

ORDINANCE NO. ____

AN ORDINANCE amending Ordinances 392 and 393, repealing or modifying certain sections of Grays Harbor County Code Title 18 and adding new sections relating to definitions, general exemptions, reasonable use exceptions, development standards for wetland areas, and development standards for fish and wildlife habitat conservation areas.

WHEREAS, Grays Harbor County finds, after consultation with affected interest groups, citizens, and state agencies, that there is a need to update certain sections of Title 18 relating to critical areas protection to ensure compliance with the Growth Management Act;

NOW, THEREFORE, be it ordained by the Board of Commissioners of Grays Harbor County, Washington, that the following sections of Ordinances 392 and 393 and to Title 18 be amended or deleted:

Section 1: The title of Title 18, “State Environmental Policy Act Procedures,” is changed to “Environment.”

Section 2: Ordinance 392 and Section 18.02.010 is amended to add the following definitions:

- (A) EDNA means the environmental designation for noise abatement, being an area or zone (environment) within which maximum permissible noise levels are established.
- (B) “Fish and Wildlife Habitat Conservation Areas” means land management for maintaining populations of species in suitable habitats within their natural geographic distribution so that the habitat available is sufficient to support viable populations over the long term and isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean not degrading or reducing populations or habitats so that they are no longer viable over the long term. Cooperative planning and coordination should occur to help assure long-term population viability.

Fish and wildlife habitat conservation areas contribute to the state’s biodiversity and occur on both publicly and privately owned lands. Designating these areas is an important part of land use planning for appropriate development densities, urban growth area boundaries, open space corridors, and incentive-based land conservation and stewardship programs.

Fish and wildlife habitat conservation areas include:

1. Areas where endangered, threatened, and sensitive species have a primary association;

2. Habitats and species of local importance, as determined locally;
3. Commercial and recreational shellfish areas;
4. Kelp and eelgrass beds; herring, smelt, and other forage fish spawning areas;
5. Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat;
6. Waters of the state;
7. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity; and
8. State natural area preserves, natural resource conservation areas, and state wildlife areas.

Section 3: Ordinance 393 and Section 18.06.025, General Exemptions, are amended to read as follows:

The following are exempt from the provisions of this chapter:

- A. ~~Federal, state, or county declared emergencies threatening public health, safety and welfare~~ Those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventative action in a timeframe too short to allow for compliance with the requirements of this chapter; provided that:
 1. The activity must be the minimum necessary to alleviate the emergency in the critical area or its buffer;
 2. The person or agency undertaking emergency activities shall notify the county prior to any action taken to remedy the emergency; provided, however, that if prior notification is not feasible, the project proponent shall notify the county within one working day following commencement of the emergency activity;
 3. After the emergency, the person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved critical area report and mitigation plan;
 4. The person or agency undertaking the action shall apply for review, and the alteration, critical area report, and mitigation plan shall be reviewed by the county in accordance with the review procedures contained herein; and

5. The person or agency shall initiate restoration and/or mitigation activities within one year of the date of the emergency and complete said activities in a timely manner.
- B. Structures in existence on the date this chapter takes effect;
- C. For the following agricultural activities in existence on the date this chapter takes effect:
1. Grazing of livestock;
 2. Mowing of hay, grass or grain crops;
 3. Tilling, disking, planting, seeding, harvesting and related activities for pasture food crops, grass seed or sod;
 4. Normal and routine maintenance of existing irrigation and drainage ditches;
 5. Normal and routine maintenance of farm ponds, fish ponds, manure lagoons, and livestock watering ponds;
 6. This chapter does not require modification of or limitations to agricultural activities otherwise lawfully occurring on agricultural lands. For purposes of this section, agricultural activities shall include the following definitions:
 - (a) "Agricultural activities" means agricultural uses and practices including, but not limited to, (1) producing, breeding, or increasing agricultural products, (2) rotating and changing agricultural crops or products, (3) allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded, (4) allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions, (5) allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement, (6) conducting agricultural operations, (7) maintaining, repairing, and replacing agricultural equipment, (8) maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the critical protection area than the original facility, (9) maintaining agricultural lands under production or cultivation, and (10) aquaculture, including shellfish harvesting.
 - (b) "Agricultural products" includes, but is not limited to, (1) horticultural, viticultural, silvicultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products, (2) feed or

forage for livestock, (3) Christmas trees, (4) hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty (~~20~~) years of planting, and (5) livestock, including both the animals themselves and animal products including but not limited to meat, upland finfish, poultry and poultry products, and dairy products.

- (c) "Agricultural equipment" and "agricultural facilities" includes, but is not limited to:
 - (i) ~~The following used in agricultural operations:~~ Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including but not limited to pumps, pipes, tapes, canals, ditches, and drains;
 - (ii) Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;
 - (iii) Farm equipment, lands, and facilities; and (iv) roadside stands and on farm markets for marketing fruit or vegetables.

- (d) "Agricultural land" means those specific land areas on which agriculture activities are conducted, including aquaculture activities.

To the greatest extent practicable, the county will implement voluntary programs enhancing viability of agriculture. Voluntary programs implemented shall include measures to evaluate the successes of these programs.

- D. For the following electric, natural gas, cable communications, and telephone utility related activities, when undertaken pursuant the best management practices contained in the current edition of State Department of Ecology's "Stormwater Management Manual for Western Washington":
 1. Normal and routine maintenance or repair of existing utility structures in a developed public right-of-way or private easement, provided that the action does not expand further into a critical protection area;
 2. Relocation of electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of fifty five thousand (~~55,000~~) volts or less only when required by a local governmental agency that approves the new location of the facilities;
 3. Relocation of natural gas, cable communications, gas and telephone facilities, lines, pipes, mains, equipment or appurtenances only when the new location

of the facilities is required and approved by the county or other governmental agency with jurisdiction;

4. Installation or construction in a public road right-of-way, and the replacement, operation or alteration, of all electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of fifty five thousand (~~55,000~~) volts or less;
 5. Installation or construction in a public road right-of-way or private easement, and the replacement, operation, repair or alteration of all natural gas, cable communications and telephone facilities, lines, pipes, mains, equipment or appurtenances.
- E. Public agency development proposals, but only to the extent of any construction contract awarded before the effective date of this section, provided that any regulation in effect at the time of such award shall apply to such proposal.
- F. State Department of Natural Resources Class I, Class II, Class III, and Class IV Special Forest Practices.

Section 4: Section 6 of Ordinance 393 and Section 18.06.030, Essential Public Facility Exception, is hereby deleted.

Section 5: Section 7 of Ordinance 393 and Section 18.06.035, Reasonable Use Exception, is amended to read as follows:

- A. If application of this chapter would deny all reasonable use of the property that was permitted by the applicable zoning district before the effective date of this chapter, development may be allowed that is consistent with the general purposes of this chapter and the public interest.
- B. An application for a critical area protection reasonable use exception shall be filed with the Planning and Building Division, and shall be approved, approved with conditions, or disapproved as the case may be by the board of adjustment.
- C. The board of adjustment shall review an application for an exception pursuant to the provisions of Chapter 2.12 of this code. ~~Before If recommending approval approving~~ of a reasonable use exception, the board must find that:
1. Application of this chapter would deny all reasonable use of the property that was permitted by the applicable zoning district before the effective date of this chapter; and,
 2. There is no other reasonable use with less impact on the critical protection area; and,

3. The proposed development does not pose an unreasonable threat to the public health, safety, or welfare ~~on or off the development proposal site; and,~~
 4. Any alterations permitted to these critical protection areas shall be the minimum necessary to allow for reasonable use of the property;
 5. The proposal and the required on-site or off-site mitigation will result in no net loss of critical area functions and values consistent with the best available science; and
 6. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the effective date of this chapter or its predecessor.
- D. Upon approval of a reasonable use exception, the county will not take measures to protect the property or any improvements upon it from damage caused or increased because of its location within or near a critical area.
- ~~D~~E. Except when application of this chapter will deny all reasonable use of the property as referenced in Section 18.06.035(A), an applicant seeking relief from the standards and requirements of this chapter shall obtain a variance as provided in Section 18.06.040.

