-site Septic Systems (Large On-Site
34	commercial or agricultural operations.	76	Septic System (LOSS)) category
35	17. Golf courses	77	of greater than 14,500 G.P.D. capacity
36	18. Cemeteries	78	without pre-treatment
37	D. Deep injection wells	79	M. Pipelines
38	1. Waste-water disposal wells	80	1. Hazardous and industrial waste transfer
39	(Wells that, after treatment, inject water	81	2. Hazardous material transfer
40	back into the aquifer)	82	N. Radioactive disposal sites and processing
41	2. Oil and gas activity disposal wells	83	of radioactive wastes
42	3. Mineral extraction disposal wells	84	O. Sand and gravel mining operations
43		85	*If not on a sewer system with a treatment plant.

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Chapter 19.700
SPECIAL REPORTS

- 19.700.705 PURPOSE**
- 19.700.710 WETLAND DELINEATION REPORT**
- 19.700.715 WETLAND MITIGATION REPORT**
- 19.700.720 HABITAT MANAGEMENT PLAN**
- 19.770.725 GEOTECHNICAL REPORT AND GEOLOGICAL REPORT**
- 19.700.730 HYDROGEOLOGICAL REPORT**

19.700.705 Special reports.

A. Purpose.

The following special reports may be required to provide environmental information and to present proposed strategies for maintaining, protecting and/or mitigating critical areas:

1. Wetland Report/Wetland Mitigation Plan (19.700.710 and 19.700.715)
2. Habitat Management Plan (19.700.720)
3. Geotechnical Report /Geological Report (19.700.725)
4. Hydrogeological Report (19.700.730)

B. When Required

Special reports shall be submitted by the applicant and approved by the department for regulated uses when required by this title for the protection of a critical area. Refer to specific critical area protection standards for when special reports are required.

C. Special Reports - Responsibility for Completion.

The applicant shall pay for or reimburse the county for the costs incurred in the preparation of special reports or tests and for the costs incurred by the county to engage technical consultants or staff for review and interpretation of data and findings submitted by or on behalf of the applicant. The applicant shall pay permit fees or technical assistance fees as required by the Kitsap County Zoning Ordinance, as now or hereafter amended. In such circumstances where a conflict in the findings of a special report and the findings of the county in review of the special report exists, the applicant or affected party may appeal such decisions of the county pursuant to the procedures in Section 19.100.145 (Appeals).

1
2
3
4 **D. Qualifications of Professionals.**
5

6 Any special report as described below shall be prepared by a professional (see those
7 professionals described in Chapter 19.150), and shall include his or her resume, or other
8 list of qualifications, to aid the department in assessing these qualifications.
9

10 **19.700.710 WETLAND DELINEATION REPORT**
11

12 A wetland delineation report shall include, but not necessarily be limited to, the following:
13

- 14 A. Vicinity map;
15
16 B. When available, a copy of a National Wetland Inventory Map (U.S. Fish and Wildlife
17 Service) and/or a Kitsap County Wetland Inventory Map identifying the wetlands on or
18 within two hundred fifty feet of the site;
19
20 C. A site map setting forth all of the following:
21
22 1. Surveyed wetland boundaries based upon a delineation by a wetlands specialist;
23
24 2. Site boundary property lines and roads;
25
26 3. Internal property lines, right-of-way, easements, etc.;
27
28 4. Existing physical features of the site including buildings, fences, and other
29 structures, roads, parking lots, utilities, water bodies, etc.;
30
31 5. Contours at the smallest readily available intervals, preferably at two-foot
32 intervals;
33
34 6. Hydrologic mapping showing patterns of surface water movement and known
35 subsurface water movement into, through, and out of the site area.
36
37 7. Location of all test holes and vegetation sample sites, numbered to correspond
38 with flagging in the field and field data sheets.
39
40 8. The department may require an air photo with overlays displaying the site
41 boundaries and wetland delineation.
42

- 1 D. Location information (legal description, parcel number and address);
2
3 E. Discussion of wetland boundary. If the wetland extends outside the site, the delineation
4 report shall discuss all wetland areas within one hundred fifty feet of the site, but need
5 only delineate those wetland boundaries within the site;
6
7 F. General site conditions including topography, acreage, and surface areas of all wetlands
8 identified in the Kitsap County Wetland Atlas and water bodies within one quarter mile
9 of the subject wetland(s);
10
11 G. Hydrological analysis, including topography, of existing surface and known significant
12 sub-surface flows into and out of the subject wetland(s);
13
14 H. Analysis of functional values of existing wetlands, including vegetative, fauna, and
15 hydrologic conditions;
16
17 I. A summary of proposed activity and potential impacts to the wetland(s);
18
19 J. Recommended wetland category using the Washington State Wetlands Rating System
20 Categories (Appendix A), including rationale for the recommendation;
21
22 K. Recommended buffer boundaries, including rationale for boundary locations;
23
24 L. Site plan of proposed activity, including location of all parcels, tracts, easements, roads,
25 structures, and other modifications to the existing site. The location of all wetlands and
26 buffers shall be identified on the site plan.
27
28 M. Administrative Wetland Boundary and Ranking Evaluation.
29
30 1. The department may delineate and evaluate wetland areas for any proposed single
31 family dwelling project listed in Chapter 19.200 (Wetlands), unless the applicant wishes
32 to employ a qualified wetland biologist at the applicant's expense, or if such a report is
33 required by the department. Fees may be collected for this determination and evaluation,
34 as specified in the Kitsap County Zoning Ordinance.
35
36 2. Methodology for delineation of the regulated wetland boundary shall be the "plant
37 community assessment" procedure which is described in the Washington State Wetlands
38 Identification and Delineation Manual, March 1997, or as amended hereafter.
39
40 3. The wetland boundary shall be field staked and this line shall be depicted on the
41 building site plan application.
42

