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GRAYS HARBOR COUNTY CODE 18.02

18.02.010 Definitions. For the purpose of this title, certain terms and words are defined in this chapter. When not inconsistent with the content, words used in the present tense shall include the future, and the future the present; the singular number shall include the plural, and the plural the singular; the word "shall" is always mandatory and the word "may" denotes a use of discretion in making a decision. Words used in this title but not defined herein shall be given the meaning defined in "Webster's Third New International Dictionary".

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

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

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

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

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

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

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

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

"Buffer or buffer area" means that vegetated area adjacent to critical protection area that can reduce impacts from adjacent land uses through various physical, chemical, and/or biological processes.

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

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

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

"Critical Protection Areas" are the values and functions of geologically hazardous areas, frequently flooded areas, wetland areas, fish and wildlife habitat conservation areas, and critical aquifer recharge areas as defined in this chapter.

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

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

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

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

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or the outdoor storage of equipment or materials on property containing a critical protection area.

"Environment" means, and shall be limited to, the following elements:

- (1) Natural Environment
 - (a) Earth
 - (i) Geology
 - (ii) Soils
 - (iii) Topography

- (iv) Unique physical features
- (v) Erosion/enlargement of land area (accretion)
- (b) Air
 - (i) Air quality
 - (ii) Odor
 - (iii) Climate
- (c) Water
 - (i) Surface water movement/quantity/quality
 - (ii) Runoff/absorption
 - (iii) Floods
 - (iv) Ground water movement/quantity/quality
 - (v) Public water supplies
- (d) Plants and Animals
 - (i) Habitat for and numbers or diversity of species of plants, fish, or other wildlife
 - (ii) Unique species
 - (iii) Fish or wildlife migration routes
- (e) Energy and Natural Resources
 - (i) Amount required/rate of use/efficiency
 - (ii) Source/availability
 - (iii) Non-renewable resources
 - (iv) Conservation and renewable resources
 - (v) Scenic resources

(2) Built Environment

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

- (vi) Communications
- (vii) Water/storm water
- (viii) Sewer/solid waste
- (ix) Other governmental services or utilities

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

"Environmental checklist" means the form referenced in Chapter 18.04.240 and Washington Administrative Code (WAC) 197-11-960.

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

"Erosion Hazard Area" means those areas identified in the current edition of the United States Department of Agriculture's document entitled 'Soil Survey of Grays Harbor County Area, Pacific County, and Wahkaikum County, Washington' as having a severe rill and inter-rill erosion hazard.

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

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

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

"Floodplain" means an area inundated with water that is typically located adjacent to a stream, river, lake, or coastline that exhibits the potential to flood once every 100-years or have the a 1-percent chance of being equaled or exceeded in any given year.

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

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

"Geologically hazardous areas" are areas susceptible to erosion, landslides, earthquakes, or other geologic events because of slope, soil, geologic material, hydrology, vegetation, or human alteration.

"Impacts" are the effects or consequences of actions. Environmental impacts are effects upon the elements of the environment listed in Chapter 18.02.010.

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

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

“Landslide Hazard Area” means those areas identified in the current edition of the United States Department of Agriculture’s document entitled ‘Soil Survey of Grays Harbor County Area, Pacific County, and Wahkaikum County, Washington’ as having a severe limitation for building site development.

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

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

“Manufactured home park or subdivision” means a parcel or contiguous parcels of land divided into three or more manufactured home lots or spaces for rent, lease, or sale. Please refer to Grays Harbor County Code 16.24.

“Mean high tide” means the average of all high tides observed during a 19-year period.

“Mitigation” means (1) avoiding the impact altogether by not taking a certain action or parts of an action, (2) minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts, (3) rectifying the impact by repairing, rehabilitating, or restoring the affected environment, (4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action, (5) compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or (6) monitoring the impact and taking appropriate corrective measures.

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

“Natural environment” means those aspects of the environment contained in Chapter 18.02.010, frequently referred to as natural elements or resources, such as earth, air, water, wildlife, and energy.

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

"Ordinary High Water Mark" means a mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition existed on June 1, 1971, as it may naturally change thereafter or at it may change thereafter in accordance with permits issued by Grays Harbor County or the Washington State department of Ecology; provided that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water.

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

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

"Pole building" means a building that is supported by poles placed vertically into the ground. Please refer to Grays Harbor County Code 15.04.010.

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

"Recreational vehicle" means a vehicle that is (a) built on a single chassis, (b) 400-square-feet or less when measured at the largest horizontal projection, (c) designed to be self-propelled or permanently towable by a light duty truck, and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Responsible Official" means the planning and building director.

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

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

"Seismic Hazard Area" means those areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, or surface faulting.

"Shallow flooding areas" means those areas that appear on a Flood Insurance Rate Map (FIRM) as AO zones with depth designations. The base flood depths in these zones range from 1-foot to 3-feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident.

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

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

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

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

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

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

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50-percent of the market value of the structure either (a) before the improvement or repair is started or (b) if the structure has been damaged and is being restored before the damage occurred. For the purposes of this definition substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. For the purpose of this definition, the following shall not be considered substantial improvements: (a) routine maintenance of a structure, including re-roofing, repair of electrical systems, repair of utility systems, repainting, repair of windows, siding, and other maintenance; (b) any project for improvement of a structure to correct and comply with pre-cited existing violations of state or local health, sanitary, or safety code specifications that have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or (c) any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places.

"Surface water retention or detention facility" means a surface water management facility designed in accordance with the provisions of the current edition of the Washington State

Department of Ecology document entitled 'Surface Water Management for Western Washington'.

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

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

"Wetland" means that area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990 that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

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

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

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

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

DRAFT 2

GRAYS HARBOR COUNTY CODE 18.06

Change from Draft 1: Add or ~~Delete~~

- 18.06.010 Critical Protection Area - Purpose.
- 18.06.015 Applicability.
- 18.06.020 Critical Protection Area Special Studies.
- 18.06.025 General Exemptions.
- 18.06.030 Essential Public Facility Exception.
- 18.06.035 Reasonable Use Exception.
- 18.06.040 Variances – Authority.
- 18.06.045 Criteria for granting Variances in Frequently Flooded Areas.
- 18.06.050 Frequently Flooded Area Variance Record Requirements.
- 18.06.055 Appeals.
- 18.06.060 Critical Protection Area Maps and Inventories.
- 18.06.065 Notice on Title.
- 18.06.070 Critical Protection Area Tracts or Easements and Setback Areas.
- 18.06.075 Temporary Marking, and Permanent ~~Survey Marking, and~~ Signage.
- 18.06.080 Mitigation.
- 18.06.085 Monitoring and Maintenance.
- 18.06.095 Critical Protection Area Development Standards for Geologically Hazardous Areas.
- 18.06.100 Critical Protection Area Development Standards for Frequently Flooded Areas.
- 18.06.105 Warning and Disclaimer of Liability.
- 18.06.110 Permits required for all Development within the Frequently Flooded Area.
- 18.06.115 Administration of Frequently Flooded Area Standards.
- 18.06.120 Provisions for Flood Hazard Reduction.
- 18.06.125 Provisions for Flood Hazard Reduction in Floodways.
- 18.06.130 Provisions for Flood Hazard Reduction in Coastal High Hazard Areas.
- 18.06.135 Critical Protection Area Development Standards for Wetland Areas.
- 18.06.140 Critical Protection Area Development Standards for Fish and Wildlife Habitat Conservation Areas.
- 18.06.145 Critical Protection Area Development Standards for Critical Aquifer Recharge Areas.
- 18.06.150 Violations - Penalties.
- 18.06.155 Appeal of Civil Penalties.
- 18.06.160 Amendments.
- 18.06.165 Severability.
- 18.06.010 Critical Protection Area - Purpose.

18.06.010 Critical Protection Area – Purpose.

The purpose of this code is to identify and protect environmentally critical ~~protection~~ areas and to supplement the development requirements contained in the various zoning classifications of Grays Harbor County Code Title 17 by providing for additional controls without violating any citizen's constitutional rights.

Geologically Hazardous Areas, Frequently Flooded Areas, Wetland Areas, Fish and Wildlife Habitat Conservation Areas, and Critical Aquifer Recharge Areas constitute environmentally critical protection areas that are of special concern to the citizens of Grays Harbor County. The standards and mechanisms established in this code are intended to protect these environmentally critical features in Grays Harbor County. By regulating development and alterations to critical protection areas, this code seeks to:

- (1) Protect members of the public and public resources and facilities from injury, loss of life, property damage or financial losses due to flooding, erosion, landslides, or seismic events;
- (2) Protect unique, fragile and valuable elements of the environment including wildlife and its habitat;
- (3) Mitigate unavoidable impacts to environmentally critical protection areas by regulating alterations in and adjacent to critical protection areas;
- (4) Prevent cumulative adverse environmental impacts to water availability, water quality, wetlands and streams;
- (5) Protect the public trust as to navigable waters and aquatic resources;
- (6) Meet the requirements of the National Flood Insurance Program and maintain Grays Harbor County as an eligible community for federal flood insurance benefits;
- (7) Alert members of the public, including, but not limited to appraisers, owners, potential buyers or lessees, to the development limitations of critical protection areas;
- (8) Provide county officials with sufficient information to preserve critical protection areas;
- (9) Implement the policies of the "Washington State Environmental Policy Act" and the applicable requirements of the "Washington State Growth Management Act"; and
- (10) Implement the policies of the Grays Harbor County Comprehensive Land Use Plan and all Grays Harbor County functional plans.

18.06.015 Applicability.

- (A) The regulations and standards of Grays Harbor County Code Title 17 pertaining to zoning shall be subject to the general provisions, requirements, and conditions contained in this chapter. When any provision of any other chapter of the Grays Harbor County Code conflicts with this chapter, that which provides more preservation of the critical protection areas shall apply unless specifically provided otherwise in this section;

~~provided, such exceptions shall not conflict with state regulations, such as the "Washington State Shorelines Master Program".~~

These regulations shall apply as an overlay and in addition zoning, land use, and other regulations. In the event of any conflict between this chapter and any other title of Grays Harbor County code, those regulations that provide greater critical area protection shall apply.

(B) Prior to fulfilling the requirements of this section, Grays Harbor County shall not grant any approval or permission to alter the condition of any land, water or vegetation, or to construct or alter any structure or improvement including, but not limited, to the following permit-related activities:

- (1) Commercial or Residential Building Permit
- (2) Binding Site Plan
- (3) Conditional Use Permit
- (4) Flood Development Permit
- (5) Grading Permit
- (6) Planned Unit Development
- (7) Road Access Permit
- (8) Shoreline Conditional Use Permit
- (9) Shoreline Substantial Development Permit, including Exemption
- (10) Shoreline Variance
- (11) Short Subdivision
- (12) Special Use Permit
- (13) Subdivision
- (14) Cluster Subdivision
- (15) Large Lot Subdivision
- (16) Variance
- (17) Forest Practices conversion and moratorium rescission activities over which Grays Harbor County has jurisdiction
- (18) Zone Reclassification

(C) Grays Harbor County shall perform a critical protection area review for any Grays Harbor County permit or approval requested for a development proposal on a site that includes, ~~or is adjacent to~~, one or more critical protection areas, unless otherwise provided in this section. As part of all development applications:

- (1) Grays Harbor County shall verify the information submitted by the applicant to:
 - (a) Confirm the nature and type of the critical protection area and evaluate any special critical protection area study;
 - (b) Determine whether the development proposal is consistent with the provisions of this section of the County code;
 - (c) Determine whether any proposed alterations to a critical protection area are necessary;

- (d) Determine if any mitigation plan, monitoring plan, and bonding measures proposed by the applicant are sufficient to protect the public health, safety, and welfare consistent with the goals, purposes, objectives, and requirements of this chapter.
 - (e) Determine if the applicant previously has been found in violation of critical protection area regulations for any property in Grays Harbor County, or that any violations have been resolved to the satisfaction of Grays Harbor County
- (2) The applicant shall submit an affidavit that:
- (a) Declares that the applicant has no knowledge that a critical protection area(s) on the development proposal site have been illegally altered;
 - (b) Demonstrates that any development proposal submitted conforms to the purposes, standards and protection mechanisms of this chapter;
 - (c) If required, prepare a special critical area protection study in accordance with Section 18.06.020.
- (D) Grays Harbor County may approve, approve with conditions, or deny any development proposal in order to comply with these requirements and carry out the goals, purposes, objectives and requirements of this chapter.
- (E) Approval of a development proposal pursuant to the provisions of this section does not discharge the obligation of the applicant to comply with the provisions of this chapter.
- (F) ~~Mitigation measures shall be in place to protect the critical protection area from alterations occurring on a site that is being developed.~~ Mitigation measures shall be completed prior to commencing development activities on the site that will alter a critical protection area or its associated buffer. In all other cases, mitigation measures shall be timed to minimize impacts to the critical protection area and shall be completed prior to the final inspection and approval for the proposal.