Section 6: Section 26 of Ordinance 393 and Section 18.06.135, Critical Protection Area Development Standards for Wetlands, is amended to read as follows:

~~Critical protection area~~ Development Standards for Wetland Areas

- A. The county shall utilize the United States Department of the Interior Fish and Wildlife Service's National Wetlands Inventory Map and the current edition of the State Department of Ecology document entitled "Washington State Wetlands Identification and Delineation Manual" in determining the location of wetland areas, and utilize the current edition of State Department of Ecology's "Washington State Wetlands Identification Manual" for the delineation of wetland areas, the current edition of the "Washington State Wetland Rating System for Western Washington" for categorizing wetland areas, and the current editions of "Wetland Mitigation in Washington State Part 1: Agency Policies and Guidance", "Wetland Mitigation in Washington State Part 2: Developing Mitigation Plans", "Wetlands in Washington State Volume 1: A Synthesis of Science", and "Wetlands in Washington State Volume 2: Managing and Protecting Wetlands" for the mitigation of wetland area impacts except as superseded by those protection measures contained in Section 18.06.135(B)(6).

- B. Wetland Areas. Development proposals on sites containing wetland areas shall meet the following requirements:
1. Wetland areas and any proposed or required buffers shall not be altered except as expressly authorized by this chapter.
 2. All approved alterations shall have an appropriate mitigation plan where the county determines, upon review of a critical protection area special study completed by a qualified professional, that either:
 - (a) The wetland area does not serve any of the existing value and functions of wetland areas identified in Section 18.06.135(B)(5), including but not limited to, existing wildlife habitat and natural drainage functions; or
 - (b) The proposed development would protect wildlife habitat, natural drainage, and/or other existing valuable functions of wetlands and would be consistent with the purposes of this chapter. The required studies may include habitat value, hydrology, erosion and deposition, and/or water quality studies. Such studies shall include specific recommendations for mitigating measures that should be required as a condition of any approval for the development. The recommendations may include, but are not limited to, construction techniques or design, drainage, or density specifications.
 3. If a wetland area is in a frequently flooded area, the county shall notify the State Department of Ecology, Quinault Indian Nation and the Confederated Tribes of the Chehalis Indian Reservation of alteration plans prior to the initiation of any alteration and submit evidence of such notification to the Federal Insurance Administration. Any alterations must be consistent with the provisions of Section 18.06.135(B)(6)(g).
 4. No plant or wildlife not indigenous to the Pacific Northwest may be introduced into any wetland area unless authorized by a state or federal license or permit.
 5. Wetland Classifications.
 - (a) Category 1 Wetland means a wetland area that represents a unique or rare wetland type, or is more sensitive to disturbance than most wetlands, or that is relatively undisturbed and contains ecological attributes that are impossible to replace within a human lifetime, or provide a high level of functions. Refer to section 18.06.135(A) for specific classification document.

- (b) Category 2 Wetland means a wetland area that is difficult though not impossible to replace and provides high levels of some functions. Refer to Section 18.06.135(A) for specific classification document.
- (c) Category 3 Wetland means a wetland area of a moderate level of function or an interdunal wetland area between 0.1 acre and one acre in size. Refer to Section 18.06.135(A) for specific classification document.
- (d) Category 4 Wetland means a wetland area that has the lowest levels of function and is often heavily disturbed. Refer to Section 18.06.135(A) for specific classification document.

6. Wetland Area Protection Standards.

(a) Buffers.

(1) All buffers are measured from the wetland edge as marked in the field. The wetland edge shall be delineated by use of the method described in State Department of Ecology's "Washington State Wetlands Identification and Delineation Manual."

(2) The following buffers are minimum requirements for development.

(1) Category 1 Wetlands shall be protected with a buffer width as set forth in Table A Wetland Buffers, provided that all the following impact mitigation measures are implemented:

(1) Outdoor lighting from the development shall be designed and installed to prevent direct casting into adjacent wetland areas. Final design shall be reviewed and approved by the planning and building division prior to permit issuance.

(2) ~~Outdoor noise-generating activities in those areas of the property located adjacent to buffer areas shall be conducted in such a manner so as to minimize impacts to wildlife utilizing adjacent wetland areas.~~ The county adopts Chapter 173-60 WAC and classifies wetlands as Class A EDNA

receiving properties for managing intruding noise levels.

- (3) Any treated surface water proposed for discharge into any on-site delineated wetland area shall be conveyed in a manner consistent with those practices set forth in "Guide Sheet 2: Wetland Protection Guidelines" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.
- (4) The applicant shall prepare a restrictive covenant, to be placed upon the deed for the property that prohibits use of pesticides within one hundred fifty (150) feet of the delineated on-site wetland area. The covenant shall be recorded by the county prior to permit issuance.
- (5) The applicant shall utilize integrated pest management practices as set forth in the county's current "Best Management Practices Plan."
- (6) Existing on-site drainage system facilities shall be reviewed by a Washington State -licensed engineer to determine such facilities ability to accommodate the increased volume of surface water created by the new development. The facilities shall be modified as necessary with facility design consistent with the direction provided in "Volume III" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.
- (7) Surface water from areas adjacent to on-site delineated wetland areas shall be channelized and treated prior to discharge into wetland buffer areas. Surface water treatment shall be

consistent with "BMP T511" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.

- (8) Surface water management shall be consistent with low impact development (LID) practices as set forth in the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington" and the 2005 Puget Sound Action Team and Washington State University Pierce County Extension document entitled "Low Impact Development: Technical Guidance Manual for Puget Sound." Final design shall be reviewed and approved by the public works division prior to permit issuance.
- (9) Surface water from impervious surfaces and lawns located adjacent to on-site delineated wetland areas shall be channelized and treated prior to discharge into wetland buffer areas. Surface water treatment shall be consistent with all practices prescribed in "Volume V" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.
- (10) ~~The outer boundary of the delineated on-site wetland area shall be segregated from the developed portion of the property through the installation of fencing or the planting of dense vegetation. The wetland study prepared for the development shall include specifics regarding the fencing details or the planting design, and shall include a site map drawn to scale that indicates the location of the fencing or planting. The final detail or design shall be reviewed and approved by the planning and building division prior to permit issuance. The delineated on-site wetland~~

~~area shall be placed in a separate tract as prescribed in Section 18.06.070. The county may require construction of temporary or permanent fencing on the boundary of a wetland buffer to protect its functions and values. Fencing design shall not interfere with fish and wildlife migration and shall minimize impacts to the wetland and its associated habitat.~~

- (11) The applicant shall utilize dust control best management practices (BMP) during development activities. Such practices shall be consistent with "BMP C140" of the 2005 State Department of Ecology document entitled "Stormwater Management."
 - (12) ~~The delineated on-site wetland area shall be placed in a separate tract or easement as prescribed in Section 18.06.070.~~
 - (13) Absent the mitigation measures noted in Section 18.06.135(B)(6)(a)(ii)(I) (1) through and including Section 18.06.135(B)(6)(a)(ii)(I)(11), Category 1 wetlands shall be protected with a three hundred ~~(300)~~ foot wide buffer.
- (II) Category 2 Wetlands shall be protected with a buffer width set forth in Table A Wetland Buffers, provided that the following impact mitigation measures are also implemented:
- (1) Outdoor lighting from the development shall be designed and installed to prevent direct casting into adjacent wetland areas. Final design shall be reviewed and approved by the planning and building division prior to permit issuance.
 - (2) ~~Outdoor noise-generating activities in those areas of the property located adjacent to buffer areas shall be conducted in such a manner so as to minimize impacts to wildlife utilizing adjacent wetland areas.~~ The county adopts Chapter 173-60 WAC and classifies wetlands as Class A EDNA

receiving properties for managing intruding noise levels.

- (3) All treated surface water proposed for discharge into any on-site delineated wetland area shall be conveyed in a manner consistent with those practices set forth in "Guide Sheet 2: Wetland Protection Guidelines" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.
- (4) The applicant shall prepare a restrictive covenant to be placed upon the deed for the property prohibiting use of pesticides within one hundred fifty (~~150~~) feet of the delineated on-site wetland area. The covenant shall be recorded by the county prior to permit issuance.
- (5) The applicant shall utilize integrated pest management practices as set forth in the county's current "Best Management Practices Plan."
- (6) Existing on-site drainage system facilities shall be reviewed by a Washington State-licensed engineer to determine their ability to accommodate the increased volume of surface water created by the new development. The facilities shall be modified as necessary, with facility design consistent with the direction provided in "Volume III" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.
- (7) Surface water from areas adjacent to on-site delineated wetland areas shall be channelized and treated prior to discharge into wetland buffer areas. Surface water treatment shall be

consistent with "BMP T511" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.

