APPENDIX B –
Applicable Sections of City Critical Areas Ordinance

CITY OF PORT ORCHARD
A. General Provisions – Critical Areas within Shoreline Jurisdiction:

1. Applicable Critical Area Regulations within Shoreline Jurisdiction: The following critical areas shall be regulated in accordance with the provisions of Port Orchard Municipal Code (POMC) Chapter 18 Environmental Regulations, adopted via (Port Orchard City Ordinance 030-09 Section 3 (Exhibit A) except for the provisions identified within the Port Orchard Shoreline Master Program – Appendix B, below. Said provisions shall apply to any use, alteration, or development within shoreline jurisdiction whether or not a shoreline permit or written statement of exemption is required. Unless otherwise stated, no development shall be constructed, located, extended, modified, converted, or altered, or land divided without full compliance with the provision adopted by reference and the Shoreline Master Program. Within shoreline jurisdiction, the regulations of Port Orchard Municipal Code (POMC) Chapter 18 shall be liberally construed together with the Program to give full effect to the objectives and purposes of the provisions of the Shoreline Master Program and the Act. If there is a conflict or inconsistency between any of the adopted provisions below and the Shoreline Master Program, the most restrictive provisions shall prevail.

(a) Definitions (POMC 18.02)

(c) Wetlands. (POMC 18.04)

B. Definitions within Shoreline Jurisdiction

1. Applicable Definitions within Shoreline Jurisdiction: Definitions shall be regulated in accordance with the provisions of Port Orchard Municipal Code (POMC) Chapter 18 Environmental Regulations, adopted via (Port Orchard City Ordinance 030-09 Section 3 (Exhibit A) except for the provisions identified below.

2. Inapplicable Definitions: The following provisions of Port Orchard Municipal Code (POMC) Chapter 18.02 Definitions shall not apply within shoreline jurisdiction:

(a) POMC 18.02.012 Aquaculture Practices, and

(b) POMC 18.02.262 Wetlands

3. Definitions within Shoreline Jurisdiction: The following definitions shall be applicable within the shoreline jurisdiction:

Adopted by Council Resolution 009-12, 6-12-2012
(a) Aquaculture: “The culture and 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 or upland finfish.”

(b) Wetlands: “Wetlands” or “wetland areas” means areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, 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-line swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands; and (11). The definition set forth in Chapter 90.58 shall also apply as used herein.”

C: Wetlands within Shoreline Jurisdiction:

1. Applicable Definitions within Shoreline Jurisdiction: Definitions shall be regulated in accordance with the provisions of Port Orchard Municipal Code (POMC) Chapter 18 Environmental Regulations, adopted via (Port Orchard City Ordinance 030-09 Section 3 (Exhibit A) except for the provisions identified below.

2. Inapplicable Definitions: The following provisions of Port Orchard Municipal Code (POMC) Chapter 18.04 Wetlands shall not apply within shoreline jurisdiction:

   (a) POMC 18.04.080 Application requirements
   (b) POMC 18.04.090 Determination of wetland boundaries
   (c) POMC 18.04.100 Wetland mitigation requirements
   (d) POMC 18.04.250 Incentives for wetlands protection

Adopted by Council Resolution 009-12, 6-12-2012
3. Wetlands with in Shoreline Jurisdiction: The following Wetland Regulations shall be applicable within the shoreline jurisdiction:

(a) In lieu of POMC 18.04.080 Application requirements, the following wetland regulations shall apply within the shoreline jurisdiction.

(1) Application Procedures for New Development within the shoreline jurisdiction. Any new development containing a regulated wetland or its buffer, or within 200 feet of a regulated wetland or its buffer, shall provide the following special reports, as required by the department, prior to any development authorization by the city. If an environmentally sensitive area is within 200 feet of the parcel but not on the parcel, every effort should be made to obtain the required information. The department may require additional reports or information to further identify potential impacts to any part of the environment:

(a) Wetland report consistent with the provisions of WAC 173-26-221(2)(c)(i);

(b) Wetland mitigation plan consistent with the provisions of WAC 173-26-221(2)(c)(i)

(c) Erosion and sedimentation control measures and/or a site development activity permit as required by the city’s stormwater management regulations consistent with the provisions of WAC 173-26-221(2)(c)(i);

(b) In lieu of POMC 18.04.090 Determination of wetland boundaries, the following wetland regulations shall apply within the shoreline jurisdiction.