18.06.020 Critical Area Protection Special Studies.

- (A) Special Study Requirement. An applicant for a development proposal that includes, ~~or could represent a probable significant adverse impact to,~~ a critical protection area, including any associated buffer, shall submit such special studies as required by Grays Harbor County to adequately evaluate the proposal and all probable ~~significant~~ adverse impacts. The study shall be prepared by a professional possessing the appropriate state or similar accreditation that demonstrates their understanding and skill in examining the scope of work.
- (B) Special Study Waiver. Grays Harbor County may waive the requirement for a special study if there is a written finding by the County that:
- (1) There will be no alteration of the critical protection areas or any required buffer;
- and

- (2) The development proposal ~~will not impact the critical area in a manner contrary to the goals, purposes, objectives and requirements of this chapter~~ is consistent with the purpose of Chapter 18.06.010; and
- (3) The minimum standards required by this chapter are met.
- (C) Special Study Exception. No special study is required for the following development proposals:
- (1) A building permit for the remodel of a structure when there is no enlargement of the existing footprint and when no alteration of the critical protection area or any associated buffer will occur as a result of the remodel activity.
 - (2) A building permit for a lot which was subject to a previous special study of critical protection areas; provided that the previous special study adequately identified contains information upon which the County can determine the impacts associated with the current development proposal.
 - (3) Grays Harbor County shall make such field investigations, as are necessary, to determine if the criteria for a special study exception are satisfied. In situations where a previous special study is used in determination process, the County shall determine if any proposed mitigation measures contained in the study were completed; if the mitigation measures were not completed, then they shall be required to be completed as part of the review and approval process for the new development.
- (D) Contents of special study. The written critical area special study and accompanying plan sheet shall contain the following information, at a minimum:
- (1) Be prepared by a qualified professional and licensed, if required, for such work in the State of Washington. The County shall verify and approve the accreditation prior to accepting the study for review.
 - (2) The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s) of the critical protection area special; a description of the proposal; identification of all the local, state, and/or federal permit(s) required for the project; and a vicinity map for the project;
 - (3) A statement specifying the accuracy of the report and all assumptions made and relied upon;
 - (4) Documentation of any fieldwork performed on the site, including field data sheets for delineations, function assessments, soil sample, test wells, and baseline hydrologic data;
 - (5) A description of the methodologies used to conduct the study, such as for delineations, functional assessments or impact analyses, including references;
 - (6) Identification and characterization of all critical protection areas and any required or proposed buffers on the proposed project area. ~~For areas located~~

~~adjacent to the project site, estimate conditions within 300 feet of the project boundaries using the best available information;~~

- (7) For any wetland special study for an identified on-site wetland area, provide the following: (a) the wetland rating per Washington State Department of Ecology document entitled "Washington State Wetlands Identification and Delineation Manual"; (b) proposed or required buffers; (c) hydrogeomorphic classification; (d) wetland acreage based on a professional survey from the field delineation, including the acreage for the on-site portion and entire wetland area including off-site portions; (e) Cowardin classification of vegetation communities; (f) habitat elements; (g) soil conditions based on site assessment and/or soil survey information; and (h) to the extent possible, hydrologic information such as location and condition of inlet/outlets, if they can be legally accessed, estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues, such as algal mats, drift lines, or flood debris. Provide acreage estimates, classifications, and ratings based on entire wetland complexes, ~~not only the portion present on the proposed project site;~~
- (8) A description of the proposed or required actions, including (a) an estimation of the acreage of the critical area and, if proposed or required, buffer areas based on the field delineation or survey, and (b) an analysis of site development impacts and alternatives, including ~~a no-development alternative~~ an alternative that would not impact the critical protection area;
- (9) An assessment of the ~~probable cumulative~~ impacts to the critical protection area and buffers, where required or proposed, resulting from the proposed development;
- (10) A description of reasonable efforts made to apply mitigation sequencing to avoid, minimize, and mitigate impacts to critical protection areas;
- (11) A discussion of measures, including avoidance, minimization, and compensation, proposed to preserve the existing critical protection area and, if appropriate for the proposed mitigation, restore any critical protection area that was degraded prior to the current proposed land use activity;
- (12) For any wetland area or fish and wildlife habitat conservation area special study, a conservation strategy for habitat and native vegetation that addresses methods to protect or enhance on-site habitat and function if required or proposed as a mitigation measure;
- (13) For any wetland area special study, an evaluation of functions of the wetland and, when required or proposed, the adjacent buffer using a functions assessment method recognized by the Washington State Department of Ecology, including the reference for the method used and all data sheets.
- (14) A copy of the site plan sheet(s) for the project shall be included with the written report and must include, at a minimum, the following elements:

- (a) Maps, to scale, and the square-footage estimates depicting delineated critical protection areas and, when required or proposed, on-site buffers, including buffers for off-site critical protection areas that may extend onto the project site; the development proposal; other critical protection areas; and grading limits;
 - (b) A depiction to scale of the proposed surface water management facilities and outlets for the development, including estimated areas of intrusion into the buffers of any critical protection areas. The written report shall contain a discussion of the potential impacts to the critical protection areas associated with anticipated hydrologic alterations from the project.
- (15) Studies shall propose adequate mitigation, maintenance, monitoring plans, and bonding measures as approved by Grays Harbor County.

18.06.025 General Exemptions.

The following are exemptions to the provisions of this chapter of Grays Harbor County code:

- (A) Federal, Washington State, or Grays Harbor County-declared emergencies that threaten the public health, safety and welfare;
- (B) ~~Structures in existence on the date this section becomes effective and that do not meet the setback requirements of this section for critical aquifer recharge areas, wetland areas, fish and wildlife habitat conservation areas, or geologically hazardous areas may be remodeled, reconstructed, or replaced provided that the new construction or related activity does not further intrude into an aquifer recharge area, a wetland area, a fish or wildlife habitat conservation area, or a geologically hazardous area and is subject to the restrictions of the frequently flooded areas for reconstruction. Provided further, however, that new construction or related activity connected with an existing single family residence shall not be considered further intruding into a critical area so long as the footprint of the structure lying within the critical area is not increased by more than 1,000 square feet and no portion of the structure is located closer to the aquifer recharge area, the wetland area, the fish and wildlife habitat protection area, or the geologically hazardous area than the existing structure.~~
- (C) For the following agricultural activities in existence on the date this Chapter becomes effective:
 - (1) Grazing of livestock;
 - (2) Mowing of hay, grass or grain crops;
 - (3) Tilling, discing, 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 code shall not require the modification of or limitations to agricultural activities 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 ~~shoreline~~ critical protection area than the original facility, and (9) maintaining agricultural lands under production or cultivation, and (10) aquaculture.
- (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 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 residences and associated 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.

Grays Harbor County shall, to the greatest extent practicable, implement voluntary programs to enhance the 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 the Washington 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 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 another governmental agency with jurisdiction;
 - (4) Installation or construction in a public road right-of-way ~~or private easement~~, and the replacement, operation or alteration, of all electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 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.

18.06.030 Essential Public Facility Exception.

- (A) If the application of this Chapter would prohibit an essential public facility proposal by a public agency or public utility, the agency or the utility may apply for an exception pursuant to this section. The public agency or utility shall apply to the Planning and Building Division, and the exception shall be heard by the Grays Harbor County Board of Adjustment for any development proposals not qualifying under Section 17.56.200. The public agency or utility shall submit information to the Board of Adjustment in support of the request, and shall incorporate any other required documents, such as permit applications, special studies, or State Environmental Policy Act (SEPA) related documents.
- (B) The Board of Adjustment shall review an application for an exception pursuant to the provisions of Grays Harbor County Code 2.12, and adopt a written finding based on the following criteria:
- (1) There is no other demonstrated practical alternative, based upon conclusions contained in a critical areas special study prepared pursuant to Section

18.06.020, to the proposed development with less impact on the critical protection area; and

- (2) The proposal minimizes the impact to critical protection areas through the use of mitigation measures.
- (C) This exemption shall not allow the use of the following critical protection areas for regional retention or detention facilities, except where there is a written finding that the facility will protect public health and safety or restore the value and function of the following ~~damaged~~ impacted natural resources:
- (1) Type S Streams ~~or~~ and associated buffers or waters of the state;
 - (2) Category 1 Wetland or Category 2 Wetland or their buffers with plant associations of infrequent occurrence;
 - (3) Category 1 Wetland or Category 2 Wetland or their buffers that provide critical or outstanding actual habitat unless clearly demonstrated by the applicant that there would be no impact on critical or outstanding actual habitat for:
 - (a) Species listed by the federal government as endangered or threatened and needing special protection.
 - (b) Species listed by the state government as endangered or threatened and needing special protection.

The County shall forward a copy of the exemption request to the Washington State Department of Fish and Wildlife and the Washington State Department of Ecology for their review and comment prior to granting or denying an exemption requested pursuant to this sub-section.

18.06.035 Reasonable Use Exception.

- (A) If the 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 heard by the Grays Harbor County Board of Adjustment.
- (C) The Board of Adjustment shall review an application for an exception pursuant to the provisions of Grays Harbor County Code 2.12. The Board, in recommending approval of a reasonable use exception, must determine 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.
- ~~(D) Any authorized alteration of a critical area under this section shall be subject to conditions established by Grays Harbor County, and shall require mitigation under a County approved mitigation plan.~~
- (E) Except when application of this Chapter would deny all reasonable use of the property as referenced in 18.06.035(A), an applicant who seeks relief from the standards and requirements of this Chapter shall pursue a variance as provided in Section 18.06.040.

18.06.040 Variances – Authority.

The Board of Adjustment shall hear and decide all applications for variances from the requirements of this Chapter.

- (A) Grays Harbor County may authorize variances from the standards of this Chapter in accordance with the procedures set forth in the Chapter 2.12 and Chapter 17.80, except Section 17.80.020. Board of Adjustment shall review the request and make written findings that the request meets or fails to meet the variance criteria.
- (B) Variance decision criteria. A variance may be granted only if the applicant demonstrates that the requested action conforms to all of the criteria set forth as follows:
 - (1) Special conditions and circumstances exist that are peculiar to the land, the lot, or something inherent in the land, and that are not applicable to other lands in the same zoning district.
 - (2) The special conditions and circumstances do not result from the actions of the applicant.
 - (3) A literal interpretation of the provisions of this Chapter would deprive the applicant of all reasonable economic uses and privileges permitted to other properties in the vicinity and zoning district of the subject property under the terms of this Chapter.
 - (4) The variance requested is the minimum necessary to provide the applicant with such rights.
 - (5) Granting the variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, structures, or buildings under similar circumstances.