1 4. The regulated wetland boundary and regulated wetland buffer shall be identified on all
2 grading, building site, utility or other development plans submitted on the project.
3

4 **19.700.715 WETLAND MITIGATION REPORT.**
5

6 Whenever the department has determined that wetland impacts are unavoidable, a review
7 of a regulated wetland or its buffer is proposed, or an exception to uses is allowed or a
8 variance to standards is granted, a mitigation plan shall be prepared.
9

10 A. A detailed mitigation plan shall contain the following:

- 11 1. Executive Summary which summarizes the project, its potential wetland related
12 impacts, and the proposed mitigation to include the following information:
13 a. Applicant Name / Address / Phone
14 b. Agent / Consultant
15 c. Description of land use proposal
16 d. Description of mitigation area
17 e. Description of impact avoidance and minimization measures
18 f. Description of unavoidable wetland impacts and mitigation measures
19 • Size (acres)
20 • Wetland classification
21 • Hydrogeomorphic (HGM) classification
22 • Wetland Rating
23 • Functions
24 • Compensation ratios used
25 2. Explanation of other impacts to waters of the state
26 3. Goals, Objectives and Monitoring Period
27

28 B. Project Description

- 29 1. Summary of project
30 a. Type of development (existing and proposed land uses)
31 b. Project size
32 c. Implementation schedule
33 d. Project location, maps
34

35 C. Ecological Assessment of Impact

- 36 1. Impacts (acreage) and extent of disturbance to wetlands (wetland
37 delineation)
38 2. Summary of historic and current on-site and nearby land uses (zoning
39 designations)
40 3. Description of any known cultural resources on the site
41 4. Description of the site in context of other wetlands/water bodies
42 5. Description of the water regime

- 1 6. Description of the soils
- 2 7. Description of the plant communities
- 3 8. Description of any fauna using the site
- 4 9. Landscape position and geomorphology
- 5 10. Description of functions provided
- 6 11. Wetland category rating and buffer requirements

7
8

9 D. Mitigation Approach

- 10 1. Mitigation sequencing followed
- 11 2. Goals and objectives
- 12 3. Performance standards to assess each objective

13

14 E. Proposed Compensation Site

- 15 1. Site description (location, size, maps)
 - 16 a. Ownership
 - 17 b. Total area of mitigation site (acres)
 - 18 c. Current/past land use
- 19 2. Site selection rationale
- 20 3. Existing/baseline ecological conditions of the compensation site
 - 21 a. Acreage of existing wetlands and uplands
 - 22 b. National Wetland Inventory or local jurisdiction wetland mapping of the
 - 23 site
 - 24 c. Summary of historic and current on-site and nearby land uses (zoning
 - 25 designations)
 - 26 d. Description of any known cultural resources on the site
 - 27 e. Description of the site in context of other wetlands/water bodies
 - 28 f. Description of the water regime
 - 29 g. Description of the soils
 - 30 h. Description of the plant communities
 - 31 i. Description of any fauna using the site
 - 32 j. Landscape position and geomorphology
 - 33 k. Description of functions provided
 - 34 l. Wetland rating of any existing wetlands, buffer requirements
- 35 4. Site constraints

36

37 F. Preliminary Site Plan

- 38 1. Explanation of how adequate hydrology will be provided
- 39 2. Discussion of how project was designed to provide the proposed functions
- 40 3. Schematic drawings: Change in topography
 - 41 a. Hydrologic structures
 - 42 b. Soils
 - 43 c. Vegetation distributions

