

**PACIFIC COUNTY CRITICAL AREAS
AND RESOURCE LANDS
ORDINANCE NO. 147 AND AMENDMENTS TO
ORDINANCE NO. 147 CONTAINED IN ORDINANCE NO. 147A**

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PACIFIC COUNTY CRITICAL AREAS AND RESOURCE LANDS ORDINANCE

**COMPILATION OF ORDINANCE NO. 147 AND AMENDMENTS TO ORDINANCE
NO. 147 AS IMPLEMENTED BY ORDINANCE NO. 147A**

AN ORDINANCE OF PACIFIC COUNTY, WASHINGTON RELATING TO CRITICAL AREAS AND RESOURCE LANDS AS DEFINED BY THE GROWTH MANAGEMENT ACT OF 1990 WHICH DESIGNATES SUCH CRITICAL AREAS AND RESOURCE LANDS, PROMULGATES DEVELOPMENT STANDARDS, AND PRESCRIBES PENALTIES FOR VIOLATIONS.

WHEREAS, in June 1990, the Washington State Legislature passed Engrossed Substitute House Bill 2929 which required all Counties in the State of Washington to classify and protect critical areas and resource lands. Subsequently, in June 1991, the Legislature passed Re-Engrossed Substitute House Bill 1025 which modified the requirements pertaining to critical areas and resource lands; and

WHEREAS, the Board of County Commissioners of Pacific County, Washington deems that the classifications, designations, controls, standards, procedures, and penalties set forth in this Ordinance are necessary to comply with the mandates of the Washington State Growth Management Act, Chapter 36.70A RCW;

WHEREAS, two years have elapsed since the adoption of Ordinance No. 147, and administration of Ordinance No. 147 over the last two years has revealed the need to make technical changes to this Ordinance;

WHEREAS, the creation of wetland mitigation banks will enhance available options and improve the environmental value of mitigation for wetland and wetland buffer encroachment in Pacific County ; and

WHEREAS, the Board of County Commissioners of Pacific County, Washington adopts the findings of fact contained in the Exhibit B; NOW, THEREFORE

BE IT ORDAINED by the Board of County Commissioners of Pacific County, Washington, as follows:

SECTION 1 PURPOSE

A. STATEMENT OF AUTHORITY AND TITLE

This Ordinance is established pursuant to RCW 36.70A.060 and RCW 36.70A.170.

B. STATEMENT OF PURPOSE

The purpose of this Ordinance is to define, identify, and protect critical areas and resource lands as required by the Growth Management Act of 1990 (Chapter 17, Laws of 1990).

C. STATEMENT OF POLICY

1. It is a policy of Pacific County that the beneficial functions, and structure, and values of critical areas and resource lands be protected as identified in this Ordinance, and further that potential dangers or public costs associated with inappropriate use of such areas be minimized by reasonable regulation of uses within, adjacent to, or directly affecting such areas. Reasonable regulation shall be achieved by the balancing of individual and collective interests.
2. Requirements of this Ordinance shall not remove a person's obligation with respect to the applicable provisions or any other Federal, State, or local law or regulation, including, but not limited to, the acquisition of any other required permit or approval.

D. CRITICAL AREA MITIGATION STANDARDS: GENERAL PROVISIONS

1. All proposed critical areas alterations shall include mitigation sufficient to maintain the functional values of the critical area or to prevent risk from a critical area hazard and shall give adequate consideration to the economically viable use of the property. Mitigation of one critical area impact should not result in unmitigated impacts to another critical area. Mitigation may include, but is not limited to: increasing or enhancing buffers, increasing building setbacks, instituting limits on clearing and grading, implementing best management practices for erosion control and maintenance of water quality, or other conditions appropriate to avoid or mitigate identified adverse impacts. Subject to the viable use exception provisions of subsection 3.K, any proposed critical area alteration that cannot adequately mitigate its impacts to a critical area shall be denied.
2. Mitigation includes avoiding, minimizing, or compensating for adverse impacts to regulated critical areas or their buffers. The preferred sequence of mitigation is defined below:

- a. **Avoid the impact altogether by not taking a certain action or parts of an action.**
- b. **Minimize the impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.**
- c. **Rectify the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project.**
- d. **Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action.**
- e. **Compensate for the impact by replacing, enhancing, or providing substitute resources or environments.**

3. Buffers

- a. **As described in more detail in each relevant section, buffers in some cases have been determined to be necessary and appropriate to protect critical areas and their functions or to prevent risk from a critical area hazard. In those sections of this Ordinance where specific buffers are identified, those buffers are deemed "required" or "standard" buffers. If a project does not propose any alteration of those buffers or of the associated critical area, then no additional mitigation will be required to protect the critical area.**
- b. **If a person seeks a variance to reduce buffers or to alter the critical area or its required buffer, then the person shall demonstrate why such buffer and/or critical area modification, together with such alternative mitigation proposed in the critical areas assessment, is sufficient to adequately protect the critical area function. If necessary, variances shall provide for long-term buffer protection.**
- c. **The critical areas assessments and the conditions of approval shall provide for long-term buffer protection. In land division, critical areas and their associated buffers may be placed in separate tracts to be owned by all lot owners in common, by a homeowners association, or some other separate legal entity such as a land trust.**
- d. **Periodic inspection of the buffers may be required if necessary to ensure long-term buffer protection.**

4. Mitigation

All proposed mitigation shall be included in a critical area assessment. Proposed mitigation shall include:

- a. A description of what mitigation, specifically is proposed;
- b. An analysis of how the proposed mitigation will maintain the critical area function;
- c. A delineation of any ongoing monitoring and/or inspection that may be required, depending on the outcome of that ongoing monitoring and/or inspection;
- d. A notation of any required critical area expertise necessary to install, monitor, or inspect the proposed mitigation; and
- e. A listing of other security required to ensure performance and/or maintenance of the proposed mitigation.

5. Wetland Mitigation Banks

Wetland Mitigation Bank credits and Demonstration Project Wetland Mitigation Bank credits shall only be awarded for projects that create new wetlands, or enhance or restore existing disturbed wetlands. Mitigation credits shall not be awarded for those portions of a Wetland Mitigation Bank or Demonstration Project Wetland Mitigation Bank for which preservation and/or set aside of existing undisturbed wetlands is proposed.

Aerial wetland mitigation ratios for Wetland Mitigation Banks and Demonstration Project Wetland Banks shall not be less than those required within Section 4.E.1., unless the applicant can demonstrate that the use of the mitigation bank is of greater value to the environment.

E. MITIGATION MONITORING

The Administrator shall have the discretion to withhold issuance of development permit approval until required mitigation has been completed. In the alternative, the Administrator may require a refundable cash payment which will ensure compliance with the mitigation plan if

there will be activity (e.g., monitoring or maintenance) or construction to take place after the issuance of the County's permit. The amount of the cash payment shall not exceed 150 percent of the estimated cost of the uncompleted actions or construction as determined by the Administrator. When the Administrator determines that the mitigation plan has been successfully completed, the cash payment shall be refunded to the applicant. If the mitigation plan is not successfully completed, the County shall be entitled to keep all or part of the cash payment to the extent necessary to rectify the deficiencies regarding how the mitigation plan was carried out.

F. LAND DIVISIONS

In addition to any other statutory and regulatory requirements, any land divisions, subdivision, short subdivision, or other parcel segregation shall not be approved by Pacific County until a determination has been made as to whether or not critical areas exist on the property in question. No land division, subdivision, short subdivision, or other parcel segregation which is not exempt under Pacific County's land division ordinance shall be approved by Pacific County until a determination has been made by the Administrator that critical areas do not exist on the property in question. If critical areas exist on the property in question, a critical areas delineation must be completed before Pacific County shall approve a subdivision, a short subdivision or any other parcel segregation.

G. COORDINATION WITH OTHER COUNTY ORDINANCES

The development regulations for critical areas and resource lands, as set forth in this Ordinance, shall be reviewed during consideration of the adoption of any land use development regulations.

H. SAVINGS AND SEVERABILITY

If any provision, or portion thereof, contained in this Ordinance is held to be unconstitutional, invalid, or unenforceable, said provisions, or portion(s) thereof, shall be deemed severed and the remainder of this Ordinance shall not be affected and shall remain in full force and effect.

SECTION 2 DEFINITIONS

2.1 Adjacent

"Adjacent" means within a radius of five hundred (500) feet from the exterior boundaries of designated resource lands.

2.2 Administrator

"Administrator" means the Director of the Department of Community Development or his or her designee(s).

2.3 Agricultural Activities -- Existing and Ongoing

"Existing and ongoing agricultural activities" means those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops and/or raising or keeping livestock. Agricultural activities include associated activities, including the operation and maintenance of farm and stock ponds, drainage ditches, operation and maintenance of ditches, irrigation systems including irrigation laterals, canals, or irrigation drainage ditches, and normal operation, maintenance, and repair of existing serviceable agricultural structures, facilities, or improved areas, and the practice of aquaculture. Agricultural activities include, but are not limited to aquaculture, growing mint, bulb farming, haying, growing blueberries, cranberries, hybrid poplars, Christmas trees, and other nursery and horticultural activities which may involve up to a ten-year rotation, not otherwise classified as a forest practice. To ensure preservation of agricultural land, the ability to switch from one crop or activity to another to meet market forces is essential and shall be considered "existing and ongoing agricultural" use when such conversions occur. Further, land devoted to agricultural purposes shall be considered existing and ongoing even if in-between crop activities are limited to haying or grazing. Forest practices regulated under Chapter 76.90 RCW and Title 222 WAC are not included in this definition.

2.4 Agricultural Land

"Agricultural land" means any land which contains existing and ongoing agricultural activities, or which is classified as agricultural land of long-term commercial significance or agricultural land of local importance.

2.5 Agricultural Land of Local Importance

"Agricultural land of local importance" includes any diked tideland as listed under soil types nos. 104 and 147 in the Soil Survey of Grays Harbor County Area, Pacific County, and Wahkiakum County, Washington, 1986, Soil Conservation Service, USDA, that is involved in existing and ongoing agricultural activities on the date this Ordinance become effective.

2.6 Agricultural Land of Long-Term Commercial Significance

"Agricultural land of long-term commercial significance" means land that is devoted to the long-term commercial production of aquaculture, cranberries, and/or other bog related crops.

2.7 Aquifer

"Aquifer" means a saturated permeable geologic unit that can transfer significant quantities of water under ordinary hydraulic gradients.

2.8 Aquifer Recharge Area

"Aquifer Recharge Area" means any land within Pacific County that contains the following soil types as listed in the Soil Survey of Grays Harbor County Area, Pacific County, and Wahkiakum County, Washington, 1986, Soil Conservation Service, USDA:

Soil types (Map Unit Descriptions)

- 8 Beaches**
- 35 Dune Land**
- 92 Netarts fine sand, 3-12 percent slopes**
- 108 Orcas peat**
- 132 Seastrand Mucky peat**
- 133 Seastrand variant muck**
- 147 Udorthents, level**
- 153 Westport fine sand, 3-10 percent slopes**
- 162 Yaquina loamy fine sand**

2.9 Best Management Practices

"Best Management Practices" means conservation practices or systems of practices and management measures that:

- (1) Control soil loss and reduce water quality degradation; and**
- (2) Minimize adverse impacts to surface water and ground water flow, circulation patterns, and to the chemical, physical, and biological characteristics of wetlands.**

2.10 Buffer

"Buffer" means an undisturbed area of native vegetation which serves to protect the integrity, functions, and values of a critical area from potential adverse impacts.

