PACIFIC COUNTY CRITICAL AREAS AND RESOURCE LANDS

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Commented [TB1]: Track changes reflect revisions to the PC Hearing Draft (dated March 22nd) made based on feedback from PC and/or County staff during the public hearing period (beginning 4/7/16).

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Contents

SECTION 1. GENERAL PROVISIONS 1

A. Statement of Authority 1

B. Statement of Purpose 1

C. Statement of Policy 1

D. Coordination with Other County Ordinances 1

E. Savings and Severability 1

SECTION 2. DEFINITIONS 2

SECTION 3. GENERAL REQUIREMENTS ..... 16~~15~~

A. Applicability ..... 16~~15~~

B. Relationship to Other Regulations ..... 16~~15~~

C. Authority ..... 17~~16~~

D. Critical Areas and Resource Lands Review Procedures ..... 17~~16~~

E. Exemptions ..... 18~~17~~

F. Appeals ..... 22~~21~~

G. Penalties and Enforcement ..... 22~~21~~

H. Nonconforming Activities ..... 23~~22~~

I. Variance ..... 23~~22~~

J. Reasonable Use Exception ..... 24~~23~~

K. General Critical Area Protection Standards ..... 25~~24~~

L. Critical Area Report ..... 29~~27~~

M. Critical Area Mitigation Requirements ..... 30~~28~~

SECTION 4. WETLANDS ..... 32~~31~~

A. Purpose ..... 32~~31~~

B. Identification ..... 32~~31~~

C. Classification ..... 32~~31~~

D. Permitted Activities ..... 33~~32~~

E. Wetland Buffers ..... 37~~35~~

F. Additional Mitigation Requirements for Wetlands ..... 40~~38~~

G. Additional Critical Area Report Requirements for Wetlands ..... 45~~44~~

H. Maps and References ..... 46~~45~~

SECTION 5. FISH AND WILDLIFE HABITAT CONSERVATION AREAS ..... 48~~46~~
A. Purpose ..... 48~~46~~
B. Identification ..... 48~~46~~
C. Classification and Designation..... 49~~47~~
D. Permitted Activities within FWHCAs and Buffers..... 50~~48~~
E. Protection Standards ..... 52~~50~~
F. Additional Critical Area Report Requirements for Fish and Wildlife Habitat Conservation Areas..... 57~~55~~
G. Additional Mitigation Requirements for Fish and Wildlife Habitat Conservation Areas58~~56~~
SECTION 6. FREQUENTLY FLOODED AREAS ..... 60~~58~~
A. Purpose ..... 60~~58~~
B. Identification ..... 60~~58~~
C. Protection Standards ..... 60~~58~~
SECTION 7. CRITICAL AQUIFER RECHARGE AREAS ..... 62~~60~~
A. Purpose ..... 62~~60~~
B. Identification ..... 62~~60~~
C. Protection Standards ..... 63~~61~~
D. Additional Critical Area Report Requirements for Critical Aquifer Recharge Areas..... 64~~62~~
SECTION 8. GEOLOGICALLY HAZARDOUS AREAS ..... 66~~64~~
A. Purpose ..... 66~~64~~
B. Identification ..... 66~~64~~
C. Protection Standards ..... 68~~66~~
D. Additional Critical Area Report Requirements for Geologically Hazardous Areas..... 73~~71~~
SECTION 9. AGRICULTURAL LANDS ..... 76~~73~~
A. Purpose ..... 76~~73~~
B. Identification ..... 76~~73~~
C. Prohibition against Other Uses ..... 76~~73~~
D. Protection Standards ..... 77~~74~~
SECTION 10. FOREST LANDS ..... 78~~75~~
A. Purpose ..... 78~~75~~
B. Identification ..... 78~~75~~

C. Protection Standards ..... 78~~75~~
SECTION 11. MINERAL LANDS ..... 80~~77~~
A. Purpose ..... 80~~77~~
B. Identification ..... 80~~77~~
C. Permitted Uses ..... 80~~77~~
D. Protection Standards ..... 82~~79~~
SECTION 12. NOTICE ON TITLE FOR RESOURCE LANDS ..... 84~~81~~
A. Applicability ..... 84~~81~~
B. Notice on Title for Designated Resource Lands ..... 84~~81~~
C. Notification on Title for Property Adjacent to Designated Resource Lands . 85~~82~~

SECTION 1. GENERAL PROVISIONS

A. Statement of Authority

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), as amended.

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. Best available science shall be used in the administration of this Ordinance.

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. 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.

E. 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 immediately adjoining (in contact with the boundary of) or within a distance that is less than that needed to separate activities from critical areas or resource lands to ensure protection of the functions and values of those areas. For the purposes of this ~~chapter~~Ordinance, land shall be considered "adjacent" to a critical area if it is~~shall mean~~:

Commented [TB2]: Revised for clarity

(1) On a site immediately adjoining a critical area;

(2) Within a distance equal to or less than the required critical area buffer width and building setback;

(3) Within a distance equal to or less than three hundred (300) feet upland from a stream or non-wetland water body;

(4) Within a distance equal to or less than:

a. One hundred fifty (150) feet upland from a wetland, for land use types that can result in low intensity impacts, such as forest practices, low-intensity open space, unpaved trails, and low-maintenance utility corridors;

b. Two hundred twenty five (225) feet upland from a wetland, for land use types that can result in moderate intensity impacts, such as residential (1 unit per acre or less), moderate-intensity open space, moderate-intensity agriculture, paved trails, logging roads, and maintained utility corridors;

c. Three hundred (300) feet upland from a wetland, for land use types that can result in high intensity impacts, such as commercial, urban, industrial, institutional, retail, residential (>1 unit/acre), high-intensity agriculture, and high intensity recreation;

(5) Bordering or within the floodway, floodplain, or channel migration zone;

(6) Within a distance equal to or less than two hundred (200) feet from a critical aquifer recharge area; or

(7) Within a distance equal to or less than 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

"Agricultural activities" means those uses and practices including, but not limited to: producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to critical areas or their buffers than the original facility; and maintaining agricultural lands under production or cultivation. 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~~ that contains ~~existing and ongoing~~ agricultural activities, or ~~which~~ that is classified as agricultural land of long-term commercial significance or agricultural land of local importance.

Commented [TB3]: Per PC direction, 4/7/16

2.5 Agricultural Land of Local Importance

"Agricultural land of local importance" includes any diked tidelands as listed under soil type 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 became effective.

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2.6 Agricultural Land of Long-Term Commercial Significance

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

2.7 Aquacultural Activities

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"Aquacultural activities" means the culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery. Aquacultural activities may include but are not limited to hatching, seeding or planting, cultivating, feeding, raising, harvesting of planted crops or of natural

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crops so as to maintain an optimum yield or for subsistence, processing of aquatic plants and animals, ocean horticulture, and restoration and enhancement of existing native fish, shellfish, or other aquatic plants and animals. Methods of aquaculture include but are not limited to fish pens, shellfish rafts, racks and longlines, seaweed floats, and the culture of clams and oysters on tidelands and subtidal areas. Aquacultural practices include, but are not limited to: producing, breeding, or increasing aquacultural products; rotating and changing aquacultural crops; allowing land used for aquacultural activities to lie fallow; allowing land used for aquacultural activities to lie dormant because the land is subject to a conservation easement; conducting aquacultural operations; maintaining, repairing, and replacing aquacultural equipment; maintaining, repairing, and replacing aquacultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining aquacultural lands under production or cultivation. Aquacultural activities include those activities involved in the production of aquacultural products, conducted on lands designated as aquacultural lands, or those lands where upland aquacultural activities occur in support of marine based aquaculture farm activities. New activities that bring an area into aquacultural use are not part of an ongoing activity.

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2.8 Aquifer

"Aquifer" means an underground layer of water-bearing permeable rock, rock fractures, or unconsolidated material (gravel, sand, silt) containing or conducting groundwater.

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~~2.7~~2.9 Best Available Science

"Best available science" means current scientific information used in the process to designate, protect, or restore critical areas, that is derived from a valid scientific process as defined by WAC 365-195-905. Counties and cities must include best available science when developing policies and development regulations to protect the functions and values of critical areas. Where there is an absence of valid scientific information or incomplete scientific information relating to a county's or city's critical areas, leading to uncertainty about which development and land uses could lead to harm of critical areas or uncertainty about the risk to critical area function of permitting development, counties and cities should use the following approach:

(1) A "precautionary or a no risk approach," in which development and land use activities are strictly limited until the uncertainty is sufficiently resolved; and

(2) As an interim approach, an effective adaptive management program that relies on scientific methods to evaluate how well regulatory and nonregulatory actions achieve their objectives. Management, policy, and regulatory actions are treated as experiments that are purposefully monitored and evaluated to determine whether they are effective and, if not, how they should be improved to increase their effectiveness.

~~2.8~~2.10 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~~critical areas.

Commented [TB7]: Per PC direction, 4/7/16

~~2.9~~2.11 Buffer

"Buffer" means a relatively undisturbed, vegetated area that is adjacent to and protects a critical area, and that can, through various physical, chemical, and/or biological processes, reduce impacts from adjacent land uses.

~~2.10~~2.12 Conservation

"Conservation" means the prudent management of rivers, streams, wetlands, wildlife, and other environmental resources in order to preserve and protect them. This includes the careful use of natural resources to prevent depletion or harm to the environment.

~~2.11~~2.13 Critical Aquifer Recharge Area

"Critical aquifer recharge area" means an area ~~with a critical recharging effect on aquifers used for potable water, including areas~~ where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water, or is susceptible to reduced recharge.

Commented [TB8]: Revised to match WAC definition, per PC direction 4/7

~~2.12~~2.14 Critical Area Functions

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

~~2.13~~2.15 Critical Area Report

"Critical area report" means a site-specific evaluation and report prepared by a qualified professional to determine the presence, type, class, size, function, and/or value of an area subject to this ~~Chapter~~Ordinance. The report provides a site-specific evaluation of how to protect critical area functions and values.

~~2.14~~2.16 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~~2.17 Critical Areas

"Critical areas" include the following: wetlands; critical aquifer recharge areas; fish and wildlife habitat conservation areas; frequently flooded areas; and geologically hazardous areas.

~~2.16~~2.18 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~~ that produce, use, or store hazardous waste

~~2.17~~2.19 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.

~~2.18~~2.20 Debris Flow

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

~~2.19~~2.21 Delineation

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

~~2.20~~2.22 Department of Community Development

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

~~2.21~~2.23 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.

~~2.22~~2.24 Emergency

"Emergency" means an activity necessary to prevent an immediate threat to public health, safety, or welfare, or that poses an immediate risk of damage to private property or public property and that requires remedial or preventative action in a timeframe too short to allow for compliance with the requirements of this ~~Chapter~~Ordinance.

~~2.23~~2.25 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.

~~2.24~~2.26 Flood or Flooding

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

~~2.25~~2.27 Flood, 100 Year or Base Flood

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

~~2.26~~2.28 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. These areas are zoned Commercial Forestry District (FC) and are subject to the provisions of the Pacific County Zoning Ordinance (Ordinance No. 162, or as amended).

~~2.27~~2.29 Forest Land, Transitional

"Transitional forest land" means any land designated on the map of Pacific County Forest Land as transitional forest land. These areas are zoned Transitional Forest Land District (FT) and are subject to the provisions of the Pacific County Zoning Ordinance (Ordinance No. 162, or as amended).

~~2.28~~2.30 Forest Practice

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

~~2.29~~2.31 Frequently Flooded Areas

"Frequently flooded areas" are lands in the floodplain subject to at least a one percent or greater chance of flooding in any given year, or within areas subject to flooding due to high groundwater. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands, and areas where high groundwater forms ponds on the ground surface. Frequently flooded areas within Pacific County shall be classified using the criteria defined in Section 6.B of this Ordinance.

~~2.30~~2.32 Geologically Hazardous Areas

"Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, tsunami, or other geological events, pose a

health and safety threat when incompatible commercial, residential, or industrial development occurs.

~~2.31~~2.33 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).

2.34 Highest Astronomical Tide (HAT)

"Highest astronomical tide" means the highest water level that can be predicted to occur at a particular location under average meteorological conditions. The water elevation of the highest astronomical tide is expected to occur at a specific location. For Willapa Bay, official readings are observed at Toke Point Station over a nineteen (19) year period and reduced to mean values, then corrected to local tide stations at Nahcotta and Raymond. In the Pacific County Shoreline Master Program, in the Willapa Bay Conservancy Shoreline Environment along the eastern shoreline of the Long Beach Peninsula, HAT is used as a benchmark to establish setbacks and buffers for development proposals on shorelands landward of the ordinary high water mark within shoreline jurisdiction.

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~~2.32~~2.35 Health Officer

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

~~2.33~~2.36 In-Kind Mitigation

"In-kind mitigation" means replacement or substitute resources that are of the same type and kind as those being impacted. For example, in-kind mitigation requires category I wetlands to be mitigated with category I wetlands, and category II wetlands to be mitigated with category II wetlands.