- (8) Surface water management shall be consistent with low impact development (LID) practices as set forth in the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington" and the 2005 Puget Sound Action Team and Washington State University -Pierce County Extension document entitled "Low Impact Development: Technical Guidance Manual for Puget Sound." Final design shall be reviewed and approved by the public works division prior to permit issuance.
- (9) Surface water from impervious surfaces and lawns located adjacent to on-site delineated wetland areas shall be channelized and treated prior to discharge into wetland buffer areas. Surface water treatment shall be consistent with those practices contained in "Volume V" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington" Final design shall be reviewed and approved by the public works division prior to permit issuance.
- (10) ~~The outer boundary of the delineated on-site wetland area shall be segregated from the developed portion of the property through the installation of fencing or the planting of dense vegetation. The wetland study prepared for the development shall include specifics regarding the fencing details or the planting design, and shall include a site map drawn to scale that indicates the location of the fencing or planting. The final detail or design shall be reviewed and approved by the planning and building division prior to permit issuance. The delineated on-site wetland~~

~~area shall be placed in a separate tract as prescribed in Section 18.06.070. The county may require construction of temporary or permanent fencing on the boundary of a wetland buffer to protect its functions and values. Fencing design shall not interfere with fish and wildlife migration and shall minimize impacts to the wetland and its associated habitat.~~

- (11) The applicant shall utilize dust control best management practices (BMP) during development activities. All such practices shall be consistent with "BMP C140" of the 2005 State Department of Ecology document entitled "Stormwater Management."
 - (12) ~~The delineated on-site wetland area shall be placed in a separate tract or easement as prescribed in Section 18.06.070.~~
 - (13) Absent the mitigation measures noted in Section 18.06.135(B)(6)(a)(ii)(II)(1) through and including Section 18.06.135(B)(6)(a)(ii)(II)(11), Category 2 wetlands shall be protected with a three hundred ~~(300)~~ foot wide buffer.
- (III) Category 3 Wetlands shall be protected with a buffer width set forth in Table A Wetland Buffers, provided that the following impact mitigation measures are also implemented:
- (1) Outdoor lighting from the development shall be designed and installed to prevent direct casting into adjacent wetland areas. Final design shall be reviewed and approved by the planning and building division prior to permit issuance.
 - (2) ~~Outdoor noise-generating activities in those areas of the property located adjacent to buffer areas shall be conducted in such a manner so as to minimize impacts to wildlife utilizing adjacent wetland areas. The county adopts Chapter 173-60 WAC and classifies wetlands as Class A EDNA~~

receiving properties for managing intruding noise levels.

- (3) All treated surface water proposed for discharge into any on-site delineated wetland area shall be conveyed in a manner consistent with those practices set forth in "Guide Sheet 2: Wetland Protection Guidelines" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.
- (4) The applicant shall prepare a restrictive covenant to be placed upon the deed for the property prohibiting use of pesticides within one hundred fifty (~~150~~) feet of the delineated on-site wetland area. The covenant shall be recorded by the county prior to permit issuance.
- (5) The applicant shall utilize integrated pest management practices as set forth in the county's current "Best Management Practices Plan."
- (6) Existing on-site drainage system facilities shall be reviewed by a Washington State- licensed engineer to determine their ability to accommodate the increased volume of surface water created by the new development. The facilities shall be modified as necessary, with facility design consistent with the direction provided in "Volume III" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.
- (7) Surface water from areas adjacent to on-site delineated wetland areas shall be channelized and treated prior to discharge into wetland buffer areas. Surface water treatment shall be

consistent with "BMP T511" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.

- (8) Surface water management shall be consistent with low impact development (LID) practices as set forth in the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington" and the 2005 Puget Sound Action Team and Washington State University -Pierce County Extension document entitled "Low Impact Development: Technical Guidance Manual for Puget Sound." Final design shall be reviewed and approved by the public works division prior to permit issuance.
- (9) Surface water from impervious surfaces and lawns located adjacent to on-site delineated wetland areas shall be channelized and treated prior to discharge into wetland buffer areas. Surface water treatment shall be consistent with those practices contained in "Volume V" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.
- (10) ~~The outer boundary of the delineated on-site wetland area shall be segregated from the developed portion of the property through the installation of fencing or the planting of dense vegetation. The wetland study prepared for the development shall include specifics regarding the fencing details or the planting design, and shall include a site map drawn to scale that indicates the location of the fencing or planting. The final detail or design shall be reviewed and approved by the planning and building division prior to permit issuance. The delineated on-site wetland~~

~~area shall be placed in a separate tract as prescribed in Section 18.06.070. The county may require construction of temporary or permanent fencing on the boundary of a wetland buffer to protect its functions and values. Fencing design shall not interfere with fish and wildlife migration and shall minimize impacts to the wetland and its associated habitat.~~

- (11) The applicant shall utilize dust control best management practices (BMP) during all development activities. The practices shall be consistent with "BMP C140" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington."
 - ~~(12)~~ The delineated on-site wetland area shall be placed in a separate tract or easement as prescribed in Section 18.06.070.
 - (13) Absent the mitigation measures noted in Section 18.06.135(B)(6)(a)(ii)(III)(1) through and including Section 18.06.135(B)(6)(a)(ii)(III)(11), Category 3 Wetlands shall be protected with a one hundred fifty ~~(150)~~ foot wide buffer.
- (IV) Category 4 Wetlands shall be protected with a buffer width set forth in Table A Wetland Buffers, provided that the following impact mitigation measures are also implemented:
- (1) Outdoor lighting from the development shall be designed and installed to prevent direct casting into adjacent wetland areas. Final design shall be reviewed and approved by the planning and building division prior to permit issuance.
 - (2) ~~Outdoor noise generating activities in those areas of the property located adjacent to buffer areas shall be conducted in such a manner so as to minimize impacts to wildlife utilizing.~~ The county adopts Chapter 173-60 WAC and classifies

wetlands as Class A EDNA receiving properties for managing intruding noise levels.

- (3) All treated surface water proposed for discharge into any on-site delineated wetland area shall be conveyed in a manner consistent with those practices set forth in "Guide Sheet 2: Wetland Protection Guidelines" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.
- (4) The applicant shall prepare a restrictive covenant, to be placed upon the deed for the property that prohibits use of pesticides within one hundred fifty (150) feet of the delineated on-site wetland area. The covenant shall be recorded by the county prior to permit issuance.
- (5) The applicant shall utilize integrated pest management practices as set forth in the county's current "Best Management Practices Plan."
- (6) Existing on-site drainage system facilities shall be reviewed by a Washington State-licensed engineer to determine their ability to accommodate the increased volume of surface water created by the new development. The facilities shall be modified as necessary with facility design consistent with the direction provided in "Volume III" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.
- (7) Surface water from areas adjacent to on-site delineated wetland areas shall be channelized and treated prior to discharge into wetland buffer areas. Surface water treatment shall be

consistent with "BMP T511" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.

- (8) Surface water management shall be consistent with low impact development (LID) practices as set forth in the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington" and the 2005 Puget Sound Action Team and Washington State University Pierce County Extension document entitled "Low Impact Development: Technical Guidance Manual for Puget Sound." Final design shall be reviewed and approved by the public works division prior to permit issuance.
- (9) Surface water from impervious surfaces and lawns located adjacent to on-site delineated wetland areas shall be channelized and treated prior to discharge into wetland buffer areas. Surface water treatment shall be consistent with those practices contained in "Volume V" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington." Final design shall be reviewed and approved by the public works division prior to permit issuance.
- (10) ~~The outer boundary of the delineated on-site wetland area shall be segregated from the developed portion of the property through the installation of fencing or the planting of dense vegetation. The wetland study prepared for the development shall include specifics regarding the fencing details or the planting design, and shall include a site map drawn to scale that indicates the location of the fencing or planting. The final detail or design shall be reviewed and approved by the planning and building division prior to permit issuance. The delineated on-site wetland~~

area shall be placed in a separate tract as prescribed in Section 18.06.070. The county may require construction of temporary or permanent fencing on the boundary of a wetland buffer to protect its functions and values. Fencing design shall not interfere with fish and wildlife migration and shall minimize impacts to the wetland and its associated habitat.