2.11 Critical Areas

"Critical Areas" means all wetlands, frequently flooded areas, aquifer recharge areas, fish and wildlife habitat conservation areas, geologically hazardous areas, and shellfish, kelp, eelgrass, herring, and smelt spawning areas, as those terms are used and defined herein.

2.12 Critical Area Assessment

"Critical Areas Assessment" means an analysis by the Department of Community Development or other qualified critical area professional which provides a site specific evaluation of how to protect critical area values and critical area functions.

2.13 Critical Area Functions

"Critical area functions" means the physical, chemical, and biological processes or attributes of a critical area.

2.14 Critical Area Values

"Critical area values" means the critical area processes or attributes that are environmentally or ecologically valuable or beneficial to society.

2.15 Critical Facilities

"Critical Facilities" means any development that pertains to schools; hospitals; police, fire and emergency response installations; sewage and water treatment facilities; electrical substations and other utility infrastructure; or installations which produce, use, or store hazardous waste.

2.16 Dangerous Wastes

"Dangerous wastes" means those wastes designated in WAC 173-303-070 through 173-303-120 as dangerous or extremely hazardous or mixed waste. As used in Chapter 173-303 WAC, the words "dangerous waste" refer to the full universe of wastes regulated by that chapter.

2.17 Debris Flow

"Debris flow" means the rapidly downslope-moving mass of a viscous water-saturated mixture of rock fragments, soil, vegetation, and mud.

2.18 Delineation

"Delineation" means a formal demarcation of the boundary of a critical area by the Department of Community Development or other qualified critical area professional.

2.19 Department of Community Development

"Department of Community Development" means the Pacific County Department of Community Development.

2.20 Determination

"Determination" means an action by the Department of Community Development or a qualified critical area professional to identify, characterize, and/or locate a critical area.

2.21 Emergency Action

"Emergency action" means action that is taken to address an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time period too short to allow full compliance with this Ordinance.

2.22 Erosion Control

"Erosion-control" means on-site and off-site control measures that are used to control conveyance and/or deposition of earth or sediments associated with development.

2.23 Flood/Flooding

"Flood/flooding" means a general or temporary condition of partial or complete inundation of normal dry-land areas from the overflow waters.

2.24 Forest Land of Long-Term Commercial Significance

"Forest land" means any land that is designated as forest land of long-term commercial significance on Exhibit A.

2.25 Forest Land - - Transitional

Transitional forest land means any land designated on the map of Pacific County Forest Land as transitional forest land on Exhibit A.

2.26 Forest Practice

"Forest practice" means any activity regulated by Chapter 76.09 RCW and Title 222 WAC.

2.27 100 Year Flood/Base Flood

"100 year flood/base flood" means the flood having a one (1) percent chance of being equaled or exceeded in any given year. For purposes of this Ordinance, Pacific County adopts the Federal Emergency Management Agency (FEMA) flood hazard classifications.

2.28 Frequently Flooded Areas

Frequently flooded areas shall be those floodways and associated floodplains designated by the Federal Emergency Management Act (FEMA) flood hazard classifications as delineated on the area flood hazard maps for Pacific County dated September 27, 1985, or as subsequently revised by FEMA, as being within the 100-year floodplain, or those floodways and associated floodplains delineated by a comprehensive flood hazard management plan adopted by the Pacific County Board of County Commissioners, as being within the 100-year floodplain or having experienced historic flooding. For the purpose of this Ordinance, in case of conflict between FEMA flood hazard maps and the comprehensive flood hazard management plan designations, the more restrictive designation shall apply.

2.29 Geologically Hazardous Areas

"Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, pose a health and safety threat when incompatible commercial, residential, or industrial development occurs.

2.30 Groundwater

"Groundwater" means that part of the subsurface water that is in the zone of saturation (below the water table), as distinct from vadose water (above the water table).

2.31 Health Officer

"Health Officer" means the legally designated Health Officer of the Pacific County Board of Health or his or her designee(s).

2.32 In-Kind Mitigation

"In-kind mitigation" means mitigation that involves the same class of wetlands that is being impacted by a development proposal. In other words, in-kind mitigation requires Class I wetlands to be mitigated with Class I wetlands, Class II wetlands to be mitigated with Class II wetlands, Class III wetlands to be mitigated with Class III wetlands, and Class IV wetlands to be mitigated with class IV wetlands.

2.33 Land Alteration

"Land Alteration" means a human induced action which materially affects the physical condition of land or improvements including, but not limited to, those activities which are commonly referred to as clearing, grubbing, excavation, filling, grading, surfacing, paving, compaction, stockpiling, and stabilizing.

2.34 Mineral Land

"Mineral land" means any area in Pacific County presently covered under a valid Washington State Department of Natural Resources (DNR) surface mining permit and any beach area where sand is removed for commercial purposes.

2.35 Mitigation Project

"Mitigation project" means actions necessary to replace project-induced critical area and associated buffer setback losses, including construction, contingency actions, land acquisition, monitoring, and planning.

2.36 Native Vegetation

"Native vegetation" means plant species which are indigenous to the site in question.

2.37 Ordinary High Water Mark

"Ordinary high-water mark" means the mark on lakes, streams, and tidal waters, found by examining the beds 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 with respect to vegetation, as that condition exists on the effective date of this chapter, or as it may naturally change

thereafter. The following definitions apply where the ordinary high-water mark cannot be found:

The ordinary high-water mark adjoining marine water is the elevation at mean higher high tide; and

The ordinary high-water mark adjoining freshwater is the line of mean high water.

2.38 Out-of-Kind mitigation

“Out-of-kind mitigation” means mitigation that substitutes (1) Class I, II, or III wetlands for Class IV wetlands; (2) Class I or II wetlands for Class III wetlands; or (3) Class I wetlands for Class II wetlands.

2.39 Person

"Person" means an individual, a partnership (including partners and managers), a corporation (including board members, officers, and managers), or any other entity of any kind. "Person" also includes an applicant, a re-applicant, a permit holder, an authorized agent of any entity, or any third party acting on behalf of any entity.

2.40 Protection

"Protection" means action to avoid or mitigate impacts to critical areas consistent with the requirements of this Ordinance in order to preserve the structure, values, and functions of the natural environment.

2.41 Qualified Critical Area Professional

"Qualified critical area professional" means a person with experience, education, and professional degrees and training pertaining to the critical area in question, and with experience in performing delineations, analyzing critical area functions and values, analyzing critical area impacts, and recommending critical area mitigation and restoration. The Administrator shall require professionals to demonstrate the basis for qualifications and shall make final determination as to qualifications. Demonstration of qualifications may include, but shall not be limited to, professional certification.

2.42 Resource Lands

"Resource lands" means areas designated as agricultural, forest, or mineral lands.

2.43 Sensitive, Threatened, and Endangered Species

"Sensitive, threatened, and endangered species" means the categorization set forth in WAC 232-12-011 and WAC 232-12-014.

2.44 Septage Application

“Septage application” means application of the mixture of solid wastes, scum, sludge, and liquids pumped from within septic tanks, pump chambers, holding tanks, and other on-site sewage system components.

2.45 Setback

"Setback" means the distance that buildings or uses must be removed from lot lines or the edges of critical areas.

2.46 Single-Family Residence

"Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located upland of the perimeter of a marsh, bog, or swamp. Normal appurtenances include a garage, deck, driveway, septic system, utilities, fences, and grading which does not exceed two hundred fifty (250) cubic yards (except to construct a conventional drainfield).

2.47 Stormwater Management Facilities

"Stormwater management facilities" means biofiltration swales, filter strips, bubble diffusers, detention ponds, retention ponds, wet ponds, and similar facilities designed and intended to control and treat stormwater, and include ditches designed and intended primarily for conveyance.

2.48 Stream

"Stream" means those areas where naturally occurring surface waters flow sufficiently to produce a defined channel or bed which demonstrates clear evidence of the passage of water, including, but not limited to, bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed need not contain water during the entire year. This definition does not include water courses which were created entirely by artificial means, such as irrigation ditches, canals, roadside ditches, or storm or surface water run-off features, unless the artificially created water course contains salmonids or conveys a stream that was naturally occurring prior to the construction of the artificially created water course.

2.49 Utility Lines

"Utility lines" means a pipe, conduit, cable, or other similar facility by which services are conveyed to the public or individual recipients. Such services shall include, but are not limited to, water supply, electrical power, gas, communications, and stormwater or sanitary sewer transport facilities.

2.50 Watershed

"Watershed" means an area draining to the surface water systems of Willapa Bay, the Columbia River, and the Pacific Ocean.

2.51 Wetland or Wetlands

"Wetland or wetlands" means areas that are inundated or saturated by surface water 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 nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands shall include those artificial wetlands intentionally created from nonwetland areas to mitigate conversion of wetlands.

2.52 Wetland Creation

“Wetland Creation” means the conversion of non-wetland (upland) area to Class I, Class II, Class III, or Class IV wetlands and the associated alterations to soil, vegetation and/or hydrology required to establish and maintain the resultant wetland in a perpetually self sustaining state.

2.53 Wetland Enhancement

“Wetland Enhancement” means quantifiable improvement to the functions and values of an existing undisturbed wetland. Such enhancement may be achieved via alterations to the soils, vegetation, hydrology and/or land uses within the wetland, and must result in a quantifiable net gain in wetland functions and values.

2.54 Wetland Restoration

“Wetland Restoration” means the quantifiable improvement to the functions and values of an existing disturbed wetland. Such restoration may be achieved via alterations to the soils, vegetation, hydrology and/or land uses of the wetland, and must result in a quantifiable net gain in wetland functions and values.

SECTION 3 GENERAL REQUIREMENTS

A. APPLICABILITY

This Ordinance classifies and designates critical areas and resource lands in Pacific County and establishes regulations for the protection of critical areas and resource lands. Pacific County shall not grant any permit, license or other development approval to alter the condition of any land, water, or vegetation, or to construct or to alter any structure or improvement, nor shall any person alter the condition of any land, water, or vegetation, or construct or alter any structure or improvement, for any development proposal which requires a governmental permit regulated by this Ordinance, except in compliance with the provisions of this Ordinance. In addition, any cumulative filling, grading, or clearing activity in excess of twenty (20) cubic yards of material per parcel is also subject to the requirements of this Ordinance. Failure to comply with the provisions of this Ordinance shall cause the violator to be subject to enforcement procedures under subsection 3.H.

B. RELATIONSHIP TO OTHER REGULATIONS

Areas characterized by a particular critical area or resource land may also be subject to other regulations. In the event of any conflict between this Ordinance and any other ordinance of the County, the regulation which provides the greater protection for the particular critical area or resource land shall apply. Satisfying the requirements of this Ordinance does not affect a person's obligation to comply in all respects with other federal, state, and local statutes.