- 1 d. Habitat attributes
- 2 e. Buffers
- 3 4. Section drawings showing relationship of topography to water regime and
- 4 vegetation
- 5
- 6 G. Final Site Plan / Design
- 7 1. Site survey and topography
- 8 2. Water regime including
- 9 a. Engineering drawings of water control structures
- 10 b. Source of water (volume, velocity, hydro period)
- 11 3. Soil amendments
- 12 4. Landscape plans
- 13 a. Drawing of proposed plant distribution
- 14 b. Location of existing or proposed upland buffers
- 15 c. Section drawings showing relationship of topography to vegetation
- 16 d. Erosion control
- 17 e. Location of habitat structure
- 18 f. Location of upland buffers
- 19 g. Soil amendments
- 20 5. Construction specifications
- 21
- 22 H. Monitoring Plan
- 23 1. Vegetation
- 24 2. Water regime
- 25 3. Soils
- 26 4. Fauna
- 27 5. Functions and values
- 28 6. Development of habitat structure
- 29 7. Water Quality
- 30 8. Buffers
- 31 9. Timetable for reporting monitoring results
- 32
- 33 I. Site Protection
- 34 1. Physical site protection
- 35 2. Legal protection
- 36 3. Buffers
- 37
- 38 J. Maintenance and Contingency Plans
- 39 1. Maintenance schedule
- 40 2. Contingency plan
- 41 a. Initiating procedure
- 42 b. Funding
- 43 c. Responsible parties

- 1
2 K. Implementation Schedule
3 1. Construction schedule
4 2. Monitoring schedule
5 3. Reporting schedule
6 4. Financial assurance
7
8

9 L. Permit Conditions. Any compensation project prepared pursuant to this section and
10 approved by the department shall become part of the application for the permit. The
11 department will require an additional growing season year for approval of mitigation plan
12 unless the applicant requests an inspection for final monitoring year during the final
13 monitoring year assessment.
14

15 M. Performance Bonds and Demonstration of Competence. A demonstration of financial
16 resources, administrative, supervisory, and technical competence and scientific expertise
17 of sufficient standing to successfully execute the compensation project shall be provided.
18 A compensation project manager shall be named, and the qualifications of each team
19 member involved in preparing the mitigation plan and implementing and supervising the
20 project shall be provided, including educational background and areas of expertise,
21 training and experience with comparable projects. A performance bond, assignment of
22 savings, or other like security will be required by the department in an amount necessary
23 to provide for future site monitoring and possible corrective action required for
24 compensatory mitigation projects. This bond, assignment of savings, or the security will
25 be released no later than five years after completion of the mitigation project. If the
26 approved mitigation is not completed or fails to meet its success standards, the property
27 owner must agree to a Property access release form, with forfeiture of funds after the
28 specified monitoring period.
29

30 F. **Waiver.** The department may waive portions of this report if, in its opinion, there is
31 adequate information available on the site to determine its impacts and appropriate
32 measures.
33

34 G. **List of Qualified Consultants.** The department shall establish a list of qualified
35 consultants to prepare mitigation plans.
36
37

38 **19.700.720 HABITAT MANAGEMENT PLAN**

39

40 A. A habitat management plan (HMP) is a site investigation report to evaluate the potential
41 presence or absence of a regulated fish or wildlife species or habitat affecting a subject
42 property and proposed development This report shall identify how development impacts

1 to fish and wildlife habitat from a proposed project will be mitigated. The Washington
2 Department of Fish and Wildlife, Priority Habitat and Species Management
3 Recommendations, dated May 1991, or bald eagle protection rules outlined in WAC 232-
4 12-292, as now or hereafter amended, may serve as guidance for this report. The
5 recommendation in the Washington Department of Fish and Wildlife, Priority Habitat
6 and Species Management Recommendations, dated May 1991, shall not serve as
7 mandatory standards or policy of this title, until such time as the Department of Fish and
8 Wildlife holds public hearings on the recommendations and the State Wildlife
9 Commission endorses the recommendations following the public hearings.

10
11 B. The habitat management plan shall contain a map prepared at an easily readable scale,
12 showing:

- 13 1. The location of the proposed development site;
- 14 2. The relationship of the site to surrounding topographic, water features, and
15 cultural features;
- 16 3. Proposed building locations and arrangements;
- 17 4. A legend which includes a complete legal description, acreage of the parcel, scale,
18 north areas, and date of map revision.
- 19 5. A WDFW PHS Data Base search that is no older than one year from the project
20 submittal or two years from the project approval.

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26
27 C. The habitat management plan shall also contain a report which describes:

- 28 1. The nature and intensity of the proposed development;
- 29 2. An analysis of the effect of the proposed development, activity or land use change
30 upon the wildlife species and habitat identified for protection; and,
- 31 3. A discussion on how the applicant proposes to mitigate any adverse impacts to
32 wildlife habitats created by the proposed development. (19.700.710 and 19.700.715,
33 Wetland Report/Wetland Mitigation Plan requirements.)