- (11) The applicant shall utilize dust control best management practices (BMP) during development activities. Such practices shall be consistent with "BMP C140" of the 2005 State Department of Ecology document entitled "Stormwater Management Manual for Western Washington."
- (12) The delineated on-site wetland area shall be placed in a separate tract or easement as prescribed in Section 18.06.070.
- (13) Absent the mitigation measures noted in Section 18.06.135(B)(6)(a)(ii)(IV)(1) through and including Section 18.06.135(B)(6)(a)(ii)(IV)(11), Category 4 wetlands shall be protected with a fifty (50) foot wide buffer.

Table A: Wetland Buffers

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

Table notes:

1. Standard buffer widths assume the buffer is vegetated with native plant communities that are appropriate for the ecoregion or with a plant community that provides similar functions.
2. Wetland habitat points shall be determined using the methodology set forth in "Appendix 8-C: Guidance on Widths of Buffers and Ratios for Compensatory Mitigation for Use with the Western Washington Wetland Rating System" of the current edition of the State Department of Ecology document "Wetlands in Washington State Volume 2 --Protecting and Managing Wetlands."

(V) Any wetland restored, relocated, replaced or enhanced because of wetland alterations should have at least the minimum buffer required for the class of the wetland involved.

(VI) Any wetland area located within seventeen (~~17~~) feet of the bottom of a slope greater than forty (~~40~~) percent shall have the following minimum buffers:

(1) Where the horizontal length of the slope, including small benches and terraces, extends into a buffer for that wetland class, the required wetland buffer width for that wetland class shall be extended onto to the sloped area and increased an additional distance of seventeen (~~17~~) feet onto the sloped area.

(2) The county may permit buffer averaging in instances where such averaging provides additional resource protection, provided that the total area on-site contained in buffer remains the same.

(b) Additional Buffers Requirements for Wetlands. The county may require increased buffer widths as necessary to protect wetland areas. The additional buffer width and other issues shall be determined by an examination of the wetland area's relationship to critical drainage areas, the location of hazardous materials, critical fish and wildlife habitat, the presence of landslide hazard areas or erosion hazard areas

adjacent to wetlands, groundwater recharge and discharge areas, and the location of a trail or utility corridor.

- (c) Critical protection area tracts or easements and setback areas for wetland areas. Wetland areas and their buffers shall be placed in a separate critical area tract or easement as provided in Section 18.06.070.
- (d) Building Setback Lines. Unless otherwise specified in this chapter, a building setback line (BSBL) shall be established at the outside edge of the wetland area buffer. Prohibitions on the use of hazardous or toxic substances and pesticides or certain fertilizers in this setback area may be imposed.
- (e) Temporary marking and permanent signs shall be installed as detailed for wetland areas and buffers in Section 18.05.075.
- (f) Alterations to Wetland Areas and Buffers.
 - (1) The county may grant exemptions or exceptions from the wetland area requirements of this chapter in accordance with Sections 18.06.025 through 18.06.035, inclusive.
 - (2) Utilities in a Wetland Area Buffer.
 - (I) The construction of utilities shall be permitted in the outer twenty- five ~~(25)~~ percent of a Category III or Category IV wetland area buffer only when no practical alternative location is available, the location of such facilities will not degrade the functions or values of the wetland, and the utility corridor meets the criteria set forth in Section 18.06.135(B)(6)(g)(ii) for installation, replacement of vegetation, and maintenance.
 - (II) Sewer Utility. The joint use of the sewer utility corridor by other utilities may be allowed. The construction of sewer lines may only be permitted in a wetland area buffer when the applicant demonstrates it is necessary for gravity flow, and proposal meets the following requirements:
 - (1) Utility corridors shall not be allowed when the wetland area or the buffer is used by a species listed as endangered or threatened by federal or

state law, or where critical or outstanding actual habitat is present for those species;

- (2) Utility corridor alignment, including any allowed maintenance roads, shall follow a path beyond a distance from wetland area edge equal to seventy ~~-five (75)~~ percent of the buffer width.
 - (3) Utility corridor construction and maintenance shall protect the wetland area and buffer environment, shall be aligned to avoid cutting trees greater than twelve ~~(12)~~ inches in diameter at breast height when possible and shall not use pesticides, herbicides or other hazardous or toxic substances;
 - (4) Utility corridors shall require an additional, adjacent, undisturbed buffer width equal to the proposed corridor width, including any allowed maintenance roads;
 - (5) Utility corridors shall be re-vegetated with appropriate native vegetation at pre-construction densities or greater immediately upon completion of construction or as soon thereafter as possible and the sewer utility shall ensure that such vegetation survives;
 - (6) Any additional corridor access for maintenance shall be provided as much as possible at specific points rather than by parallel roads. If parallel roads are necessary, they shall be of a minimum width but no greater than seventeen ~~(17)~~ feet; shall be maintained without the use of herbicides, pesticides or other hazardous or toxic substances; and shall be contiguous to the location of the utility corridor on the side away from the wetland.
- (3) Wetland Area Buffer Averaging. Buffer averaging shall be a mechanism for balancing protection with specific site needs for development, or for tailoring a buffer to maximize protection of natural features in the wetland or surrounding upland area, or for providing a connection with an adjacent habitat, or for

addressing those situations where pre-existing development has reduced a buffer area to a width less than the required standard.

The widths of buffers may be averaged if this will improve the protection of wetland functions, or if it is the only way to allow for reasonable use of a lot. There is no scientific information available to determine if averaging the widths of buffers actually protects functions of wetlands. Averaging may not be used in conjunction with any of the other provisions for the reduction in buffer width. Averaging shall be allowed in the following situations:

- (I) Averaging to improve wetland protection may be permitted when all of the following conditions are met:
 - (1) The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a "dual-rated-wetland with a Category I area adjacent to a lower rated area.
 - (2) The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower functioning or less sensitive portion.
 - (3) The total area of the buffer after averaging is equal to the area required without averaging.
 - (4) The buffer at its narrowest point is never less than seventy-five (75) percent of the required width.
- (II) Averaging to allow reasonable use of a lot may be permitted when all of the following are met:
 - (1) There are no feasible alternatives to the site design that could be accomplished without buffer averaging.
 - (2) The averaged buffer will not result in degradation of the wetland's functions and values, as demonstrated by a report from a qualified wetland professional.

- (3) The total buffer area after averaging is equal to the area required without averaging.
- (4) The buffer at its narrowest point is never less than seventy-five (75) percent of the required width.

A county determination that the proposed wetland area buffer averaging complies with this chapter shall be based upon scientific documentation provided by the applicant that demonstrates the buffer averaging complies with the provision of this subsection.

- (g) Surface Water Management. Stormwater dispersion outfalls and biofiltration swales may be allowed only in the outer twenty-five (25) percent of a Category III or Category IV wetland area buffer subject to the following requirements:
 - (1) New surface water discharges to wetland areas may be allowed provided that the discharge does not increase the rate of flow nor decrease the water quality of the wetland;
 - (2) The surface water management facility is designed consistent with the State Department of Ecology's "Stormwater Management Manual for Western Washington";
 - (3) The use of the outer twenty-five (25) percent of a Category III or Category IV wetland area buffer shall be allowed only if the applicant demonstrates:
 - (I) No other practicable alternative or alternative location exists;
 - (II) The existing value and function of the buffer will not be degraded.
- (h) Trails. The construction of public and private trails may be allowed in wetland area buffers only upon adoption of development permit conditions that implement the following guidelines:
 - (1) Trail surface shall not be of impervious materials, except that impervious public multi-purpose trails may be allowed if they meet all other requirements including water quality; and

- (2) Where trails are provided, buffers shall be expanded equal to the width of the trail corridor, including any disturbed areas.
- (i) Docks. The construction of a dock, pier, moorage, float or launch facility may be permitted, subject to provisions of the Grays Harbor County Shoreline Master Program, provided that wetland impact mitigation measures consistent with this chapter are included as conditions of development permit issuance.
- (j) Isolated Wetland Areas. Isolated wetlands are those wetlands that are isolated and less than one thousand (~~1,000~~) square feet in area. These areas may be altered where (1) it has been documented by the applicant that they are not associated with a riparian corridor, and where (2) it has been documented by the applicant that they are not part of a wetland mosaic, and where (3) it has been documented by the applicant that the wetland does not contain habitat identified as essential for local populations of priority species by the State Department of Fish and Wildlife.