C. DESIGNATION OF THE ADMINISTRATOR

The Director of the Department of Community Development or his or her designee(s) shall be the Administrator of this Ordinance and shall be responsible for administering the provisions and requirements of this Ordinance.

D. DELEGATION OF AUTHORITY

The Administrator, the County Engineer, and any other applicable county officials may develop and implement written policies which are consistent with and effectuate the purpose of this Ordinance.

E. GENERAL EXEMPTIONS

The following activities shall be exempt from the provisions of this Ordinance provided that they are otherwise consistent with the applicable provisions of other Pacific County ordinances:

1. **Emergency action.** Persons who take emergency action that creates an impact to any critical area or its buffer/setback shall use reasonable methods that have the least impact to the critical area or its buffer and shall restore the critical area and buffer/setback after the emergency to the maximum extent practicable. Persons undertaking such action shall notify the Administrator within one working day following commencement of the emergency activity. Following such notification, the Administrator shall determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the Administrator determines that the action taken or any part of the action taken was beyond the scope of allowed emergency actions, then the enforcement provisions of the subsection 3.H. PENALTIES AND ENFORCEMENT shall apply.
2. **Agricultural operations.** Existing and on-going agricultural operations including related development and activities which do not result in expansion into a critical area or its buffer or do not result in an increase in impact to a critical area are exempt. New development and/or expansion of existing operations shall comply with the provisions of this Ordinance. Existing and ongoing agricultural activities, however, shall comply with best management practices contained within any conservation plan between the property owner and the Department of Ecology pursuant to Chapter 89.08 RCW.
3. **Maintenance, repair, and operation.** Maintenance, repair, and operation of existing structures, utilities, sewage disposal systems, water systems, drainage facilities, ponds, flood control facilities, electric and communications facilities, public and private roads and driveways, and improved areas accessory to a single family residential use including, but not limited to, landscaping, yard maintenance, and gardening are exempt. However, any person engaging in maintenance or repair activities shall use reasonable methods with the least amount of potential impact to critical areas. Any impacted critical area or its buffer shall be restored after the completion maintenance/repair activities to the maximum extent practicable.
4. **Modification of buildings.** Modification of an existing building that does not expand the building footprint area by more than fifteen (15) percent or increase septic effluent according to Chapter 246-272 WAC is exempt except when subsection 10.B. or subsection 10.C. applies. Replacement of manufactured homes that does not increase the number of bedrooms or exacerbate nonconformity with critical area setbacks or buffer standards within this Ordinance also is exempt. A person who is granted an exemption under this subsection for a

particular building cannot receive another exemption under this subsection for the same building unless ten (10) years has elapsed from the date of the previous exemption.

5. Navigation aids and boundary markers. Construction or modification of navigational aids and boundary markers are exempt.
6. Site investigation. Site investigation work which is necessary for land use applications such as surveys, soil logs, percolation tests and other related activities is exempt. However, critical area impacts shall be minimized and disturbed areas shall be restored to the maximum extent practicable.
7. Non-development activities. Passive recreational uses, sport and commercial fishing, hunting, scientific and educational endeavors, or similar minimal impact, non-development activities are exempt.
8. *Spartina Alterniflora*. Activities aimed at controlling *Spartina Alterniflora* are exempt.
9. Forest practices. Forest practices covered under Chapter 76.09 RCW and Title 222 WAC are exempt.

F. CRITICAL AREAS AND RESOURCE LANDS REVIEW PROCEDURES

No alteration of critical areas and resource lands as defined or designated by the Ordinance shall occur in the absence of express approval by Pacific County. Any alteration of any critical areas and resource lands as defined or designated by this Ordinance shall occur only through the issuance of a development permit. For any critical areas or resource lands alteration not requiring any other land development permit, such alteration shall not proceed in the absence of approval of a critical areas alteration permit issued under this Ordinance.

The following subsections describe the procedure for critical areas and resource lands review.

1. The Administrator first must determine whether the proposed activity fits within any of the exemptions to this Ordinance found in subsection 3.E. Some of those exemptions only apply if the activity complies with applicable best management practices or includes restoration after the activity is completed. If the proposed activity meets any of the listed exemptions, including best management practices and/or restoration requirements, no critical areas and resource land checklist or other critical areas and resource land review is required.
2. If the proposed activity is not exempt, then a person seeking a development permit, or otherwise engaging in an activity covered under

subsection 3.A., shall complete a critical areas and resource lands checklist on the forms to be provided by the Department of Community Development. Staff will then review the checklist together with the maps and other critical areas resources identified in the relevant sections of this Ordinance and make a site visitation to determine whether critical areas, resource lands, or their required buffers are affected by the proposed activity. The person seeking to develop is responsible for providing the County with sufficient information so that the Administrator can make this determination.

3. If the checklist, maps, other references, site visitation and other information supplied by a person seeking a development permit, or otherwise engaging in an activity covered under subsection 3.A., do not indicate the presence of any critical areas or resource lands associated with the project, the review required pursuant to this Ordinance is complete.
4. If at any time prior to completion of the applicable public input process on the proposed project, the Administrator receives new evidence that critical areas or resource lands may be associated with the proposed project, the Administrator shall reopen the critical areas and resource lands review process pursuant to this Ordinance and shall require the requisite level of critical areas and resource lands review and mitigation as is required by this Ordinance. Once the public input process on the associated permit or approval is completed and the record is closed, then the County's determination regarding critical areas and resource lands pursuant to this Ordinance shall be final, unless appealed as described in subsection 3 G. of this Ordinance.
5. If the checklist, maps, site visitation, and other references indicate that critical areas or resource lands are associated with the proposed project area, then a critical areas and resource lands assessment shall be completed.
6. If, as a result of the critical areas and resource lands assessment recommendations, a person believes that he or she is entitled to a variance from one or more of the requirements of this Ordinance, then a person may request a variance as described in subsection 3.J.
7. If, as a result of the critical areas and resource lands assessment recommendations, a person believes that the requirements of this Ordinance, including any request for a variance, leave the applicant with no economically viable use of his property, then a person may apply for a viable use exception pursuant to subsection 3.K. of this Ordinance.

G. APPEALS

1. The provisions of this Ordinance shall be administered according to a Type I process under Ordinance No. 145, unless a higher level review process is mandated by this Ordinance or Ordinance No. 145, or any amendment thereto.
2. Any decision of the Administrator or other County official in the administration of this Ordinance may be appealed according to the provisions of Ordinance No. 145, or any amendment thereto.

H. PENALTIES AND ENFORCEMENT

1. A person who violates the provisions of this Ordinance or who fails to comply with any of its requirements shall be subject to the procedures and sanctions set forth in Ordinance No. 141, or any amendment thereto.
2. In addition to the civil penalty provisions provided in Ordinance No. 141, or any amendment thereto, any person who violates any of the provisions of this Ordinance is guilty of a misdemeanor, and each day or portion thereof during which a violation is committed, continued, or not permitted shall constitute a separate offense. The penalty for each violation is a fine of not more than \$1,000 or imprisonment for not more than 90 days, or both. The principles of liability contained in Chapter 9A.08 RCW, including, but not limited to, liability for conduct of another shall apply to the enforcement of this Ordinance as shall all judicial interpretations thereof.
3. When a court determines that a person has committed a civil infraction under this Ordinance and Ordinance No. 141 or any amendment thereto, Pacific County may collect penalties, assessments, costs, and/or fines by any procedure established for the collection of debts that are owed to the County.
4. Any disposition of a violation pursuant to this Ordinance and Ordinance No. 141, or any amendment thereto, shall not absolve a person from correcting or abating a violation and shall not prevent the prosecuting authority from pursuing criminal prosecution, other civil action including, but not limited to, injunctive relief, license revocation, and abatement, or all of the above. If Pacific County prevails in a separate civil action, the Court may award the County reasonable costs including, but not limited to, the costs of the responsible officials' time, witness fees, attorney fees, court costs, and the costs to the County of abatement or of enforcement of an injunction, or both.
5. Any or all of the remedies articulated in subsection 3.H. PENALTIES AND ENFORCEMENT may be used by the County to enforce this Ordinance. Nothing contained in this Ordinance shall prevent the County, by and

through the prosecuting authority, from taking such other lawful action as is necessary to prevent or remedy any violation.

I. NONCONFORMING ACTIVITIES

An established use or existing structure that was lawfully permitted prior to adoption of this Ordinance, but which is not in compliance with this Ordinance, may continue subject to the following:

- 1. Nonconforming uses and existing structures shall not be expanded or altered in any manner which will increase the nonconformity without a permit or other approval issued pursuant to the provisions of this Ordinance except as allowed under subsection 3.E. GENERAL EXEMPTIONS;**
- 2. Activities or uses which are discontinued for twelve (12) consecutive months shall be allowed to resume only if they are in compliance with this Ordinance; and**
- 3. Nonconforming structures destroyed by fire, explosion, or other casualty may be replaced or restored if reconstruction of the same facility is commenced within twelve (12) months of such damage. The reconstruction or restoration shall not serve to expand, enlarge, or increase the extent of the nonconformity.**

J. VARIANCES

- 1. The Administrator shall process variance requests according to a Type II procedure delineated in Ordinance No. 145. The burden of proof shall be on the person requesting the variance to bring forth evidence in support of the variance.**
- 2. The Administrator shall grant a variance if the person requesting the variance demonstrates that the requested variance conforms to all of the criteria set forth below:**
 - a. That special conditions and circumstances exist which are peculiar to the land;**
 - b. That literal interpretation of the provisions of this Ordinance would deprive the person seeking the variance of rights commonly enjoyed by other properties conforming to the terms of this Ordinance;**
 - c. That the special conditions and circumstances do not result from the actions of the person seeking the variance;**

- d. That the granting of the variance requested will not confer on the person seeking the variance any special privilege that is denied by this Ordinance to other lands, structures, or buildings under similar circumstances;
 - e. That the variance requested is the minimum necessary to afford relief; and
 - f. That to afford relief the requested variance will not create significant impacts to critical areas and resource lands and will not be materially detrimental to the public welfare or contrary to the public interest.
3. In granting any variance, the Administrator shall prescribe such conditions and safeguards as are necessary to secure protection of critical areas from adverse impacts.

K. VIABLE USE EXCEPTION

If the application of this Ordinance would result in denial of all economically viable use of a property, and if such economically viable use of the property cannot be obtained by consideration of a variance pursuant to subsection 3.J. to one or more individual requirements of this Ordinance, then a person may seek a viable use exception from the standards of this Ordinance. Viable use exception requests shall follow the variance procedures articulated in subsection 3.J. and shall only be granted if the following criteria are met:

1. The application of this Ordinance would deny all economically viable use of the property so that there is no economically viable use with a lesser impact on the critical area than that proposed;
2. The proposed development does not pose a threat to the public health and safety; and
3. Any proposed modification to critical areas and resource lands will be the minimum necessary to allow economically viable use of the property.