34
35
36
37
38 D. Examples of mitigation measures to be included in the Habitat Management Plan report,
39 include, but are not limited to:

- 40 1. Establishment of buffer zones.
- 41
42

- 1 a. When applicable, the order of sequence for buffer reductions shall be as follows:
 - 2
 - 3 i. Use of buffer averaging maintaining one hundred percent of the buffer
 - 4 area under the standard buffer requirement;
 - 5
 - 6 ii. Reduction of the overall buffer area by no more than twenty-five percent
 - 7 of the area required under the standard buffer requirement;
 - 8
 - 9 iii. Enhancement of existing degraded buffer area and replanting of the
 - 10 disturbed buffer area;
 - 11
 - 12 iv. The use of alternative on-site wastewater systems in order to minimize site
 - 13 clearing;
 - 14
 - 15 v. Infiltration of stormwater where soils permit; and,
 - 16
 - 17 vi. Retention of existing native or functionally equivalent vegetation on other
 - 18 portions of the site in order to offset habitat loss from buffer reduction.
 - 19
- 20 2. Preservation of native or functionally equivalent plants and trees that are essential to
- 21 maintaining habitat function;
- 22
- 23 3. Limitation of access to habitat areas;
- 24
- 25 4. Seasonal restriction of construction activities; and
- 26
- 27 5. Establishing phased development requirements and/or a timetable for periodic review
- 28 of the plan.
- 29
- 30 E. Habitat Management Plan shall be prepared by a person who has been educated in this
- 31 field and has professional experience as a fish or wildlife biologist (as defined at
- 32 19.150.330 and 19.150.720). For proposed single family dwelling construction,, the
- 33 department may complete the plan. Fees may be collected for this plan as specified in
- 34 Title 17 Kitsap County Zoning Code. Where this plan is required for the protection of an
- 35 eagle habitat, the eagle habitat management plan shall normally be prepared by the
- 36 Department of Fish and Wildlife, as required under the bald eagle management rules.
- 37

38 **19.700.725. GEOTECHNICAL REPORT AND GEOLOGICAL REPORT**

39
 40 Whenever development is proposed in a geologically hazardous area or shoreline setback as
 41 defined in Sections 300 and 400 of this title, or when the department determines that additional
 42 soils and slope analysis is appropriate on a particular site, the applicant is required to submit a

1 geotechnical or geological report that evaluates the surface and subsurface soil conditions on the
2 site.

3
4 **A. Qualifications**

- 5
6 1. Geotechnical reports shall be prepared by a geotechnical engineer (defined at 19.150.370).
7
8 2. Geological reports may be prepared by a licensed geologist, or geotechnical engineer as
9 defined at 19.150.370.

10
11 **B. General Provisions**

12
13 Report recommendations for earthwork, clearing or siting structures in geologically hazardous
14 areas shall be based on existing site conditions rather than measures that have not yet been
15 successfully approved, designed, or constructed (e.g., slope recontouring, slope retaining walls,
16 vegetation improvements, bulkheads, etc.). Shoreline bulkheads and retaining walls may only be
17 utilized as an engineering solution where it can be demonstrated that: 1) an existing residential
18 structure or other permitted existing public or private structures or public facilities such as roads
19 or highways; cannot be safely maintained without such measures; 2) other non-structural
20 methods of beach stabilization have been considered and determined infeasible; and 3) the
21 resulting stabilization structure is the minimum necessary to provide stability for the existing
22 structure and appurtenances.

23
24 Minor repair activities on existing permitted structures (i.e., those that do not involve design
25 modifications, changes in structure location, and/or demolition or abandonment of failed
26 structure and replacement with new structure) are not subject to the following project submittal
27 standards.

28
29 **C. Geological Report Submittal Standards**

30
31 A Geological Report is required for site development proposals that involve development
32 activity or the installation of structures within a geologically hazardous area or shoreline
33 setbacks, or as otherwise required pursuant to Sections 300 and 400 of this Title, but do not
34 involve or require engineering design recommendations. The following minimum
35 information is required:

- 36
37 1. Site information regarding the Kitsap County Shoreline Inventory Shoreline Environment
38 designation and Critical Areas Ordinance designations that affect site features and
39 shorelines; ption of surface and subsurface conditions, including ground materials,
40 vegetation, surface drainage, groundwater, and a preliminary geologic hazard assessment
41 which includes the locations of structures and the identification of the slope and/or
42 coastal processes occurring at the site and factors that contribute to them;
43

- 1 3. Review of available site information, literature, and mapping;
- 2
- 3 4. Detailed description of slope and other topographic features; and
- 4
- 5 5. Conceptual siting of structures and general recommendations which include methods and
- 6 practices that avoid and/or reduce slope and shore impacts. Minimum recommendations
- 7 should include upland and slope drainage control, groundwater control, site vegetation
- 8 management, and erosion control.
- 9

10 **D. Geotechnical Report Submittal Standards**

11
12 A Geotechnical Report is required when the department or a Geological Report determines
13 that a site development proposal requires additional site information such as engineering
14 design recommendations, slope stability analysis, subsurface exploration and testing, coastal
15 process analyses, or construction recommendations. Depending on the level of activity
16 proposed, the report will either be a more limited Geotechnical Slope Evaluation Report or a
17 full Geotechnical Design Investigation Report as described below.