- (6) The granting of the variance is consistent with the general purpose and intent of this Chapter.
 - (7) The granting of the variance will not further degrade the functions or values of the associated critical areas
 - (8) The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the subject property;
 - (9) The decision to grant the variance includes the best available science set forth in this Chapter and gives special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish habitat.
 - (10) The granting of the variance is consistent with the general purpose and intent of the Comprehensive Plan and adopted development regulations.
- (C) Conditions May Be Required. In granting any variance, the Board of Adjustment may prescribe such conditions and safeguards as are necessary to secure adequate protection of critical protection areas from adverse impacts, and to ensure conformity with this Chapter.
- (D) Time Limit. The Board of Adjustment shall prescribe a time limit within which the action for which the variance has been granted is required shall be begun or completed or both. Failure to begin or complete such action within the established time limit shall result in a rescission of the variance.
- (E) Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application.

18.06.045 Criteria for Granting Variances in Frequently Flooded Areas.

The Board of Adjustment shall hear and decide all applications for variances from the requirements of this Chapter; further provided that the requirements and criteria set forth in Section 18.06.045 must be met before a frequently flooded area variance is granted.

The purpose of the variance procedures provided in this section is to permit the construction and substantial improvement of structures within existing neighborhoods and areas where the structures are in close proximity, where full compliance with the provisions of this chapter would cause an exceptional hardship, and where granting of a variance would not result in additional threats to the public safety. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of ½-acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided the criteria in this section have been met. As the lot size increases, the technical justification required for issuing the variance increases. Upon consideration of the criteria contained in this section and in Section 17.80.020, the Board of Adjustment may grant those variances found to be consistent with the decision criteria. The Board shall make written findings of fact as to the justification for the variance and may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

- (A) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historical Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section and Chapter 17.80.020.
- (B) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
- (C) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (D) Variances shall only be issued upon: (1) a showing of good and sufficient cause; (2) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and (3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in the criteria below, or conflict with local laws or ordinances. In deciding variances and appeals from administrative decisions the following factors shall be considered: (a) the danger that materials may be swept onto other land to the injury of others; (b) the danger to life and property due to flooding or erosion damage; (c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner; (d) the importance of the services provided by the proposed facility to the community; (e) the necessity to the facility of a waterfront location, where applicable; (f) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage; (g) the compatibility of the proposed use with existing and anticipated development; (h) the relationship of the proposed use to the comprehensive plan and flood plain management program for that area; (i) the safety of access to the property in times of flood for ordinary and emergency vehicles; (j) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and (k) the costs of providing governmental service during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (E) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that a variance pertains to a physical piece of property; the variance is not personal in nature and does not pertain to the structure, its inhabitants, economic or financial circumstances. Variances primarily address small lots in densely populated residential neighborhoods. As such, variances from the elevation requirements should be quite rare.
- (F) Each applicant to whom a variance is granted shall be notified in writing that the permitted structure may be built with its lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with increased risk. Such notification shall be maintained with a record of all variance actions as required by Section 18.06.050.

18.06.050 Frequently Flooded Area Variance Record Requirements.

The county shall comply with the following record requirements: (A) the planning director shall maintain a record of all variance actions, including the justification for their issuance and the board's written findings of fact; ((B) the county shall report the variances from the requirements of this district granted in its periodic report submitted to the federal insurance administrator.

18.06.055 Appeals.

- (A) Any decision to require a critical protection area special study pursuant to this chapter may be appealed to the Board of Adjustment pursuant to Grays Harbor County Code 17.84.
- (B) Any decision to approve, condition, or deny a development proposal based on the requirements of this chapter may be appealed to the Board of Adjustment pursuant to Grays Harbor County Code 17.84.
- (C) Any decision authorized by this chapter where no administrative appeal process exists may be appealed to the Board of Adjustment pursuant to Grays Harbor County Code 17.84.
- (D) In considering appeals from administrative decisions, the Board of Adjustment shall consider all technical evaluations, all relevant factors, and the criteria set forth in Section 18.06.040 and Section 18.06.045.
- (E) Procedural determinations made by the planning and building director shall be entitled to substantial weight, as set forth in Revised Code of Washington 43.21C.075(3)(d) and Washington Administrative Code 197-11-680(3)(viii).

18.06.060 Critical Protection Area Maps and Inventories.

- (A) The distribution of many environmentally critical protection areas in Grays Harbor County is displayed on County maps, which are hereby adopted by reference. The actual presence or absence of the features defined in Grays Harbor County Code 17.56 as critical protection areas, as determined by Grays Harbor County, shall govern.

These maps are to be used as a guide, and do not provide a definitive determination as to the presence of a critical protection area. It shall be the responsibility of the developer to verify the presence of any on-site critical area.

All areas within Grays Harbor County meeting the definition of critical protection area, regardless of whether these areas have been identified or mapped, shall be subject to the provisions of this Chapter.

- (B) All revisions, updates, or re-printings of critical protection area maps and inventories shall be conformed to this chapter.

18.06.065 Notice on Title.

- (A) Grays Harbor County shall prepare and record a notice with the Grays Harbor County Auditor for any site within the critical protection area identified in Chapter 18.06 and on which a development proposal is submitted.

The notice shall indicate in the public record the presence of the critical protection area, the application of this code to the site, and that limitations on development activities may exist. Only one such notice is required to be recorded on any individual property or lot.

The notice shall be as set forth:

"Notice: This site lies within a critical protection area as identified in Grays Harbor County Code 18.06. The site was the subject of a development proposal for [application number] filed on [date]. Restrictions on use or alteration of the site may exist due to natural conditions of the site and resulting regulation. Review of such application provides information on the location of the critical protection area and the restrictions on the site. A copy of the application site map showing the critical protection area is attached hereto".

- (B) For all proposed subdivision proposals within critical protection areas identified in Section 18.06, the applicant shall include a note on the face of the plat.

The note shall be as set forth below:

"Notice: This site lies within a critical protection area as identified in Grays Harbor County Code 18.06. The site was the subject of a development proposal for [application number], filed on [date]. Restrictions on use or alteration of the site may exist due to natural conditions of the site and resulting regulation".

The note shall be recorded as part of final plat approval for any subdivision.

18.06.070 Critical Protection Area Tracts or Easements and Setback Areas.

- (A) Critical protection area tracts or easements shall be used to protect all geologically hazardous areas except erosion hazard areas, fish and wildlife habitat conservation areas, critical aquifer recharge areas, or wetland areas for any proposal governed by the provisions of Grays Harbor County Title 16 or Grays Harbor County Code Title 17 to which they apply, and shall be recorded on all documents of title of record for all affected property.

Any required critical protection area tract or easement shall be held in an undivided interest by each owner within the development, with this ownership interest carried forward with the ownership of the lot, to assure both the ownership and the protection of the tract or easement. A tract or easement may be included entirely within a lot in the development.

- (B) Any building setback area or buffer, as determined necessary by the County to preserve the resource, and the critical protection area shall be identified on a site plan that is filed as an attachment for any development permit application to the County.

18.06.075 Temporary Marking, ~~Permanent Survey Marking~~, and Permanent Signage. The following requirements shall be utilized by all development subject to the provisions of this chapter:

- (A) Temporary marking. Prior to commencing construction activities on a development site, the applicant shall identify and mark critical protection areas in a highly visible manner, such as through the use of yellow caution tape or signs, and these areas must remain so marked until all development activities in the vicinity of the critical protection area have been completed.
- ~~(B) Survey markers. Permanent survey stakes, using iron or cement markers as established by current survey standards, shall be set delineating the boundary between the adjoining developed portion of the property and the critical protection area tract(s).~~
- ~~(C) Signs. For development requiring a critical protection area special study noted in Section 18.06.020, The the boundary between a critical protection area tract or easement and the adjacent developed land shall be identified using permanent signage. Permanent signs shall be constructed of enamel-coated metal facing and attached to a metal post or other non-treated material of equal durability. Signs shall be installed at an interval of one for every 50 feet as measured along the outer edge of the critical protection area or buffer and shall be maintained by the property owner in perpetuity, unless otherwise approved by Grays Harbor County. The critical area special study prepared for the proposal shall include information concerning the installation of the required signage, including the material to be used, signage installation location detailed on a site map of the property drawn to scale, and a signage maintenance program.~~

The sign shall be worded as follows, or with alternative language approved by Grays Harbor County:

*Protected Wetland Area
Do Not Disturb*

*Protected Fish and Wildlife Habitat Conservation Area
Do Not Disturb*

*Protected Geologically Hazardous Area
Do Not Disturb*

*Protected Critical Aquifer Recharge Area
Do Not Disturb*

*Protected Frequently Flooded Area
Do Not Disturb*

Temporary marking and permanent signage requirements may be modified by the planning and building director as necessary to ensure the protection of the resource. The modification shall be in writing and shall be based upon information contained in a critical protection area special study prepared pursuant to Section 18.06.020.

18.06.080 Mitigation.

- (1) Mitigation means the use of the following actions that are listed in descending order of preference:
 - (a) Avoiding the impact all together by not taking a certain action or parts of an action;
 - (b) Minimizing impact by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impact;
 - (c) Rectifying the impact by repairing, rehabilitating or restoring the affected critical protection areas;
 - (d) Reducing or eliminating the impact over time by prevention and maintenance operations during the life of the actions;
 - (e) Compensating for the impact by replacing, enhancing, or providing substitute critical protection areas and environments;
 - (f) Monitoring the impact and taking appropriate corrective measures.
- (2) ~~It is the goal of Grays Harbor County to~~ The protection and mitigation measures in this chapter shall achieve no overall net loss in the existing value and function of Geologically Hazardous Areas, Frequently Flooded Areas, Wetland Areas, Fish and Wildlife Habitat Conservation Areas, and Critical Aquifer Recharge Areas.
- (3) Mitigation measures shall be in place for the critical protection areas and any associated buffer to protect the resource from adverse impacts occurring on all or portions of the site that are being developed.
- (4) A mitigation plan shall be required for the design, implementation, maintenance, and monitoring of the mitigation measure(s), and it shall be prepared by an individual or company that can demonstrate professional expertise in the field applicable to the critical protection area.

18.06.085 Monitoring and maintenance.

Grays Harbor County may require monitoring when mitigation is required for the alteration of a critical protection area. A monitoring plan shall be prepared by the developer that includes the conditions of development approval specifically designed to address critical area protection, the date of mitigation action, and a schedule for assessing the value and function of the critical area subject to the mitigation measure. Where monitoring reveals a significant deviation from predicted impacts or a failure of mitigation measures, the applicant shall be responsible for appropriate corrective action(s), referred to as adaptive management, which, when approved, shall be subject to monitoring. Access to the monitored area, for purposes of inspection, shall be provided by the applicant to insure conformance with the provisions of the monitoring program, with notice of the inspection provided by the agency to the property owner seven calendar days prior to the inspection.

- (1) Permanent maintenance of mitigation measures. Arrangements shall be required for the permanent maintenance of all mitigation measures that are not dedicated to and accepted by a public agency. The planning and building director may require that the maintenance arrangements be recorded with the property as covenants or notifications. Grays Harbor County shall have no responsibility to maintain any mitigation measures that have not been dedicated to and accepted by the county. The county shall have no responsibility to enforce actual performance of any maintenance arrangements required by this Section.
- (2) Inspection. Required mitigation measures shall be inspected to the satisfaction of the county. Inspections shall be requested by the developer at such stages as may be indicated by the county. The cost of all inspections, plan checking, testing, sampling, and other work incidental to approval of the required improvements shall be charged to the developer and paid before final approval of the development or release of a performance bond.
- (3) Performance bonds. As an alternative to complete installation of required mitigation measures prior to final development permit approval, the developer may elect to post a performance bond guaranteeing completion of the work within a stated period not to exceed one-year. The bond may be for part or all of the mitigation measure.