SECTION 4 WETLANDS REGULATIONS

A. PURPOSE

The purpose of this section is to protect wetlands which serve a number of important beneficial functions.

B. IDENTIFICATION

1. Pacific County adopts the Washington State Department of Ecology Manual titled Washington State Wetlands Identification and Delineation Manual, March 1997, as the Pacific County wetland delineation manual for purposes of this Ordinance.
2. If Pacific County has reason to believe that a wetland may exist within one hundred (100) feet of a proposed development activity, a written determination regarding the existence or nonexistence of wetlands within one hundred (100) feet of a proposed development activity must be submitted to the Department of Community Development. Pacific County will only accept a written determination by the U.S. Army Corps of Engineers, the Washington State Department of Ecology, the Natural Resources Conservation Service, or a qualified critical areas professional as to whether wetlands exist on or within one hundred (100) feet of a specific parcel.
3. If it is determined under subsection 4.B.2 that wetlands exist, a wetland delineation must be obtained when an activity regulated under this Ordinance is proposed within one hundred (100) feet of the boundary of a wetland. Pacific County will only accept a delineation performed by U.S. Army Corps of Engineers, Washington State Department of Ecology, Natural Resources Conservation Service, or a qualified critical areas professional who has been approved by the Department of Community Development. A wetland delineation report shall be prepared by one of the entities listed above and submitted to the Department of Community Development. The report at minimum shall include the following information:
 - a. Description of the methods used to identify and delineate the wetland;
 - b. Description of the hydrology, soils, and vegetative characteristics of the wetland;
 - c. The wetland rating class (see below subsection 4.C. WETLANDS CLASSIFICATION);
 - d. A professional survey of the wetland boundary flagging, including the locations of formal data plots; and
 - e. Copies of all field data sheets.

C. CLASSIFICATION

1. Wetland Rating Classes

- a. Class I Wetlands.** All wetlands scoring a "Category I" rating under the Washington State Department of Ecology (WDOE) Washington State Wetlands Rating System for Western Washington, Second Edition, August 1993.
- b. Class II Wetlands.** All wetlands scoring a "Category II" on the WDOE rating scale.
- c. Class III Wetlands.** All wetlands scoring a "Category III" on the WDOE rating scale.
- d. Class IV Wetlands.** All wetlands scoring a "Category IV" rating on the WDOE scale.

D. WETLAND BUFFERS

1. Standard Buffer Widths

Buffers are necessary to protect wetlands from impacts generated by nearby land uses. The following standard buffers shall be required for regulated wetlands:

Class I Wetlands	100 feet
Class II Wetlands	75 feet
Class III Wetlands	50 feet
Class IV Wetlands	25 feet

2. Buffer Width Averaging

The width of a buffer for Class I, Class II, or Class III wetlands may be averaged, thereby reducing the width of a portion of the buffer and increasing the width of another portion, if all of the following requirements are met:

- a. Buffer averaging is necessary to avoid hardship to the person seeking this option which is caused by circumstances peculiar to the property;**
- b. The wetland contains variations in sensitivity due to existing physical characteristics;**
- c. Buffer width averaging will not adversely impact wetland functions and values;**

- d. The total area of the buffer is not less than the total area of the buffer which would have been required if buffer averaging was not allowed;
- e. No part of the buffer is reduced by more than fifty (50) percent of the standard buffer width; and
- f. The buffer area proposed to be designated in buffer width averaging shall be contiguous to the original buffer area and shall not include on-site septic systems, public or private roadways, structures, or above ground utilities. Existing disturbed areas may not be approved for use as a buffer width averaging area unless a buffer restoration or buffer enhancement plan has been submitted that conforms with the specifications of Subsections 4.B. and 4.E.

3. Temporary Buffer Alterations

Where temporary buffer disturbance has or will occur in conjunction with approved permitted activities, revegetation of the buffer with native vegetation shall be required. Re-vegetation shall occur within thirty (30) days of project completion, unless explicitly extended by the Administrator.

4. Buffer Barrier Reduction

For development proposed to be located in a wetland buffer that is physically isolated from its corresponding wetland by a pre-existing barrier (bulkhead, paved public roadway, existing building, etc.) the standard buffer width as contained within Subsection 4.D.1. shall be reduced by one half if the applicant can demonstrate that the reduction will not have any negative impacts to the corresponding wetland functions and values.

5. Land-ward Residential Addition

For proposed development consisting of an expansion of an existing single family residential structure within a wetland buffer, for which the proposed expansion is on the land-ward side of the structure furthest from the wetland, no mitigation shall be required for such expansion, so long as the width of the expanded structure parallel to the wetland boundary is not increased.

E. MITIGATION

1. County Permits

Where a project requires the disruption of a wetlands, the wetland system, function, and values shall be maintained through mitigation as specified in this subsection.

a. Land Based Mitigation-Class I Wetlands

For Class I wetlands, any loss of wetlands shall be mitigated by creating or restoring new wetlands at an areal ratio of 4 to 1 (wetlands created or restored to wetlands impacted). "In-kind" and "on-site" mitigation shall be required unless it can be demonstrated that an "off-site" alternative would be of greater value to the environment.

b. Land Based Mitigation-Class II Wetlands

For a Class II wetlands, any loss of wetlands shall be mitigated by creating or restoring new wetlands of like kind at an areal ratio of 2 to 1 (wetlands created or restored to wetlands impacted). "In-kind" and "on-site" mitigation shall be required unless it can be demonstrated that an "out-of-kind" and/or "off-site" alternative would be of greater value to the environment.

c. Land Based Mitigation - Class III and Class IV Wetlands

For a Class III and Class IV wetlands, any loss of wetlands shall be mitigated by creating or restoring new wetlands of a like kind at an areal ratio of 1.5 to 1 (wetlands created or restored to wetlands impacted). "In-kind" and "on-site" mitigation shall be required unless it can be demonstrated that an "out-of-kind" and/or "off-site" alternative would be of greater value to the environment.

2. For the purposes of this subsection, an insufficient buffer under subsection 4.D WETLAND BUFFERS shall be treated as a loss of wetlands to the extent of the deficiency.

3. Any Class III or Class IV wetland which has an aggregate area of less than or equal to 2500 square feet shall be exempt from any mitigation requirements.

4. No additional wetland mitigation is required by this Ordinance for Class II, Class III, or Class IV wetlands converted to cranberry bogs provided that all existing Federal and State mitigation requirements are met.

5. An applicant proposing to construct new public or private roads and/or bridges within a wetland or its buffer shall submit an analysis of the cumulative wetland and buffer impacts that can reasonably be expected to occur as a result of approval of the proposed project. The Administrator shall consider the cumulative impacts of proposed projects and shall give preference to use and/or expansion of existing roadways over the construction of new roadway wetland crossings.

F. PROCESSING

1. For projects requiring environmental review:

Information demonstrating compliance with the standards of this section shall be submitted in connection with environmental documents for all applications requiring environmental review. Any environmental determination shall include a review of this material to determine whether the requirements of this section have been met.

2. For projects exempt from environmental review:

Information demonstrating compliance with the standards of this section shall be submitted in connection with the application documents for any development permit exempt from environmental review.

3. Other Agency Permits and Standards

Activities in and around wetlands often require review and permitting by state and federal agencies. The requirements of this Ordinance are additional to any and all state and federal review and/or permit responsibilities.

G. MAPS AND REFERENCES.

The following references may provide an indication of wetland locations. However, these and other similar resources were not prepared at a level of detail sufficient to accurately portray the exact location and extent of wetlands in Pacific County, and cannot be used in place of an on-site field determination of wetlands. Many wetlands in Pacific County will not appear on these resources.

1. National Wetland Inventory.
2. Natural Resources Conservation Service (formerly the Soil Conservation Service), soils map for Pacific County, hydric soils designations.

H. WETLAND BANKING

- 1. Loss of Class I, Class II, Class III or Class IV wetland buffer, and loss of Class II, Class III, or Class IV wetland may be mitigated for via purchasing of rights in an approved wetland mitigation bank. Loss of Class I wetland may only be mitigated for via purchasing of rights in an approved wetland mitigation bank to mitigate for impacts from public infrastructure projects. Development proposals for which wetland mitigation banking is proposed as mitigation must first demonstrate compliance with the preferred wetland mitigation sequence within Subsection 1.D.2. of this Ordinance. Wetland mitigation bank credits sold for use within Pacific County may only be used for projects located within the same surface water drainage basin as determined by the Administrator in consultation with the Pacific County Engineer.**
- 2. A wetland mitigation bank may only be approved by the Administrator following a Type II public review process as specified within Pacific County Ordinance 145 or any amendments thereto. A Wetland Mitigation Bank must comply with Chapter 90.84, Revised Code of Washington.**
- 3. The Administrator may approve a limited number of Demonstration Project Wetland Mitigation Banks prior to adoption of administrative rules implementing Chapter 90.84, Revised Code of Washington, by the Washington State Department of Ecology. The Administrator may not approve a Demonstration Project Wetland Mitigation Bank unless it has received approval from the Washington State Department of Ecology and U.S. Army Corps of Engineers.**
- 4. An applicant proposing development of a Wetland Mitigation Bank or Demonstration Project Wetland Mitigation Bank shall submit a detailed plan proposal to the Administrator that includes the following:**
 - a. A site map drawn to scale;**
 - b. A declaration of ownership interest for the proposed mitigation banking site;**
 - c. A wetland delineation report prepared by a Qualified Critical Area Professional;**
 - d. A description of the existing site wetlands, wetland buffers and uplands, environmental functions and values, hydrology, vegetation, soils, and wildlife populations and habitat;**

- e. An inventory of Threatened, Endangered, and Sensitive plant and other wildlife species on the site;
- f. A detailed description of the wetland creation, enhancement, or restoration to be achieved, proposed timeline for creation / enhancement / restoration, description of necessary materials, and a listing of permits and agency approvals required to complete the project;
- g. A physical description of the site including pre and post construction topography, hydrology, vegetation, soils, and habitat;
- h. A proposal for perpetual ownership and management of the site, and for on-going monitoring of the site for a minimum of ten (10) years following construction;
- i. A proposed credit release schedule;
- j. A chart of proposed mitigation ratios for enhancement, restoration and/or creation components of the project;
- k. A proposed contingency plan to respond to failure to achieve planned hydraulic, soil, vegetation, and/or habitat benefits; and
- l. A proposed wetland banking credit tracking and reporting system.

SECTION 5 FISHERIES HABITAT REGULATIONS

A. PURPOSE

The purpose of this section is to protect fisheries habitat by land management which maintains fish species in suitable habitats within their natural geographic distribution.

B. IDENTIFICATION

Pacific County's policy is to protect habitat conservation areas classified pursuant to SECTION 7 WILDLIFE HABITAT for endangered, threatened, or sensitive species listed by the Washington State Department of Fish & Wildlife. Pacific County adopts the Department of Natural Resources' Official Water Type Maps. Definitions are as identified in the water typing criteria in WAC 222-16-030; provided, however, that artificially created structures, ditches, canals, ponds, irrigation return ditches, and stormwater channels of every type shall not be considered a stream for purposes of this section. Streams are classified Type 1-5 for critical area protection purposes based on the water typing criteria in WAC 222-16-030.