18 19 **1. Geotechnical Slope Evaluation Report**

20
21 A Geotechnical Slope Evaluation Report is required when slope stability analyses are
22 confined to addressing only existing surface and/or drainage conditions, including the
23 relationship of natural and constructed slope features to proposed changes in
24 environmental conditions such as drainage, vegetation removal and slope geometry. The
25 following minimum information is required:

- 26
- 27 a. All the information required under subsection C, above (Geological Report);
- 28
- 29 b. Subsurface data, exploration logs, and testing data, when required by the geotechnical
- 30 engineer;
- 31
- 32 c. Estimated (or surveyed) site plan with ground surface profiles and typical cross-
- 33 sections;
- 34
- 35 d. Relative location of Ordinary High Water (OHW) on the surface profile and cross-
- 36 sections which includes Mean Higher High Water (MHHW) for the site location,
- 37 where applicable;
- 38
- 39 e. Soil strength parameters;
- 40
- 41 f. Stability analysis of existing site;
- 42
- 43 g. Analysis of the relationship of vegetation and slope stability; and

1
2 h. Conceptual site development plans and cross-sections.
3

4 **2. Geotechnical Design Investigation Report**
5

6 A Geotechnical Design Investigation Report is required for site development activities
7 that propose design and construction measures at the slope crest, face and/or toe. If a
8 designed structure does not impact slope stability or coastal processes, the report will not
9 be required to perform all items listed under this section, as long as each item is
10 addressed and the report details why a particular item does not apply. The report shall
11 include all items considered necessary by the engineer to fully address the engineering
12 design requirements of the site. The following minimum information is required:
13

- 14 a. All the information required under subsection D.1., above (Geotechnical Report);
15
16 b. Geotechnical requirements and measures to reduce risks;
17
18 c. Geotechnical criteria used for any designs including all critical dimensions, lateral
19 earth pressures, soil bearing pressures, location and limits of structures on or near the
20 slope, maximum constructed slope angles, minimum soil reinforcement embedment,
21 soil compaction requirements, and structure heights;
22
23 d. Temporary construction slope stability recommendations and analysis of proposed
24 final site stability measures;
25
26 e. Required construction specifications and construction monitoring procedures;
27
28 f. Revegetation and surface and groundwater management requirements;
29
30 g. Evaluation of erosion potential and recommendations for erosion avoidance and any
31 proposed mitigation measures;
32
33 h. Detailed tabulation of all basic geotechnical engineering test results pertinent to
34 design and construction, and when required for clarification, detailed examples of
35 tests conducted for the project; and
36
37 i. Information outlined in the Geotechnical Design Investigation Report Site Evaluation
38 Checklist (see section F, below).
39
40

1 **E. Additional Requirements for Sites in Geologically Hazardous Areas**
2

3 When a project site is located within a landslide-prone a geologically hazardous area, as
4 classified in Section 19.400.410, the following additional project submittal requirements shall
5 apply:
6

7 **1. Erosion Control Information**
8

9 An evaluation of the erosion potential on the site during and after construction. The
10 evaluation shall include recommendations for mitigation, including retention of
11 vegetative buffers and a revegetation program. The geotechnical engineer shall provide a
12 statement identifying buffer areas at the top or toe of a slope based on geotechnical site
13 constraints and the impacts of proposed construction methods on the erosion potential of
14 the slope.
15

16 **2. Seismic Information**
17

18 The geotechnical engineer shall submit a statement that the design criteria consider the
19 one-in-100 year seismic event (an earthquake ground motion that has a 40% probability
20 of exceedance in 50 years). Calculations of soil bearing capacity, general soil stability,
21 and wall lateral earth pressures shall be adjusted to reflect a one-in-100 year seismic
22 event and the structural plans for the project shall be reviewed by the geotechnical
23 engineer for consistency with these design criteria.
24

25 Analysis for the one-in-100 year seismic event shall be based on a near crustal event
26 having an assumed magnitude of 6.5 and occurring directly below the site. Based on
27 regional studies performed by others, the Department will allow the use of the following
28 minimum general values of horizontal peak ground accelerations for this event:
29

- 30 a = 0.2g for fill, alluvial soils
31 a = 0.17g for till, firm glaciated soils
32 a = 0.15g for rock
33

34 The appropriateness of the above accelerations shall be confirmed by the geotechnical
35 engineer based on the actual site characteristics. Reduction in the above values may be
36 considered when supported by the appropriate analytical evidence. Slope stability, lateral
37 pressures, and liquefaction of the site shall be assessed by using subsurface soil, rock and
38 groundwater conditions, as well as the seismic parameters discussed above.