Any such performance bond shall be in an amount acceptable to the county and in a form acceptable to the county prosecutor, and in an amount no less than one hundred (100) percent of the estimate of the county of the cost for completing the required mitigation measures, required inspections, and repairs to be bonded, including related engineering and incidental expenses, inspections, the costs of administering the construction of mitigation measures, the costs of calling on the surety, any final survey monumentation, and any certified original reproducible "as built" mitigation measure plans. Separate bonds may be required for each required mitigation measure to be bonded.

Performance bonds are to protect the public and the purchasers of the property being developed by providing guarantees that the required mitigation measures will be installed. It shall not be used for or in any way tied to payments to contractors or sub-contractors.

- (4) Maintenance bonds. A maintenance bond securing to Grays Harbor County the successful operation for one year of any mitigation measure required by this title, may be required by the county as a condition of final inspection and approval. Any such maintenance bond shall be an amount acceptable to the county, and in a form acceptable to the county prosecuting attorney.

The bonds shall be used to make any repairs or changes necessary to correct any defects, poor workmanship, or operational problems discovered one-year from the date the mitigation measure was inspected and approved, if the correction is not to be undertaken by the developer. The developer shall be liable for the costs of correcting any defects that exceed the value of the bond during the first year after the improvements are inspected and approved.

Certificate of satisfactory completion. The county will not release nor reduce a performance bond until the Planning and Building Director finds that (1) all required improvements, for which the bond or a portion of the bond is pledged to assure completion, has been satisfactorily completed, and that (2) the applicant has submitted to the county original reproducible plans certified by the professional whom prepared the critical protection area special study as being "as built" and indicating location, dimensions, materials, and other information as required by the county.

- (5) Bond administration. The county shall monitor the construction of bonded mitigation measures and the performance of mitigation measures secured by maintenance bonds. If the developer fails to carry out or violates the bond agreement, the planning and building division, after consultation with the prosecuting attorney, shall request the Board of County Commissioners to declare the developer in default and to instruct the county staff to obtain the funds available from the surety to construct the bonded mitigation measures and to reimburse the county for any expenses it has incurred. A developer shall be in default if he or she has (a) violated the bonding agreement and/or failed to complete the required mitigation measures in compliance with the time periods set out in the bonding agreement, or (b) if the developer has failed to correct defects in mitigation measures during the year after they were inspected and approved. The Planning and Building Director or other affected county agency may petition the Board of County Commissioners to declare the developer in default if he or she has failed to carry out the agreement during the specified time period.

If the amount of the surety does not exceed the cost and expense incurred by construction of the mitigation measures by Grays Harbor County, the remainder shall be released. If the amount of the bond or cash deposit is greater than the cost and expense incurred, the developer shall be liable to the county for the difference.

The cost of monitoring, and any agency costs associated with the review of said monitoring, shall be funded by the applicant.

18.06.095 Critical Protection Area Development Standards for Geologically Hazardous Areas.

- (A) Grays Harbor County shall utilize the United States Department of Agriculture Soil Conservation Service document 'Soil Survey of Grays Harbor Area, Pacific County, and Wahkaikum County, Washington', the current edition of the Washington State Department of Ecology document "Stormwater Management Manual for Western Washington", the Washington State Department of Natural Resources "Landslide Zonation Project", the current edition of the Washington State Division of Geology and Earth Resources document entitled "Geologic Map of the Shelton, Copalis Beach, Westport, Chehalis River, and the southern portion of Forks and Mount Olympus Quadrangles, Washington", the Washington State Department of Natural Resources document entitled "Liquefaction Susceptibility and Site Class Maps for Washington State", the Washington State Department of Ecology document entitled "A Framework for Delineating Channel Migration Zones", the Washington State Department of Natural Resources "Forest Practice Application Review System" (FPARS) resource mapping, and the current edition of the "International Building Code" in identifying and determining the application of protection measures for geologically hazardous areas.

(B) Geologically Hazardous Areas are comprised of Erosion Hazard Areas, Landslide Hazard Areas, and Seismic Hazard Areas.

(1) Erosion Hazard Area protection mechanisms and permitted alterations. Erosion Hazard Areas are those natural areas that possess an elevational slope of greater than 8-percent. Any alteration of a site containing an erosion hazard area shall meet the following requirements:

- (a) Erosion control best management practices, consistent with those contained in the current edition of the Washington State Department of Ecology document entitled "Stormwater Management Manual for Western Washington", shall be installed prior, during, and after site development activities. The schedule for the installation of the practices shall be reviewed and approved by Grays Harbor County prior to the initiation of any on-site development activity involving earthwork.
- (b) Only that clearing necessary to install temporary sedimentation and erosion control measures shall occur prior to clearing for roadways or utilities.
- (c) Clearing limits for roads, sewer utilities, water utilities, surface water management utilities, and temporary erosion control facilities shall be marked in the field and approved by Grays Harbor County prior to any alteration of existing native vegetation.
- (d) Clearing for roads and utilities shall remain within construction limits, which must be marked in the field prior to commencement of site work.
- (e) The authorized clearing for roads and utilities shall be the minimum necessary to accomplish project specific engineering designs, and shall remain within the approved public right-of-way or private ingress/egress easement.
- (f) Clearing of trees within the public right-of-way or private ingress/egress easement may occur in conjunction with clearing for roadways and utilities.
- (g) All trees and their understory shall be retained on lots or parcels during clearing for roadways and utilities, provided that any understory damaged during approved clearing operations may be pruned.
- (h) Damage to vegetation retained during initial clearing activities shall be minimized by directional felling of trees to avoid critical protection areas and vegetation to be retained, and preparation and- approval of a skidding plan aimed at minimizing damage to soil and understory vegetation.
- (i) Retained trees, understory, and stumps may subsequently be cleared only if such clearing is a specific element of residential, multifamily, or commercial structure site plan approval process.

- (j) Hydroseeding, or other erosion control methods as required in temporary erosion control plans, shall be utilized and maintained until project completion.
 - (k) All development proposals shall submit an erosion control plan, and any other requirements of this chapter, prior to receiving approval.
- (2) Landslide hazard area protection mechanisms and permitted alterations. Landslide Hazard Areas are those areas potentially subject to the risk of mass movement due to a combination of geologic, topographic, and hydrologic factors. Any alteration of a site containing a Landslide Hazard Area shall meet the following requirements:
- (a) Building Setback Area Buffer. A building setback area buffer, pursuant to the provisions of Grays Harbor County Code 15.04.010 and the current edition of the International Building Code, shall be established from the edge of a landslide hazard area and from landslide hazard areas with slopes greater than 33.3-percent, unless these areas are reviewed and approved for use through the utilization of a critical protection area special study prepared pursuant to Section 18.06.015. Existing native vegetation within any required building setback buffer area shall be maintained, and the buffer shall be extended beyond these limits as required to mitigate the landslide hazard, or as otherwise necessary to protect the public health, welfare and safety.
 - (b) Critical protection area tract or easement. Any landslide hazard area and buffer of 1-acre or greater in size that is associated with a development proposal listed in Grays Harbor County Code 18.06.070 shall be placed in a critical protection area tract or easement. Ownership of the tract shall be included in the deed for the property containing the landslide hazard area.
 - (c) Alterations.
 - (i) A landslide hazard area located on a slope less than 33.3-percent may only be altered in the following circumstances:
 - (I) If the development proposal will not decrease slope stability on adjacent properties; and
 - (II) If the landslide hazard area can be modified or the development proposal can be designed so that the landslide hazard to the project and adjacent property is eliminated or mitigated, and the development proposal on that site is certified as safe by a licensed geologist or geotechnical engineer.
 - (ii) Where such alterations are approved, building setback area buffers and critical area tracts will not be required.

(d) Alterations on slopes in excess of 33.3-percent.

(i) Buffers.

(I) A minimum building setback area buffer shall be established at a horizontal distance, pursuant to the provisions of Grays Harbor County Code 15.04.010 and the current edition of the International Building Code, from the top of the slope, from the bottom of the slope, and along all sides of a slope that is 33.3-percent or greater. Existing native vegetation within the buffer area shall be maintained, and the buffer shall be extended beyond these limits as required to mitigate landslide and erosion hazards, or as otherwise necessary to protect the public health, safety and welfare.

(II) The buffer may be reduced when an applicant demonstrates to Grays Harbor County, pursuant to a special engineered study prepared by licensed geologist or geotechnical engineer, that the reduction will adequately protect both the proposed development and the critical protection area.

(ii) Critical Protection Area Tract. Any landslide hazard area and its building setback area buffers that are 1-acre or greater in size shall be placed in separate critical protection areas tract or easement for any development proposal listed in Section 18.06.070. Ownership of the tract or easement shall be included in the deed for the property containing the landslide hazard area.

(iv) Alterations. Alterations to landslide hazard areas shall be allowed only as follows:

(I) Surface water management. Landslide hazard areas may be used for approved surface water conveyance, as specified in the Washington State Department of Ecology document entitled "Stormwater Management Manual for Western Washington". Installation techniques shall minimize disturbance to the slope and vegetation.

(II) Trails. Grays Harbor County may allow construction of public and private trails in landslide hazard areas, provided that the construction plans are prepared by a licensed engineer and receive site specific approval. In no case shall trails be constructed of concrete, asphalt, or other impervious surface that would contribute to surface water runoff, unless such construction is necessary for soil stabilization, soil erosion prevention, or

to provide access for members of the disabled community.

- (III) Utilities. Construction of public and private utility corridors may be allowed in landslide hazard areas, provided that a critical protection area special study indicates that such alteration will not subject the area to an increased risk of landslide.
 - (IV) View Corridors. Grays Harbor County shall allow the limited trimming and limb removal of vegetation in landslide hazard areas for the creation and maintenance of views, provided that the soils are not disturbed and that the trimming and limb removal will not create an unsafe condition, as determined in writing by a professional arborist.
 - (V) Mining activities. Grays Harbor County may allow alteration of landslide hazard areas in conjunction with mining and quarrying activities allowed pursuant to Grays Harbor County Code 17.60.090.
- (v) Grays Harbor County may grant exemptions and exceptions from the landslide hazard area requirements of this Chapter subject to the provisions in Section 18.06.025, Section 18.06.030, and Section 18.06.035.
- (vi) Limited Exemptions.
- (I) Slopes 33.3-percent and greater may be exempted from the provisions of this section based on Grays Harbor County review of a soils report prepared by a geologist or geotechnical engineer that demonstrates that no adverse impact will result from the exemption.
 - (II) Any slope that has been created through previous legally permitted grading activities may be re-graded as part of an approved development proposal. Any slope which remains equal to, or in excess of, 33-percent following site development shall be subject to the protection mechanisms for landslide hazard areas noted in Section 18.06.095(B)(2)(e)(vii).
- (vii) The removal or introduction of vegetation in landslide hazard areas. Unless otherwise specified, the following restrictions apply to vegetation removal or introduction in landslide hazard areas with a greater than 33.3-percent slope:
- (I) There shall be no removal of any vegetation from any landslide hazard area with a slope in excess of 33.3-

percent, except for the limited plant removal necessary for surveying purposes and for the removal of hazard trees determined to be unsafe as determined in writing by a professional arborist.