C. PROTECTION STANDARDS

1. Standard Setback Width Requirements

The following stream setbacks from the ordinary high water mark are required:

a. Widths for Required Stream Setbacks:

- (1) For a Type 1 stream-100 feet**
- (2) For a Type 2 stream-100 feet**
- (3) For a Type 3 stream-100 feet**
- (4) For a Type 4 stream-50 feet**
- (5) For a Type 5 stream-25 feet (natural water course only)**

These stream setback requirements do not apply to forest practice activities regulated under Chapter 76.09 RCW and Title 222 WAC.

b. Measurement

For streams the setback shall be measured horizontally in a landward direction from the ordinary high water mark. Where lands adjacent to a stream display a continuous slope of twenty-five percent (25%) or greater, the setback shall include such sloping areas. For Type 1, 2, and 3 streams, where the horizontal distance of the sloping area is greater than the required standard setback, the setback shall be extended to a point twenty-five (25) feet beyond the top of the bank of the sloping area.

2. Prohibited Activities within Stream Setbacks

The following activities are prohibited within a stream setback required by this Ordinance:

- a. Removal of more than thirty (30) percent of stream bank tree canopy within any ten (10) year period;**
- b. Land filling, and/or grading;**
- c. Land clearing and/or vegetation removal that results in exposure of bare earth except as necessary under subsection 5.C.2.a.,**

provided that any exposure is the minimum required to reasonably accommodate the action;

- d. Planting of non-native vegetation;**
- e. Mowing of vegetation resulting in conversion to a mowed lawn like state; and**
- f. Application of chemicals, fertilizers, or pesticides.**

D. MAPS AND REFERENCES

DNR base maps for stream types and topography provide an indication of the location of fisheries resources. Field conditions shall be used to determine the existence or extent of any classified stream area.

**SECTION 6
SHELLFISH, KELP, EELGRASS, HERRING, AND
SMELT SPAWNING AREAS REGULATIONS**

A. PURPOSE

The purpose of this section is to ensure the protection of shellfish, kelp, eelgrass, herring, and smelt spawning areas by regulating incompatible upland land uses and development, and by controlling associated non-point pollution impacts.

B. IDENTIFICATION

Shellfish, kelp, eelgrass, herring, and smelt spawning critical areas are those public and private saltwater tidelands or beds that are devoted to the process of growing, farming, or cultivating shellfish, including commercial clam and oyster grounds, oyster and mussel raft areas, and recreational shellfish harvesting areas. In addition, all property located three hundred (300) feet landward from the boundary of upland vegetation shall be designated as shellfish, kelp, eelgrass, herring, and smelt spawning critical areas. The Administrator is hereby given authority to modify administratively this last designation so that it refers to fixed elevational data points which reflect highest tide instead of referring to the boundary of upland vegetation. The Administrator shall consult with interested parties in making this change. This definitional change shall occur as soon as practicable; however, this change must be made within one year from the date this Ordinance becomes effective.

C. PROTECTION STANDARDS

The following standards shall apply to sites that are designated as shellfish, kelp, eelgrass, herring, and smelt spawning areas:

1. The design of new and repair of on-site sewage systems shall incorporate all known, available, and reasonable methods of prevention, control, and treatment (AKART) for microbial contaminants. For sites with soil type 2A through 5 as defined in Chapter 246-272 WAC, AKART can be achieved by maintaining at least a three (3) foot vertical separation between the bottom of a subsurface absorption system and the underlying maximum seasonal water table or impervious layer, and by use of pressure effluent distribution consistent with guidelines established by the Washington State Department of Health, and designed by a Professional Engineer, Licensed Designer, or Registered Sanitarian. On sites with soil Types 2A through 5 where a three (3) foot vertical separation cannot be maintained, alternative systems which meet or exceed Treatment Standard 2 prior to subsurface discharge shall be used. For sites with soil type 1A or 1B where a three (3) foot vertical separation cannot be

maintained, alternative systems which meet or exceed Treatment Standard 1 shall be used. No reduction from the 100 foot horizontal separation between on-site septic system disposal components and surface water shall be approved for new septic systems within shellfish, kelp, eelgrass, herring, and smelt spawning critical areas.

- 2. On-site sewage system permit applications shall be held by the Pacific County Health Officer or his/her designee for evaluation during the high winter water table season, if necessary to ensure that native soil depth and vertical separation are consistent with the requirements of Chapter 246-272 WAC, Pacific County On-Site Sewage System Regulations, and this Ordinance.**
- 3. Applications for Preliminary Plat subdivisions, or for construction of any new office complex, school facility, industrial facility, or commercial building shall require preparation and submittal of a storm water collection, biofiltration, and disposal system designed by a Professional Engineer. Infiltration of storm water shall be encouraged, except where the practice would be injurious or potentially injurious to the quality of ground water in designated Aquifer Recharge Areas.**
- 4. Construction of new agricultural facilities involved with the raising or keeping of livestock shall require preparation of farm plans and compliance with water quality Best Management Practices (BMPs).**
- 5. Construction of new non-commercial agricultural facilities or activities involving the raising or keeping of livestock shall require compliance with water quality BMPs developed by the Pacific County Conservation District.**

D. MAPS AND REFERENCES

Shellfish, kelp, eelgrass, herring, and smelt spawning areas shall be field located by a qualified critical areas professional.

SECTION 7 WILDLIFE HABITAT REGULATIONS

A. PURPOSE

The purpose of this section is to protect wildlife habitat by land management which maintains sensitive, threatened, or endangered species in suitable habitats within their natural geographic distribution.

B. IDENTIFICATION

Pacific County adopts the designations listed at WAC 232-12-014 (Endangered), WAC 232-12-011 (Threatened and Sensitive), WAC 232-12-292 (Bald Eagle), and federally-designated threatened or endangered species categories legally applicable to Pacific County.

Fish and wildlife habitat conservation areas include:

1. Areas with which endangered, threatened, and sensitive species have a primary association;
2. Commercial and recreational shellfish areas;
3. Kelp and eelgrass beds; herring and smelt spawning areas;
4. Naturally occurring ponds under twenty (20) acres and their submerged aquatic beds that provide fish or wildlife habitat;
5. Waters of the State;
6. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity; or
7. State natural area preserves and natural resource conservation areas.

C. PROTECTION STANDARDS

In reviewing non-exempt land use development permits, the local development permit shall condition approval based on a finding by Pacific County that the species identified in subsection 7.B. are not present on the parcel subject to the development permit.

D. MITIGATION

1. County Permits

Mitigation shall be required for loss of area or functional value of wildlife habitat regulated under this subsection. When mitigation is required by this section, it shall address restoration, rehabilitation, and alternatives in accordance with the following requirements:

- a. Restoration is required when a wildlife habitat regulated under this section has been altered prior to project approval unless the alteration was not prohibited by law; or when wildlife habitats are temporarily affected by construction or any other temporary phase of a project.**
- b. Mitigation is required when a wildlife habitat regulated under this section is permanently altered as a result of project approval or activity.**
- c. On-site mitigation is preferred so as to ensure, to the greatest extent practicable, that the plan results in mitigation for direct impacts resulting from the alteration.**
- d. Off-site mitigation will be used only in those situations where on-site mitigation is not possible. When off-site mitigation is allowed, it should occur within the same subbasin as the project impact.**
- e. Mitigation shall be completed prior to granting of temporary or final occupancy, or the completion or final approval of any development activity for which mitigation measures have been required.**

- 2. This subsection constitutes general rules which may be modified upon the recommendations of a qualified critical area professional as to the scope and nature of the mitigation which is needed to protect the habitat system, functions, and values at issue for the project.**

E. MAPS AND REFERENCES

- 1. Wildlife critical areas shall be field located based on applicable criteria by a qualified critical areas professional.**
- 2. Department of Fish and Wildlife maps of bald eagle, sensitive, threatened, and endangered species and habitat shall be consulted.**

**SECTION 8
FREQUENTLY FLOODED AREAS REGULATIONS**

A. PURPOSE

The purpose of the frequently flooded areas section is to minimize public and private losses due to flood conditions in specific areas.

B. IDENTIFICATION

For the purpose of this Ordinance, frequently flooded areas within Pacific County shall be classified using the following criteria:

1. Frequently flooded areas shall be those floodways and associated floodplains designated by the Federal Emergency Management Act (FEMA) flood hazard classifications as delineated on the area flood hazard maps for Pacific County dated September 27, 1985, or as subsequently revised by FEMA, as being within the 100-year floodplain, or those floodways and associated floodplains delineated by a comprehensive flood hazard management plan adopted by the Pacific County Board of County Commissioners, as being within the 100-year floodplain or having experienced historic flooding. For the purpose of this Ordinance, in case of conflict between FEMA flood hazard maps and the comprehensive flood hazard management plan designations, the more restrictive designation shall apply.
2. If an area of interest is not included in a comprehensive flood hazard management plan adopted by the Board of County Commissioners, and the County Engineer believes that the FEMA flood hazard maps do not correctly delineate the 100-year floodplain, the County Engineer may delineate the 100-year floodplain based on documented historic flooding of the area. If such documentation is not adequate to allow the County Engineer to make such delineation, the person seeking development which is covered under this Ordinance shall provide a flood hazard study prepared by a qualified critical area professional assessing the extent of the 100-year floodplain, which shall be subject to approval by the County Engineer.

C. PROTECTION STANDARDS

All development within classified frequently flooded areas shall comply with the Pacific County Flood Damage Prevention Ordinance No. 116, as now or hereafter amended, and/or the Pacific County Shoreline Master Program, as now or hereafter amended

**SECTION 9
AQUIFER RECHARGE REGULATIONS**

A. PURPOSE

The purpose of this section is to establish protection measures for aquifers that are susceptible to contamination due to physical (hydrogeologic) factors.

B. IDENTIFICATION

Any land within Pacific County that contains the following soil types as listed in the Soil Survey of Grays Harbor County Area, Pacific County, and Wahkiakum County, Washington, 1986, Soil Conservation Service, USDA, is designated as an Aquifer Recharge Area.

Soil types (Map Unit Descriptions)

- 8 Beaches
- 35 Dune land
- 92 Netarts fine sand, 3-12 percent slopes
- 108 Orcas peat
- 132 Seastrand Mucky peat
- 133 Seastrand variant muck
- 147 Udorthents, level
- 153 Westport fine sand, 3-10 percent slopes
- 162 Yaquina loamy fine sand

C. PROTECTION STANDARDS

1. New Development Prohibitions

The following types of new development shall not be permitted within designated Aquifer Recharge Areas:

- a. Solid waste landfills;
- b. Septage application;
- c. Underground storage of heating oil in excess of 1,100 gallons for consumptive use on the parcel where stored;
- d. Creosote manufacturing or treatment; and
- e. Chemical manufacture or reprocessing of any extremely hazardous waste as defined by RCW 70.105.010(6) and listed in Chapter 173-303 WAC.