1
2 **3. Recommendations on Relative Site Stability**
3

4 The geotechnical engineer shall make recommendations as to which portion of the site is
5 the least prone to instability and the preferred location of the structure. The limits of any
6 area proposed for grading activity shall be identified in the recommendations.
7

8 **4. Construction Season Limitation**
9

10 In general, no excavation will be permitted in landslide-prone geologically hazardous
11 areas during the typically wet winter months. When excavation is proposed, including
12 the maintenance of open temporary slopes, between October 1 and April 30, technical
13 analysis shall be provided to ensure that no environmental harm, threat to adjacent
14 properties, or safety issues would result. In addition, recommendations for temporary
15 erosion control and shoring/mitigating measures shall be provided. The technical
16 analysis shall be submitted to the department and shall consist of plans showing
17 mitigation techniques and a technical memorandum from the geotechnical engineer.
18

19 **5. Revisions to Geotechnical Report**
20

21 Further recommendations shall be provided by the geotechnical engineer should there be
22 additions or exceptions to the original recommendations based on the plans, site
23 conditions, or other supporting data. If the geotechnical engineer who revises the plans
24 and specifications is not the same engineer who prepared the geotechnical report, the new
25 engineer shall, in a letter to the department, express his or her agreement or disagreement
26 with the recommendations in the geotechnical report and state whether the plans and
27 specifications conform to his or her recommendations.
28

29 **6. Plan and Specification Review**
30

31 The geotechnical engineer shall submit a statement that in his or her judgment, the plans
32 and specifications (if prepared by others) conform to the recommendations in the
33 geotechnical report and that all portions of the site which are disturbed or impacted by the
34 proposed development have appropriate measures or specifications that permit
35 construction to occur while addressing slope stability so that the work does not create
36 additional risk. The statement shall also indicate whether or not a relative gain in slope
37 stability will be achieved after construction is complete.
38

39 **7. Construction Inspection**
40

41 A final inspection report shall be provided by the geotechnical engineer stating that
42 construction has or has not implemented the design recommendations of the geotechnical
43 report, and evaluating of any deviation from the design recommendations.

1 **F. Geotechnical Design Investigation Report - Site Evaluation Checklist**
2

3 The following are general report guidelines for Geotechnical Design Investigation Reports. The
4 following guidelines are not intended to be all inclusive. It is the responsibility of the
5 geotechnical engineer to address all factors which in their opinion, are relevant to the site. The
6 checklist information shall be included as part of the Geotechnical Design Investigation Report.
7 All items listed below must be addressed in the report. Information shall be provided for those
8 items which are not relevant to a given site to demonstrate why the items are not applicable.
9

10 **1. Project Information:**

- 11 a. Site Owner Name;
- 12 b. Project Proponent Name;
- 13 c. Shoreline Environment Designation (where applicable); and
- 14 d. Critical Areas Ordinance (CAO) designations affecting site features.
- 15
- 16
- 17
- 18
- 19

20 **2. Project Description:**

- 21 a. Description of proposed structures, site improvements, and adverse impact avoidance
22 and reduction methods.
- 23 b. Location and total area of the construction zone.
- 24
- 25
- 26
- 27

28 **19.700.730 HYDROGEOLOGICAL REPORT**
29

30 A hydrogeological report shall be required for certain proposed operations based on a
31 consultation with the appropriate local and state agencies. The report shall address the impact the
32 proposed land use will have on both the quality and quantity of the water transmitted to the
33 aquifer. The report shall also address the types of pesticides and herbicides and fertilizers that
34 can safely be used for the care of landscaping proposed by the applicant.
35

36 A. The report shall be submitted to the department and shall address, at a minimum, the
37 following criteria:

- 38 1. Surficial soil type and geologic setting;
- 39 2. Location and identification of wells within 1,000 feet of the site;
- 40 3. Location and identification of surface water bodies and springs within 1,000 feet
41 of the site with recharge potential;
- 42 4. Description of underlying aquifers and aquitards, including water level, gradients
43 and flow direction;
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5. Available surface water and groundwater quality data;
6. Effects of the proposed development on water quality;
7. Sampling schedules required to assure water quality;
8. Discussion of the effects of the proposed development on the groundwater resource;
9. Recommendations on appropriate BMP (Best Management Practices) or mitigation to assure no significant degradation of groundwater quality; and
10. Other information as required by the Kitsap County Health District.

- B. The hydrogeologic report shall be prepared by a professional geologist/hydrologist or by a soil scientist with a strong background in geology (see Section 19.150.365).
- C. Applications for development or operations with underground storage of petroleum products will be processed using the appropriate procedure as specified in existing Kitsap County ordinances.
- D. Analysis for a specific parcel(s), using the criteria outlined below, will be employed to confirm if the soils present require a recharge area designation. Data collection will include, at a minimum, six soil logs to a depth of ten feet (or to a depth four feet below the lowest proposed excavation point whichever is greater) for each acre in the parcel(s) being evaluated. At least one well that is two hundred feet or greater in depth with an adequate drilling report must be available within one mile. The associated data shall be analyzed and included in the hydrogeologic report to determine the presence of highly permeable soils with the recharge area designation.