~~2.34~~2.37 Land Alteration

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

~~2.35~~2.38 Maintenance or Repair

"Maintenance" or "Repair" means those usual activities required to prevent a decline, lapse, or cessation from a lawfully established condition or to restore the character, scope, size, or design of a structure or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter additional critical areas are not included in this definition.

~~2.36~~2.39 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. Any other area shall be classified as mineral land when a surface mining permit is granted by the DNR.

~~2.37~~2.40 Mining

"Mining" means the removal for economic use of minerals, petroleum resources, sands, gravels, organic material, or other naturally occurring materials from uplands and/or the bed beneath an aquatic area.

~~2.38~~2.41 Minor Pruning

"Minor pruning" means pruning or cutting out of water sprouts, suckers, twigs, or branches less than three inches in diameter, or ~~which~~ that constitutes less than fifteen (15) percent of the tree's foliage bearing area. The work shall retain the natural form of the tree. Removal of dead wood, broken branches, and stubs are included within the definition of minor pruning.

~~2.39~~2.42 Mitigation

"Mitigation" means:

(1) Avoiding the impact altogether by not taking a certain action or parts of an action;

(2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

(3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

(5) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or

(6) Monitoring the impact and taking appropriate corrective measures.

~~2.40~~2.43 Mitigation Project

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

~~2.41~~2.44 Native Vegetation

"Native vegetation" means plant species that are indigenous to the coastal region of the Pacific Northwest and ~~which~~ that reasonably could have been expected to naturally occur on the site.

~~2.42~~2.45 Ordinary High Water Mark

"Ordinary high water mark" on all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: PROVIDED, That in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water;

~~2.43~~2.46 Out-of-Kind Mitigation

"Out-of-kind mitigation" means replacement or substitute resources that, while related and of a different quality, species mix, or even species type, are of equal or greater overall value to the ecology of the impacted species or ecological region. Out-of-kind mitigation may involve mitigation of one function to compensate for an impact on another function. For example, out-of-kind mitigation for impacts to a depressional or riverine wetland could involve creation of an estuarine wetland.

~~2.44~~2.47 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.

~~2.45~~2.48 Project Area

"Project area" means all areas proposed to be disturbed, altered, or used by the proposed activity or the construction of any proposed structures. When the action binds the land, such as a subdivision, short subdivision, binding site plan, planned unit development, or rezone, the project area shall include the entire parcel, at a minimum.

~~2.46~~2.49 Protection

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

~~2.47~~2.50 Qualified Critical Area Professional or Qualified Professional

"Qualified critical area professional" or "qualified professional" means a person with experience, education, and professional degrees and training pertaining to the critical area in question, as described in Sections 4 through 8, below. 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.

~~2.48~~2.51 Resource Lands

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

~~2.49~~2.52 Restoration

Commented [TB10]: Revised for clarity and currency, per PC feedback 4/7

"Restoration" means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of ~~returning natural or historic functions to a former or degraded critical area~~reestablishment of or upgrade to impaired ecological processes or functions. Restoration does not imply a requirement for returning the area to historic conditions. Specific restoration actions may include:

(1) Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former critical area. Re-establishment results in a gain in critical area acres (and functions). Activities could include removing fill material;~~,~~ filling, blocking, or reshaping drainage~~plugging~~ ditches;~~,~~ or removing existing drainage structures~~breaking drain tiles~~.

(2) Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions of a degraded critical area. Rehabilitation results in a gain in critical area functions and values but does not result in a gain in acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland.

(3) Creation: The conversion of an area that did not formerly support a critical area, such as a wetland, to a critical area. Creation includes the alterations to soil, vegetation, and/or hydrology required to establish and maintain the resultant critical area in a perpetually self-sustaining state.

(4) Enhancement: The manipulation of the physical, chemical, or biological characteristics of an existing critical area to heighten, intensify, or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes, such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a net improvement in critical area

functions and values, but does not result in a net gain in critical area acres. Examples of enhancement activities include planting vegetation, controlling non-native or invasive species, modifying site elevations to influence hydrology, or some combination of these activities.

2.53 Saltwater Intrusion

"Saltwater intrusion" means the movement or intrusion of saline seawater into freshwater aquifers, which can decrease freshwater storage in aquifers and lead to contamination of drinking water sources. Saltwater intrusion can occur naturally, through groundwater pumping from development near coasts, or from navigation and drainage channels, and may be increased through sea level rise or worsened by storm surge.

~~2.50~~2.54 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.

~~2.51~~2.55 Septage Application

"Septage application" ~~means application of the mixture of solid wastes, scum, sludge, and liquids pumped from within the septic tanks, pump chambers, holding tanks, and other on-site sewage system components~~means the spreading of domestic septage, including any liquid or solid material removed from a septic tank, cesspool, portable toilet, or similar on-site sewage system component that receives only domestic septage (household, non-commercial, non-industrial sewage), on land at controlled rates for beneficial reuse.

~~2.52~~2.56 Setback

"Setback" means the ~~distance from a lot, parcel, tract, critical area or resource land boundary, beyond which the footprint or foundation of a structure shall not extend, except as provided in this chapter~~part of a facility that lies between the active area and the property boundary, or between a building and the area being protected, including, but not limited to, critical areas, shorelines, and associated buffers.

~~2.53~~2.57 Single-Family Residence or Single-Family Dwelling

"Single-family residence" or "single-family dwelling" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership ~~which~~ that are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located no closer to a critical area or its buffer than the single-family residence~~upland of wetlands or the ordinary high water mark~~. 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)~~.

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Commented [TB13]: Revised per PC direction, 4/7. This definition matches the one in the SMP.

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~~2.54~~2.58 Stormwater Management Facilities

"Stormwater management facilities" means constructed and natural features ~~which~~ that function to collect, convey, channel, hold, inhibit, retain, detain, infiltrate, divert, treat, and/or filter stormwater. Stormwater management facilities include, but are not limited to, 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 and drainage systems designed and intended primarily for conveyance.

~~2.55~~2.59 Streams

“Streams” mean those areas where surface waters flow sufficiently to produce a defined channel or bed ~~which~~ that 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~~ that 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. For regulatory purposes under this ~~Chapter~~Ordinance, once streams are identified, the streams are typed following the Washington State Department of Natural Resources Stream Typing System found in WAC 222-16-031, as now or hereafter amended.

~~2.56~~2.60 Sub-Drainage Basin

“Sub-drainage basin” is defined by the boundaries established by 6th order (12 digit) hydrologic unit code (HUC) as defined by the Natural Resource Conservation Service (NRCS).

~~2.57~~2.61 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.

~~2.58~~2.62 Waters of the State

“Waters of the state” include lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington. Waters of the state shall be classified using the Department of Natural Resources’ interim water typing (WAC 222-16-031). Once the fish habitat water type maps described in WAC 222-16-030 are adopted by the Forest Practices Board, the permanent water typing criteria described in WAC 222-060-030 will apply. For the purposes of this Ordinance, waters of the state do not include artificial drainage features created

in uplands through purposeful human action, such as irrigation and drainage ditches, grass-lined swales, canals, or other wholly artificial watercourses, except those that directly result from the modification to a natural watercourse or those with documented current fish usage. The County may require that purposeful creation be demonstrated through documentation, photographs, statements, and/or other evidence.

~~2.59~~2.63 Watershed

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

~~2.60~~2.64 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. Wetlands are delineated in accordance with the approved federal wetland delineation manual and applicable regional supplements.

~~2.61~~2.65 Wetland Mosaic

"Wetland mosaic" means an area with a concentration of multiple small wetlands, in which:

(1) Each patch of wetland is less than one acre (0.4 hectares), and

(2) Each patch of wetland is less than 100 feet (30 meters) away from the nearest wetland; and

(3) The total area delineated as vegetated wetland is more than fifty percent of the total area of wetlands and uplands, open water, and river bars around which you can draw a polygon; and

(4) There are at least three patches of wetland that meet the size and distance thresholds.

SECTION 3. GENERAL REQUIREMENTS

A. Applicability

1. 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.

2. Designated critical areas in Pacific County include wetlands; fish and wildlife habitat conservation areas; frequently flooded areas; critical aquifer recharge areas; and geologically hazardous areas. Designated resource lands in Pacific County include agricultural lands, forest lands, and mineral lands.

3. The provisions of this ~~chapter~~Ordinance shall apply to all lands, all land uses and development activities, and all structures and facilities in the County, whether or not a permit or authorization is required, and shall apply to every person, firm, partnership, corporation, group, governmental agency, or other entity that owns, leases, or administers land within the County. No person, company, agency, or applicant shall alter a resource land, critical area, or critical area buffer except as consistent with the purposes and requirements of this Ordinance.

4. 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~~ that requires a governmental permit regulated by this Ordinance, except in compliance with the provisions of this Ordinance.

5. Failure to comply with the provisions of this Ordinance shall cause the violator to be subject to enforcement procedures under subsection 3.G, Penalties and Enforcement.

B. Relationship to Other Regulations

1. 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~~ that provides the greater protection for the particular critical area or resource land shall apply.

2. When more than one critical area is present and multiple buffers are required, all required buffers shall be provided, unless otherwise specified in this ~~chapter~~Ordinance. Where buffers overlap, the most protective buffer shall apply.

3. 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.

4. Relationship to Shoreline Master Program (SMP)

a. Provisions in this Ordinance apply to all applicable land and water areas of the County within shoreline jurisdiction, in addition to applicable provisions of the SMP, with the exception that the following provisions in this Ordinance do not apply within shoreline jurisdiction:

   i. Subsection 3.G, Penalties and Enforcement;

   ii. Subsection 3.H, Nonconforming Activities;

   iii. Subsection 3.I, Variance;

   iv. Subsection 3.J, Reasonable Use Exception; and

   v. Subsection 3.E, Exemptions.

b. Provisions in this Ordinance apply to all applicable land and water areas of the County outside of shoreline jurisdiction.

C. Authority

1. The Director of the Department of Community Development or his or her designee(s) shall be the Administrator of this Ordinance and is given the authority to interpret and apply, and the responsibility to administer and enforce, this Ordinance to accomplish the stated purposes.

2. The County may withhold, condition, or deny development permits or approvals to ensure that the proposed action is consistent with this Ordinance.

3. The Administrator and any other applicable County officials may develop and implement rules and regulations that are consistent with and effectuate the purpose of this Ordinance and prepare and require the use of such forms as necessary for its administration.

D. Critical Areas and Resource Lands Review Procedures

1. The Administrator first must determine whether the proposed activity fits within any of the exemptions to this Ordinance found in subsection 3.E. If the proposed activity meets any of the listed exemptions, and includes reasonable methods to avoid potential impacts to critical areas and resource lands 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, consultation with resource agencies, 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.

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 area report shall be completed pursuant to subsection 3.L.

6. 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.F. of this Ordinance.

7. If, as a result of the critical area report 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.I. This provision does not apply within shoreline jurisdiction, as described in subsection 3.B, above.

8. If, as a result of the critical area report 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 reasonable use exception pursuant to subsection 3.J. of this Ordinance. This provision does not apply within shoreline jurisdiction, as described in subsection 3.B, above.

E. Exemptions

1. All exempted activities shall use reasonable methods to avoid potential impacts to critical areas and resource lands. Exemption from this Ordinance does not give permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary

outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's expense.

2. The following developments, activities, and associated uses shall be exempt from the provisions of this Ordinance provided that they are otherwise consistent with the applicable provisions of other Pacific County ordinances:

    a. Emergencies. Emergencies are those activities necessaries to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private or public property and that require remedial or preventative action in a timeframe too short to allow for compliance with the requirements of this Ordinance.

        i. Emergency actions that create an impact to any critical area or its buffer shall use reasonable methods that have the least impact to the critical area or its buffer and shall restore the critical area and buffer after the emergency to the maximum extent practicable.

        ii. 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 subsection 3.G shall apply.

        iii. After the emergency, the person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved critical area report and mitigation plan. The person or agency undertaking the action shall apply for review, and the alteration, critical area report, and mitigation plan must be reviewed by the Administrator. Restoration and/or mitigation activities shall be initiated within one year of the date of the emergency, and completed in a timely manner.

3. Agricultural operations. Existing and on-going agricultural operations including related development and activities ~~which~~ that 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 Conservation District pursuant to Chapter 89.08 RCW.

4. Maintenance, repair, and operation.

    a. Maintenance, repair, and operation of existing structures, ponds, flood control facilities, public and private roads and driveways, and improved areas accessory to a single family residential use including, but not limited to maintenance of existing landscaping, lawn, and gardening are exempt.

    b. 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 of maintenance/repair activities to the maximum extent practicable.

5. Utility activities. When undertaken pursuant to best management practices to minimize impacts to critical areas and immediately to restore any disturbed critical area or its buffer, the following utility activities are exempt:

    a. Maintenance or repair of existing utility facilities or rights-of-way.

    b. Installation, construction, relocation and replacement, operation, repair, or alteration of all utility lines, equipment, or appurtenances, not including substations, in improved road rights-of-way.