Impacts allowed under this provision to these wetlands shall be mitigated as required in Section 18.06.135(B)(7).

7. Wetland Area Mitigation Standards.

- (a) Mitigation shall be conducted in accordance with Section 18.06.080.
- (b) Standards for Restoration, Enhancement or Replacement.
 - (1) Restoration. Restoration is required when a wetland area or its buffer has been substantially degraded in violation of this chapter. The following minimum performance standards shall be met for the restoration of a wetland, provided that if it can be demonstrated by the applicant that pre-existing functional and habitat values can be obtained, these standards may be modified:
 - (I) The original wetland configuration shall be replicated including depth, width, length, and gradients at the original location;
 - (II) The original soil types and configuration shall be replicated;

- (III) The edge and buffer configuration shall be restored to the original condition;
 - (IV) The wetland, edge, and buffer areas shall be replanted with native vegetation that replicates the original in species, sizes, and densities; and
 - (V) The pre-violation functional values shall be restored, including water quality and wildlife habitat functions.
- (2) Replacement and Enhancement.
- (I) Replacement is required when an approved development proposal substantially degrades a buffer or uses a wetland area for regional surface water retention or detention facility or other approved use. The minimum standards required for restoration of a wetland area shall be followed.
 - (II) Enhancement may be allowed when a development proposal will substantially degrade a wetland area but will improve the existing habitat and/or hydrologic functions. Surface water management or flood control alterations may be considered enhancement if other existing functions and values are simultaneously increased. The minimum performance standards for enhancement shall be included in the critical protection area special study prepared for the proposed enhancement.
 - (III) The replacement or enhancement for approved wetland area alterations shall comply with the following requirements:
 - (1) On-site Replacement and In-kind Replacement. Unless otherwise approved, all alteration of wetlands shall be replaced or enhanced on-site using the methodology utilized by the State Department of Ecology, as contained in the current editions of the State Department of Ecology documents entitled "Washington State Wetlands Identification and Delineation Manual", "Washington State Wetlands Identification Manual", "Washington State Wetland Rating

System for Western Washington", "Wetland Mitigation in Washington State Part 1: Agency Policies and Guidance", "Wetland Mitigation in Washington State Part 2: Developing Mitigation Plans", "Wetlands in Washington State Volume 1: A Synthesis of Science", and "Wetlands in Washington State Volume 2: Managing and Protecting Wetlands" except as superseded by those protection measures contained in Section 18.06.135(B)(6).

Any replacement shall conform to the mitigation ratios set forth in Table 1a on page 73 of the current edition of the Washington State Department of Ecology document entitled "Wetland Mitigation in Washington State Part 1: Agency Policies and Guidance", and shall provide equal or greater biological values, including habitat value, and equivalent hydrological values, including storage capacity.

(2) Off-site Replacement and In-kind Replacement. The county may consider and approve off-site replacement or enhancement where the applicant can demonstrate that the off-site location is in the same drainage basin and equal or greater biological and hydrological values will be achieved. The direction for the replacement and/or enhancement formulas required in subsection above shall apply for off-site replacement.

(3) Wetponds. Wetponds established and maintained for control of surface water shall not constitute replacement or enhancement for wetland alterations.

(4) Monitoring. Monitoring shall be required in accordance with the provisions of Section 18.06.085.

Section 7: Section 27 of Ordinance 393 and Section 18.06.140, Critical Protection Area Development Standards for Fish and Wildlife Habitat Conservation Areas, is amended to read as follows:

~~Critical protection area~~ Development standards for fish and wildlife habitat conservation areas

A. Fish and Wildlife Habitat Conservation Areas. Development proposals on sites containing fish and wildlife habitat conservation areas shall meet the requirements of this subsection.

~~1. Fish habitat conservation areas are those areas of feeding and breeding for species identified by state or federal law as threatened or endangered or sensitive, including anadromous fish.~~

~~(a) Threatened species means any wildlife species native to the State of Washington that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range within the state without cooperative management or removal of threats.~~

~~(b) Endangered species means any wildlife 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.~~

~~(c) Sensitive species means any wildlife species native to the State of Washington that is vulnerable or declining and is likely to become threatened or endangered in a significant portion of its range within the state without cooperative management or the removal of threats.~~

~~Fish habitat conservation areas are also those areas containing commercial and recreational shellfish areas. These areas include all public and private tideland or bedlands suitable for shellfish harvest, including shellfish protection districts established pursuant to the Washington Administrative Code.~~

~~Fish habitat conservation areas shall also include those areas containing herring and smelt spawning areas, and those areas used by salmonids including sockeye salmon.~~

~~5 1. The county shall utilize the State Department of Natural Resources "Forest Practices Application Review System (FPARS) Base Map" and the State Department of Fish and Wildlife "Washington Lakes Rivers Information System and Habitats and Species Map", and any geographically applicable State Department of Ecology "Total Maximum Daily Load Study" in determining the need for protection measures for fish habitat conservation areas, and the current edition of "Management Recommendations for Washington's Priority Habits: Riparian" for the mitigation of fish habitat conservation areas impacts, except as superseded by those protection measures contained in Section 18.06.140A.6.~~

~~2. The county shall utilize the State Department of Fish and Wildlife's "Priority Habitat and Species Database and Wildlife Heritage Database," United States Department of Fish and Wildlife "Critical Habitat for Threatened and~~

Endangered Species” database and other applicable databases in determining the location of wildlife habitat conservation areas, and shall use the State Department of Fish and Wildlife’s “Priority Habitat and Species Management Recommendations” for determining protection measures for wildlife habitat conservation areas, except as superseded by those protection measures contained in Section 18.06.140(A)(6). These maps are intended as a guide and do not provide a definitive determination as to the presence of a critical protection area.

- (d)3 The following habitats and species are of local importance, as well as those designated from time to time by county resolution or ordinance: the Grays Harbor Estuary, Lake Quinault, Bull Trout, Chinook Salmon, Chum Salmon, Steelhead, Columbia Torrent Salamander, Dunn's salamander, Van Dyke's Salamander, Western Toad, Golden Eagle, Merlin Falcon, Northern Goshawk, Pileated Woodpecker, Purple Martin, Vaux's Swift, Brandt's Cormorant, Cassin's Auklet, Common Murre, Western Grebe, Harbor Porpoise, Keen's Myotis, Townsend's Big-eared Bat, and Tufted Puffin. The county adopts the Washington Department of Fish and Wildlife publication Priority Habitats and Species List, August 2008, and as may hereafter be revised.
- 2-4. ~~Streams~~ Fish and wildlife habitat conservation areas and associated buffers shall not be substantially degraded. The applicant is responsible for ensuring that the requirements of all other agencies with jurisdiction have been met. Any development discharge into a ~~stream~~ fish and wildlife habitat conservation area shall not contribute to a violation of the State Water Quality Standards.
- 3 5. If a ~~stream~~ Fish and wildlife habitat conservation area is in a frequently flooded area, the county shall notify the State Department of Ecology, the State Department of Fish and Wildlife, the Quinault Indian Nation, and the Confederated Tribes of the Chehalis Indian Reservation of any alteration plans prior to initiating any alteration.
- 4 6. There shall be no deliberate or intentional introduction of any vegetation or wildlife that is not indigenous to the Pacific Northwest into any ~~fish habitat conservation area~~ fish and wildlife habitat conservation areas, unless authorized by a state or federal license or permit.
- 3 7. A project located within a fish and wildlife habitat conservation area shall be required to prepare a critical protection area special study as provided in Section 18.06.020. The study shall be prepared by a professional habitat biologist and contain information on the location of the ~~wildlife~~ wildlife habitat area in relation to the proposal, direct measures to avoid impacts to the ~~wildlife~~ wildlife habitat conservation area or through the application of mitigation measures,

and an analysis of the completed project effect to the wildlife habitat conservation area and its function.

6.8. ~~Fish Habitat Conservation Area~~ Fish and Wildlife Habitat Conservation Areas Protection Standards.