2. Residential Development Standards

- a. Lots in new subdivisions and new short subdivisions in Aquifer Recharge Areas outside of Urban Growth Areas shall require a minimum net land area of one acre when gravity on-site septic

systems are proposed, thirty thousand (30,000) square feet when pressure distribution or equivalent treatment systems are proposed, and fifteen thousand (15,000) square feet or equivalent when sand filter or equivalent treatment is proposed. For the purposes of this section "net lot area" shall mean the total lot area minus areas covered by surface water lying water-ward of the ordinary high water mark, and those areas contained within rights of way, and road and/or utility easements.

- b. New and/or repair of on-site sewage systems in Aquifer Recharge Areas on existing lots of less than one net acre in size shall be designed by a Licensed Designer, Registered Sanitarian, or Professional Engineer, and shall consist of a pressure distribution drainfield system, or meet Treatment Standard One or Two. However, a gravity drainfield system shall be allowed in Aquifer Recharge Areas if the site has at least five (5) feet of vertical separation when the water table is at its peak during the winter.
 - c. On-site sewage system permit applications in Aquifer Recharge Areas shall be held by the Health Officer for evaluation during the high winter water table season (December - February), if necessary to ensure that native soil depth and vertical separation are consistent with the requirements of Chapter 246-272 WAC and any Pacific County Ordinance pertaining to on-site sewage disposal.
 - d. New subdivisions and new short subdivisions in Aquifer Recharge Areas shall require a storm water collection, treatment, and disposal system designed by a Professional Engineer and approved by the County Engineer. This requirement does not apply to short subdivisions in which each lot is at least one acre in size.
3. Non-Residential Development Standards

- a. A person seeking the following types of new construction activities is responsible for preparing an Aquifer Recharge Area Report:
 - (1) Industrial and commercial agricultural facilities applying fertilizers or pesticides in excess of agronomic rates;
 - (2) Golf courses or other recreational or institutional facilities that involve extensive turf cultivation or maintenance;
 - (3) Above ground storage tanks, with the exception of water tanks;

Aquifer Recharge Area Reports under subsections 9.c.3.a. and 9.C.3.b. of this section shall be prepared by a Professional Engineer registered by the State of Washington, and trained and qualified to analyze geologic, hydrologic, and ground water flow systems, or by a geologist or hydrogeologist who has received a degree from an accredited four-year college or university and who has relevant training and experience in analyzing geologic, hydrologic, and ground water flow systems. Such qualifications shall be demonstrated to the satisfaction of the Administrator.

**SECTION 10
GEOLOGICALLY HAZARDOUS AREAS REGULATIONS**

A. PURPOSE

The purpose of this section is to minimize hazards to the public from development activities on or adjacent to areas of geological hazard. Geologically hazardous areas include the following: erosion hazard areas; landslide hazard areas; seismic hazard areas; and mine hazard areas.

B. EROSION AND LANDSLIDE HAZARD AREAS

1. Identification of Erosion & Landslide Hazard Areas

- a. Erosion hazard areas are those areas that have an erosion potential as detailed in the soil descriptions contained in the Soil Survey of Grays Harbor County Areas, Pacific County and Wahkiakum County, Washington, 1986, Soil Conservation Service, USDA. The legislative authority of Pacific County also may designate by resolution erosion hazard areas.
- b. Landslide hazard areas are those areas meeting any of the following criteria:
 - (1) Areas of historic failure, such as areas designated as quaternary slumps, earthflows, mudflows, or landslides on maps published as the United States Geological Survey or Department of Natural Resources Division of Geology and Earth Resources;
 - (2) Areas which are rated as unstable in the Department of Ecology Coastal Zone Atlas;
 - (3) Any area with all of the following:
 - (a) a slope greater than 15%,
 - (b) hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock, and
 - (c) springs or groundwater seepage;
 - (4) Slopes that are parallel or sub-parallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;

- (5) Slopes having gradients greater than eighty percent (80%) subject to rockfall during seismic shaking;
- (6) Areas potentially unstable as a result of rapid stream incision and streambank erosion;
- (7) Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and
- (8) Any area with a slope of forty percent (40%) or steeper and with a vertical relief of ten (10) or more feet except areas composed of solid rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten (10) feet of vertical relief.

2. Applicability

- a. When any provision of any other ordinance of Pacific County conflicts with subsection 10.B., that provision which is intended for erosion and landslide hazard areas shall apply unless specifically provided otherwise in this Ordinance.
- b. The provisions of this section shall apply only to land use development permits. However, the expansion of pre-existing structures shall be exempt so long as the intrusion into an erosion or landslide hazard area does not increase.

3. Development Standards for Erosion and Landslide Hazard Areas

Uses and activities subject to a land use development permit in Erosion and Landslide Hazard Areas shall conform to the following standards:

a. Grading

- (1) Clearing, grading, and other construction activities shall not aggravate or result in slope instability or surface sloughing;
- (2) Undergrowth shall be preserved to the extent practicable;
- (3) No dead vegetation (slash), fill, or other foreign material shall be placed within a landslide hazard area, other than that approved for bulkheads or other methods of streambank stabilization under the

Shoreline Master Program unless a geotechnical report shows that the activity will not exacerbate landslide hazards; and

- (4) Ground disturbance shall be minimized to the extent practicable.**

b. Ground Surface Erosion Control Management

- (1) There shall be minimum disturbance of vegetation in order to minimize erosion and maintain existing stability of hazard areas;**
- (2) Vegetation removal on the slopes of banks between the ordinary high-water mark and the top of the banks shall be minimized because of the potential for erosion;**
- (3) Vegetation and organic soil material shall be removed from a fill site prior to the placement of clean earthen material;**
- (4) Vegetative cover shall be re-established on any disturbed surface to the extent practicable; and**
- (5) To the extent practicable, groundcovers such as filter fabrics, rip-rap, etc. shall be placed on any disturbed surface when future erosion is likely.**

c. Drainage

- (1) Surface drainage, including downspouts, shall not be directed across the face of a hazard area; if drainage must be discharged from the top of a hazard area to its toe, it shall be collected above the top and directed to the toe by tight line drain, and provided with an energy dissipative device at the toe for discharge to a swale or other acceptable natural drainage areas; and**
- (2) Stormwater retention and detention systems, including percolation systems utilizing buried pipe, may be used if a geotechnical assessment indicates such a system shall not affect slope stability and the system is designed by a licensed civil engineer; the licensed civil engineer shall also certify that the system is installed as designed.**

d. Lot Size

For the purpose of determining lot sizes within erosions and hazard areas, the Administrator shall review available information, analyze necessary geotechnical assessments, and make a decision on a case-by-case basis based on the reports.

e. Buffers

- (1) An undisturbed fifty (50) foot buffer, as measured on the surface, is required from the top, toe, and along all sides of any existing landslide or erosion hazard area;**
- (2) Based on the results of a geotechnical assessment, the Administrator may increase or decrease the buffer; and**
- (3) The buffer shall be clearly staked before any construction or clearing takes place.**

f. Design Guidelines

- (1) Foundations shall conform to the natural contours of the slope and foundations should be stepped/tiered where possible to conform to existing topography of the site;**
- (2) Roads, walkways, and parking areas shall be designed with low gradients or be parallel to the natural contours of the site; and**
- (3) To the extent practicable, access shall be in the least sensitive area of the site.**

- g. No critical facilities shall be constructed or located within an erosion or landslide hazard area.**

4. Additional Development Standards for Erosion Hazard Areas

- a. No new structures shall be located on a permanent foundation within an erosion hazard area, unless the foundation is located at a distance landward of the ordinary high water mark that is greater than or equal to the amount of land that is expected to erode within the next thirty (30) years as determined by the Administrator.**
- b. New septic system drainfields in an erosion hazard area shall be located landward of any new structure.**

- c. **Recreational Vehicle usage in an erosion hazard area is permitted if otherwise allowed by law.**

5. Maps and References

a. Erosion Hazard Areas

The approximate location and extent of erosion hazard areas is displayed in the Soil Survey of Grays Harbor County Area, Pacific County, and Wahkiakum County, Washington, 1986, Soil Conservation Service, USDA.

b. Landslide Hazard Area

The Soil Survey may be relied upon by the Administrator as a basis for requiring field investigation and special reports. In the event of a conflict between information contained in the Soil Survey and information shown as a result of a field investigation, the latter shall prevail.

C. MINE HAZARD AREAS

1. Identification of Mine Hazard Areas

Mine hazard areas are those areas within 100 horizontal feet of a mine opening at the surface.

2. Applicability

- a. **When any provision of any other ordinance of Pacific County conflicts with subsection 10.C., that provision which is intended for mine hazard areas shall apply, unless specifically provided otherwise in this Ordinance.**
- b. **The provisions of this section shall apply only to land use development permits. However, expansion of pre-existing structures shall be exempt so long as the intrusion into a mine hazard area does not increase.**

3. Development Standards for Mine Hazard Areas

Development within a mine hazard area is prohibited.

D. SEISMIC HAZARD AREAS

1. Identification of Seismic Hazard Areas

For the purposes of this classification, the entire County constitutes a seismic hazard area because all areas are subject to a Seismic Risk Zone 3 rating or higher.

2. Applicability

- a. When any provision of any other ordinance of Pacific County conflicts with subsection 10.D., that provision which is intended for seismic hazard areas shall apply unless specifically provided otherwise in this Ordinance.**
- b. The provisions of this section shall apply to land use development permits. However, the expansion of pre-existing structures and facilities shall be exempt so long as the hazard to health or safety, persons or property does not increase.**

3. Development Standards for Seismic Hazard Areas

All development within areas that meet the classification criteria for seismic hazard areas shall comply with the Uniform Building Code requirements for Seismic Risk Zone 3 as adopted by Pacific County. No other permits are required by this Ordinance for seismic hazards.

4. Maps and References

- a. All of Pacific County lies within Seismic Risk Zone 3, as shown on the Uniform Building Code Seismic Risk Zone Map of the United States.**
- b. The Administrator may require site specific field studies or special reports for the siting of critical facilities within Pacific County.**

**SECTION 11
AGRICULTURAL LAND REGULATIONS**

A. PURPOSE

The purpose of this section is to conserve agricultural land of long-term commercial significance and protect other agricultural land.

B. IDENTIFICATION

1. Agricultural Land of Long-Term Commercial Significance

Agricultural land of long-term commercial significance includes all land that is devoted to the production of aquaculture, cranberries, and/or other bog related crops.

2. Agricultural Land of Local Importance

Agricultural land of local importance includes any diked tideland as listed under soil types nos. 104 and 147 in the Soil Survey of Grays Harbor County Area, Pacific County, and Wahkiakum County, Washington, 1986, Soil Conservation Service, USDA, that is involved in existing and ongoing agricultural activities on the date this Ordinance become effective.

C. PROHIBITION AGAINST OTHER USES

1. Agricultural Land of Long-Term Commercial Significance

Land that is designated as agricultural land of long-term commercial significance on the date this Ordinance becomes effective and land that subsequently meets the definition of agricultural land of long-term commercial significance shall not be used for any other purpose than agriculture.