6. 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 and that does not exacerbate nonconformity with critical area setbacks or buffer standards defined by this Ordinance is exempt except when the modification occurs on or adjacent to designated erosion hazard areas, landslide hazard areas, or mine hazard areas, as described and designated in Section 8 of this Ordinance. 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.

7. Navigation aids and boundary markers. Construction or modification of navigational aids and boundary markers are exempt.

8. Site investigation. Site investigation work ~~which~~ that 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.

9. Non-development activities. Passive recreational uses, sport and commercial fishing, hunting, scientific and educational endeavors, or similar minimal impact, non-development activities are exempt.

10. ~~Spartina alterniflora~~Control of invasive vegetation. ~~Activities aimed at controlling *Spartina alterniflora* are~~Removal of invasive and noxious vegetation using hand tools and activities aimed at controlling *Spartina alterniflora* are exempt.

Commented [TB15]: Broadened to include removal of invasive vegetation, per public comment, 5/5/16

11. Forest practices. Forest practices covered under Chapter 76.09 RCW and Title 222 WAC, with the exception of Class IV Conversion Forest Practices, are exempt.

12. Hazard Tree Removal.

    a. Removal of hazardous, diseased, or dead trees and vegetation is exempt when necessary to:

        i. Control fire; or

        ii. Halt the spread of disease or damaging insects consistent with the State Forest Practices Act, Chapter 76.09 RCW; or

        iii. Avoid a hazard such as landslides; or

        iv. Avoid a threat to existing structures or aboveground utility lines.

    b. Prior to removal of hazardous, diseased, or dead trees and vegetation, with the exception of an emergency pursuant to subsection 3.E.2.a of this Ordinance, the landowner shall obtain written approval from the County. This approval shall be processed promptly and may not be unreasonably withheld.

    c. If a safety hazard cannot be easily determined by the County, a written report by a certified arborist or other qualified professional shall be required to evaluate potential safety hazards.

    d. If a tree to be removed provides critical habitat, such as an eagle perch, a qualified biologist shall be consulted to determine timing and methods for removal that will minimize impacts.

    e. Any removed tree or vegetation shall be replaced with an appropriate native species in appropriate size within one calendar year.

13. Minor pruning of vegetation for maintenance purposes, or thinning of limbs of individual trees to maintain an existing view corridor, when performed in a manner that ensures continual survival of the vegetation, is exempt. Mowing of dune grasses is not permitted. Topping of trees is not permitted unless specified in an existing covenant effective prior to the effective date of this Ordinance.

F. 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.

G. 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. 165, or any amendment thereto.

2. In addition to the civil penalty provisions provided in Ordinance No. 165, 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. 165 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. 165, 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.G, 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.

H. Nonconforming Activities

An established use or existing structure that was lawfully permitted prior to adoption of this Ordinance, but ~~which~~ that 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~~ that 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, Exemptions;

2. Activities or uses ~~which~~ that 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.

I. Variance

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~~ that 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.

J. Reasonable Use Exception

1. If an applicant asserts that ~~the~~ application of this Ordinance would ~~result in denial of all economically~~deny him all economically reasonable use of a property, the applicant may apply for a variance pursuant to subsection 3.I of this Ordinance. If the request for a variance is denied, the applicant may apply for a reasonable use exception. ~~and if such economically reasonable use of the property cannot be obtained by consideration of a variance pursuant to subsection 3.I. to one or more individual requirements of this Ordinance, then a person may seek a reasonable use exception from the standards of this Ordinance.~~ The burden of proof shall be on the applicant to demonstrate that there is no feasible alternative to the proposed activities that would allow a reasonable economic use with less adverse impact to the critical area and its buffer~~bring forth evidence in support of the exception~~.

Commented [TB16]: PC 4/7: More specificity needed wrt variances?

Commented [TB17R16]: Revised per PC direction, 5/5/16

2. An application for a reasonable use exception shall be made to the County and shall include a critical area checklist; critical area report, including mitigation plan, if necessary; and any other related project documents. The application shall be processed according to a Type II process under Ordinance No. 145.

3. Subdivided Land Under Single Ownership.

   a. For plats legally filed with and approved by the County prior to the adoption date of this Ordinance [insert date once adopted], a landowner may submit a single application for an “umbrella” reasonable use exception to be applied to multiple platted, undeveloped lots meeting the requirement in subsection J.1, above.

   b. The application shall include all of the materials listed in subsection J.2 above for all applicable lots, including a mitigation plan for unavoidable impacts anticipated from lot development on all applicable lots, and shall be processed according to a Type II process under Ordinance No. 145.

   c. The umbrella reasonable use exception shall establish conditions for administrative approval of development on individual lots. These conditions shall at a minimum include limits to the proposed location and size of structure and limits to vegetation removal.

4. Reasonable use exception requests shall only be granted if all of the following criteria are met:

    a. The application of this Ordinance would deny all economically reasonable use of the property so that there is no economically reasonable use with a lesser impact on the critical area than that proposed;

    b. The proposed development does not pose a threat to the public health and safety, including first responders and the occupants or users of the proposed use or activity or the occupants or users of nearby properties;

    c. Any proposed modification to critical areas and resource land will be the minimum necessary to allow economically reasonable use of the property;

    d. Appropriate mitigation of adverse effects to the critical area are incorporated into the project design; and

    e. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the effective date of this Ordinance, or its predecessor.

5. The provisions of this subsection do not apply within shoreline jurisdiction, as described in subsection 3.B, above.

K. General Critical Area Protection Standards

1. Applicability. The general critical area protection standards found in this subsection apply to all critical areas, as designated in Sections 4, 5, 6, 7, and 8 of this ~~Chapter~~Ordinance. These standards do not apply to resource lands, as designated in Sections 9, 10, and 11 of this ~~Chapter~~Ordinance.

2. Buffers. 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, and shall comply with the provisions of this subsection.

    a. 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.

    b. The critical area report, as described in subsection 3.L, 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.

c. The standard buffer widths assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.

d. All buffers shall be measured perpendicular from the critical area boundary as surveyed in the field. For aquatic areas, the critical area boundary is defined by the ordinary high water mark.

e. Increased Buffer Widths. The County shall have the authority to increase the standard buffer width on a case-by-case basis when there is evidence that a larger buffer is required. Criteria to support expanded buffers include the following:

    i. The existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions. If the buffer is not planted to create the appropriate plant community, widening of the regulatory buffer is an option to ensure that adequate functions of the buffer are provided. Improving the vegetation is generally preferable to widening the buffer;

    ii. The slope within the buffer area is over 30 percent. Buffer widths should be increased 50 percent of the standard buffer width if the slope is over 30 percent; or

    iii. The critical area provides habitat for a species that is particularly sensitive to disturbance. The width of the buffer should be increased to provide adequate protection for the species based on its particular life-history needs.

f. Buffer Width Averaging. Buffer averaging to improve critical area protection may be permitted only if:

    i. The critical area contains variations in sensitivity due to existing physical characteristics; and

    ii. The buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the critical area and

decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical areas report from a qualified professional.

g. Periodic inspection of the buffers may be required if necessary to ensure long-term buffer protection.

3. Building Setbacks.

   a. Unless otherwise provided, buildings and other structures shall be set back a distance of 15 feet from the edges of all critical area buffers or from the edges of all critical areas if no buffers are required.

   b. The following may be allowed in the building setback area: landscaping; uncovered decks; fences; building overhangs, if such overhangs do not extend more than 18 inches into the setback area; and impervious ground surfaces, such as driveways and patios.

4. Land Divisions.

   a. No land division, subdivision, short subdivision, or other parcel segregation ~~which~~ that 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 as to whether critical areas exist on the property in question.

   b. 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.

   c. Land that is constrained by critical areas and buffers shall not be subdivided to create parcels that are only buildable through a variance or reasonable use exception.

5. Critical Area Signs and Fencing.

   a. Temporary markers. The boundary at the outer edge of the critical area or buffer shall be identified with temporary marking consisting of flagging and/or staking prior to any site alteration.

   b. Permanent buffer edge markers. The outer edges of all critical areas, with the exception of critical aquifer recharge areas, shall be clearly marked on-site by the applicant or landowner with permanent stakes and critical areas markers prior to occupancy or use of the site. Critical areas markers may be either approved critical areas signs or inexpensive steel posts painted a standard color approved by the Administrator that is clearly identifiable as a critical areas marker.

Installation of permanent markers shall be the responsibility of the landowner. These sign provisions may be modified or waived by the Administrator based on critical area type and/or site conditions.

c. Fencing. Where damage to a critical area or buffer by humans or livestock is probable due to the proximity or nature of the adjacent activity, as determined by the Administrator, the applicant shall be required to install permanent fencing to provide clear and sufficient notice, identification, and protection of critical areas on-site. Fencing shall be designed so as not to interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to critical areas and buffers.

d. Sign, marker, and fence maintenance. It is the responsibility of the landowner, or any subsequent landowner, to maintain the required critical areas markers, signs, or fences in working order throughout the duration of the development project or land use activity. “Maintenance” includes any necessary replacement. Removal of required signs, markers, or fences without prior written approval of the Administrator shall be considered a violation of this ~~chapter~~Ordinance.

6. Notice on Title for Critical Areas.

a. In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of any property containing a critical area or buffer on which a development proposal is submitted shall file a notice with the County Recording Department according to the direction of the County. The notice shall state the presence of the critical area or buffer on the property and the fact that limitations on actions in or affecting the critical area or buffer may exist. The notice shall “run with the land.”

b. This notice on title shall not be required for a development proposal by a public agency or public or private utility:

i. Within a recorded easement or right-of-way;

ii. Where the agency or utility has the right to an easement or right-of-way; or

iii. On the site of a permanent public facility.

c. The applicant shall submit proof that the notice has been filed for public record before the County approves any site development or construction for the property or, in the case of subdivisions, short subdivisions, planned unit developments, and binding site plans, at or before recording.

L. Critical Area Report

1. Minimum Report Contents. At a minimum, the report shall contain the following, as applicable:

    a. The name and contact information of the applicant, a description of the proposal, and identification of any permits known to be required;

    b. A site plan for the development proposal including location, parcel number(s), site address (if applicable), and a map to scale depicting critical areas, buffers, resource lands, and the development proposal, including any areas to be cleared;

    c. A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations;

    d. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;

    e. Identification and characterization of all critical areas, including wetlands, waterbodies, and buffers adjacent to the proposed project area, as well as any landslide hazards that have the potential to damage proposed building, utilities, or access;

    f. Data and methodologies used to determine findings and recommendations;

    g. A statement specifying the accuracy of the report, and all assumptions made and relied upon;

    h. An assessment of the probable cumulative impacts to critical areas resulting from the proposed development;

    i. A description of reasonable efforts made to apply mitigation sequencing pursuant to subsection 3.M.2, Mitigation Sequencing;

    j. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with subsection 3.M.3, Mitigation Plan Requirements;

    k. A discussion of the performance standards applicable to the critical area and proposed activities;

    l. Financial guarantees to ensure compliance; and

    m. Any additional information required for a specific type of critical area as indicated by this Ordinance.

M. Critical Area Mitigation Requirements

1. General Requirements.

    a. The applicant shall avoid all impacts that degrade the functions and values of critical areas to the maximum extent practicable. Unless otherwise provided in this Ordinance, 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.

    b. Mitigation of one critical area impact should not result in unmitigated impacts to another critical area.

    c. Mitigation may include, but is not limited to: increasing or enhancing buffers, 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.

    d. Subject to the reasonable use exception provisions of subsection 3.J, any proposed critical area alteration that cannot adequately mitigate its impacts to a critical area shall be denied.

2. Mitigation Sequencing. Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the below sequential order of preference. Mitigation for individual actions may include a combination of the below measures.

    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. Minimize or eliminate the hazard by restoring or stabilizing the hazard area through engineered or other methods.

    e. Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action.

f. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments.

g. Monitor the impact and the compensation projects and take appropriate corrective measures.

3. Mitigation Plan Requirements. When mitigation is required, the applicant shall submit for approval a mitigation plan as part of the critical area report. The mitigation plan 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 description of any ongoing monitoring and/or inspection that may be required,;

   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.

4. Mitigation Monitoring.

   a. 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~~ that 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.

   b. 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.

   c. When the Administrator determines that the mitigation plan has been successfully completed, the cash payment shall be refunded to the applicant.

   d. 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.

SECTION 4. WETLANDS

A. Purpose

The purpose of this section is to ensure no net loss of wetland functions and values.

B. Identification

1. Identification of wetlands and delineation of their boundaries pursuant to this Ordinance shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the County meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this Ordinance.

2. If Pacific County has reason to believe that a wetland may exist adjacent to a proposed development activity, as defined in Section 2 of this Ordinance, a written determination regarding the existence or nonexistence of wetlands adjacent to the 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 adjacent to a specific parcel.