(a) ~~Stream~~ Buffers for Type S, F, Np, or Ns Waters

- (1) All buffers shall be measured from the ordinary high water mark (OHWM), as defined in Washington Administrative Code 222-16-010, as identified in the field or from the top of the stream bank if the ordinary high water mark cannot be determined. In braided channels, the ordinary high water mark or top of bank shall be determined so as to include the entire ~~stream~~ water feature.
- (2) The following buffers on each side of the ordinary high water mark for ~~streams~~ fish and wildlife habitat conservation areas are minimum requirements:
 - (1) Type 'S' ~~Streams~~ waters: One hundred fifty (~~150~~) foot wide buffer for major development.

The following setback buffers shall apply to minor development:

- (1) Ocean Beach Environment: Two hundred (~~200~~) foot wide buffer in the dune protection zone, and a fifty (~~50~~) foot wide buffer in those areas not within a dune protection zone.
 - (2) Conservancy Environment: Seventy-five (~~75~~) foot wide buffer.
 - (3) Rural Environment: Fifty (~~50~~) foot wide buffer.
 - (4) Urban Environment: Thirty-five (~~35~~) foot wide buffer.
 - (5) Natural Environment: None; development of any type is prohibited in this environment.
- (3) Type 'F' ~~Streams~~ waters greater than five feet wide: One hundred fifty (~~150~~) foot wide buffer for major development,

and a sixty-five (65) foot wide buffer for minor development.
Type 'F' ~~Streams~~ waters less than five feet wide: One hundred (100) foot wide buffer for major development and a sixty (60) foot wide buffer for minor development.

- (4) Type 'Np' ~~Streams~~ waters: Sixty (60) foot wide buffer for major and minor development.
- (5) Type 'Ns' ~~Streams~~ waters: Fifty (50) foot wide buffer for major and minor development.

~~(E)~~

(b) When the ordinary high water mark (OHWM) of any ~~Streams~~ Type S, F, Np, or Ns waters is located within seventeen (17) feet of the bottom of a slope that is greater than forty (40) percent the following minimum buffers shall be provided:

~~(H)(1)~~ (1) Where the horizontal length of the slope, including small benches and terraces, extends into the buffer ~~for that stream class~~, the required ~~stream~~ buffer width ~~for that stream class~~ shall be extended an additional seventeen feet onto to the sloped area and ~~increased an additional distance of seventeen (17) feet onto the sloped area.~~

~~(H)(2)~~ (2) The county may permit buffer averaging in instances where it will provide additional resource protection, provided that the total area on-site contained in buffer remains the same.

~~(F)(c)~~ (c) Any stream ~~adjoined by riparian wetland area or other adjacent critical area shall have the buffer that applies to the wetland or other adjacent critical area unless the stream buffer requirements are more expansive.~~—Whenever Type S, F, Np, or Ns waters abut or intersect a critical area that also has a required buffer, the buffer width will be whichever of the two is greater.

~~(G)(d)~~ (d) Any ~~stream~~ restored, relocated, replaced, or enhanced Type S, F, Np, or Ns waters because of alterations shall have include a buffer in accordance with the provisions of this title the minimum buffer required for the class of stream involved.

- (e) The county may recommend buffer averaging in instances where it will provide additional resource protection, provided that the total area on-site contained in buffer remains the same.
- (b) ~~Critical protection area tracts or easements and buffer areas for streams.~~ Streams Type S, F, Np, or Ns waters and their buffers shall be placed in a separate critical protection area tract or easement as provided in Section 18.06.070.
- (c) ~~Building and Setback Lines.~~ Unless otherwise specified, a building setback line (BSBL) shall be established at the edge of ~~the stream~~ a buffer for Type S, F, Np, or Ns waters buffer. Prohibitions on the use of hazardous or toxic substances and pesticides or certain fertilizers in this area may be imposed.
- (d) ~~Markings and Signs.~~ The temporary markings and permanent signs requirements of Section 18.06.075 shall apply.
- (e) Alterations to ~~streams and stream~~ Type S, F, Np, or Ns waters and buffers.
 - (i) The county may grant exceptions from the ~~stream~~ requirements of this chapter pursuant to Sections 18.06.030 and 18.06.035.
 - (ii) ~~Stream~~ Crossings. ~~Stream~~ Crossings may be allowed only if they meet the following requirements:
 - (I) All road crossings shall use bridges or other construction techniques that protect fish and wildlife habitat conservation areas do not disturb the stream bed or bank; provided that, in the case of Type F Streams, bottomless culverts or other appropriate methods may be used if it can be demonstrated that they provide protection and the applicant demonstrates that such methods and their implementation will pose no harm to the stream or inhibit the migration of fish.
 - (II) All crossings shall be constructed during summer low flow, and be timed to avoid stream disturbance during periods when use is critical to salmonids, except in the case of a declared emergency of fish and wildlife habitat conservation areas; except, however, as provided in Section 18.06.025(A);
 - (III) Crossings shall not occur over salmonid spawning areas, unless no other possible crossing site exists;

- (IV) Bridge piers or abutments shall not be placed within the Federal Insurance Administration (FIA) designated floodway;
 - (V) Crossings shall not diminish the natural channel or the flood carrying capacity of the waters;
 - (VI) Underground utility crossings shall be laterally-drilled or directionally-drilled and located at a depth of four feet below the maximum depth of scour for the base flood, as determined by a state-licensed civil engineer; and
 - (VII) Crossings shall be minimized and serve multiple purposes and properties whenever possible.
- (iii) ~~Relocation.~~ The following ~~stream~~ stream relocations of Type S, F, Np, or Ns waters may be allowed if they meet all requirements and are approved by all agencies with jurisdiction:
- (I) Type F ~~Streams~~ waters shall not be relocated, except as follows:
 - (1) For public road projects duly authorized by the exemption process in Section 18.06.025 or the exception process in Section 18.06.030.
 - (2) Under a mitigation plan for the purpose of enhancement of ~~in-streams~~ water resources. Appropriate frequently flooded area protection measures shall be used. The stream relocation shall occur on-site, except that when it is demonstrated that the on-site relocation is impracticable, the county may consider off-site relocation if the location is in the same drainage basin and subject to the applicant providing all necessary easements and waivers from affected property owners.
 - (II) An applicant must demonstrate, based on information provided by a civil engineer and a qualified biologist, that:
 - (1) The equivalent base flood storage volume and existing function will be maintained;
 - (2) There will be no significant adverse impact to local groundwater;
 - (3) There will be no increase in velocity;

- (4) There will be no inter-basin transfer of water;
 - (5) Performance standards, as set out in the mitigation plan, are met;
 - (6) The relocation conforms to other applicable laws; and
 - (7) All work will be carried out under the direct supervision of a qualified biologist.
- (iv) ~~Trails.~~ Construction of public and private trails may be allowed in stream buffers for Type S, F, Np, or Ns waters pursuant to the following guidelines:
- (1) Trail surface shall not be of impervious materials, except that impervious public multi-purpose trails may be allowed if they meet all other requirements, including water quality; and
 - (2) Where trails are provided, buffers shall be expanded, where possible, equal to the width of the trail corridor, including disturbed areas.
- (v) ~~Stream Channel Stabilization. A stream~~ The channel of Type S, F, Np, or Ns waters may be stabilized when its movement ~~of the stream channel~~ threatens existing residential or commercial structures, public improvements, unique natural resources, or the only possible existing access to property and is performed in accordance with the requirements in Section 18.06.100.

An applicant proposing ~~stream~~ channel stabilization shall first consider State Department of Fish and Wildlife stream bank protection techniques that feature natural bio-engineered practices, such as the use of large woody debris.

- (vi) ~~Surface Water Management.~~ The following surface water management actions may be allowed only if they meet the following requirements:
- (1) Surface water discharges to streams from detention facilities, pre-settlement ponds, or other surface water management structures may be allowed provided that the discharge complies with the provisions of the State Department of Ecology's "Surface Water Management Manual for Western Washington."

- (vii) Utilities in ~~Stream Buffer~~ Buffers of Type S, F, Np, or Ns waters.
 - (1) Construction of utilities shall be permitted in ~~stream buffers of Type S, F, Np, or Ns waters buffers~~ only when no practical alternative location is available and the utility corridor meets the criteria for installation, replacement of vegetation and maintenance set forth in Section 18.06.135(B)(6)(g)(ii).
 - (2) ~~Sewer Utility.~~ Sewer utility corridors may only be located in ~~buffers of Type S, F, Np, or Ns waters stream buffers~~ when the applicant demonstrates it is necessary for gravity flow. The joint use of the sewer utility corridor by other utilities is allowed. The location requirements for utility corridors in wetland areas contained in Section 18.06.120(B)(6)(g)(i) shall also apply to streams.