(II) On slopes that have been disturbed by human activity or infested by noxious weeds, Grays Harbor County may allow the replacement with native species or other appropriate vegetation subject to approval of an enhancement plan.

(3) Seismic Hazard Area protection mechanisms and permitted alterations. Seismic Hazard Areas are those areas mapped Seismic Zone D in the current edition of the International Building Code. Any alteration of a site containing a seismic hazard area shall meet the following requirements:

(a) Alterations. Development proposals on sites containing mapped Seismic Hazard Area may make alterations to a Seismic Hazard Area only when the applicant demonstrates, and Grays Harbor County finds, that mitigation, in the form of development permit conditions, is provided consistent with the provisions of the current edition of the International Building Code (IBC) that renders the proposed development as safe as if it were not located in a seismic hazard area.

(b) Development proposals will be subject to the review standards as set forth in the current edition of the International Building Code.

18.06.100 Critical Protection Area Development Standards for Frequently Flooded Areas.

(A) Frequently Flooded areas. Development proposals on sites containing frequently flooded areas shall meet the requirements of the following sub-section of this chapter.

(B) Floodplain District. The floodplain classification is designed to carry out the mandate contained in the National Flood Insurance Program (NFIP) and the protection of frequently flooded areas. The Federal Insurance Administration shall determine the zone classification for those areas that are not included in the Flood Insurance Rate Map (FIRM) prior to the issuance of any development permit for the property.

(C) Lands to which this chapter applies. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Grays Harbor County" dated February 16, 1990 and any revisions thereto, with an accompanying Flood Insurance Rate Maps (FIRM) and any revisions thereto, are hereby adopted by reference and declared to be a part of this code. The Flood Insurance Study and the ~~FIRMS~~ FIRM shall be maintained on file in the Planning and Building Division office. The best available information for flood hazard area identification shall be the basis for the regulations contained herein until such time that a new FIRM is issued that incorporates updated hazard identification.

No land, wetlands, or waterways shall be altered; no building or structure shall be erected, reconstructed, located, extended, expanded, converted, altered or intensified;

and no land, building, or structures shall be used for any purpose except as herein after allowed in the same zone in which such building, structure, and land is located.

18.06.105 Warning and Disclaimer of Liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damage. This chapter shall not create liability on the part of Grays Harbor County, any officer or employee thereof, or the Federal Insurance Administration, for any flood damage that results from reliance on this chapter or any administrative decision lawfully made hereunder.

18.06.110 Permits required for all Development within the Frequently Flooded Areas.

A permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 18.06.100(C). The permit shall be required for all structures, including manufactured homes, as set forth in Chapter 17.08, and for all development including fill and other activities, also as set forth in Chapter 17.08. In addition to the information required for all permits, applications for permits for development within any area of special flood hazard except flood elevation certificates required pursuant to Title 15 of this code, shall include:

- (A) The elevation in relation to mean sea level, of the lowest floor (including basement) of all structures and whether or not the structure contains a basement; refer to Section 18.06.120(B).
- (B) The elevation in relation to mean sea level to which any structure has been flood proofed;
- (C) Certification by a professional engineer or architect licensed to practice in the State of Washington that the flood-proofing methods for any non-residential structure meets the flood-proofing criteria in Section 18.06.120(F) and a certification upon completion that the structure was built in accordance with the criteria. These certifications shall be provided before a certificate of occupancy is issued;
- (D) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development;
- (E) A listing of the necessary permits and clearances from those governmental agencies from which approval is required by Federal or State law, including but not limited to "Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334" and the "Washington State Shorelines Management Act";
- (F) Evidence the permits listed in Section 18.06.110(E) have been received;
- (G) Any other information which may be reasonably required by the planning director in order to administer this chapter.

The applicant shall be responsible for the costs of providing the required information, including the costs associated with determining and setting elevations at the development site where required by this chapter.

18.06.115 Administration of Frequently Flooded Area Standards.

The planning and building director is hereby appointed to administer and implement the provisions of Section 18.06.100 by granting or denying development permit applications in accordance with its provisions. The duties of the director shall include, but not be limited to:

(A) Permit Review.

- (1) Review all permits requested for areas within the flood plain district to determine that the permit requirements and development standards of this chapter have been satisfied. The planning director may require that development proposals be reviewed by the county engineer to assure the accuracy of data and that the provisions of this chapter will be met;
- (2) Review all permits requested for areas within the flood plain district to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required, including "Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334" and the State of Washington "Shoreline Management Act".
- (3) For areas where a regulatory floodway has been designated, review all permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 18.06.125(A) are met;
- (4) For areas where a regulatory floodway has not been designated but may be designated in the future, review all permits in the area of special flood hazard except in the coastal high-hazard area to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purpose of this chapter, "adversely affects" means that the cumulative effect of the proposed development where combined with all other existing and anticipated development will not increase the water-surface elevation of the base flood more than one foot at any point.

(B) Obtaining base flood data. When base flood elevation data has not been provided (in A or V Zones) in accordance with the "Basis for Establishing the Areas of Special Flood Hazard" of Section 18.06.100(C), the planning director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source in order to administer Section 18.06.120 governing "Provisions for Flood Hazard Reduction" and Section 18.06.125 governing "Provisions for Flood Hazard Reduction in Floodways" of this chapter.

(C) Obtaining and maintaining the following information:

- (1) Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in Section 18.06.115(B), obtain and record the actual as-built elevation in relation to mean sea level of the lowest floor, including

basement, of all new or substantially improved structures, and whether or not the structure contains a basement;

- (2) For all new or substantially improved flood-proofed non-residential structures where base flood elevation data is provided through the FIS, FIRM, or as required in Section 18.06.115(B): (a) obtain and record the actual elevation, in relation to mean sea level, to which the structure was flood-proofed; and (b) maintain the flood-proofing certifications required in Section 18.06.110(C);
- (3) For all new construction and substantially improved structures within coastal high hazard areas, certification shall be obtained from a professional engineer or architect licensed to practice in the State of Washington that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters;
- (4) Maintain for public inspection all records pertaining to the provisions of this chapter.

(D) Alteration of Watercourses.

- (1) Notify adjacent communities and the Washington State Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

(E) Interpretation of FIRM boundaries: make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The ~~person~~ applicant contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program 44 Code of Federal Regulations (CFR) 59-76 or as amended.

18.06.120 Provisions for Flood Hazard Reduction.

In all areas of special flood hazards, the following standards are required:

(A) General Development Standards.

- (1) All development proposals shall be consistent with the need to minimize flood damage.
- (2) All public utilities and facilities, such as sewer, gas, electrical, and water systems proposed for construction within all development proposals shall be located and constructed to minimize or eliminate flood damage.

- (3) All development proposals shall provide adequate drainage to reduce exposure to flood damage.
- (4) All subdivision proposals shall comply with the following:
- (a) All subdivision proposals shall be consistent with the need to minimize flood damage.
 - (b) All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical, and water systems located and installed to minimize or eliminate flood damage.
 - (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (5) All recreational vehicle use in frequently flooded areas shall comply with the provision of Chapter 8.20.
- (6) All development proposals in shallow flooding areas shall comply with the standards contained in this sub-section.
Shallow flooding areas appear on a FIRM as AO zones with depth designations. The base flood depths in these zones range from 1-foot to 3-feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions shall apply:
- (a) New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor, including basement, elevated above the highest adjacent grade to the structure, one-foot or more above the BFE depth number specified in feet on the community's FIRM or at least two-feet above the highest adjacent grade to the structure if no depth number is specified.
 - (b) New construction and substantial improvements of non-residential structures within AO zones shall either:
 - (i) Have the lowest floor, including basement, elevated above the highest adjacent grade of the building site, one-foot or more above the depth number specified on the FIRM or at least two-feet if no depth number is specified. This improvement shall be noted on a current elevation certificate Form FF81-31, with Section E completed, and the form recorded; or
 - (ii) Together with attendant utility and sanitary facilities, be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and

hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect.

(c) Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

(d) Recreational vehicles placed on sites within AO Zones on the community's FIRM are required to comply with the provisions of Grays Harbor County Code 8.20.

(B) Permit review where elevation data is not available. Where elevation data is not available either through a Flood Insurance Study, FIRM, or from another authoritative source such as detailed in Section 18.06.115(B), applications for permits shall be reviewed to assure that the proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.

(C) Anchoring Standards.

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(2) All manufactured homes to be placed or substantially improved on a site located within a floodplain shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one-foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement, with the installation using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors. For more detailed information, refer to guidebook FEMA-85 entitled "Manufactured Home Installation in Flood-Hazard Areas".

(D) Construction Materials and Methods.

(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3) Electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities shall be designed, and/or otherwise elevated, or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(E) Elevation Standards for Residential Structures.

- (1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation.
 - (2) All manufactured homes to be placed or substantially improved within Zones A, AI through A30, AH, and AE shall be elevated on a permanent foundation so that the lowest floor is one foot or more above the base flood elevation and is securely anchored to an adequately anchored foundation system, in compliance with Section 18.06.120(C)(2), to resist flotation, collapse and lateral movement.
 - (3) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a professional engineer or architect licensed to practice in the State of Washington or must meet or exceed the following minimum criteria: (a) a minimum of two openings having a total net area of not less than one square inch for each one square foot of enclosed area subject to flooding shall be provided; (b) the bottom of all openings shall be no higher than one foot above grade; (c) the openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (F) Elevation and Flood-proofing Standards for Non-Residential Structures. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall either:
- (1) Have the lowest floor, including basement, elevated one foot or more above the base flood elevation; or
 - (2) Have the structure together with attendant utility and sanitary facilities flood-proofed in compliance with the following requirements:
 - (a) Be flood-proofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water,
 - (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy,
 - (c) Be certified by a professional engineer or architect licensed to practice in the State of Washington that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection based on their development or review of the structural design, specifications and plans. Such certifications shall be provided to the planning director in accordance with Section 18.06.110(C).
 - (3) Non-residential structures that are elevated, but not flood-proofed, must meet the same standards for space below the lowest floor as described in Section 18.06.120(E)(3).

(G) Utility System Standards.

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.
- (2) New and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (4) Water wells shall be located on high ground that is not in the floodway.

(H) AE and A1-30 Zones with base flood elevations but no floodways. In areas with base flood elevations but where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development including fill shall be permitted within Zones A1-30 and AE on the county's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the county.

18.06.125 Provisions for Flood Hazard Reduction in Floodways.

Located within areas of special flood hazard established in Section 18.06.100(C) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris, and increase erosion potential, the following provisions apply:

- (A) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a professional engineer licensed to practice in the State of Washington is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.
- (B) Construction or reconstruction of residential structures is prohibited within designated floodways, except for (i) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (ii) repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50-percent of the market value of the structure either (1) before the repair or construction is started, or (2) if the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or to structures identified as historic places, may be excluded in the 50-percent.
- (C) If Section 18.06.125(A) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 18.06.120.

18.06.130 Provisions for Flood Hazard Reduction in Coastal High Hazard Areas.

In addition to the standards contained in Section 18.06.120, the following standards shall be required for developments sited within coastal high hazard areas (V zones) to lessen the special hazards associated with high velocity waters from tidal surges. The planning director, or his or her designee, shall review each development proposal within a coastal high hazard area prior to issuing a permit to assure that the following standards are met:

- (A) All new construction, including buildings or structures shall be located landward of the reach of mean high tide.
- (B) Located within areas of special flood hazard are Coastal High Hazard Areas, designated as Zone V1 through and including V-30, VE, and/or V. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions in this chapter, the following provisions shall also apply:
 - (1) All new construction and substantial improvements in Zone V1 through and including V-30, Zone VE, and Zone V if base flood elevation data is available on the county's FIRM, shall be elevated on pilings and columns so that:
 - (i) The bottom of the lowest horizontal structural member of the lowest floor, excluding the pilings or columns, is elevated one-foot or more above the base flood level; and
 - (ii) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one-percent chance of being equaled or exceeded in any given year at a 100-year mean recurrence interval.