C. Classification

1. Wetland Rating Classes. Wetlands shall be classified into category I, category II, category III, and category IV according to the Washington State Wetland Rating System for Western Washington (Ecology publication number 14-06-029 or as revised and approved by Ecology) and are accordingly defined:

    a. Category I Wetlands. Category I wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of functions.

    b. Class Category II Wetlands. Category II wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a relatively high level of protection.

    c. Category III Wetlands. Category III wetlands are 1) wetlands with a moderate level of functions (scores between 16-19 points), 2) can often be adequately replaced with a well-planned mitigation project, and 3) interdunal wetlands between 0.1 and 1 ac in size. Wetlands scoring between 16-19 points generally have been disturbed in some ways, and

are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

d. Category IV Wetlands. Category IV wetlands have the lowest levels of functions (scores fewer than 16 points) and are often heavily disturbed. These are wetlands that we should be able to replace, and in some cases be able to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and also need to be protected.

2. Illegal modifications. Wetland rating categories shall not change due to illegal modifications made by the applicant or with the applicant's knowledge.

3. The following types of wetlands are exempt from the buffer provisions contained in subsection 4.E and the normal mitigation sequencing process in subsection 3.M.2. They may be filled if impacts are fully mitigated based on provisions in subsection 4.F, Additional Mitigation Requirements for Wetlands. If available, impacts should be mitigated through the purchase of credits from an in-lieu fee program or mitigation bank, consistent with the terms and conditions of the program or bank. In order to verify the following conditions, a critical area report meeting the requirements of subsection 4.G must be submitted.

    a. All isolated category III and IV wetlands less than 1,000 square feet that:

        i. Are not associated with riparian areas or buffers;

        ii. Are not part of a wetland mosaic; and

        iii. Do not contain habitat identified as essential for local populations of priority species identified by the Washington Department of Fish and Wildlife or species of local importance.

D. Permitted Activities

1. The following activities are allowed in wetlands and wetland buffers. These activities do not require submission of a critical area report, except where such activities result in a loss of the functions and values of a wetland or wetland buffer.

    a. Those activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, WAC 222-1-030, where state law specifically exempts local authority, except those developments requiring local approval for Class IV – General Forest Practice Permits (conversions) as defined in RCW 76.09 and WAC 222-12.

b. Conservation or preservation of soil, water, vegetation, fish, shellfish, and/or other wildlife that does not entail changing the structure or functions of the existing wetland.

c. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.

d. Drilling for utilities/utility corridors under a wetland or buffer, with entrance/exit portals located completely outside of the wetland buffer, provided that the drilling does not interrupt the groundwater connection to the wetland or percolation of surface water down through the soil column. Specific studies by a qualified professional shall be required to determine whether the groundwater connection to the wetland or percolation of surface water down through the soil column will be disturbed.

e. Enhancement of a wetland and/or its buffer through the removal of non-native invasive plant species, provided that:

    i. For interdunal wetlands and their buffers, it is demonstrated that the enhancement will not decrease protection of inland development from damage caused by storm surge, tsunamis, windblown sand, or flooding;

    ii. Removal of invasive plant species shall be restricted to hand removal unless permits from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments; and

    iii. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds shall be handled and disposed of according to a noxious weed control plan appropriate to that species.

    iv. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

2. In addition to the activities listed in subsection 4.D.1 above, the following activities may be allowed within a wetland buffer, but not within a wetland, in accordance with the review procedures of this Ordinance, provided they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:

a. Passive recreation. Public and private trails and wildlife viewing structures that are designed and in accordance with an approved critical area report may be allowed in the outer twenty-five percent (25%) of the wetland buffer, provided that:

    i. The trail surface is limited to pervious surfaces no more than five (5) feet in width; and

    ii. They are located to avoid removal of significant trees.

b. Educational and scientific research activities.

c. Stormwater management facilities. Stormwater management facilities are limited to stormwater dispersion outfalls and bioswales. They are not allowed in buffers of Category I or II wetlands, but may be allowed within the outer twenty-five percent (25%) of the buffer of Category III or IV wetlands provided that:

    i. No other location is feasible; and

    ii. The location of such facilities will not degrade the functions or values of the wetland.

d. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, provided that the maintenance or repair does not increase the footprint or use of the facility or right-of-way.

e. Normal and routine maintenance of non-conforming uses or structures, where legally established within the buffer, provided they do not increase the degree of nonconformity.

3. 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.

4. Subdivisions. The subdivision and/or short subdivision of land in wetlands and associated buffers are subject to the following:

    a. Land that is located wholly within a wetland or its buffer may not be subdivided.

b. Land that is located partially within a wetland or its buffer may be subdivided provided that an accessible and contiguous portion of each new lot is:

    i. Located outside of the wetland and its buffer; and

    ii. Meets the minimum lot size requirements of the Pacific County Zoning Ordinance (Ordinance No. 162, or as amended).

5. A wetland or its required buffer shall not be altered unless the following standards are met. Any alteration approved pursuant to this section shall include mitigation necessary to mitigate the impacts of the proposed alteration on the wetland or buffer, in accordance with subsection 4.F of this title.

    a. Category I Wetlands. Activities and uses shall be prohibited from Category I wetlands, except as provided for in subsections 3.E (Exemptions), 3.I (Variance), and 3.J (Reasonable Use Exception) of this title.

    b. Category II and III Wetlands. For Category II and III wetlands, where wetland fill is proposed, it is presumed that an alternative development location exists, and activities and uses shall be prohibited unless the applicant can demonstrate that:

        i. The basic project purpose cannot reasonably be accomplished on another site or sites in the general region while still successfully avoiding or resulting in less adverse impact on a wetland; and

        ii. All on-site alternative designs that would avoid or result in less adverse impact on a wetland or its buffer, such as a reduction in the size, scope, configuration, or density of the project, are not feasible.

        iii. Full compensation for the loss of acreage and functions of the wetland and its buffer shall be provided in accordance with subsection 4.F of this title.

    c. Category IV Wetlands. Activities and uses that result in unavoidable impacts may be permitted in Category IV wetlands and associated buffers in accordance with an approved critical areas report and compensatory mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives. Full compensation for the loss of acreage and functions of the wetland and its buffer shall be provided in accordance with subsection 4.F of this title.

6. Activities and uses shall be prohibited in wetlands and wetland buffers, except as provided for in this Section.

E. Wetland Buffers

Commented [TB18]: Should wetland buffers be increased?

Commented [TB19R18]: PC 5/5/16: No change recommended

1. Standard Buffer Widths. Buffers are necessary to protect wetlands from impacts generated by nearby land uses. In addition to the setback requirements of Subsection 3.K.3, the standard buffers in table 4-1 shall be required for regulated wetlands, and are based on category of wetland, the intensity of the impacts from proposed changes in land use to the adjacent wetland, and the habitat score as determined by a qualified wetland professional using the Washington State Wetland Rating System for Western Washington.

    a. In determining wetland buffer widths, the types of proposed land use changes that can result in high, moderate, and low levels of impacts to adjacent wetlands shall be defined as follows:

        i. Types of land use that can result in high intensity impacts include commercial, urban, industrial, institutional, retail, residential (>1 unit/acre), high-intensity agriculture, and high intensity recreation such as ball fields.

        ii. Types of land use that can result in moderate intensity impacts include residential (1 unit per acre or less), moderate-intensity open space, moderate-intensity agriculture, paved trails, logging roads, and maintained utility corridors.

        iii. Types of land use that can result in low intensity impacts include forest practices, low-intensity open space, unpaved trails, and low-maintenance utility corridors.

Table 4-1: Standard Wetland Buffer Widths.[1]

Wetland Category	Habitat Score	Impact of Proposed Land Use		
		Low	Moderate	High
Category I: Bogs	NA	125 ft	190 ft	250 ft
Category I: Wetlands with a high conservation value	NA	125 ft	190 ft	250 ft
Category I: Estuarine	NA	100 ft	150 ft	200 ft
Category I: Coastal Lagoons	NA	100 ft	150 ft	200 ft
Category I: Interdunal	NA[2]	150 ft	225 ft	300 ft
Category I (other than above)	8-9	150 ft	225 ft	300 ft
	5-7	75 ft	110 ft	150 ft
	<5	50 ft	75 ft	100 ft
Category II: Interdunal	NA[3]	75 ft	110 ft	150 ft
Category II: Estuarine	NA	75 ft	110 ft	150 ft

Wetland Category	Habitat Score	Impact of Proposed Land Use		
		Low	Moderate	High
Category II (other than above)	8-9	150 ft	225 ft	300 ft
	5-7	75 ft	110 ft	150 ft
	<5	50 ft	75 ft	100 ft
Category III	5-7	75 ft	110 ft	150 ft
	<5	40 ft	60 ft	80 ft
Category IV	NA	25 ft	40 ft	50 ft

[1] Buffers for wetlands surrounding existing manmade canals are not subject to these standard wetland buffer widths, and are defined in Subsection 4.E.7.
[2] Interdunal wetlands greater than one (1) acre that score 8 or 9 points for habitat are rated Category I.
[3] Interdunal wetlands that score 7 or lower for habitat, and are greater than one (1) acre ~~and that score 7 or lower for habitat,~~ or ~~those~~ found in a mosaic of wetlands and dunes larger than one (1) acre, are rated Category II.

Commented [SS20]: Sentence structure modified for clarity

2. Compensatory Wetland Buffers.–The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Buffers surrounding wetlands used as compensation shall be fully vegetated. Areas with lawns, walkways, driveways, and other mowed or paved areas may not be included in the required buffer width for compensatory wetlands.

3. Buffer Width Averaging. In addition to the requirements of Subsection 3.K.2.f, wetland buffer averaging is subject to the following requirements:

    a. Buffer averaging to allow reasonable use of a parcel may be permitted only if:

        i. There are no feasible alternatives to the site design that could be accomplished without buffer averaging; and

        ii. The averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a critical areas report from a qualified wetland professional.

    b. The total area of the buffer after averaging shall be equal to the area required without averaging.

    c. The buffer at its narrowest point shall never be less than either 75 percent (75%) of the standard width or 75 feet for category I and II, 50 feet for category III, and 25 feet for category IV, whichever is greater.

d. 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 to the specifications of subsection 4.F.3

4. Buffer Reduction. The Administrator shall have the authority to reduce the required buffer widths, within a defined area, provided that:

    a. The wetland buffer to be reduced is physically isolated from its corresponding wetland by a preexisting barrier, such as paved public roadway, flood control structure, or building; and

    b. The buffer is reduced by no more than twenty-five percent (25%) of the standard buffer width; and

    c. The applicant demonstrates, through submission of a special report by a qualified professional, that the buffer reduction does not have any adverse impact on the existing functions and values of the wetland.

5. Landward Residential Addition. For proposed development consisting of an expansion of an existing primary single family residential structure within a wetland buffer, for which the proposed expansion is on the landward side of the structure farthest from the wetland, no mitigation shall be required for such expansion, provided that:

    a. The width of the expanded structure parallel to the wetland boundary is not increased; and

    b. The expansion will not result in adverse impacts to the functions and values of the wetland or its buffer, as demonstrated by a critical areas report prepared by a qualified wetland professional.

6. Buffers for Wetlands Adjacent to Existing Manmade Canals in Surfside Estates.

    a. Wetlands adjacent to existing manmade canals in Surfside Estates are not subject to the standard buffer widths defined in Subsection 4.E.1. Buffers for wetlands adjacent to these canals shall be 25 feet wide, independent of wetland category, wetland rating, or impact of proposed land use.

    b. Buffers for wetlands adjacent to manmade canals in Surfside Estates shall be subject to the requirements of Subsections 4.E.2 through 4.E.5.

F. Additional Mitigation Requirements for Wetlands

1. Where a project requires unavoidable disruption of wetlands, wetland functions and values shall be maintained through compensatory mitigation as specified in this subsection.

2. Mitigation Sequencing. Before impacting any wetland or its buffer, an applicant shall demonstrate compliance with subsection 3.M.2, Mitigation Sequencing. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized, and shall achieve equivalent or greater functions and values.

3. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State, Part 1: Agency Policies and Guidance (Version 1, Ecology Publication #06-06-011a), or as amended, and best available science.

4. Mitigation Ratios. The following ratios shall apply to compensatory mitigation that meets all other requirements in this subsection, is the same category of wetland, and has a high probability of success. The first number in each cell of table 4-2 below specifies the acreage of wetland mitigation and the second specifies the acreage of wetland alteration.