- (viii) Enhancement Independent of a Development Proposal.
 - (1) Enhancement of ~~streams~~ Type S, F, Np, or Ns waters not associated with any other development proposal may be allowed when the project would enhance existing ~~stream~~ functions, as determined by the county and State Department of Fish and Wildlife. Such enhancement shall be performed under a plan for the design, implementation, maintenance, and monitoring of the project prepared by a civil engineer, qualified biologist, fluvial geomorphologist or similarly qualified individual, with the plan implemented under the direct supervision of the individual preparing the plan.
 - (2) ~~Stream r~~Restoration projects for fish habitat fish and wildlife habitat conservation areas enhancement unassociated with the mitigation of a specific development proposal may be allowed. ~~Such projects are limited to (a) the placement, repair, or removal of rock weirs, log controls, culverts, or flood control measures that result in less impact to habitat and surrounding properties, and (b) other specific salmonid habitat improvements, involving only the use of hand labor and light equipment, to be performed under direct supervision of a qualified biologist.~~

- (ix) Drainage Ditch Maintenance. Roadside drainage ditches and agricultural drainage ditches may be maintained through use of best

management practices developed in consultation with county, state and federal agencies with expertise or jurisdiction.

(x) Stream Area Buffer Averaging for Type S, F, Np, or Ns waters.

(1) Buffer averaging shall be a mechanism for balancing protection with specific site needs for development, or for tailoring a buffer to maximize protection of natural features in the stream corridor or surrounding upland area, or for providing a connection with an adjacent habitat, or for addressing those situations where pre-existing development has reduced a buffer area to a width less than the required standard.

(2) The widths of buffers may be averaged if this will improve the protection of stream functions, or if it is the only way to allow for reasonable use of a lot. Averaging may not be used in conjunction with any of the other provisions for the reduction in buffer width. Averaging shall be allowed in the following situations:

(3) Averaging to improve ~~stream~~ protection for Type S, F, Np, or Ns waters may be permitted when all of the following conditions are met:

(1) The ~~streams~~ waters have significant differences in characteristics that affect its habitat functions.

(2) The buffer is ~~increased~~ increases adjacent to the higher-functioning area of habitat or more sensitive ~~portion~~ portions of the Type S, F, Np, or Ns waters and decreases adjacent to the lower functioning or less sensitive portions.

(3) The total area of the buffer after averaging, is equal to the area required without averaging.

(4) The buffer at its narrowest point is never less than seventy-five ~~(75)~~ percent of the required width.

~~(ii)~~(4) Averaging to allow reasonable use of a lot may be permitted when all of the following are met:

(1) There are no feasible alternatives to the site design that could be accomplished without buffer averaging.

- (2) The averaged buffer will not result in degradation of the stream's functions and values, as demonstrated by a report from a qualified habitat professional.
- (3) The total buffer area after averaging is equal to the area required without averaging.
- (4) The buffer at its narrowest point is never less than seventy-five (75) percent of the required width.
- (5) A county determination that proposed ~~stream~~ area buffer averaging for Type S, F, Np, or Ns waters complies with this chapter shall be based upon scientific documentation provided by the applicant that demonstrates the buffer averaging complies with the provision of this subsection.

(f) Mitigation for ~~Fish Habitat Conservation Areas~~ Fish and Wildlife Habitat Conservation Areas.

- (i) Mitigation shall be conducted pursuant to Section 18.06.080. Any proposed mitigation measure shall be consistent with the State Department of Fish and Wildlife's "Priority Habitat and Species Management Recommendations," except as superseded by protection measures set forth in Section 18.06.140(A)(6) and shall be reviewed by State Department of Fish and Wildlife prior to any approval for the proposal.
- (ii) Standards for Restoration, Enhancement, or Replacement.
 - (1) Restoration is required when a fish and wildlife habitat conservation areas or its buffer has been substantially degraded in violation of this chapter or any prior code applicable to the treatment of streams, or when an unapproved or unanticipated alteration occurs during the construction of an approved development proposal, provided that a mitigation plan for the restoration demonstrates that:
 - (A) The ~~stream~~ habitat is degraded and will not be further degraded by the restoration activity;
 - (B) The restoration will reliably and demonstrably improve ~~the water habitat quality and fish and wildlife habitat of the stream;~~ the water habitat quality and ~~fish and wildlife habitat of the stream;~~

- (C) The restoration will have no lasting significant adverse impacts ~~on any in-stream resource~~;
- (D) All work will be carried out under the direct supervision of a qualified biologist.
- (E) The following minimum performance standards shall be met for restoration of ~~a stream~~ Type S, F, Np, or Ns waters, provided that these standards may be modified if the applicant can demonstrate that greater habitat value can be obtained:
 - (I) The natural channel dimensions should be replicated including identical depth, width, length and gradient at the original location, and the original horizontal alignment or meander length should be replaced;
 - (II) The bottom should be restored with identical or similar materials;
 - (III) The bank and buffer configuration should be restored to the original conditions;
 - (IV) The channel, bank and buffer areas should be replanted with native vegetation which replicates the original in species, sizes and densities; and
 - (V) The original habitat value should be recreated.
- (E) The following minimum performance standards shall be met for restoration of wildlife habitat; provided, that these standards may be modified if the applicant can demonstrate that greater habitat value can be obtained:
 - (I) The area square-footage of the habitat should be replicated;
 - (II) The habitat should be restored with identical or similar materials;
 - (III) Any water features should be restored to the original condition;

- (IV) Impacted areas shall be replanted with native vegetation which replicates the original in species, sizes and densities; and
 - (V) The original habitat value should be recreated.
- (2) Replacement or enhancement may be required when the county permits or approves the alteration of a fish and wildlife habitat conservation area. There will be no net loss of existing ~~stream~~ functions on a development proposal site and no impact on ~~stream~~ functions above or below the site due to the approved alterations.
- ~~(A) Replacement. When an approved alteration involves relocation of a stream, the performance standards in Section 18.06.135 7.(b) are required in order to replicate the structure and function of the original stream, unless the applicant can demonstrate that greater habitat value can be obtained through varying these standards.~~
 - ~~(B) Enhancement. Enhancement, when allowed, should improve the functions and values of the streams. Surface water management or flood control alterations may not be considered enhancement if other functions and values are simultaneously increased.~~
 - ~~(C) Replacement or enhancement for streams shall be accomplished in streams, and shall occur on-site unless the applicant demonstrates that on-site replacement or enhancement is not possible, that the off-site alternative is in the same drainage basin, and that greater biological and hydrological values will be derived.~~
- (A) Replacement or enhancement may be required when the county permits or approves alteration of a wildlife habitat conservation area. There will be no net loss of existing functions on a proposed development site due to the approved alterations.
 - (B) Replacement. The performance standards in Section 18.06.135(7)(b) are required in order to replicate the structure and function of the habitat, unless the

applicant can demonstrate that greater habitat value can be obtained through varying these standards.

- (C) Enhancement. When allowed, enhancement should improve the functions and values of the wildlife habitat. Surface water management or flood control alterations may not be considered enhancement if other functions and values are simultaneously increased.

- (3) Monitoring shall be required in accordance with Section 18.06.085.

~~B. Wildlife Habitat Conservation Areas. Development proposals on sites containing wildlife habitat conservation areas shall meet the requirements of this subsection.~~

~~1. Wildlife habitat conservation areas are those areas of feeding, breeding, and nesting for species identified by state or federal governments as threatened or endangered or sensitive or areas of local importance and species or priority habitats.~~

~~(a) Threatened species means any wildlife species native to the state of Washington that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range within the state without cooperative management or removal of threats.~~

~~(b) Endangered species means any wildlife 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.~~

~~(c) Sensitive species means any wildlife species native to the state of Washington that is vulnerable or declining and is likely to become threatened or endangered in a significant portion of its range within the state without cooperative management or the removal of threats.~~

~~(d) The following habitats and species are of local importance, as well as those designated from time to time by county resolution or ordinance: the Grays Harbor Estuary, Lake Quinault, Bull Trout, Chinook Salmon, Chum Salmon, Steelhead, Columbia Torrent Salamander, Dunn's salamander, Van Dyke's Salamander, Western Toad, Golden Eagle, Merlin Falcon, Northern Goshawk, Pileated Woodpecker, Purple Martin, Vaux's Swift, Brandt's Cormorant, Cassin's Auklet, Common Murre, Western Grebe, Harbor Porpoise, Keen's Myotis, Townsend's Big-eared Bat, and Tufted Puffin.~~

Wildlife habitat conservation areas are also those areas containing kelp and eelgrass beds, "State Department of Natural Resources" "Natural Area Preserves" and "Natural Resource Conservation Areas", rare plant species and high quality ecosystems as identified by the "State Department of Natural Resources" Natural Heritage Program, and habitats and areas identified by the State Department of Fish and Wildlife through the Priority Habitat and Species Program.