A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for compliance with the provisions of Section 18.06.030(B)(1)(i) and Section 18.06.030(B)(1)(ii).

- (2) Obtain the elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor, excluding pilings and columns, of all new and substantially improved structures in Zone V1 through and including V-30, Zone VE, and Zone V on the county's FIRM, and determine whether or not such structures contain a basement. The planning and building director shall maintain a record of all such information.
- (3) All new construction within Zone V1 through and including Zone V30, Zone VE, and Zone V on the county's FIRM shall be located landward of the reach of the mean high tide.

(4) Provide that all new construction and substantial improvements within Zone V1 through and including Zone V30, Zone VE, and Zone V on the county's FIRM have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purposes of this sub-section, a breakaway wall shall have a design safe loading resistance of not less than 10-pounds per square-foot and no more than 20-pounds per square-foot. The use of breakaway walls that exceed a design safe loading resistance of 20-pounds per square-foot, either by design or when so required by county or state codes, may be permitted only if a registered professional engineer or architect certifies that the proposed design meets the following criteria:

- (i) Breakaway wall collapse shall result from water load less than that would occur during the base flood; and
- (ii) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all structural and non-structural building components. Maximum wind and water loading values to be used in this determination shall each have a one-percent chance of being equaled or exceeded in any given year at a 100-year mean recurrence interval.

If breakaway walls are utilized, such enclosed space shall be useable solely for the parking of vehicles, building access, or storage. Such space shall not be used for human habitation.

- (5) Prohibit the use of fill for structural support of buildings within Zone V1 through and including V30, Zone VE, and Zone V on the county's FIRM.
- (6) Prohibit man-made alteration of sand dunes within Zones V1 through and including V30, Zone VE, and Zone V on the county FIRM which would increase potential flood damage.
- (7) All manufactured homes to be placed or substantially improved within Zones V1-30, Zone V, and Zone VE on the community's FIRM and on sites that are (a) located outside of a manufactured home park or subdivision, or (b) located in a new manufactured home park or subdivision, or (c) located in an expansion to an existing manufactured home park or subdivision, or (d) located in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, shall meet the standards of Section 18.06.130(B)(1) through and including Section 18.06.130B(6), and manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision within Zones V1-30, Zone V, and VE on the county's FIRM shall meet the requirements of Section 18.06.130(B)(2) through and including Section 18.06.130(B)(3).

- (7) Recreational vehicles placed on sites within Zone V1 through and including Zone V30, Zone V, and Zone VE on the county's FIRM shall comply with the provisions of Grays Harbor County Code 8.20.

18.06.135 Critical Protection Area Development Standards for Wetland Areas.

- (A) Grays Harbor 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 Washington 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 the Washington State Department of Ecology's "Washington State Wetlands Identification Manual" for the delineation of wetland areas, and the current edition of the "Washington State Wetland Rating System for Western Washington" for evaluating categorizing wetland areas, and the current editions of "Wetland Mitigation in Washington State Volume 1: A Synthesis of the Science" and "Wetland Mitigation in Washington State Part 2: Developing Mitigation Plans" for the mitigation of wetland area impacts except as superceded 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 requirements of the following sub-section of this chapter.
- (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 Grays Harbor 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 ~~or enhance~~ the 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 ~~applicant~~ County shall notify ~~affected communities~~ the Washington State Department of Ecology, the 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 Section 18.06.420(B)(6) 135(B)(6)(g).

(4) There shall be no introductions of any plant or wildlife that is not indigenous to the Pacific Northwest into any wetland area, unless authorized by a State of Washington or a federal license or permit.

(5) Wetland classifications.

(a) *Category 1 Wetland* means a wetland area that ~~meets any of the following criteria: 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.~~

~~(i) The presence of species listed by the federal government or state as endangered or threatened, or those areas that contain the presence of critical or outstanding actual habitat for those species.~~

~~(ii) Wetlands having 40 percent to 60 percent permanent open water in dispersed patches, with two or more classes of wetland vegetation.~~

~~(iii) Wetlands equal to or greater than 10 acres in size and having three or more wetland classes, one of which is open water.~~

~~(iv) The presence of plant associations of infrequent occurrence.~~

~~(v) High quality native wetland communities, including documented *Category I Quality National Heritage Wetland Site* or a *Category II Quality Natural Heritage Wetland Site* and sites that qualify as a *Category I Quality National Heritage Wetland Site* or a *Category II Quality Natural Heritage Wetland Site*.~~

~~(vi) High quality, regionally rare wetland communities with irreplaceable existing ecological functions, including sphagnum bogs and fens, kelp and eelgrass beds, estuarine, wetlands, or mature forested swamps.~~

~~(vii) Wetlands of exceptional local significance. The criteria for such a designation shall be developed and adopted by the local jurisdiction under appropriate public review and administrative appeal procedures. The criteria may include, but not be limited to, rarity, groundwater recharge areas, significant habitats, unique educational sites or other specific existing functional values within a watershed or other regional boundary.~~

(b) *Category 2 Wetland* means a wetland area that ~~meets any of the following criteria: 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.~~

- ~~(i) Wetland area is greater than 1 acre in size.~~
 - ~~(ii) Wetland area equal to or less than 1 acre in size and having three or more wetland classes.~~
 - ~~(iii) Wetland area equal to or less than 1 acre that have a forested wetland class.~~
 - ~~(iv) The presence of heron rookeries or raptor nesting trees.~~
 - ~~(v) Regulated wetlands that do not contain features outlined in Category 1 Wetland Areas.~~
 - ~~(vi) Documented habitat for sensitive plant, fish or animal species recognized by federal or state agencies.~~
 - ~~(vii) Rare wetland communities that are not high quality.~~
 - ~~(viii) Wetland types with significant existing functions that may not be adequately replicated through creation or restoration.~~
 - ~~(ix) Wetlands with significant habitat value based on diversity and size.~~
 - ~~(x) Wetlands that provide exceptionally high quality habitat, or represent regionally rare habitat to anadromous salmonid fish or priority fish species.~~
 - ~~(xi) Wetlands with significant use by fish and wildlife.~~
- ~~(c) *Category 3 Wetland* means a wetland area that meets any of the following criteria: is a wetland area of a moderate level of function, or an interdunal wetland area between .1-acre and 1-acre in size. Refer to Section 18.06.135(A) for specific classification document.~~
- ~~(i) The wetland area is not inventoried and is equal to or less than 1-acre in size, and which contain two or fewer wetland classes.~~
 - ~~(ii) Does not contain features outlined in a Category 1 Wetland, a Category 2 Wetland, or a Category 4 Wetland.~~
- ~~(d) *Category 4 Wetland* means a wetland area that meets any of the following criteria: has the lowest levels of function and are often heavily disturbed. Refer to Section 18.06.135(A) for specific classification document.~~
- ~~(i) Wetlands that do not meet the criteria of a Category 1 Wetland, a Category 2 Wetland, or a Category 3 Wetland.~~

- ~~(ii) Wetlands that are less than or equal to 1 acre in size and have only one wetland class, only one dominant plant species.~~
- ~~(iii) Isolated wetlands that are less than or equal to 2 acres in size, and have only one wetland class and a predominance of exotic species.~~

(6) Wetland Area Protection Standards.

(a) Buffers.

- (i) All buffers are measured from the wetland edge as marked in the field. The wetland edge shall be delineated by use of the method described in the Washington State Department of Ecology document entitled "Washington State Wetlands Identification and Delineation Manual".
- (ii) The following buffers are minimum requirements:
 - (I) Category 1 Wetlands shall be protected with a 68-foot wide buffer.
 - (II) Category 2 Wetlands shall be protected with a 51-foot wide buffer.
 - (III) Category 3 Wetlands shall be protected with a 34-foot wide buffer.
 - (IV) Category 4 Wetlands shall be protected with a 17-foot wide buffer.
 - (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 17-feet of the bottom of a slope greater than 33.3-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 17-feet onto the sloped area.
 - (2) The County may permit buffer averaging in instances where it will provide additional resource

protection, provided that the total area on-site contained in buffer remains the same.

- (b) Additional buffers requirements for wetlands. Grays Harbor 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, 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) ~~Permanent survey~~ Temporary marking, and permanent signs ~~and fencing~~ shall be installed as detailed in Section 18.05.075 for wetland areas and buffers.

~~(f) Livestock.~~

~~(1) In all development proposals which would permit introduction of livestock, damage to Category 1 Wetland and a Category 2 Wetland shall be avoided through the implementation, to the satisfaction of the Grays Harbor Conservation District, of best management practices to protect and enhance the water quality of the wetland.~~

~~(2) This restriction shall not apply to those wetland areas defined as grazed wet meadows, regardless of their wetland classification.~~

(g) Alterations to wetland areas and buffers.

(1) Grays Harbor County may grant exemptions or exceptions from the wetland area requirements of this Chapter pursuant to Section 18.06.025 through and including Section 18.06.035.

(2) Utilities in a wetland area buffer.

(i) The construction of utilities shall be permitted in a wetland area buffer only when no practical alternative location is available, 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:

(A) Utility corridors shall not be allowed when the wetland area or the buffer is used by a species listed as endangered or threatened by the federal government or Washington State, or the presence of critical or outstanding actual habitat for those species;

(B) Utility corridor alignment, including any allowed maintenance roads, shall follow a path beyond a distance from wetland area edge equal to 75-percent of the buffer width.

(C) Utility corridor construction and maintenance shall protect the wetland area and buffer environment, shall be aligned to avoid cutting trees greater than 12-inches in diameter at breast height when possible and shall not use pesticides, herbicides or other hazardous or toxic substances;

(D) Utility corridors shall require an additional, adjacent, undisturbed buffer width equal to the proposed corridor width, including any allowed maintenance roads;

(E) Utility corridors shall be re-vegetated with appropriate native vegetation at pre-construction densities or greater immediately upon completion of construction or as soon thereafter as possible and the sewer utility shall ensure that such vegetation survives;

(F) Any additional corridor access for maintenance shall be provided as much as possible at specific points rather than by parallel roads. If parallel roads are necessary, they shall be of a minimum width but no greater than 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 parcel. 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 3/4 of the required width.

(ii) Averaging to allow reasonable use of a parcel 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 3/4 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 sub-section.

(h) Surface water management. The following surface water management activities may be allowed in wetland areas only if they meet the following requirements:

(1) New surface water discharges to wetland areas from surface water detention facilities, pre-settlement ponds, or other surface water management structures may be allowed provided that the discharge does not increase the rate of flow nor decrease the water quality of the wetland.

~~(2) Category 1 Wetlands and Category 2 Wetlands may be used for regional surface water retention or detention facilities only when authorized by the exception process set out in Section 18.06.030 or Section 18.06.035 and all requirements of the Washington State Department of Ecology's "Stormwater Management Manual for Western Washington" are met, the use will not alter the rating or the factors used in rating the wetland area, and there are no significant adverse impacts to wetland area resources.~~

(3) Category 3 Wetlands and buffers that have the storage of water as their major existing function may be altered for use as regional surface water retention or detention facilities, provided that pre-settlement ponds shall be required consistent with the Washington State Department of Ecology's "Stormwater Management Manual for Western Washington";

(4) Wetland areas shall not be used for surface water retention or detention facilities, other than for regional facilities.