Table 4-2: Wetland Mitigation Ratios[1]

Category and Type of Wetland	**Creation or Re-establishment**	**Rehabilitation Only[2]**	**Re-establishment or Creation (R/C) and Rehabilitation (RH)[2]**	**Re-establishment or Creation (R/C) and Enhancement (E)[2]**	**Enhancement Only[2]**
Category I: Bog, Natural Heritage site, Coastal Lagoon	Not considered possible	6:1; Rehabilitation of same wetland type as impact	R/C not considered possible[3]	R/C not considered possible[3]	Case by case
Category I: Forested	6:1	12:1	1:1 R/C and 10:1 RH	1:1 R/C and 20:1 E	24:1
Category I: Based on functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category I: Estuarine	Case by case	6:1	Case by case	Case by case	Case by case
Category II: Estuarine	Case by case	4:1	Case by case	Case by case	Case by case
Category II: Interdunal	2:1 Compensation has to be interdunal wetland	4:1 Compensation has to be interdunal wetland	1:1 R/C and 2:1 RH Compensation has to be interdunal wetland	Not considered an option[4]	Not considered an option[4]
Category II: all other	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1

Category and Type of Wetland	Creation or Re-establishment	Rehabilitation Only[2]	Re-establishment or Creation (R/C) and Rehabilitation (RH)[2]	Re-establishment or Creation (R/C) and Enhancement (E)[2]	Enhancement Only[2]
Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
Category IV	1.5:1	3:1	1:1 R/C and 1:1RH	1:1 R/C and 2:1 E	6:1

[1] Ratios based on *Wetlands in Washington State Volume 2 – Protecting and Managing Wetlands (Ecology publication #05-06-008), Appendix 8-C, Guidance on Buffers and Ratios – Western Washington, updated for 2014 Western Washington Wetland Rating System.*

[2] These ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement.

[3] Natural Heritage sites, coastal lagoons, and bogs are considered irreplaceable wetlands because they perform some special functions that cannot be replaced through compensatory mitigation. Impacts to such wetlands would therefore result in a net loss of some functions no matter what kind of compensation is proposed.

[4] Due to the dynamic nature of interdunal systems, enhancement is not considered an ecologically appropriate action.

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5. Types of Mitigation. Mitigation for lost or diminished wetland and buffer functions shall rely on the types below in the following order of preference:

    a. Restoration, including reestablishment and rehabilitation, of wetlands;

    b. Creation, or establishment, of wetlands;

    c. Enhancement of significantly degraded wetlands, in combination with restoration or creation;

    d. Preservation of high-quality, at-risk wetlands.

6. Preservation. The preservation of at-risk, high quality wetlands and habitat may be considered as part of an acceptable mitigation plan when the following criteria are met:

    a. Preservation is used as a form of compensation only after the standard sequencing of mitigation (avoid, minimize, and then compensate);

b. Restoration (re-establishment and rehabilitation), creation, and enhancement opportunities have also been considered, and preservation is proposed as the best compensation option;

c. The preservation site has the potential to experience a high rate of undesirable ecological change due to on-site or off-site activities that are not regulated (e.g., logging of forested wetlands);

d. The area proposed for preservation is of high quality or critical for the health of the watershed or basin due to its location. Some of the following features may be indicative of high quality sites:

    i. Category I or II wetland rating (using the Washington State wetland rating system for eastern or western WA);

    ii. Rare or irreplaceable wetland type (e.g., bogs, mature forested wetlands, estuaries) or aquatic habitat that is rare or a limited resource in the area;

    iii. Habitat for threatened or endangered species;

    iv. Provides biological and/or hydrological connectivity; vi. High regional or watershed importance (e.g., listed as priority site in a watershed or basin plan);

    v. Large size with high species diversity (plants and/or animals) and/or high abundance of native species;

    vi. A site that is continuous with the head of a watershed, or with a lake or pond in an upper watershed that significantly improves outflow hydrology and water quality.

e. Mitigation Combined with Other Forms of Compensation. When combined with restoration, creation, or enhancement, preservation may be used provided that a minimum of 1:1 acreage replacement is provided by reestablishment or creation and the criteria below are met:

    i. All standards specified in F.7.a. through d. are met.

    ii. The impact area is small and/or impacts are occurring to a low functioning system (Category III or IV wetland);

    iii. Preservation of a high-quality system occurs in the same watershed or basin as the wetland impact

    iv. Preservation sites include buffer areas adequate to protect the habitat and its functions from encroachment and degradation; and

v. Mitigation ratios for preservation in combination with other forms of mitigation shall range from 10:1 to 20:1, as determined on a case-by-case basis, depending on the quality of the wetlands being impacted and the quality of the wetlands being preserved.

f. Preservation as the Sole Compensation for Wetland Impacts. Preservation alone shall only be used as compensatory mitigation in exceptional circumstances. Preservation alone shall not apply if impacts are occurring to functions that must be replaced on site, such as flood storage or water quality treatment that need to be replicated by water quality measures implemented within the project limits. Preservation of at-risk, high-quality wetlands and habitat (as defined above) may be considered as the sole means of compensation for wetland impacts when the following criteria are met:

i. There are no adverse impacts to habitat for fish and species listed as endangered and threatened;

ii. There is no net loss of habitat functions within the watershed or basin;

iii. Higher mitigation ratios are applied. Mitigation ratios for preservation as the sole means of mitigation shall generally start at 20:1. Specific ratios should depend upon the significance of the preservation project and the quality of the wetland resources lost.

7. Location of Mitigation.

a. Compensatory mitigation actions shall be conducted within the same sub-drainage basin and on the site of the alteration except when all of the following conditions apply:

i. There are no reasonable opportunities on-site or within the sub-drainage basin, or opportunities on-site or within the sub-drainage basin do not have a high likelihood of success; and

ii. On-site mitigation would require elimination of high-quality upland habitat; and

iii. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the altered wetland.

b. Off-site locations shall be in the same sub-drainage basin unless:

i. Established watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been

established by the County and strongly justify location of mitigation at another site; or

ii. Credits from a state-certified wetland mitigation bank are used as compensation, and the use of credits is consistent with the terms of the certified bank instrument and with subsection 4.F.10 of this Ordinance; or

iii. Fees are paid to an approved in-lieu fee program to compensate for the impacts.

c. The design for the compensatory mitigation project shall be appropriate for its location (i.e. position in the landscape), and shall not result in the creation, restoration, or enhancement of an atypical wetland that does not match the type of wetland that would naturally be found in the geomorphic setting of the site.

8. Timing of Mitigation.

a. It is preferred that compensatory mitigation projects be completed prior to activities that will disturb wetlands. At the least, compensatory mitigation shall be completed immediately following disturbance and prior to use or occupancy of the action or development.

b. Construction of mitigation projects shall be timed to reduce impacts existing fisheries, wildlife, and flora.

9. Monitoring. Mitigation monitoring shall be required for a period necessary to establish that performance standards have been met, but not for a period less than five years. If a scrub-shrub or forested vegetation community is proposed, monitoring may be required for ten years or more. The project mitigation plan shall include monitoring elements that ensure certainty of success for the project's natural resource values and functions. If the mitigation goals are not obtained within the initial five-year period, the applicant remains responsible for restoration of the natural resource values and functions until the mitigation goals agreed to in the mitigation plan are achieved.

10. Wetland Mitigation Banks. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when all of the following conditions are satisfied:

a. The bank is certified under state rules.

b. The bank creates new wetlands or reestablishes, rehabilitates, or enhances existing disturbed wetlands. Credits shall not be approved for use from those portions of a wetland mitigation bank ~~which~~ that preserve existing undisturbed wetlands.

c. The wetland mitigation bank credits are located within the approved service area of the wetland impacts, as determined by the Administrator in consultation with the Pacific County Engineer.

d. The County determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts.

e. The proposed use of credits is consistent with the terms and conditions of the certified bank instrument.

f. Replacement ratios are consistent with subsection 4.F.5, unless the applicant can demonstrate that the use of the mitigation bank is of greater value to wetland functions and values.

g. Impacts are limited to the following types:

    i. Category I, II, III, or IV wetland buffer impacts;

    ii. Category II, III, or IV wetland impacts;

    iii. Category I wetland impacts from public infrastructure projects.

G. Additional Critical Area Report Requirements for Wetlands

1. When Required. If the County determines that a wetland exists adjacent to the site of a proposed development activity, a wetland report prepared by a qualified professional shall be required. The expense of preparing the wetland report shall be borne by the applicant.

2. Report Contents. In addition to the general critical area report requirements under subsection 3.L, critical area reports for wetlands shall include, at a minimum:

    a. A description of the methodologies used to conduct the wetland delineations, rating system forms, or impact analyses, including references.

    b. Identification and characterization of all critical areas, wetlands, water bodies, shorelines, floodplains, and buffers on or adjacent to the proposed project area. For areas off site of the project site, conditions adjacent to the project boundaries shall be estimated using the best available information.

    c. For each wetland identified on site and adjacent to the project site, the report shall provide: the wetland rating, including a description of and score for each function; required buffers; hydrogeomorphic classification; wetland acreage based on a professional survey from the field delineation (acreages for on-site portion and entire wetland area including off-site

portions); Cowardin classification of vegetation communities; habitat elements; soil conditions based on site assessment and/or soil survey information; and to the extent possible, hydrologic information such as location and condition of inlets/outlets, estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g. algal mats, drift lines, flood debris, etc.). The report shall provide acreage estimates, classifications, and ratings based on entire wetland complexes, not only the portion present on the proposed project site.

d. A description of the proposed actions, including an estimation of acreages of impacts to wetlands and buffers based on the field delineation and survey and an analysis of site development alternatives, including a no-development alternative.

e. A discussion of measures, including avoidance, minimization, and compensation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land use activity.

f. A conservation strategy for habitat and native vegetation that addresses methods to protect and enhance on-site habitat and wetland functions.

g. A copy of the site plan for the project, including maps (to scale) depicting delineated and surveyed wetland and required buffers; the development proposal; other critical areas; grading and clearing limits; areas of proposed impacts (including square footage estimates); and a depiction of the proposed stormwater management facilities for the development.

3. Qualified Professional Requirements. A qualified professional for wetlands must:

   a. Be certified as a Professional Wetland Scientist; or

   b. Meet all of the following qualifications:

      i. Have a Bachelor's degree in a related field,

      ii. Have at least two years of full-time work experience as a wetlands professional, including delineating wetlands using the state or federal manuals, preparing wetland reports, conducting function assessments, and developing and implementing mitigation plans; and

      iii. Have demonstrated wetland-specific training.

H. 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 Wetlands Inventory (NWI).

2. Natural Resources Conservation Service Soil Survey for Grays Harbor Area, Pacific, and Wahkiakum Counties, hydric soils designations.

SECTION 5. FISH AND WILDLIFE HABITAT CONSERVATION AREAS

A. Purpose

The purpose of this section is to protect fish and wildlife habitat by land management ~~which~~ that maintains sensitive, threatened, endangered species in suitable habitats within their natural geographic distribution, and to ensure the protection of shellfish, kelp, eelgrass, herring, and smelt spawning areas by regulating incompatible upland uses and development, and by controlling associated non-point pollution impacts.

B. Identification

1. Fish and wildlife habitat conservation areas (FWHCAs) include:

    a. Areas with which endangered, threatened, and sensitive species have a primary association. Pacific County adopts the designations listed in WAC 232-12-014 (Endangered), WAC 232-12-011 (Threatened and Sensitive), and federally-designated threatened or endangered species categories.

    b. Habitats and species of local importance.

    c. Commercial and recreational shellfish areas. These areas include all public and private tidelands or bedlands suitable for shellfish harvest, including shellfish protection districts established pursuant to Chapter 90.72 RCW.

    d. Kelp and native eelgrass beds; herring and smelt spawning areas.

    e. Naturally occurring ponds under twenty (20) acres and their submerged aquatic beds that provide fish or wildlife habitat.

    f. Waters of the State. Waters of the state include lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington, as classified in WAC 222-16.

    g. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity.

    h. State Natural Area Preserves (NAP) and Natural Resource Conservation Areas (NRCA). In Pacific County, these include the Bone River, Gunpowder Island, Niawiakum, and Willapa Divide NAPs and the Ellsworth Creek, South Nemah, and Teal Slough NRCAs.

2. The approximate locations and extents of habitat conservation areas may be shown on, but shall not be limited to, the following list of maps. The maps are for reference only and do not provide a final critical area designation.

a. Washington Department of Fish and Wildlife Priority Habitat and Species maps

b. Washington Department of Fish and Wildlife Salmonscape maps

c. Washington State Department of Natural Resources water type maps

d. Washington State Department of Natural Resources ShoreZone Inventory

e. Washington State Department of Natural Resources Natural Heritage Program maps.

f. US Department of Fish and Wildlife Service's Information for Planning and Conservation Maps

g. Critical areas maps from US Fish and Wildlife Service and the National Marine Fisheries Service

h. Washington State Department of Natural Resources State Natural Area Preserves and Natural Resource Conservation Area maps.

C. Classification and Designation

1. Waters of the State. Waters of the State shall be classified using the Department of Natural Resources' interim water typing (WAC 222-16-031). Once the fish habitat water type maps described in WAC 222-16-030 are adopted by the Forest Practices Board, the permanent water typing criteria described in WAC 222-060-030 will apply.