(1) The determination of the wetland edge or boundary shall be done in accordance with the delineation methodology specified in of WAC 173-26-221(2)(c)(i), acceptable to the city or Washington State Department of Ecology. and as follows;

(a) Wetland Identification: Wetlands shall be identified in accordance with the requirements of RCW 36.70A.175 and 90.58.380 and consistent with the criteria in the Washington State Wetland Identification and Delineation Manual, (Ecology Publication 96-94).

(b). Wetland Rating System: Wetlands shall be rated based on categories that reflect the functions and values of each wetland. Wetland categories shall be based on the criteria provided in the Washington State Wetland Rating System for Western Washington, revised August 2004 (Ecology Publication #04-06-025). These categories are generally defined as follows:

Adopted by Council Resolution 009-12, 6-12-2012
(1) Category I Wetlands: Category I wetlands are those wetlands of exceptional value in terms of protecting water quality, storing flood and storm water, and/or providing habitat for wildlife as indicated by a rating system score of 70 points or more. These are wetland communities of infrequent occurrence that often provide documented habitat for critical, threatened or endangered species, and/or have other attributes that are very difficult or impossible to replace if altered.

(2) Category II Wetlands: Category II wetlands have significant value based on their function as indicated by a rating system score of between 51 and 69 points. They do not meet the criteria for Category I rating but occur infrequently and have qualities that are difficult to replace if altered.

(3) Category III Wetlands: Category III wetlands have important resource value as indicated by a rating system score of between 30 and 50 points.

(4) Category IV Wetlands: Category IV wetlands are wetlands of limited resource value as indicated by a rating system score of less than 30 points. They typically have vegetation of similar age and class, lack special habitat features, and/or are isolated or disconnected from other aquatic systems or high quality upland habitats.

(2) The applicant shall be responsible for hiring a qualified wetland specialist to determine the wetland boundaries through a field survey. This specialist shall stake or flag the wetland boundary. For all new development, as required by the department, this line shall be surveyed by a professional land surveyor licensed in the state of Washington. The regulated wetland boundary and regulated wetland buffer shall be identified on all grading, landscaping, site, on-site septic system designs (BSAs), utility or other development plans submitted in support of the project.

(3) The department may perform a delineation of a wetland boundary on parcels where no more than one single-family dwelling unit is allowed.

(4) Where the applicant has provided a delineation of a wetland boundary, the department may verify the wetland boundary at the cost of the applicant and may request that adjustments to the boundary be made by a wetland specialist.

(C) In lieu of POMC 18.04.100 Wetland Mitigation Requirements, the following wetland regulations shall apply within the shoreline jurisdiction.

Adopted by Council Resolution 009-12, 6-12-2012
1) Mitigation Sequence. Projects permitted under this chapter will be reviewed subject to the provision of "no net loss" consistent with WAC 173-26-201(2)(e) and in the following order of preference with regard to regulated wetlands or their buffers:

   (a) Application of the mitigation sequence achieves no net loss of ecological functions for each new development and does not result in required mitigation in excess of that necessary to assure that development will result in no net loss of shoreline ecological functions and not have a significant adverse impact on other shoreline functions fostered by the policy of the act.

   (b) Avoid the impact by not performing a certain action or parts of an action;

   (c) Minimize the impact by limiting the degree or magnitude of the action and its implementation;

   (d) Mitigate through one of the following methods:

      (i) Restore the impact by repairing or rehabilitating the affected environment;

      (ii) Reduce or eliminate the adverse impact over time; and/or

      (iii) Compensate for the impact by replacing, enhancing or providing alternative resources or environments within the same drainage basin that substitute as closely as possible for the affected resources or environments (see subsection (2) of this section);

      (iv) Mitigation for individual projects may include any combination of the above measures.

(2) Scope of Compensatory Mitigation. In making a determination of the extent to which mitigation shall be required subject to the provision of "no net loss" consistent with WAC 173-26-201(2)(e), the department will consider all of the following:

   (a) When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation within the watershed that addresses limiting factors or identified critical needs for shoreline resource conservation based on watershed or comprehensive resource management plans applicable to the area of impact may be authorized. Authorization of compensatory mitigation measures may require appropriate

Adopted by Council Resolution 009-12, 6-12-2012
safeguards, terms or conditions as necessary to ensure no net loss of ecological functions.