(5) The use of wetland area buffers for surface water management activities other than retention or detention facilities, such as energy dissipaters and associated pipes, may be allowed only if the applicant demonstrates:

(i) No practicable alternative exists; and

(ii) The existing functions of the buffer or the wetland are not adversely impacted.

- (i) 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.
- (j) Docks. The construction of a dock, pier, moorage, float or launch facility may be permitted, subject to 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.
- (k) Isolated Wetland Areas. Isolated wetlands are those wetlands that are isolated and less than 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 Washington 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).

- ~~(l) The cutting of up to 1 cord of firewood may be permitted in buffers in any year, provided the overall existing function of the buffer is not adversely impacted. Removal of brush may also be permitted for the purpose of enhancing tree growth.~~

(7) Wetland Area Mitigation Standards.

- (a) Mitigation shall be conducted pursuant to Section 18.06.080.
- (b) Standards for Restoration, Enhancement or Replacement.
 - (i) Restoration. Restoration is required when a wetland area or its buffer has been ~~altered~~ 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 ~~greater~~ pre-existing functional and habitat values can be obtained, these standards may be modified:

- (1) The original wetland configuration ~~should~~ shall be replicated including depth, width, length, and gradients at the original location;
- (2) The original soil types and configuration ~~should~~ shall be replicated;
- (3) The edge and buffer configuration ~~should~~ shall be restored to the original condition;
- (4) The wetland, edge, and buffer areas ~~should~~ shall be replanted with native vegetation that replicates the original in species, sizes, and densities; and
- (5) The pre-violation functional values ~~should~~ shall be restored, including water quality and wildlife habitat functions.

(ii) Replacement and enhancement.

- (1) Replacement is required when an approved development proposal ~~alters~~ substantially degrades a buffer or uses a wetland area for a regional surface water retention or detention facility or other approved use. The minimum standards required for restoration of a wetland area shall be followed.
- (2) Enhancement may be allowed when a development proposal will ~~alter~~ substantially degrade a wetland area but will improve the existing habitat and/or hydrologic functions. Surface water management or flood control alterations ~~shall not~~ may be considered enhancement, ~~unless if~~ other existing functions and values are simultaneously increased. The minimum performance standards for enhancement shall be included in the critical protection area special study prepared for the proposed enhancement.
- (3) The replacement or enhancement for approved wetland area alterations shall comply with the following requirements:
 - (A) On-site Replacement and In-kind Replacement. Unless otherwise approved, all alteration of wetlands shall be replaced or enhanced on-site using the methodology utilized by the Washington State Department of Ecology, as contained in the current editions of "Wetland Mitigation in Washington State Volume 1: A Synthesis of the Science" and "Wetland Mitigation in Washington"

State Part 2: Developing Mitigation Plans” for the mitigation of wetland area impacts except as superceded by those protection measures contained by Section 18.06.135(B)(6).

A replacement shall provide equal or greater biological values, including habitat value, and equivalent hydrological values, including storage capacity.

(B) Off-site Replacement and In-kind Replacement. Grays Harbor 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 Sub-Section (A) above shall apply for off-site replacement.

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

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

18.06.140 Critical Protection Area Development Standards for Fish and Wildlife Habitat Conservation Areas.

(A) Fish Habitat Conservation Areas. Development proposals on sites containing fish ~~and wildlife~~ habitat conservation areas shall meet the requirements of this sub-section.

(1) Fish ~~and wildlife~~ habitat conservation areas are those areas of feeding, ~~breeding,~~ and ~~nesting~~ breeding for species identified by the State of Washington or the federal government 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 are also those areas containing herring and smelt spawning areas.

- (2) Streams and associated buffers shall not be ~~altered~~ substantially degraded, except as expressly authorized by this chapter. The applicant is responsible for ensuring that the requirements of all other agencies with jurisdiction have been met. Any development discharge into a stream shall not contribute to a violation of the Washington State Water Quality Standards.
- (3) If a stream is in a frequently flooded area, the applicant shall notify ~~affected parties~~ the Washington State Department of Ecology, the Washington 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) 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, unless authorized by a State of Washington or by a federal license or permit.
- (5) Grays Harbor County shall utilize the Washington State Department of Natural Resources "Forest Practices Base Map" and the Washington State Department of Fish and Wildlife "Washington Lakes Rivers Information System and Habitats and Species Map", and any geographically applicable Washington 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 Habitats: Riparian" for the mitigation of fish habitat conservation areas impacts, except as superceded by those protection measures contained in Section 18.06.140(A)(6).
- (6) Fish Habitat Conservation Area Protection Standards.

(a) Stream Buffers.

- (i) 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 feature.
- (ii) The following buffers on each side of the ordinary high water mark for streams are minimum requirements:

- (A) Type 'S' Streams: 68-foot wide buffer
Type 'S' Streams are shorelines of the state and are usually large named rivers or creeks.
- (B) Type 'F' Streams: 51-foot wide buffer
Type 'F' Streams are streams, lakes, and ponds that are used by fish, amphibians, wildlife, and for drinking water.
- (C) Type 'Np' Streams: 34-foot wide buffer
Type 'Np' Streams, also referred to as non-fish perennial flow streams, flow year round on either the surface of the streambed or sometimes below the surface for some distance.
- (D) Type 'Ns' Streams: 17-foot wide buffer
Type 'Ns' Streams, also referred to as non-fish seasonal flow streams, do not flow year round, but they connect to a Type 'S', a Type 'F', or a Type 'Np' Stream.
- (E) When the ordinary high water mark (OHWM) of any stream is located within 17-feet of the bottom of a slope that is greater than 33.3-percent, the following minimum buffers shall be provided:
- (I) 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 onto the sloped area and increased an additional distance of 17-feet onto the sloped area.
 - (II) 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) 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.
- (G) Any stream restored, relocated, replaced or enhanced because of alterations shall have the minimum buffer required for the class of stream involved.

- (iii) 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) Additional stream buffer requirements. Grays Harbor County may require increased buffer widths as necessary to protect streams. The additional buffer widths and other related issues shall be determined by an examination of the stream buffer's relationship to drainage areas, location of hazardous materials, critical fish and wildlife habitat, landslide or erosion hazard areas, groundwater recharge and discharge, and the location of trail or utility corridors.~~
- (c) Critical Protection Area tracts or easements and setback buffer areas for streams. Streams and their buffers shall be placed in a separate critical protection area tract or easement as provided in Section 18.06.070.
- ~~(d) Livestock. The livestock restrictions noted in Section 18.06.135(B) (6)(f) shall also apply to Type S Streams and Type F Streams and any associated buffer.~~
- (e) Building and setback lines. Unless otherwise specified, a building setback line (BSBL) shall be established at the edge of the stream buffer. Prohibitions on the use of hazardous or toxic substances and pesticides or certain fertilizers in this area may be imposed.
- (f) ~~Permanent survey~~ Markings, and signs ~~and fencing~~. The ~~permanent survey~~ temporary markings, and permanent signs ~~and fencing~~ requirements of Section 18.06.075 shall apply.
- (g) Alterations to streams and stream buffers.
- (i) Grays Harbor County may grant exceptions from the stream requirements of this chapter pursuant to Section 18.06.030 and Section 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 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 fisheries 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;

- (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 stream;
- (VI) Underground utility crossings shall be laterally-drilled or directionally-drilled and located at a depth of 4-feet below the maximum depth of scour for the base flood, as determined by a civil engineer licensed by the State of Washington; and
- (VII) Crossings shall be minimized and serve multiple purposes and properties whenever possible.

(iii) Relocation. The following stream relocations may be allowed if they meet all requirements and are approved by all agencies with jurisdiction:

(I) Type F Streams shall not be relocated, except as follows:

- (1) For public road projects that have been authorized by the exemption process set forth in Section 18.06.025 or the exception process set forth in Section 18.06.030.
- (2) Under a mitigation plan for the purpose of enhancement of in-stream 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, Grays Harbor 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 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 channel may be stabilized when 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 Washington 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

Washington State Department of Ecology's "Surface Water Management Manual for Western Washington".

~~(2) Type F Streams may be used for regional retention or detention facilities when authorized by the exemption process set out in Section 18.06.205, all requirements of the Washington State Department of Ecology's "Surface Water Management Manual for Western Washington" are met, the use will not alter the rating or the factors used in rating the stream, and there are no significant adverse impacts to stream resources.~~

~~(3) Type F Streams and buffers also may be altered for use as retention or detention facilities, provided that the project will have no lasting adverse impacts on any stream and that all requirements of the Washington State Department of Ecology's "Surface Water Management Manual for Western Washington" are met;~~

(vii) Utilities in stream buffer.

(1) Construction of utilities shall be permitted in stream buffers only when no practical alternative location is available 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.

(2) Sewer Utility. Sewer utility corridors may only be located in 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 not associated with any other development proposal may be allowed when the project would enhance existing stream functions, as determined by the Grays Harbor County and the Washington 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 and a qualified biologist, with the plan carried out under the direct supervision of a qualified biologist.

~~(2) Minor stream restoration projects for fish habitat enhancement by a public agency, whose mandate~~

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~~includes such work and is~~ unassociated with the mitigation of a specific development proposal, may be allowed. Such projects are limited to the placement, repair, or removal of rock weirs, log controls, culverts replacement, spawning gravel, or flood control measures that result in less impact to habitat and surrounding properties, and other specific salmonid habitat improvements, shall involve use of hand labor and light equipment only, to be performed under direct supervision of a qualified biologist.

(ix) Drainage ditch maintenance. Roadside drainage ditches and agricultural drainage ditches ~~that carry streams with salmonids~~ may be maintained through use of best management practices developed in consultation with county, state and federal agencies with expertise or jurisdiction.

~~(x) The cutting of up to 1 cord of firewood may be permitted in buffers in any year, provided the overall existing function of the buffer is not adversely impacted. Removal of brush may also be permitted for the purpose of enhancing tree growth.~~

(h) Mitigation for ~~streams~~ fish habitat conservation areas.

(i) Mitigation shall be conducted pursuant to Section 18.06.080. Any proposed mitigation measure shall be reviewed by the Washington 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 stream or its buffer has been ~~altered~~ 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 is degraded and will not be further degraded by the restoration activity;

(B) The restoration will reliably and demonstrably improve the water 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, 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.

(2) Replacement or enhancement ~~shall~~ may be required when Grays Harbor County permits or approves the alteration of a stream or buffer. 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 the 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 ~~shall~~ may not be considered enhancement, ~~unless~~ 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.

(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 sub-section.

(1) Wildlife habitat conservation areas are those areas of feeding, breeding, and nesting for species identified by the State of Washington or the federal government as threatened or endangered or sensitive.

(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.

Wildlife habitat conservation areas are also those areas containing kelp and eelgrass beds.

Wildlife habitat conservation areas are also those areas containing Washington State Department of Natural Resources' 'Natural Area Preserves' and 'Natural Resource Conservation Areas'.

Wildlife habitat conservation areas are also those areas containing rare plant species and high quality ecosystems, as identified by the Washington State Department of Natural Resources' Natural Heritage Program.

(2) Grays Harbor County shall utilize the Washington State Department of Fish and Wildlife's "Priority Habitat and Species Database and Wildlife Heritage Database" and other applicable databases in determining the ~~application of protection measures for location of~~ wildlife habitat conservation areas, and shall use the Washington State Department of Fish and Wildlife's "Priority Habitat and Species Management Recommendations" for determining protection measures for wildlife

habitat conservation areas, except as superceded by those protection measures contained in Section 18.06.140(A)(6).

These maps are to be used as a guide, and do not provide a definitive determination as to the presence of a critical protection area.

- (3) 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 noted 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) 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 Washington State Department of Fish and Wildlife's "Priority Habitat and Species Management Recommendations", except as superceded by those protection measures contained in Section 18.06.140(A)(6), and shall be reviewed by the Washington 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:

(l) 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 may be required when Grays Harbor County permits or approves the 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.