2. Habitats and Species of Local Importance.

   a. Characteristics of Habitats and Species of Local Importance:

      i. Local populations of native species that are likely to become endangered, are vulnerable, or declining.

      ii. Species or habitats with recreational, cultural, and/or economic value to citizens of Pacific County.

      iii. Protection by other County, State, or federal policies, laws, regulations, or non-regulatory tools are not sufficient to prevent degradation of the habitat or decline of the species.

      iv. Habitats of local importance represent either high-quality native habitat or habitat that has a high potential to recover to a suitable condition and ~~which~~ that is limited in availability, highly vulnerable to alteration, or provides landscape connectivity that contributes to the integrity of the surrounding landscape.

b. Process of Designation.

i. Habitats and species may be nominated by any person. The nomination shall include the following:

a) Identification of specific habitat features to be protected (for example, nest sites, breeding areas, and nurseries), or if a habitat or ecosystem is being nominated in its entirety, a description and map of the geographic boundaries encompassed in the nomination.

b) Documentation of how the proposed species or habitat meets each of the applicable characteristics described in subsection 5.C.2.a.

c) Management strategies, supported by the best available science, that if implemented would measurably help to conserve the species or habitat.

ii. The Administrator shall review and evaluate the nomination and make a recommendation to the planning commission.

iii. The planning commission shall hold a public hearing on the proposal and make a recommendation to the Board of Commissioners.

iv. After receiving the recommendation of the planning commission, the Board of Commissioners shall vote on the nomination.

D. Permitted Activities within FWHCAs and Buffers.

The following activities are permitted within FWHCAs and their associated buffers:

1. Limited public park or public recreational access; provided, that all of the following are satisfied:

   a. The access is part of a public park that is dependent on the access for its location and recreational function; and

   b. The access is limited to the minimum necessary to accomplish the recreational function; and

   c. The removal of trees and native vegetation is minimized.

2. Low-impact uses and activities that are consistent with the purpose and function of the buffer when such improvements are limited to the minimum amount necessary and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the habitat involved; provided, that such activity

shall not result in a decrease in FWHCA functions and values and shall not prevent or inhibit the buffer's recovery to at least pre-altered condition or function.

3. Standards Applicable to Type 2, 3, 4, and 5 Waters of the State and their Buffers. Standards applicable to Type 1 Waters of the State and their buffers are found in the SMP.

    a. The following modifications may be permitted within a critical area or its buffer in accordance with an approved critical area report that demonstrates that proposed measures follow mitigation sequencing and will not degrade fish or wildlife habitat conservation areas functions or processes on-site or in the surrounding area.

        i. Erosion Control Measures. New, replacement, or substantially improved erosion control measures.

        ii. Streambank Stabilization. Streambank Stabilization through bioengineering or soft armoring techniques.

        iii. Docks. Public or private docks or piers may be permitted.

        iv. New, expanded, or reconfigured Roads, Trails, Bridges, and Rights-of-Way, provided:

            a) There is no other feasible alternative route with less impact on the environment;

            b) Crossings minimize interruption of downstream movement of wood and gravel;

            c) Roads shall not run parallel to the water body;

            d) Trails shall be located on the outer edge of the riparian area or buffer, except for limited viewing platforms and crossings;

            e) Crossings, where necessary, shall only occur as near to perpendicular with the water body as possible;

        v. New, expanded, or reconfigured utility facilities, including utility lines, facilities, and stormwater conveyance, provided:

            a) FWHCAs shall be avoided to the maximum extent possible;

            b) Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the water body and channel migration zone, where feasible;

c) The utilities shall cross at an angle greater than sixty (60) degrees to the centerline of the channel in streams or perpendicular to the channel centerline whenever boring under the channel is not feasible;

d) Crossings shall be contained within the footprint of an existing road or utility crossing where possible;

e) The utility route shall avoid paralleling the stream or following a down-valley course near the channel; and

f) The utility installation shall not increase or decrease the natural rate of shore migration or channel migration.

vi. Clearing and Grading. When clearing and grading is permitted as part of an authorized activity or as otherwise allowed in these standards, the following shall apply:

a) Grading is allowed only during the dry season, which is typically regarded as beginning on May 1 and ending on October 1, provided that the city may extend or shorten the dry season on a case-by-case basis, determined on actual weather conditions.

b) The soil duff layer shall remain undisturbed to the maximum extent possible. Where feasible, any soil disturbed shall be redistributed to other areas of the project area.

c) The moisture-holding capacity of the topsoil layer shall be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltrative capacity on all areas of the project area not covered by impervious surfaces.

d) Erosion and sediment control that meets or exceeds city standards must be provided.

E. Protection Standards

1. Buffers for Waters of the State.

a. Standard Buffer Widths. In addition to the setback requirements of Subsection 3.K.3, the following buffers from the ordinary high water mark are required.

Table 5-1: Required buffers for Waters of the State[1]

Interim Water Typing (WAC 222-16-031)	Permanent Water Typing (WAC 222-16-030)	Standard Buffer (ft)	Minimum Buffer (ft)[2]
1	S	See SMP Section 5.2	See SMP Section 5.2

Interim Water Typing (WAC 222-16-031)	Permanent Water Typing (WAC 222-16-030)	Standard Buffer (ft)	Minimum Buffer (ft)[2]
2, 3	F	150	100
4	Np	65	50
5	Ns	50	40

[1] Standard buffer widths do not apply to existing manmade canals in Surfside Estates (see Section 5.E.1.f).
[2] Buffers may be reduced in accordance with the provisions of Subsection 5.E.1.c.

i. Steep slopes. Where lands adjacent to a stream display a continuous slope of thirty percent (30%) or greater, the buffer 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 buffer, the buffer shall be extended to a point twenty-five (25) feet beyond the top of the bank of the sloping area.

b. Buffer Averaging. In addition to the requirements of Subsection 3.K.2.f, the following standards apply to averaging of buffers on waters of the state:

i. Averaging provides additional protection to the species or habitat by conserving intact or unique habitat features;

ii. Averaging will not adversely affect the protected species or habitat relative to the use of the standard buffer alone;

iii. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

iv. The buffer width is not reduced by more than twenty-five percent (25%) of the standard buffer in any location.

c. Buffer Reduction.

~~c.~~i. The Administrator may approve a reduction of the standard buffer on a case-by-case basis if an applicant demonstrates through a critical areas report based on best available science that the following conditions and criteria have been met:

~~i.~~a) The applicant has proposed restoration or enhancement activities that would result in improved habitat, water quality or water flow processes or functions of the adjacent stream compared to conditions resulting from the strict application of the standard buffer. Such activities may include, but are not limited to:~~;~~

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a)(1) Enhancement of existing degraded buffer area through removal of invasive vegetation and planting or replanting with native or equivalent vegetation;

b)(2) Retention of existing native vegetation on other portions of the site;

c)(3) Use of alternative on-site wastewater systems in order to minimize site clearing;

d)(4) Infiltration of stormwater where soils permit; and

e)(5) Fencing and signage along the buffer edge;

ii.b) The buffer reduction is necessary to accomplish the purpose of a proposed project and no reasonable alternative is available given specific site characteristics;

iii.c) The applicant has demonstrated application of the avoidance and minimization standards; and

d) The standard buffer width shall not be reduced below the minimum buffer width as defined in Table 5-1.

ii. For Type F streams on single-family residential properties smaller than five (5) acres and located entirely outside of shoreline jurisdiction, the Administrator may approve use of the minimum buffer (100 feet), provided that no further reduction or averaging of buffer width shall be permitted.

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e.d. Interrupted Buffers. Where a legally established and constructed public roadway transects a riparian buffer, the Administrator may approve a modification of the standard buffer width to the edge of the roadway, provided the isolated part of the buffer provides insignificant biological, geological or hydrological buffer functions relating to the riparian area.

f.e. In addition to applicable buffer standards presented in this subsection (5.E.1.), additional water quality protection provisions in Subsection 5.E.5. Marine and Estuarine Water Quality Zone Provisions apply to all lands adjacent to marine and estuarine waters.

g.f. Buffer Exemption for Existing Manmade Canals in Surfside Estates. Existing manmade canals in Surfside Estates are exempt from the buffer provisions contained in this Section. Where wetlands are present adjacent

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to these canals, the provisions of Section 4.E.6, Buffers for Wetlands Adjacent to Existing Manmade Canals in Surfside Estates, apply.

2. Buffers for Other FWHCAs. Buffers shall be established adjacent to FWHCA other than Waters of the State as necessary to protect the ecological integrity, structure and functions of the resource from development induced impacts. Buffer widths shall reflect the sensitivity of the species or habitat present and the type and intensity of the proposed adjacent human use or activity, consistent with the following guidance.

Fish and Wildlife Habitat Conservation Area	**Buffer Requirement**
Areas with a primary association with endangered, threatened, and sensitive species	For non-fish species, buffers shall be based on site-specific conditions; management recommendations provided by the Washington State Department of Fish and Wildlife PHS Program, if applicable; and the recommendation of a Qualified Professional.
Commercial and recreational shellfish areas; kelp and eelgrass beds; herring and smelt spawning areas	Standard shoreline buffers apply, in addition to Marine and Estuarine Water Quality Protection Zone provisions (Section 5.D.6).
State Natural Area Preserves and Natural Resource Conservation Areas	In addition to the land within designated Natural Area Preserves and Natural Resource Conservation Areas, other critical area, the Administrator may impose a new buffer or increase the applicable buffer to ensure that proposed actions would not limit conservation of the property for its intended species or ecosystem preservation.
Species and Habitats of Local importance	The need for and dimensions of buffers for approved species and habitats of local importance shall be determined on a case-by-case basis by the Administrator according to adopted plans for the specific resource.

3. Buffer Composition.

   a. Buffers shall remain in an undeveloped state and shall consist of an undisturbed area of native vegetation or restoration areas established to protect the integrity, functions, and values of the affected habitat. Unless specifically permitted or exempted in this section or the SMP, all structures and activities shall be located outside of a fish and wildlife habitat conservation area and its associated buffer.

   b. No non-native vegetation shall be deliberately introduced into a buffer.

4. Subdivisions. The subdivision and short subdivision of land in FWHCAs and associated buffers is subject to the following:

    a. Land that is located wholly within a FWHCA or its buffer may not be subdivided, with the exception of commercial shellfish grounds.

    b. Land that is located partially within a FWHCA or its buffer may be subdivided provided that the developable portion of each new lot and its access is located outside of the habitat conservation area or its buffer and meets the applicable zoning requirements.

5. Marine and Estuarine Water Quality Protection Zone.

    a. Purpose. The purpose of the Marine and Estuarine Water Quality Protection Zone is to protect water quality conditions that support shellfish, kelp, eelgrass, herring, and smelt spawning areas.[1]

    b. Applicability.

        i. All property located within three hundred (300) feet landward from the OHWM[2] of marine waters of the Pacific Coast or estuarine waters of Willapa Bay falls within the Marine and Estuarine Water Quality Protection Zone.

        ii. Proposed developments located within the Marine and Estuarine Water Quality Protection Zone, but located entirely outside of all other critical areas and critical area buffers, are subject only to the provisions of Subsection 5.E.5, and are not subject to additional provisions in Section 5 of this ~~chapter~~Ordinance.

    c. Protection Standards applicable within the Marine and Estuarine Water Quality Protection Zone. The following protection standards apply within areas designated as the Marine and Estuarine Water Quality Protection Zone:

        i. 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, consistent with standards of WAC 246-272A.

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[1] Defined per WAC 365-190-130, although kelp beds and smelt spawning areas are not known to be present in Pacific County waters.

[2] The Highest Astronomical Tide elevation shall be used instead of the OHWM on the eastern side of the Long Beach Peninsula.

ii. No reduction from the 100 foot horizontal separation standard between on-site septic system disposal components and surface water shall be approved for new septic systems.

iii. 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.

iv. 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 Critical Aquifer Recharge Areas.

v. 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).

F. Additional Critical Area Report Requirements for Fish and Wildlife Habitat Conservation Areas

1. When Required. A critical area report for fish and wildlife habitat conservation areas shall be required when a project area is located in or adjacent to a fish and wildlife habitat conservation area.

2. Additional Requirements: In addition to general requirements of Section 3.L, Critical Area Reports, critical area reports for fish and wildlife habitat conservation areas must meet the requirements of this subsection.

   a. Preparation by a Qualified Professional. A critical area report for a fish and wildlife habitat conservation area shall be prepared by a qualified professional biologist with experience preparing reports for the relevant type of habitat.

   b. Habitat Assessment. A critical area report for a habitat conservation area shall contain, at a minimum, the following information:

      i. A detailed description of vegetation on and adjacent to the project area and within the fish and wildlife conservation area and its associated buffer.

ii. Identification of any endangered, threatened, or sensitive species that have a primary association with habitat on or adjacent to the project area. Identification of any habitats of local importance occurring on or adjacent to the site.

iii. A discussion of any federal, state, or local special management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area, and a description of how the project employs with those recommendations.

iv. A detailed discussion of the direct and indirect potential impacts on habitat by the project, including both site-specific and landscape-scale impacts and impacts to water quality.

c. Additional Information May Be Required. When appropriate due to the type of habitat or species present or the project area conditions, the county planner may also require the following:

i. An evaluation by an independent qualified professional regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate; or

ii. A request for consultation with the Washington Department of Fish and Wildlife or other appropriate agency or tribe.