For development proposals within aquifer recharge areas of concern, the hydrogeological report may be based on quarter-quarter section basis where the number of wells within a half-mile radius is thirty-six or more. To facilitate computer analysis, the evaluation may be done on a quarter-quarter section basis using the quarter-quarter section in which a parcel of interest is located and all the surrounding quarter-quarter sections, in place of the half-mile circle.

Chapter 19.800
APPENDICES

The purpose of the appendices is to provide supporting documentation to assist in the implementation of this ordinance.

Appendix A **Washington State Wetlands Rating System Categories.**

Appendix B **Washington State DNR Stream Typing System.**

Appendix C **Kitsap County GIS Database of Critical Areas Information.**

Appendix D **Site Development Figures.**

Appendix E **Kitsap County Wetland Buffer Alteration
General Authorization Form.**

APPENDIX A
Washington State Wetlands Rating System Categories (19.200.210)

This system utilizes a four-tier process. The following text includes an additional categorization system for wetlands.

A. Category I Wetlands.

Category I Wetlands are:

1. Wetlands with habitat for endangered or threatened fish or animal species or for potentially eradicated plant species recognized by state or federal agencies;
2. Wetlands with high quality native or regionally rare wetland communities with irreplaceable ecological functions including, but not limited to, sphagnum bogs and fens, estuarine wetlands, mature forested wetlands, or wetlands which qualify for inclusion in the Natural Heritage Information System; or
3. Wetlands scoring 70 points or more (out of 100) on the questions related to functions in the Washington State Wetland Rating System for Western Washington

B. Category II Wetlands.

Category II wetlands satisfy no Category I criteria but are:

1. Wetlands scoring between 51-69 points (out of 100) on the questions related to functions in the Washington State Wetland Rating System for Western Washington.
2. Wetlands with habitats for sensitive plant, fish or animal species recognized by federal or state agencies;
3. Wetlands with rare wetland communities listed in subsection (A)(2) that are not high quality;
4. Wetland types with significant functions that cannot be adequately replicated through creation or restoration. These types have the following characteristics:
 - a. Significant peat systems;
 - b. Forested wetlands that have three canopy layers, excluding single species stands of red alder averaging eight inches in diameter at breast height or less; or
 - c. Significant spring fed systems;
5. Wetlands with significant habitat value based on diversity and size; or
6. Wetlands five acres or greater in size that contain open water at any time during a normal year and two or more subclasses of vegetation in a dispersed pattern;

- 1
2 7. Wetlands contiguous with salmonid fish-bearing water, including streams where
3 flow is intermittent; or
4
5 8. Wetlands with significant use by fish and wildlife.
6

7 **C. Category III Wetlands.**
8

9 Category III wetlands that do not contain features outlined in Category I or II, but are:
10

- 11 1. Wetlands scoring between 30-50 points (out of 100) on the questions related to
12 functions in the Washington State Wetland Rating System for Western
13 Washington.
14
15 2. Wetlands that are contiguous with a stream, river, pond, lake or marine water; or
16
17 3. Isolated wetlands larger than one acre; or
18
19 4. Wetlands (isolated or contiguous) that provide a critical aquifer recharge
20 function; or
21
22 5. Wetlands more than .5 acre that have less than eighty percent cover of hardhack,
23 soft rush or alder at least twenty years of age; or
24
25 6. Wetlands more than .5 acre that have less than eighty percent cover of non-native
26 species, including, but not limited to, reed canary grass and common pasture
27 grasses.
28

29 **D. Category IV Wetlands.**
30

31 Category IV wetlands that do not meet the criteria of a Category I, II or III wetland and
32 are:
33

- 34 1. Isolated wetlands that are less than or equal to one acre in size, are hydrologically
35 isolated, have only one wetland class, and have only one dominant plant species
36 (>80% area cover of monotypic vegetation); or
37
38 2. Isolated wetlands that are less than or equal to two acres in size, are
39 hydrologically isolated, have only one wetland class and a predominance of exotic
40 species (>90% area cover).
41
42 3. Wetlands scoring below 30 points (out of 100) on questions related to functions in
43 the Washington State Wetland Rating System for Western Washington.
44
45
46
47

1 E. **Dual Categorization Standards.**

2
3 Portions of a Category I or II wetland may be classified as a Category II or III wetland
4 based upon its functional characteristics if it meets the following criteria:

- 5
6
7 1. The portion of the wetland to be categorized as a Category II or III meets the
8 technical criteria required for a Category II or III wetland, as determined in the
9 Wetland Rating System;
- 10
11 2. The portion of the wetland to be rated lower in category must have a width of at
12 least twice the required buffer width of the higher rated wetland category.