2. Agricultural Land of Local Importance

Agricultural land of local importance may continue to be used for agricultural activities, including uses pertaining to related structures, such as barns and loafing sheds, and may be used for the continued occupation of dwelling units in existence on the date this Ordinance becomes effective. Any such dwelling units may be replaced, altered, or expanded provided that such replacement, expansion, or alteration does not result in an increase in the number of dwelling units on the specific parcel which is within agricultural land of local importance. Any modification of the sewage disposal system must comply with State and Pacific County Board of Health rules. Agricultural land of

local importance may not be converted to non-agricultural uses, activities, and structures, such as the subdivision of land and the development of recreation facilities. Subject to the compliance with other requirements of law, nothing within this Ordinance prevents the conversion of agricultural land of local importance back to tidal land that would be inundated by the natural ebb and flow of tidal waters.

D. PROTECTION STANDARDS

All structures within parcels adjacent to or abutting agricultural land shall maintain a minimum setback of (1) one hundred (100) feet from property lines, except for structures not requiring building permits, (2) one hundred (100) feet for all wells, and (3) two hundred (200) feet for springs; however, the Administrator may reduce the setback if the requirements of subsection 3.J. VARIANCES are met and the person requesting the administrative variance records an agricultural easement for the benefit of the abutting agricultural land, and grants a right to all normal and customary agricultural practices in accordance with Best Management Practices.

E. MAPS AND REFERENCES

Agricultural land areas shall be field located based on applicable criteria.

F. TITLE NOTIFICATION

1. The owner(s) of any site classified as agricultural land shall record a title notice with the Pacific County Auditor when a development activity covered under this section is submitted. The notice shall be notarized and shall be recorded prior to approval of any development proposal for the site. Such notification shall be in the form as set forth below.

Agricultural Land Area Title Notification

Parcel Number:

Parcel Address:

NOTICE: This parcel lies within an area identified as agricultural land by Pacific County. A variety of commercial agricultural activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of agricultural chemicals, including herbicides, pesticides, and fertilizers; or from spraying, pruning, and harvesting, which occasionally generate dust, smoke, noise, and odor. Pacific County has established agriculture as a priority use on productive agricultural lands, and residents of adjacent property should be prepared to accept such

inconveniences or discomfort from normal, necessary agricultural operations.

Signature(s) of Owner(s)

(NOTARY ACKNOWLEDGMENT)

2. Land Division Notification

The owner(s) of any site classified as agricultural land, on which a subdivision, short subdivision, or other parcel segregation is approved, shall record a notice on the face of the plat or short plat and shall record a notice along with any other document filed with the Pacific County Auditor. Such notification shall be in the form as set forth below.

NOTICE: This property lies within an area identified as agricultural land by Pacific County. A variety of commercial agricultural activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of agricultural chemicals, including herbicides, pesticides, and fertilizer; or from spraying, pruning, and harvesting, which occasionally generate dust, smoke, noise, and odor. Pacific County has established agriculture as a priority use on productive agriculture lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary agricultural operations.

Signature(s) of Owner(s)

(NOTARY ACKNOWLEDGMENT)

3. Regulated Activities Notification

The Administrator shall require that all permits issued for regulated activities within agricultural land contain a notice as set forth below.

NOTICE: This property lies within an area identified as agricultural land by Pacific County. A variety of commercial agricultural activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of agricultural chemicals, including herbicides, pesticides, and fertilizers; or from spraying, pruning, and harvesting, which occasionally generate dust, smoke, noise, and odor. Pacific County has established agriculture as a priority use on productive agricultural lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary agricultural operations.

**SECTION 12
FOREST LAND REGULATIONS**

A. PURPOSE

The purpose of this section is to conserve productive forest land. Nothing within this section shall be construed in a manner inconsistent with Chapter 76.09 RCW and Title 222 WAC.

B. IDENTIFICATION

1. General

Forest land is land that is not already characterized by urban growth and that is significant for the commercial production of timber and forest products.

2. Classification

a. Forest Land of Long-Term Commercial Significance

Forest land of long-term commercial significance means any land designated on the map of Pacific County Forest Land as forest land of long-term commercial significance (see Exhibit A).

b. Transitional Forest Land

Transitional forest land means any land designated on the map of Pacific County Forest Land as transitional forest land (see Exhibit A).

C. PRIMARY USES, ACCESSORY USES, INCIDENTAL USES, AND CRITICAL FACILITIES ALLOWED IN FOREST LAND OF LONG-TERM COMMERCIAL SIGNIFICANCE

1. Primary Uses

The following primary uses are allowed:

a. The growing and harvesting of timber, forest products, and associated management activities in accordance with Chapter 76.09 RCW and Title 222 WAC; and

b. Removal, harvesting, wholesaling, and retailing of vegetation from forest lands including, but not limited to fuel wood, cones, Christmas trees, salal, berries, ferns, greenery, mistletoe, herbs, and mushrooms.

2. Accessory Uses

The following accessory uses are allowed outright where directly connected with and in aid of a forestry activity:

- a. One single-family dwelling unit per parcel or tract;
- b. One accessory living unit in conjunction with a single-family dwelling;
- c. Storage of explosives, fuels, and chemicals used for agriculture and forestry subject to all applicable local, state, and federal regulations;
- d. Forestry, environmental, and natural resource research;
- e. Public and semi-public buildings, structures, and uses including, but not limited to, fire stations, utility substations, pump stations, wells, and transmission lines;
- f. Primitive campsites and trails;
- g. Aircraft landing fields, heliports;
- h. Watershed management facilities, including, but not limited to, diversion devices, impoundments, dams for flood control, and fire control; and
- i. Extraction and processing of rock, gravel, coal, oil, gas, mineral, and geothermal resources.

3. Incidental Uses

a. Required Elements

Incidental uses are allowed where the following elements are found:

- (1) The use will not significantly affect the overall productivity of forest land;
- (2) The use is secondary to the principal activity of forestry; and
- (3) The use is sited to avoid prime lands where practicable and otherwise minimizes the impact to forest land of long-term commercial significance.

b. Uses Allowed as Incidental Activities

- (1) Residential subdivision consistent with the requirements of this Ordinance.**
- (2) Saw mills, shake and shingle mills, the production of green veneer and other products from wood residues, chippers, pole yards, log sorting and storage, debarking equipment, accessory uses including, but not limited to, scaling and weigh stations, temporary crew quarters, storage and maintenance facilities, residue storage areas, and other uses involved in the harvesting and commercial production of forest products.**
- (3) Telecommunication facilities.**
- (4) The erection, construction, alteration, and maintenance of gas, electric, water, or communication and public utility facilities, including dams for hydro-electric generating facilities.**
- (5) Treatment of waste water or application of biosolids when not a forest practice regulated by the State.**
- (6) Public and privately developed recreational facilities including, but not limited to, parks, playgrounds, campgrounds, lodges, cabins, youth camps, and accessory uses.**
- (7) Sanitary landfills, recycling facilities, incineration facilities, and inert waste and demolition waste disposal sites.**
- (8) State correction work camps which supply labor for forest management related work projects.**

4. Critical Facilities

Critical facilities are permitted on forest land of long-term commercial significance where:

- a. They are identified in an adopted plan of a public agency or regulated utility; and**

- b. The potential impact on forest land of long-term commercial significance is specifically considered in the siting process.

D. PROTECTION STANDARDS FOR FOREST LAND OF LONG-TERM COMMERCIAL SIGNIFICANCE

1. Minimum Density and Lot Area

- a. The minimum area for subdivisions of forest land of long-term commercial significance is two hundred (200) acres. The minimum area for short subdivisions or other parcel segregations of forest land of long-term commercial significance is eighty (80) acres.
- b. Parcels created must be at least forty (40) acres.
- c. Each parcel created must comply with State and Pacific County Board of Health rules for wells and on-site sewage disposal systems.

2. Setbacks

All structures within lands adjacent to or abutting forest land of long-term commercial significance shall maintain a minimum setback of (1) one hundred (100) feet from property lines, except for structures not requiring building permits, (2) one hundred (100) feet for all wells, and (3) two hundred (200) feet for springs and uses and activities provided under subsection 12.B.; however, the Administrator may reduce the setback if the requirements of 3.J. VARIANCES are met and the person requesting the administrative variance records a forestry easement for the benefit of the abutting forest land of long-term commercial significance, and grants a right to all normal and customary forestry practices in accordance with Best Management Practices.

3. Water Supply

- a. When residential dwellings, other structures, or any other use is supplied with water from off-site sources, an easement and right running with the land shall be recorded from the property owners supplying the water prior to final plat approval, building permit issuance, or regulated use approval.
- b. Due to the potential to disrupt forest practices on forest land, new residential or recreational public water supplies shall comply with State standards and shall not be located within one hundred (100) feet of forest land of long-term commercial significance without an easement from the adjacent or abutting property owner.

4. Access

No permit from Pacific County shall imply any permanent vehicular access to residential properties across non-owned land.

5. Surveys

Land surveys or other boundary line determinations shall be required in conjunction with the issuance of a building permit on property subject to the setback requirements set forth in subsections 12.D.2. and 12.D.3. to demonstrate compliance with the required setback.

E. TITLE NOTIFICATION FOR FOREST LAND OF LONG-TERM COMMERCIAL SIGNIFICANCE

- 1. The owner(s) of any site within forest land of long-term commercial significance shall record a title notice with the Pacific County Auditor when a development activity covered under this section is submitted. The notice shall be notarized and shall be recorded prior to approval of any development proposal for the site. Such notification shall be in the form as set forth below.**

Forest Lands Area Title Notification

Parcel Number:

Parcel Address:

NOTICE: This parcel lies within an area of land designed as forest land by Pacific County. A variety of commercial forestry activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals, including herbicides, pesticides, and fertilizers; or from spraying, pruning, and harvesting, which occasionally generate dust, smoke, noise, and odor. Pacific County has established forestry as a priority use on productive forest lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary forestry operations.

Signature(s) of Owner(s)

(NOTARY ACKNOWLEDGMENT)

- 2. Land Division Notification**

The owner(s) of any site within forest land of long-term commercial significance, on which a subdivision, short subdivision, or other parcel segregation is approved, shall record a notice on the face of the final plat or short plat and shall record a notice along with any other document filed with the Pacific County Auditor. Such notification shall be in the form as set forth below.

NOTICE: This property lies within an area of land designated as forest land by Pacific County. A variety of commercial forestry activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals, including spraying, pruning, harvesting, which occasionally generate dust, smoke, noise, and odor. Pacific County has established forestry as a priority use on productive forest lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary forestry operations.

Signature(s) of Owner(s)

(NOTARY ACKNOWLEDGMENT)

3. Regulated Activities Notification

The Administrator shall require that all permits issued for regulated activities within forest land of long-term commercial significance contain a notice as set forth below.

NOTICE: This property lies within an area of land designated as forest land by Pacific County. A variety of commercial forestry activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals, including spraying, pruning, and harvesting, which occasionally generate dust, smoke, noise, and odor. Pacific County has established forestry as a priority use on productive forest lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary forestry operations.