- 2 1. — The county shall utilize the State Department of Fish and Wildlife's "Priority Habitat and Species Database and Wildlife Heritage Database" and other applicable databases in determining the location of wildlife habitat conservation areas, and shall use the State Department of Fish and Wildlife's "Priority Habitat and Species Management Recommendations" for determining protection measures for wildlife habitat conservation areas, except as superseded by those protection measures contained in Section 18.06.140A.6. These maps are intended as a guide and do not provide a definitive determination as to the presence of a critical protection area.
- 3 2. — Wildlife Habitat Conservation Area Protection Standards. A project located within a wildlife habitat conservation area shall be required to prepare a critical protection area special study as provided in Section 18.06.020. The study shall be prepared by a professional habitat biologist and contain information on the location of the wildlife habitat area in relation to the proposal, direct measures to avoid impacts to the wildlife habitat conservation area or through the application of mitigation measures, and an analysis of the completed project effect to the wildlife habitat conservation area and its function.
- 4 3. — Mitigation for wildlife habitat conservation areas. Mitigation for development impacts to these areas shall be conducted pursuant to Section 18.06.080. Any proposed mitigation measure shall be consistent with the State Department of Fish and Wildlife's "Priority Habitat and Species Management Recommendations", except as superseded by protection measures set forth in Section 18.06.140A.6. and shall be reviewed by State Department of Fish and Wildlife prior to any approval for the proposal.

Standards for restoration, enhancement, or replacement are as follows:

- (A) — Restoration is required when a wildlife habitat conservation area or its buffer has been substantially degraded in violation of this chapter or any prior code applicable to the treatment of wildlife habitat, or when an unapproved or unanticipated alteration occurs during the construction of an approved development proposal, provided that a mitigation plan for the restoration demonstrates that:

- (1) — The wildlife habitat is degraded and will not be further degraded by the restoration activity;
- (2) — The restoration will reliably and demonstrably improve wildlife habitat;
- (3) — The restoration will have no lasting significant adverse impact on the wildlife habitat resource;
- (4) — All work will be carried out under the direct supervision of a qualified biologist.
- (5) — The following minimum performance standards shall be met for restoration of wildlife habitat, provided that these standards may be modified if the applicant can demonstrate that greater habitat value can be obtained:
 - (I) — The area square footage of the habitat should be replicated;
 - (II) — The habitat should be restored with identical or similar materials;
 - (III) — Any water features should be restored to the original condition;
 - (IV) — Impacted areas shall be replanted with native vegetation which replicates the original in species, sizes and densities; and
 - (V) — The original habitat value should be recreated.
- (B) — Replacement or enhancement for wildlife habitat shall be accomplished within the habitat itself, and shall occur on-site unless the applicant demonstrates that on-site replacement or enhancement is not possible, that the off-site alternative is in the same drainage basin, and that greater values and function will be derived.
 - (a) — Replacement or enhancement may be required when the county permits or approves alteration of a wildlife habitat conservation area. There will be no net loss of existing functions on a proposed development site due to the approved alterations.

~~(b) — Replacement. The performance standards in Section 18.06.135 7.(b) are required in order to replicate the structure and function of the habitat, unless the applicant can demonstrate that greater habitat value can be obtained through varying these standards.~~

~~(c) — Enhancement. When allowed, enhancement should improve the functions and values of the wildlife habitat. Surface water management or flood control alterations may not be considered enhancement if other functions and values are simultaneously increased.~~

~~(C) — Monitoring shall be required in accordance with Section 18.06.085.~~

~~(5) — There shall be no deliberate or intentional introduction of any vegetation or wildlife that is not indigenous to the Pacific Northwest into any wildlife habitat conservation area, unless authorized by a state or federal license or permit.~~

~~C.B.~~ Lake Quinault Fish and Wildlife Habitat Conservation Area. Development proposals on sites in this area shall meet the requirements of this subsection.

1. The bed of Lake Quinault up to the ordinary high water mark (OHWM) is within the exterior boundaries of the Quinault Indian Reservation and owned by the Quinault Indian Nation. Any activity below the OHWM of Lake Quinault shall be approved in writing by the Quinault Indian Nation prior to the issuance of any development permit.
2. Lake Quinault is an important fish habitat area and an irreplaceable component of local ecosystem attributes and processes. Lake Quinault provides habitats for various life history stages of nine salmon (Genus *Oncorhynchus*) species/races, two species of char, and several other aquatic species. Lake Quinault provides important rearing habitats for a depressed stock of spring Chinook salmon, a population of bull trout, which are currently listed as a threatened species under the Federal Endangered Species Act, and the only juvenile rearing habitat for the depressed Quinault sockeye salmon. In addition, water quality attributes of the lake are carried downstream and affect salmon habitats the entire length of the lower Quinault River.
3. Uses and activities carried out pursuant to this section shall result in equivalent or greater habitat functions, as determined by the responsible approval authority in a manner consistent with best available science. All actions and uses shall be designed and constructed to avoid adverse impacts

to Lake Quinault. No activity or use shall be allowed that results in a net loss of important habitat area functions, destroys, damages, or disrupts fish habitat, adversely affects water quality; creates unstable earth conditions, or causes erosion.

4. Applications for uses and activities within two hundred (~~200~~) feet of the Lake Quinault OHWM shall include a critical protection area special study prepared by a qualified professional that evaluates the potential impacts of the proposed use or activity on the applicable habitat and/or species. The approval authority shall establish buffers for the habitat or species on a case-by-case basis in consultation with the Quinault Indian Nation based on the critical protection area special study. Any buffers proposed in the study shall reflect the sensitivity of the specific habitat(s) and/or species to be protected.
 - (a) The width of any buffer proposed in the critical protection area special study shall be measured on a horizontal plane, outward from the OHWM or, if the OHWM cannot be identified, from the top of the bank. These buffers shall be maintained in their existing condition, except as explicitly authorized by this chapter.
 - (b) The perimeter of the habitat area and associated buffer, and those areas to be disturbed pursuant to an approved permit or authorization, shall be marked in the field and inspected by the approval authority prior to the commencement of permitted activities. This temporary marking shall be maintained throughout the duration of the development activity.
5. Trees within two hundred (~~200~~) feet of Lake Quinault shall be retained. Limbs may be removed to maintain views.
6. Trees that fall into Lake Quinault shall be left where they fall.
7. Trees and logs that float onto the shoreline between OHWM and summer low water shall be retained where they land.
8. Bank stabilization, if necessary, shall be accomplished with bioengineering or similar soft/nonstructural stabilization techniques. Materials used for soft/nonstructural stabilization include natural vegetation, submerged aquatic vegetation (SAV), sand fill, and biodegradable organic materials such as natural fiber logs (bio-logs) and organic matting. A State-licensed professional engineer with demonstrated expertise regarding hydraulic actions along shorelines shall design stabilization projects along Lake Quinault in consultation with a qualified biologist. The stabilization shall be designed and

installed to minimize adverse impacts on the habitat's functions. Approved stabilization shall only use materials that do not pose a risk to water quality. Stabilization must be installed above the OHWM. Bank stabilization measures shall be approved by the Quinault Indian Nation and the county prior to permit issuance.

APPROVED AND ADOPTED this ___ day of December, 2011.

BOARD OF COMMISSIONERS
GRAYS HARBOR COUNTY

Terry Willis, Chair, Commissioner
District 1

Mike Wilson, Commissioner
District 2

Herb Welch, Commissioner
District 3

ATTEST:

Donna Caton
Clerk of the Board

APPROVED AS TO FORM

James Baker
Senior Deputy Prosecuting Attorney