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APPENDIX B
Washington State Department of Natural Resources Stream Typing System

Water Type Conversion Table

Permanent Water Typing	Previous Water Typing
Type "S"	Type 1 Water
Type "F"	Type 2 and 3 Water
Type "Np"	Type 4 Water
Type "Ns"	Type 5 Water

- A. **"Type S Streams"** are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-030(1) as now or hereafter amended, as a Type S Water and are inventoried as "Shorelines of the State" under the Shoreline Management Master Program for Kitsap County, pursuant to RCW Chapter 90.58. Type S waters contain salmonid fish habitat.

- B. **"Type F Streams"** are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-030(2) as now or hereafter amended, as a Type F Water. Type F streams contain habitat for salmonid fish, game fish and other and anadromous fish.

- D. **"Type Np Streams"** are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-030 (3) as now or hereafter amended, as a Type Np Water. Type Np waters do not contain salmonid fish habitat.

- E. **"Type Ns Streams"** are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-030 (4) as now or hereafter amended, as a Type Ns Water. These streams are areas of perennial or intermittent seepage, ponds, and drainage ways having short periods of spring or storm runoff. Type Ns waters do not contain salmonid fish.

1
2 **APPENDIX C - Kitsap County's GIS Database of Critical Areas Information**

3	<i>CRITICAL AREA</i>	<i>GIS DATA</i>	<i>INFORMATION SOURCE</i>
4			
5			
6	WETLANDS -		
7			
8		National Wetlands Inventory	U.S. Fish and Wildlife Service
9		Soil Survey of Kitsap County	U.S. Dept. of Agriculture –
10			Natural Resource Conservation Service
11			
12	AQUIFERS –		
13			
14		Critical Aquifer Recharge Areas	Kitsap Public Utilities District (PUD) #1
15		Aquifer Recharge Areas of Concern	Kitsap PUD #1
16		Principle Aquifers	Kitsap PUD #1
17		Soil Survey of Kitsap County	U.S. Dept. of Agriculture –
18			Natural Resource Conservation Service
19			
20			
21			
22	FISH AND WILDLIFE		
23	HABITAT CONSERVATION		
24	AREAS -		
25			
26		National Wetlands Inventory	U.S. Fish and Wildlife Service
27		Non-game & Priority Species	WA. Dept. of Fish and Wildlife
28		Habitat Database	
29		Washington Rivers Information	WA. Dept. of Fish and Wildlife
30		System Database	
31		Waters of Washington State	WA. Dept. of Natural Resources
32		WA. Coastal Zone Atlas	WA Dept. of Ecology
33			
34			
35			
36			
37			
38	FREQUENTLY		
39	FLOODED AREAS –		
40			
41		Flood Insurance Rate Map	Federal Emergency Management Agency
42			
43	GEOLOGICALLY		
44	HAZARDOUS AREAS –		
45			
46		WA. Coastal Zone Atlas	WA Dept. of Ecology
47		Soil Survey of Kitsap County	U.S. Dept. of Agriculture –
48			Natural Resource Conservation Service
49		Quaternary Geology and	Jerald Deeter,1979
50		Stratigraphy of Kitsap County	
51		Light Distancing and Radar	
52		(LiDAR) Mapping	Puget Sound LiDAR Consortium
53			

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APPENDIX D - Site Development Figures

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1 Appendix E Kitsap County Wetland Buffer Alteration General Authorization Form

2
3 Application No. _____

4
5 1. Landowner _____ Phone _____
6 Mailing Address _____
7 _____

8
9 2. Authorized Agent/Contact _____ Phone _____
10 Mailing Address _____
11 _____

12
13 3. Person Responsible for Work _____ Phone _____
14 Mailing Address _____
15 _____

16
17 4. Project Location _____
18 _____
19 Watershed _____ Tax Acct No. _____
20 Adjacent Water Body (river, lake): _____
21 Township _____ Range _____ Section _____
22 _____

23 5. Project Information

24 Total square footage of regulated buffer _____

25 Project Will:

26 Require _____ square feet of buffer averaging

27 Require _____ square feet of buffer reduction under 25% agreement

28 Enhance _____ square feet of buffer or _____ square feet wetland

29 Restore _____ square feet of buffer or _____ square feet wetland
30

31 6. Required Attachments (on 8.5x11 or 8.5x14 paper)

32 Vicinity map showing project location

33 Aerial photograph showing project boundaries

34 Photographs of the site and project areas
35

36 Site plan map and/or aerial photo showing:

37 Location of existing structures, roads, streams and other pertinent features

38 Location and approximate boundaries of existing wetlands

39 Location and boundaries of proposed buffer alteration areas
40

41 I agree that the information provided above is accurate to the best of my knowledge
42
43
44

45 _____
46 Applicant Signature

Date

47 Return completed form and attachments to:

48 Kitsap County Community Development

49 614 Division Street MS-36

50 Port Orchard, WA 98366
51

52 _____ Staff Initials