F. PROTECTION STANDARDS FOR TRANSITIONAL FOREST LAND

1. Minimum Density and Lot Area

- a. The minimum area for subdivisions of transitional forest is twenty five (25) acres. The minimum area for short subdivisions or other parcel segregations of transitional forest land is ten (10) acres.
- b. Parcels created on average must be five (5) acres.
- c. Each parcel created must comply with State and Pacific County Board of Health rules for wells and on-site sewage disposal systems.

2. Setbacks

All residences and commercial/industrial buildings within transitional forest land shall maintain a minimum setback of two hundred (200) feet from the ordinary high water mark of Willapa Bay.

**SECTION 13
MINERAL LAND REGULATIONS**

A. PURPOSE

The purpose of this section is to conserve mineral land of long-term commercial significance.

B. IDENTIFICATION

1. General

Mineral land is land that has long-term significance for the extraction of minerals.

2. Classification

a. Mineral land means any area in Pacific County presently covered under a valid Washington State Department of Natural Resources (DNR) surface mining permit and any beach area where sand is removed for commercial purposes.

b. Any other area shall be classified as mineral land when a surface mining permit is granted by the DNR.

C. PRIMARY USES, ACCESSORY USES, INCIDENTAL USES, AND CRITICAL FACILITIES ALLOWED IN MINERAL LAND

1. Primary Uses

The following primary uses are allowed:

a. Quarrying and mining of minerals or material, including, but not limited to, sand, gravel, rock, clay, coal, and valuable metallic and non-metallic substances;

b. The exploitation, primary reduction, treatment, and processing of minerals or materials, together with the necessary buildings, structures, apparatus, or appurtenances on said property where at least one of the major mineral or material constituents being exploited is from said property, including, but not limited to, concrete batching, asphalt mixing, brick, tile, terra cotta, concrete products, manufacturing plants, rock crushers, and the use of accessory minerals and materials from other sources necessary to convert the minerals and materials to marketable products;

- c. Agricultural crops, open field grown, stock grazing, and the harvesting of any wild crop such as marsh hay, ferns, moss, berries, etc. which may coexist with mineral extraction activities within a common ownership;
- d. Existing surface mining operations, operating under the authority of the Washington State Surface Mining Act, Chapter 78.44 RCW;
- e. Mining-related activities and structures;
- f. The maintenance of gas, electric, water, communication, and public utility facilities; and
- g. Legal residences existing on the date this Ordinance become effective and any accessory uses, including home occupations associated with such residences.

2. Accessory Uses

The following accessory uses are allowed outright where directly connected with and in aid of a mining activity:

- a. One single-family dwelling unit per contiguous ownership or one single-family dwelling unit per five (5) acres of contiguous ownership, whichever is the lesser acreage. The lot size/density requirement shall not apply to commercial sand removal from beach areas;
- b. Home occupations associated only with mining related activities;
- c. Buildings accessory to a single-family dwelling or mobile home;
- d. Storage of explosives, fuels, and chemicals used for agriculture, mining, and forestry subject to all applicable local, state, and federal regulations; and
- e. Watershed management facilities including, but not limited to, diversion devices, impoundments, dams for flood control, fire control, stock watering, and hydroelectric generating facilities, when associated with a permitted use or structure.

3. Incidental Uses

a. Required Elements

Incidental uses are permitted where the following elements are found:

1. The use will not significantly affect the overall productivity of the mining activity;
2. The use is secondary to the principal activity of mining; and
3. The use is sited to avoid prime lands where practicable and otherwise minimizes the impact to mineral land of long-term commercial significance.

b. Uses Allowed as Incidental Activities

1. The growing and harvesting of forest products, the operation of portable sawmills and chippers and activities and structures incidental to each, and accessory facilities including, but not limited to scaling and weight stations, temporary crew quarters, storage and maintenance facilities, residue storage and disposal areas, and other uses and facilities involved in the harvesting and commercial production of forest products which may coexist with mineral extraction activities within a common ownership.
2. Public and semi-public buildings, structures, and uses including, but not limited to, fire stations, utility substations, pump stations, and wells.
3. Commercial extraction and processing of oil, gas, and geothermal resources.
4. Permanent saw mills, shake and shingle mills, plywood mills, green veneer plants, particle board plants, other products manufactured from wood residues, chippers, pole yards, log sorting and storage, buildings for debarking, and drying kilns and equipment.
5. Structures for agriculture, floriculture, horticulture, general farming, dairy, the raising, feeding, and sale or production of poultry, livestock, fur bearing animals, honeybees, including feeding operations, Christmas trees, nursery stock, floral vegetation, and other uses accessory to farming and animal husbandry.
6. Forestry, environmental, and natural resource research facilities.
7. Telecommunication facilities and electrical transmission lines.

4. Critical Facilities

Critical facilities are permitted on mining land of long-term commercial significance where:

- a. They are identified in an adopted plan of a public agency or regulated utility; and**
- b. The potential impact on mineral lands is specifically considered in the siting process.**

D. PROTECTION STANDARDS

1. Standards For Existing Permits

All mining sites for which state or federal mining permits are required and which are subject to this Ordinance shall be subject to the conditions of those permits.

2. Minimum Density and Lot Area

Prior to full utilization of a designated Mineral Land mineral resource potential, subdivisions, short subdivisions, and other parcel segregations below five (5) acres are prohibited. This lot size/density requirement shall not apply to commercial sand removal from beach areas.

3. Setbacks/Buffers

a. Within Designated Mineral Land

Mining operations which are operating under valid state or federal surface mining permits shall use the setback and/or buffer standards contained within any reclamation plan required pursuant to the state or federal laws pertaining to mining land reclamation.

b. Within Lands Abutting Mineral Land

Structures requiring a building permit shall maintain a minimum one hundred (100) feet setback from the boundary of any designated Mineral Land.

E. MAPS AND REFERENCES

Mineral land areas shall be field located based on applicable criteria.

F. TITLE NOTIFICATION

1. The owner(s) of any site within this classification shall record a title notice with the Pacific County Auditor when a development activity covered under this section is submitted. The notice shall be notarized and shall be recorded prior to approval of any development proposal for the site. Such notification shall be in the form as set forth below.

Mineral Resource Lands Area Title Notification

Parcel Name:

Parcel Address:

NOTICE: This parcel lies within an area of land designated mineral land by Pacific County. A variety of commercial mineral extraction activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of heavy equipment, chemicals, and spraying which may generate dust, smoke, and noise associated with the extraction of mineral resources. Pacific County has established mineral extraction as a priority use on productive mineral lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary mineral extraction operations.

Signature(s) of Owner(s)

(NOTARY ACKNOWLEDGMENT)

2. Land Division Notification

The owner(s) of any site within this classification, on which a subdivision, short subdivision, or other parcel segregation is approved, shall record a notice on the face of a final plat or short plat and shall record a notice along with any other document filed with the Pacific County Auditor. Such notification shall be in the form as set forth below.

NOTICE: This property lies within an area of land designated mineral resource land by Pacific County. A variety of mineral commercial extraction activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of heavy equipment, chemicals, and spraying which may generate dust, smoke, and noise associated with the extraction of mineral resources. Pacific County has

established mineral extraction as a priority use on productive mineral lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary mineral extraction lands.

Signature(s) of Owner(s)

(NOTARY ACKNOWLEDGMENT)

3. Regulated Activities Notification

The Administrator shall require that all permits issued for regulated activities within this classification contain a notice as set forth below.

NOTICE: This property lies within an area of land designated mineral land by Pacific County. A variety of commercial mineral extraction activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals and extraction of minerals which occasionally generates dust, smoke, noise, and odor. Pacific County has established mineral extraction as a priority use on productive mineral lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary mineral extraction lands.

**SECTION 14
PROPERTY ADJACENT TO
DESIGNATED RESOURCE LANDS**

A. PURPOSE

The purpose of this section is to conserve resource lands by limiting the encroachment of incompatible development.

B. IDENTIFICATION

1. The provisions of this section apply to development proposed on property within 500 feet of agricultural land, forest land (not including transitional forest land) and mineral land.
2. All subdivisions, short subdivisions, other parcel segregations within 500 feet of lands designated as agricultural land, forest (not including transitional forest land), or mineral land shall contain a notice that the property is within 500 feet of agricultural, forest, or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration.

C. TITLE NOTIFICATION FOR PROPERTY ADJACENT TO DESIGNATED RESOURCE LANDS

1. The owner(s) of any site within this classification shall record a title notice with the Pacific County Auditor when a development activity covered under this section is submitted. The notice shall be notarized and shall be recorded prior to approval of any development proposal for the site. Such notification shall be in the form as set forth below.

Land Adjacent to Resource Lands Title Notification

Parcel Number:

Parcel Address:

NOTICE: This parcel lies within 500 feet of land designated as resource land by Pacific County. A variety of commercial or industrial activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals; or from spraying or extraction, which occasionally generates dust, smoke, noise, and odor. Pacific County has established resource uses as priority uses on productive resource lands, and

residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary commercial resource lands operations.

Signature(s) of Owner(s)

(NOTARY ACKNOWLEDGMENT)

2. Land Division Notification

The owner(s) of any site within this classification, on which a subdivision, short subdivision, or other parcel segregation is approved, shall record a notice on the face of a final plat or short plat and shall record a notice along with any other document filed with the Pacific County Auditor. Such notification shall be in the form as set forth below.

NOTICE: This property lies within 500 feet of land designated as resource lands by Pacific County. A variety of commercial and industrial activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals; or from spraying or extraction, which occasionally generates dust, smoke, noise, and odor. Pacific County has established resource uses as priority uses on productive resource lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary commercial resource lands operations.

Signature(s) of Owner(s)

(NOTARY ACKNOWLEDGMENT)

3. Regulated Activities Notification

The Administrator shall require that permits issued for regulated activities within 500 feet of land classified as agricultural land, forest land (not including transitional forest land), and mineral land contain a notice as set forth below.

NOTICE: This property lies within 500 feet of land designated as resource land by Pacific County. A variety of commercial and industrial activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals; or from spraying or extraction, which occasionally generates dust, smoke, noise, and odor. Pacific County has established resource uses as priority uses on productive

resource lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary commercial resource lands operations.

**SECTION 15
EFFECTIVE DATE**

This Ordinance shall take effect immediately.

PASSED by the Board of Pacific County Commissioners meeting in special session at South Bend, Washington, by the following vote, then signed by its membership and attested to by its Clerk in authorization of such passage the 13th day of April, 1999.

___ 3 ___ AYE; ___ 0 ___ NAY; ___ 0 ___ ABSTAIN; ___ 0 ___ ABSENT

**BOARD OF COUNTY COMMISSIONERS
PACIFIC COUNTY, WASHINGTON**

/s/Jon Kaino, Jr.

**Jon Kaino, Jr., Chairman
/s/Pat Hamilton**

**Pat Hamilton, Commissioner
/s/Norman B. Cuffel**

Norman "Bud" Cuffel, Commissioner

**ATTEST:
/s/Kathy Noren**

**Kathy Noren,
Clerk of the Board**