G. Additional Mitigation Requirements for Fish and Wildlife Habitat Conservation Areas

1. Mitigation is required when a fish and wildlife habitat regulated under this section is temporarily or permanently affected as a result of project approval or activity. Mitigation is further required when a fish and wildlife habitat regulated under this section has been altered prior to project approval unless the alteration was not prohibited by law.

2. On-site and in-kind 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.

3. Off-site mitigation will be used only in those situations where on-site mitigation is not possible or where it is demonstrated that off-site mitigation would provide greater benefit to the affected species. When off-site mitigation is allowed, it should occur within the same subbasin as the project impact.

4. Contiguous Corridors. Mitigation sites shall be located and designed to the extent possible to preserve or achieve contiguous wildlife habitat corridors to minimize the isolating effects of development on habitat areas.

5. 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.

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

SECTION 6. FREQUENTLY FLOODED AREAS

A. Purpose

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

B. Identification

For the purpose of this Ordinance, frequently flooded areas within Pacific County are designated where any of the following criteria apply:

1. Those areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in a scientific and engineering report entitled "The Flood Insurance Study for Pacific County and Incorporated Areas" dated May 18, 2015, and any revisions thereto, with an accompanying Flood Insurance Rate Map (FIRM) dated May 18, 2015, or, and any revisions thereto; and those floodways and associated floodplains delineated by a comprehensive flood hazard management plan adopted by the Pacific County Board of County Commissioners, as being with the 100-year floodplain or having experienced historic flooding, are hereby adopted by reference and designated as frequently flooded areas subject to the provisions of this Ordinance.
2. When base flood elevation data have not been provided (A and V zones) the Administrator, in consultation with the Pacific County Engineer, shall obtain, review, and reasonably utilize any base flood elevation and floodway data, including historical flooding data, available from a federal, state, or other source. If such documentation is not adequate to allow the County Engineer to make such delineation, the person seeking development ~~which~~ that is covered under this Ordinance shall provide a flood hazard study prepared by a Licensed Hydrologist or Professional Engineer assessing the extent of the 100-year floodplain, which shall be subject to approval by the County Engineer.
3. Those areas of periodic inundation within Flood Control Zone District No. 1 on the Long Beach Peninsula, as mapped by the Pacific County Department of Public Works on July 24, 2015, or as amended.

C. Protection Standards

All development within designated frequently flooded areas shall comply with the Pacific County Flood Damage Prevention Ordinance No. 167, codified as Chapter 15.08 PCC, as now or hereafter amended; and/or the Pacific County Shoreline Master Program, as now or hereafter amended.

1. Livestock management.

    a. 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).

b. New construction or expansions of existing manure storage facilities must be elevated above the base flood elevation and located in areas that are least subject to flooding.

SECTION 7. CRITICAL AQUIFER RECHARGE AREAS

A. Purpose

The purpose of this section is to establish protection measures for aquifers that are susceptible to contamination due to physical (hydrogeologic) factors. In particular, this section manages recognized vulnerabilities of the Long Beach Peninsula aquifer, as described in the U.S. Geological Survey Report on Ground-Water Flow and Water Quality in the Sand Aquifer of Long Beach Peninsula, Washington (Blakemore 1995).

B. Identification

Aquifer recharge areas are those areas with geologic and hydrologic conditions that promote rapid infiltration of recharge waters to groundwater aquifers. The following classifications define critical aquifer recharge areas.

1. For the purposes of this Ordinance, 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, 2003, Soil Conservation Service, USDA, is designated as a critical aquifer recharge area:

Soil Type	Map Unit Description
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	Undorthents, level
153	Westport fine sand, 3-10 percent slopes
162	Yaquina loamy fine sand

2. Special aquifer recharge protection areas include:

   a. Sole-source aquifers designated by the U.S. Environmental Protection Agency in accordance with the Safe Drinking Water Act of 1974 (Public Law 93-523);

   b. Special protection areas designated by the Washington Department of Ecology under Chapter 173-200-090 WAC;

   c. Wellhead protection areas determined in accordance with delineation methodologies specified by the Washington Department of Health under authority of Chapter 246-290 WAC; and

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d. Groundwater management areas designated by the Washington Department of Ecology in cooperation with local government under Chapter 173-100 WAC.

C. Protection Standards

1. New Development Prohibitions. The following types of new development shall not be permitted within designated critical 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;

    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;

    f. Mining of any type below the water table;

    g. Processing, storage, and disposal of radioactive substances;

    h. Dry cleaning;

    i. Auto wrecking facilities;

    j. Hazardous waste transfer and treatment; and

    k. Hydrocarbon extraction.

2. Development Standards.

    a. Lots in new subdivisions and new short subdivisions in critical 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 critical aquifer recharge areas on existing lots of less than one net acre in size shall be designed

by a Licensed Designer or Professional Engineer, and shall consist of a pressure distribution drainfield system, and shall meet the requirements of Chapter 246-272A WAC, On-Site Sewage Systems.

c. On-site sewage system permit applications in critical aquifer recharge areas may 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 246-272A WAC and any Pacific County Ordinance pertaining to on-site sewage disposal.

d. New subdivisions and new short subdivisions in critical 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.

e. New development in areas of existing wells shall remove any abandoned wells present in the area of development using approved well abandonment methods as defined in WAC 173-160.

D. Additional Critical Area Report Requirements for Critical Aquifer Recharge Areas.

1. When Required. A person seeking the following types of new construction activities within a critical aquifer recharge area is responsible for preparing a critical area report for critical aquifer recharge areas:

   a. Industrial and commercial agricultural facilities applying fertilizers or pesticides in excess of agronomic rates;

   b. Golf courses or other recreational or institutional facilities that involve extensive turf cultivation or maintenance;

   c. Above ground storage tanks, with the exception of water tanks;

   d. Industrial or commercial facilities that, when completed, will use, store, or handle dangerous wastes in quantities in excess of five (5) gallons or twenty-five (25) pounds or more of any one substance, or in aggregate quantities of twenty (20) gallons or 100 pounds or more of all dangerous wastes;

   e. Fossil fuel exploration or development;

   f. Commercial underground storage tanks in excess of 1,100 gallons; and

   g. Subdivision of land into more than four lots.

2. Report Contents. In addition to the critical area report requirements of subsection 3.L of this Ordinance, the report shall include the following information:

    a. A detailed description of the project including all processes and other activities ~~which~~ that have the potential for contaminating groundwater; and

    b. A hydrogeologic evaluation that includes, at a minimum, a description and/or evaluation of the following:

        i. Site location, topography, drainage, and surface water bodies;

        ii. Soils and geologic units, underlying the site;

        iii. Ground water characteristics of the area, including flow direction, gradient, and existing groundwater quality;

        iv. The location and characteristics of wells and springs within 300 feet of the perimeter of the property;

        v. An evaluation of existing on-site groundwater recharge; and

        vi. An evaluation of the potential impact of the proposal on groundwater quantity and quality, including potential effects related to saltwater intrusion and effects on senior water rights holders both short and long term, based on an assessment of the cumulative impacts of the proposal in combination with existing and potential future land use activities.

3. Qualifications of Report Preparers. Critical area reports for critical aquifer recharge areas 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 8. GEOLOGICALLY HAZARDOUS AREAS

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; mine hazard areas; and tsunami hazard areas.

B. Identification

1. Erosion Hazard Areas. Erosion hazard areas are those areas meeting any of the following criteria:

    a. Areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service Official Soil Survey Data ~~Map~~, dated September 2015 or as amended, as having a "severe" or "very severe" erosion hazard based on slope and soil erosion factor K ~~(Off-trail, Off-road)~~.

    b. ~~Shoreline~~ Coastal Erosion Hazard Areas

        i. Areas mapped as Coastal High Hazard Areas (Zones V and VE) in the digital Flood Insurance Rate Map (dFIRM) adopted May 18, 2015, as amended.

        ~~ii.~~ Areas within the North Cove "Wash-Away" Beach ~~erosion~~ Erosion ~~hazard~~ Hazard ~~area~~Area, defined as that area within a distance from the ordinary high water mark that is less than or equal to the amount of land that is expected to erode within the next thirty (30) years, as determined by the Administrator (see Exhibit A). The landward boundary of this area shall be reviewed by the County every five (5) years and revised as necessary. ~~[Placeholder to reference updated map from Pacific County Hazard Mitigation Plan]~~

        ~~iii.~~ii. ~~Areas within a mapped channel migration zone.~~

2. Landslide Hazard Areas. Landslide hazard areas are those areas meeting any of the following criteria:

    a. 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.

    b. Those areas mapped by the Washington State Department of Natural Resources (slope stability mapping) as unstable (U or class 3), unstable old slides (UOS or class 4), or unstable recent slides (URS or class 5).

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c. Any area with all of the following characteristics:

   i. A slope greater than fifteen percent (15%);

   ii. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

   iii. Springs or groundwater seepage.

d. Slopes that are parallel or sub-parallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials.

e. Slopes having gradients greater than eighty percent (80%) subject to rock fall during seismic shaking.

f. Areas of unstable soils as a result of stream incision and stream bank erosion, or undercutting by wave action. The Administrator may require a site-specific survey conducted by a qualified professional to determine presence or absence of an erosion hazard area adjacent to a stream, lake, or other shoreline.

g. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding.

h. 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.

3. Mine Hazard Areas. Mine hazard areas are those areas within one hundred (100) horizontal feet of a mine or hydrocarbon production well opening at the surface and any workings, tunnels, shafts, or spoils disposal sites.

4. Seismic Hazard Areas. Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, debris flows, or tsunamis. Seismic hazard areas are those areas meeting any of the following criteria:

   a. Areas mapped by the Washington Department of Natural Resources on the Site Class Map of Pacific County, Washington, Palmer et al., 2004, as amended, as having a site class of “D to E,” “E,” or “F.” These areas have been identified by WDNR as having soils ~~which~~ that amplify ground shaking.

   b. Areas mapped by the Washington Department of Natural Resources on the Liquefaction Susceptibility Map of Pacific County, Washington, Palmer

et al., 2004, as having a liquefaction susceptibility of “moderate,” “moderate to high,” “high,” or “peat deposit.”

5. Tsunami Hazard Areas. Tsunami hazard areas are shoreline or coastal areas susceptible to flooding and inundation as the result of excessive wave runup action derived from seismic or other geologic events, as mapped by the best and most current available information.

    a. The Washington Department of Natural Resources completed mapping of tsunami hazard areas for Pacific County as modeled using an L1 scenario[1]. These maps are included in tsunami evacuation brochures for six areas in Pacific County: North Cove, Tokeland, and Shoalwater Tribe; Bay Center and Vicinity; Ocean Park and Vicinity; Long Beach and Ilwaco; Chinook and Vicinity; and Raymond and South Bend. The brochures were updated in July 2014 and are available through the Washington Department of Natural Resources and the Pacific County Emergency Management Agency.

    b. Venturato et al. (2007)[2] completed a more detailed study of the effects of a tsunami on the Long Beach Peninsula.

C. Protection Standards

1. General Development Standards.

    a. Alterations of geologically hazardous areas or associated buffers shall only occur for activities that:

        i. Will not increase the threat of the geological hazard to adjacent properties beyond pre-development conditions;

        ii. Will not adversely impact other critical areas;

        iii. Are designed so that the erosion, landslide, or mine hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions; and

        iv. Where required by this Section or other county regulations, are certified as safe as designed and under anticipated conditions by a qualified engineer or geologist, licensed in the state of Washington.

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[1] Witter, R.C., Z. Yinglong, W. Kelin, G.R. Priest, C. Goldfinger, L.L. Stimely, J.T. English, and P.A. Ferro. 2011. Simulating tsunami inundation at Bandon, Coos County, Oregon, using hypothetical Cascadia and Alaska earthquake scenarios. Oregon Department of Geology and Mineral Industries Special Paper, 43: 57 p.

[2] Venturato, A. D. Arcas, U. Kanoglu. 2007. Modeling Tsunami Inundation from a Cascadia Subduction_Zone Earthquake for Long Beach and Ocean Shores, Washington.

b. Critical facilities shall not be sited within or below geologically hazardous areas unless there is no other practical alternative.

~~1. Development Standards for All Erosion Hazard Areas~~

storm water quality and quantity control, including preparation of a temporary erosion and sediment control plan and permanent drainage plan prepared by a professional engineer licensed in the State of Washington.

protection of disturbed surfaces using Best Management Practices (BMP) such as sediment traps, check dams, stabilized construction entrances, storm inlet protection, silt fencing, mulching or other effective means of soil protection.

~~d.~~ Land disturbing activities in ~~erosion~~ geologically hazardous areas shall provide for storm water quality and quantity control, including preparation of a temporary erosion and sediment control plan and permanent drainage plan prepared by a professional engineer licensed in the State of Washington.

protection of disturbed surfaces using Best Management Practices (BMP) such as sediment traps, check dams, stabilized construction entrances, storm inlet protection, silt fencing, mulching or other effective means of soil protection.