(a) 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.

(b) Enhancement. Enhancement, when allowed, 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) 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.

(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 of Washington or by a federal license or permit.

(C) Lake Quinault Fish and Wildlife Habitat Conservation Area. Development proposals on sites in this area shall meet the requirements of this sub-section.

(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

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. The Lake 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 the 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 200-feet of the OHWM of Lake Quinault 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 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 professional engineer licensed in the State of Washington, 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 Grays Harbor County prior to permit issuance.

18.06.145 Critical Protection Area Development Standards for Critical Aquifer Recharge Areas.

- (A) Grays Harbor County shall utilize Washington State-approved municipal water system plans, the 1986 United States Department of Agriculture's Soil Survey of Grays Harbor Area, Pacific County, and Wahkaikum County, Washington, the 2005 Washington State Department of Ecology's "Critical Aquifer Recharge Areas: Guidance Document", the Washington State Department of Health 1995 document entitled "Wellhead Protection Program Guidance Document", the Washington State Department of Ecology 2005 document entitled "Critical Aquifer Recharge Areas: Guidance Document", and the Washington State Department of Health-approved Water System Plans (WSP), Regional Water System Plan (RWSP), or Satellite Management Agency (SMA) Plan for the municipalities, water districts, and water system operators located within Grays Harbor County in identifying and determining the application of protection measures for critical aquifer recharge areas.
- (B) Critical Aquifer Recharge Areas. Development proposals on sites containing critical aquifer recharge areas shall meet the requirements of the following sub-sections of this chapter.
- (1) Critical aquifer recharge areas are those areas with a critical recharging effect on aquifers used for potable water or are areas where an aquifer serving as the source for drinking water is vulnerable to contamination that would affect the potability of the water. A project shall be reviewed for its potential adverse impact to a critical aquifer recharge area.
- (2) The sanitary control area for Group A of Group B public water system, wellfields, springs or their Washington State Department of health-recognized wellhead protection area (WHPA) are hereby designated as critical aquifer recharge areas.
- (3) All rezones, subdivisions, and development proposals resulting in the creation of a dwelling unit or dwelling units within a critical aquifer recharge area shall be required to prepare and implement a best management practices plan that contains (a) hazardous material best management practices, (b) integrated pest management practices, and (c) landscape maintenance best management

practices. Educational materials pertaining to the plan shall be provided to each property owner.

The plan shall be reviewed by the Environmental Health Division prior to any County decision on the proposal.

The Environmental Health Division may require the preparation of a best management plan for any development proposal in the event that it finds that the pre-development condition of the critical aquifer recharge area warrants the preparation of the plan as an assurance that the proposal provides a reasonable margin of safety for the critical aquifer recharge area.

- (4) Grays Harbor County shall prepare and record a notice with the Grays Harbor County Auditor for any site within the critical aquifer recharge areas for which a plan has been prepared. The notice shall indicate in the public record the existence of the plan for the property. The notice shall be as set forth:

"Notice: This site lies within a critical aquifer recharge area as identified in Grays Harbor County Code 18.06.145. The site was the subject of a development proposal for [application number] filed on [date]. A best management practices plan has been prepared for this site that contains (a) hazardous material best management practices, (b) integrated pest best management practices, and (c) landscape maintenance best management practices. A copy of the plan is attached hereto".

- (5) Any surface water management plan prepared for a development within a critical aquifer recharge area shall include low impact development techniques consistent with those contained in the January 2005 Puget Sound Action Team and Washington State University Pierce County Extension document entitled "Low Impact Development: Technical Guidance Manual for Puget Sound".

The plan shall be reviewed and approved by the Public Works Division prior to any County decision on the proposal.

- (6) The installation and use of underground and above-ground automotive motor fuel and liquefied natural gas fuel-dispensing and storage facilities within a critical aquifer recharge area shall comply with the requirements set forth in the current edition of the International Fire Code (IFC), the underground storage tank regulations set forth in Washington Administrative Code 173-360, and the tank system requirements set forth in Washington Administrative Code 173-303-640.

- (7) All rezones and subdivisions within the critical aquifer recharge areas identified in Section 18.06.145(B)(2) shall be required to prepare a hydrogeologic assessment, prepared by a licensed hydrogeologist, that demonstrates conclusively that the proposed development will not threaten down-gradient drinking water or adversely affect aquifer recharge.

The assessment shall be reviewed by the Grays Harbor County Environmental Health Division prior to any County decision on the proposal. In the event that the Division finds that the proposal does not provide an reasonable margin of safety

for the critical aquifer recharge area, the proposal shall be (a) required to be revised to increase the margin of safety, including a reduction in lot density, or (b) shall be denied based upon evidence that the proposal represents a probable significant adverse impact to the critical aquifer recharge area.

The Environmental Health Division may require the preparation of a hydrogeologic assessment for any development proposal in the event that it finds that the pre-development condition of the critical aquifer recharge area warrants the assessment to determine whether or not the proposal provides a reasonable margin of safety for the critical aquifer recharge area.

18.06.150 Violations - Penalties.

- (A) Injunctive Relief. As provided by Grays Harbor County Code Chapter 17.96.030, Grays Harbor County may institute any appropriate action to require compliance or enjoin violation of this chapter.
- (B) Criminal Penalty. As provided by Grays Harbor County Code Chapter 17.96.020, violation of this chapter is a misdemeanor. Each day the violation occurs is a separate and separately punishable offense.
- (C) Civil Penalty. Any person who fails to comply with the provisions of this chapter shall also be subject to a civil penalty not to exceed one thousand dollars (\$1,000.00) for each violation. Each violation or each day a violation continues shall be a separate and separately punishable violation.
- (D) Form of the Civil Penalty. The civil penalty provided for in subsection C of this section shall be imposed by notice in writing, either by certified mail with return receipt requested or by personal service to the person incurring the violation, from the planning director or his or her designee. The written notice shall include the following: (1) a description of the violation with reasonable particularity; (2) a legal description of the property on which the violation occurred or is occurring; (3) the amount of the penalty; (4) a statement that the penalty and order can only be appealed within thirty (30) days of the date the notice is received and how to appeal the penalty and order; (5) an order that the violation or violations shall cease and desist or, in appropriate cases, require necessary corrective action to be taken within a specific and reasonable time.

18.06.155 Appeal of Civil Penalties.

- (A) Any civil penalties imposed under Section 18.06.150(C) solely by the planning director or his or her designee shall be reviewed by the Board of Adjustment for Grays Harbor County. Only the person on whom the penalty is imposed may appeal the civil penalty.
- (B) Any civil penalties imposed jointly by the planning director or his or her designee and Washington State Department of Ecology shall be reviewed by the State.
- (C) Appeal submittal requirements. A person appealing the civil penalty shall submit a brief written statement to the planning director or his or her designee containing the following information:

1. The statement must identify date of the order being appealed.
 2. The statement must identify explicit exceptions and objections to the civil penalty being appealed or identify specific errors in fact or conclusion.
 3. The statement must set forth the relief being sought.
- (D) Time within which an appeal must be filed. A written statement appealing the civil penalty must be filed with planning director or his or her designee no more than thirty (30) days from the date the civil penalty is received.
- (E) Appeal stays all enforcement of order and penalty appealed. The filing of an appeal stays all actions by the planning director or his or her designee or other county official seeking enforcement or compliance with the order or payment of the penalty being appealed. The stay is lifted after the decision of the Board of Adjustment.
- (F) Procedure for appeals of civil penalties.
- (1) The person appealing the decision shall submit the statement required by Subsection C of this section to the planning director or his or her designee.
 - (2) After the request for review is filed, the planning director or his or her designee shall request that the Board of Adjustment schedule a public hearing on the appeal. The request shall be filed with the Secretary for the Board within twenty-one (21) days of the date the appeal is filed with the planning director or his or her designee.
 - (3) After the Board of Adjustment sets the hearing, the Secretary of the Board shall provide notice of the hearing as follows: (a) publishing notice of the public hearing in the newspaper designated by the county for the publication of county legal notices; (b) mailing notice of the public hearing to the appellant and the owner of the property on which the violation for which the penalty was imposed, if different from the appellant, at least 12-days before the hearing; (c) the notice shall include the following information: (i) the name of the appellant and, if applicable, the project name; (ii) a description in non-legal terms sufficient to identify the location of the property for which the civil penalty was imposed; (iii) a brief description of the reason the civil penalty was imposed; (iv) a brief description of the error as stated in the appeal; (v) the date, time, and place of the public hearing; (vi) a statement of the right of any person to participate in the public hearing and the ways they may participate; (vii) a statement that appeals of the Board's decision may only be made within 21-days of the date of the Board's decision on the appeal as provided in subsection (F)(7)(a) of this section.
 - (4) The planning director or his or her designee shall prepare a written report on the order and penalty being appealed setting forth the facts and conclusions on which the order and penalty are based. The planning director or his or her designee shall mail the written report to the appellant at least 12-days before the hearing date.

- (5) The planning director or his or her designee shall provide copies of the appellant's written statement and the planning director or his or her designee's written report to the Board at least 4-days before the hearing date.
- (6) The Board shall conduct the public hearing. At the hearing, members of the board of county commissioners may request such additional information as is reasonably necessary to evaluate the appeal. Any person may participate in the public hearing by submitting written comments to the Secretary of the Board before the public hearing or by submitting written comments or making oral statements to the Board at the public hearing. The Secretary shall transmit all written comments received before the public hearing to the Board no later than the public hearing.
- (7) After the public hearing has concluded, the Board of Adjustment shall decide the appeal.
 - (a) The decision may be made at the same public meeting as the public hearing or at another public meeting. The Board shall vote on the appeal within 30-days of the initial public hearing date.
 - (b) Decisions on appeals shall be based on the decision criteria in Subsection (F)(10) of this Section.
 - (c) The Board of county commissioners may reverse or affirm, wholly or partly, or may modify the order and/or civil penalty.
 - (d) The Board shall adopt written findings of fact and conclusions that support the decision on the appeal and any required conditions.
 - (e) The Board may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information prior to the time the decision is rendered. No further notice of a continued hearing need be given.
- (8) The decision of the Board of Adjustment and the written findings of fact and conclusions shall be reduced to writing and mailed to the appellant by the Secretary for the Board within 12-days of the date of the decision.
- (9) The decision of the Board of Adjustment on the appeal is the final decision of the county. The decision of the Board on the appeal may be appealed to the superior court within 21-calendar days or forever is barred. This bar on appeals shall not limit the right of the person on whom the civil penalty is imposed to challenge the validity of the penalty or order during any action for enforcement or collection.
- (10) Appeal decision criteria. In deciding appeals of civil penalties, the Board of Adjustment shall consider the following criteria:
 - (a) Whether the evidence presented at the hearing demonstrates that a violation of this chapter has or is occurring;

- (b) Whether the imposition of the civil penalty was done in the required manner;
 - (c) Whether the amount of the civil penalty was proper given the type, potential effects, and number of the violation(s).
- (11) Limitations on refiling appeals. After a final decision on an appeal, the planning director or his or her designee shall not accept any further appeals of the civil penalty that was appealed.

18.06.160 Amendments.

- (A) All amendments to the text and requirements of this chapter pertaining to frequently flooded areas and areas of special flood hazard shall be submitted to the Washington State Department of Ecology for review and approval.
- (B) Amendments to this chapter pertaining to frequently flooded areas and areas of special flood hazard shall become effective 30-days after the Washington State Department of Ecology has received them, unless they are disapproved by the Department of Ecology within that 30-day period.

18.06.165 Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.