~~e. Timing of Ground Disturbance. Clearing on an erosion hazard area shall be limited to the dry season (May 1-October 15) to the extent feasible. If wet season operations are necessary, the applicant shall provide erosion and sedimentation control plan prepared by a professional engineer licensed in the State of Washington that identifies methods of erosion control for wet weather conditions.~~

~~f.~~c. The erosion and sediment control plan shall provide for protection of disturbed surfaces using Best Management Practices (BMP) such as sediment traps, check dams, stabilized construction entrances, storm inlet protection, silt fencing, mulching or other effective means of soil protection.

d. Timing of Ground Disturbance. Clearing in a geologically hazardous area shall be limited to the dry season (May 1-October 15) to the extent feasible.

~~g.~~e. Runoff from activities subject to a development permit shall be properly controlled to prevent erosion.

2. Additional Development Standards for ~~Shoreline~~ Coastal Erosion Hazard Areas.

a. With the exception of public infrastructure and in-water erosion control measures ~~Setback. The Width of Our Washaway Bad Erosion Hazard~~ [illegible] fundamental structures

Commented [TB31]: Section revised to remove redundancy and applied to all geologically hazardous areas, per County staff feedback 5/4/16.

Commented [TB32]: Allow building of a bond is provided for removal of structures by the County? Draft revisions provided below. 4/14/16

Commented [TB33R32]: Yes. Exemption for public infrastructure and in-water erosion control measures, per PC 5/5/16.

[illegible] Area, unless the applicant provides a refundable cash payment at the time of application to fund future removal of the structure, subject to the following conditions:

[illegible] of the estimated cost of construction, as determined by the Administrator.

i. The amount of the cash payment shall not exceed 150 percent of the estimated cost of construction, as determined by the Administrator.

ii. The applicant shall provide with the cash payment a signed statement indemnifying the County for any future damages to the structure caused by erosion.

iii. If the structure is completely removed by the property owner prior to becoming subject to imminent erosion risk, the cash payment shall be refunded to the applicant.

iv. If the structure is not completely removed prior to becoming subject to imminent erosion risk, the County shall be entitled to keep all or part of the cash payment to the extent necessary to remove the structure.

~~i.~~v. A structure is defined as subject to imminent erosion risk when it is within one hundred (100) feet of the bluff edge, as measured by the Pacific County Department of Public Works biannual survey. ~~.~~

b. Within the North Cove Wash-Away Beach Erosion Hazard Area, the property owner shall be responsible for completely decommissioning and ensuring that all sewage is removed from a septic system that is within one hundred (100) feet of the bluff edge, as measured by the Pacific County Department of Public Works biannual survey.

~~b.~~c. Recreational vehicle usage in a ~~shoreline~~ coastal erosion hazard area and its setback is permitted if otherwise allowed by law.

~~c. The property owner shall be responsible for completely decommissioned and removed from a septic system that is within one (1) year of the~~ setbacks is subject to the following:

d. Subdivisions. The division of land in ~~shoreline~~ coastal erosion hazard areas and setbacks is subject to the following:

i. Land that is located wholly within a ~~shoreline~~ coastal erosion hazard area or its setback may not be subdivided. Land that is located partially

Commented [TB34]: Does not apply in SEHAs

Commented [TB35]: Added per PC direction, 5/5/16

Commented [TB36]: Revised per County feedback, 5/4/16

within a ~~shoreline~~ coastal erosion hazard area or its setback may be divided, provided that each resulting lot has sufficient buildable area outside of, and will not affect, the ~~shoreline~~ coastal erosion hazard area or its setback.

ii. Access roads and utilities may be permitted within the ~~shoreline~~ coastal erosion hazard area and associated setback if the Administrator determines that no other feasible alternative exists.

3. Development Standards for Landslide Hazard Areas

a. In addition to the provisions below, standards applicable to all erosion hazard areas as provided in subsection C.2 above shall also apply to landslide hazard areas.

b. Buffers. A no-touch buffer shall be established from all edges of landslide hazard areas. The buffer shall be intended to minimize the risk of property damage, death, or injury resulting from landslides, and to maintain ecological functions associated with erosion processes.

i. The Administrator shall determine the landslide hazards, including the top of slope and slope face subject to failure and sliding, as well as toe-of-slope areas subject to impact from down slope run-out, using a peer-reviewed geotechnical report approved by the Administrator.

ii. The Administrator shall determine required setbacks from the landslide hazards identified in Subsection 8.D using a peer-reviewed critical areas report approved by the Administrator.

iii. A critical areas report shall be conducted for any project that may impact or be impacted by a landslide hazard area. The buffer shall be increased where the critical areas report indicates that a larger buffer is necessary to prevent risk of damage to proposed and existing development in the foreseeable future or to maintain sediment transport processes to adjacent waterbodies.

c. Vegetation Retention. Unless otherwise provided or as part of an approved alteration, removal of vegetation from a landslide hazard area or related buffer shall be prohibited. When permitted as part of an approved alteration, vegetation removal shall be minimized to the extent practicable.

d. On-site sewage disposal systems, including drain fields, shall be prohibited within landslide hazard areas and related buffers.

e. Clearing and Grading.

i. Clearing, grading, and other construction activities shall not aggravate or result in slope instability or surface sloughing.

ii. Vegetation and organic soil material shall be removed from a fill site prior to the placement of clean earthen material.

iii. 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 stream bank stabilization, unless a geotechnical report shows that the activity will not exacerbate geological hazards.

iv. Ground disturbance shall be minimized to the extent practicable.

v. Vegetative cover shall be re-established on any disturbed surface to the extent practicable.

vi. To the extent practicable, disturbed surfaces shall be stabilized with appropriate materials when future erosion is likely.

f. Drainage.

i. Surface drainage, including downspouts, shall not be directed across the face of a landslide 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

ii. 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.

g. Subdivisions. The division of land in landslide hazard areas and associated buffers is subject to the following:

i. Land that is located wholly within a landslide hazard area or its buffer may not be subdivided. Land that is located partially within a landslide hazard area or its buffer may be divided provided that each resulting lot has sufficient buildable area outside of, and will not affect, the landslide hazard area or its buffer.

ii. Access roads and utilities may be permitted within the landslide hazard area and associated buffer if the Administrator determines that no other feasible alternative exists.

h. Design Standards.

i. Structures and improvements shall minimize alterations to the natural contour of the slope, and foundations shall be tiered where possible to conform to existing topography.

ii. Structures, improvements, and access shall be located to preserve the most critical portion of the site and its natural landforms and vegetation.

iii. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties.

i. Proposals may be exempt from the development standards in this subsection through approval by the Administrator if a geotechnical analysis, performed by a qualified professional, demonstrates that the proposed development will not cause any increased risk to life or property or create any significant adverse environmental impacts.

4. Development Standards for Mine Hazard Areas. Development within a mine hazard area is prohibited.

5. Development Standards for Seismic and Tsunami Hazard Areas. All development within areas that meet the identification criteria for seismic or tsunami hazard areas shall comply with the model codes as approved and adopted by the State Building Code Council, together with any amendments or additions.

6. Additional Development Standards for Tsunami Hazard Areas. The Pacific County Emergency Management Agency partners with state and federal agencies to provide information, outreach, and education to communities in the County located within designated tsunami hazard areas. New development within tsunami hazard areas is subject to the following:

a. Subdivisions, commercial, and recreational uses shall prepare, maintain, and post a tsunami evacuation plan. These plans should be consistent with the community evacuation plans.

D. Additional Critical Area Report Requirements for Geologically Hazardous Areas.

1. When Required. A critical area report shall be required for the following activities:

a. Alterations to Shoreline Erosion Hazard Areas. New construction, including but not limited to new shoreline stabilization measures.

b. Alterations to Landslide Hazard Areas. New construction, grading, land clearing, or Class IV forest conversion within a landslide hazard area or its buffer.

2. Qualified Professional. A critical area report for a geologically hazardous area shall be prepared by an engineer or geologist, licensed in the state of Washington, with experience analyzing geologic, hydrologic, and groundwater flow systems, and who has experience preparing reports for the relevant type of hazard.

3. Geological Hazards Assessment. In addition to the critical area report requirements of subsection 3.L, a critical area report for a geologically hazardous area shall contain a geological hazards assessment, including, at a minimum, the following information:

    a. An assessment of the geologic characteristics of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis should be accomplished in accordance with accepted classification systems.

    b. A hazards analysis including a detailed description of the project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the subject property, and affected adjacent properties.

        i. The hazards analysis shall clearly state a determination of whether the landslide hazard area is expected to affect the proposed development, activity, use, or the area proposed for clearing, and whether the proposed development, activity, use of the area proposed for clearing will not increase risks in or adjacent to a landslide hazard area.

        ii. For areas in or adjacent to landslide hazard areas, the hazard analysis includes identification and mapping of the top of slope, slope faces subject to failure and sliding, toe of slope areas subject to impact from downslope run-out, and buffer areas subject to landslide hazards.

    c. A recommendation for the minimum no-disturbance buffer and minimum building setback from any geologic hazard.

4. Mitigation of Long-Term Impacts. When a geological hazards assessment indicates that hazard mitigation is required, a mitigation plan shall specifically address how the activity maintains or reduces the pre-existing level of risk to the

site and adjacent properties on a long-term basis equal to or exceeding the projected lifespan of the activity or occupation.

SECTION 9. AGRICULTURAL LANDS

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. These areas are zoned as Agricultural District (AG) and are subject to the provisions of Chapter 18.28 PCC.

2. Agricultural Land of Local Importance. Agricultural land of local importance includes any diked tideland as listed under soil type nos. 104 and 147 in the Soil Survey of Grays Harbor County Area, Pacific County, and Wahkiakum County, Washington, 2003, 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~~ that 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.I, Variance, 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.

SECTION 10. FOREST LANDS

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). These areas are zoned Commercial Forestry District (FC) and are subject to the provisions of Chapter 18.16 PCC.

    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~~B). These areas are zoned Transitional Forest Land District (FT) and are subject to the provisions of Chapter 18.20 PCC.

C. Protection Standards

1. Protection Standards for Forest Land of Long-Term Commercial Significance.

    a. 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.I, Variance, 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.

    b. Water Supply.

        i. 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.

ii. 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.

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

d. 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 this subsection to demonstrate compliance with the required setback.

2. Protection Standards for Transitional Forest Land.

a. 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 11. MINERAL LANDS

A. Purpose

The purpose of this section is to conserve mineral lands 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. Permitted Uses

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~~ that 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:

      i. The use will not significantly affect the overall productivity of the mining activity;

      ii. The use is secondary to the principal activity of mining; and

      iii. 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.

      i. 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~~ that may coexist with mineral extraction activities within a common ownership.

ii. Public and semi-public buildings, structures, and uses including, but not limited to, fire stations, utility substations, pump stations, and wells.

iii. Commercial extraction and processing of oil, gas, and geothermal resources.

iv. 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.

v. 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.

vi. Forestry, environmental, and natural resource research facilities.

vii. 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~~ that 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.

a. Within Designated Mineral Lands. Mining operations that ~~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 Lands. Structures requiring a building permit shall maintain a minimum one hundred (100) foot setback from the boundary of any designated Mineral Land.

SECTION 12. NOTICE ON TITLE FOR RESOURCE LANDS

A. Applicability

The provisions of this section apply to development proposed on property on or within 500 feet of agricultural land, forest land, and mineral land.

B. Notice on Title for Designated Resource Lands

Bracketed text below shall be modified according to the type of resource land in question.

1. The owner(s) of any site within agricultural land, forest land, or mineral land shall record a title notice with the Pacific County Auditor when a development activity covered under this ~~Chapter~~Ordinance 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/Forest/Mineral] Lands Area Title Notification

   Parcel Number:

   Parcel Address:

   NOTICE: This parcel lies within an area of land designated as [agricultural/forest/mineral] land by Pacific County. A variety of commercial [agricultural/forestry/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~~ that may generate dust, smoke, and noise. Pacific County has established [agriculture/forestry/mineral extraction] as a priority use on productive [agricultural/forestry/mineral] lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary [agricultural/forestry/mineral extraction] operations.

2. Land Division Notification. The owner(s) of any site classified as resource 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 of land designated as [agricultural/forest/mineral] land by Pacific County. A variety of commercial [agricultural/forestry/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~~ that may generate dust, smoke, and noise. Pacific County has established [agriculture/forestry/mineral extraction]

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

Signature(s) of Owner(s)

(NOTARY ACKNOWLEDGMENT)

3. Regulated Activities Notification. The Administrator shall require that all permits issued for regulated activities within designated resource lands contain a notice as set forth below.

   NOTICE: This property lies within an area of land designated as [agricultural/forest/mineral] land by Pacific County. A variety of commercial [agricultural/forestry/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~~ that may generate dust, smoke, and noise. Pacific County has established [agriculture/forestry/mineral extraction] as a priority use on productive [agricultural/forestry/mineral] lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary [agricultural/forestry/mineral extraction] operations.

C. Notification on Title for Property Adjacent to Designated Resource Lands

Bracketed text below shall be modified according to the type of resource land in question.

1. The owner(s) of any site adjacent to designated resource lands 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 adjacent to designated resource lands 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, 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.