(b) The functional characteristics of the wetland and its resource value within the watershed or sub-basin in which the wetland is located;

(c) The short- and long-term adverse impacts of the action upon the wetland and associated ecosystem, and the potential for repair of the impairment or loss;

(d) The category, size, and location of the wetland altered, and the effect it may have upon the surrounding system, watershed or wetland;

(e) Observed or predicted trends of gains or losses of this category of wetland in the watershed, considering qualitative and/or quantitative information about natural and human processes; and

(f) The likely success of the possible mitigation measures.

(3) Mitigation Plan Requirements. Any applicant required to perform compensatory wetland mitigation or contribute to a mitigation bank as a condition of approval for a development project shall submit a wetlands mitigation plan consistent with the provisions of WAC 173-26-221(2)(c)(i) to the department in accordance with Chapter 18.14 POMC.

(4) On-Site Compensatory Mitigation – General Requirements. Compensatory mitigation shall be required for projects in regulated Category I, II, III or IV wetlands or buffers when alteration of the wetland or buffer results in a loss to either wetland or buffer. The preferred compensation is on-site, in-kind; the least preferred compensation is off-site, out-of-kind compensation. The following requirements apply to compensatory mitigation plans:

(a) Any person who alters wetlands, such that they require compensatory mitigation, shall restore or enhance equivalent areas or greater areas of those wetlands in order to compensate for the loss (see Table 18.04.100).

(b) Where feasible, restored or enhanced wetlands shall be a higher category than the altered wetland.

(c) Compensation areas shall be determined according to function, size, type, location, time factors, ability to be self-sustaining and likelihood of mitigation success. Wetland functions shall be determined by a qualified wetland specialist using the best available information and technology.
(d) Compensation (mitigation) plans shall be completed and approved by the department prior to wetland alteration. Compensation shall be completed concurrent with the development activity unless a delay of the compensation project will reduce adverse impacts to the wetlands or improve the likelihood of success.

(e) Construction of compensation projects shall be timed to reduce adverse impacts to the wetlands. Grading and related earthwork should normally be limited to the period between May 1st and September 30th. Planting of vegetation shall be specifically timed to the needs of these plants. This may require the construction of the compensation area over several seasons.

(f) Areas that are used for compensatory mitigation must be protected from development and degradation. The applicant shall provide for long-term preservation of the compensation area through such protective mechanisms as conservation easements, critical area tracts, deed restrictions, or dedication to a local jurisdiction or a private or public land trust.

(g) The applicant shall demonstrate sufficient scientific expertise, supervisory and financial ability to fully implement the compensation measures. A performance bond, assignment of savings, or other like security will be required by the department in an amount necessary to provide for future site monitoring and possible corrective action required for compensatory mitigation projects. This bond, assignment of savings, or the security will be released no later than five years after completion of the mitigation project.

(h) Site Selection. Compensation sites shall be selected in the following order of preference:

(i) Filled, drained, or cleared sites, which were formerly viable wetlands and where appropriate hydrology exists;

(ii) Upland sites within 200 feet of wetlands, if the upland is significantly disturbed and does not contain a mature forested or shrub community of native species, and where appropriate natural sources of water exist.

(5) Wetland Replacement Ratios. The following ratios, as well as consideration of the factors listed in this section, and Table 18.04.100, shall be used to determine the appropriate amounts of on-site created, restored or enhanced wetland that will be required to replace impacted wetlands. The first number specifies the amount of wetland area requiring replacement and the second specifies the amount of wetland area altered.

Adopted by Council Resolution 009-12, 6-12-2012
Table 18.04.100: Wetland Replacement Ratios

<table>
<thead>
<tr>
<th>Category</th>
<th>Enhancement</th>
<th>Creation/Restoration</th>
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</thead>
<tbody>
<tr>
<td>Category I:</td>
<td>6:1</td>
<td>3:1</td>
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<tr>
<td>Category II and III:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Forested Class:</td>
<td>4:1</td>
<td>2:1</td>
</tr>
<tr>
<td>Scrub/Shrub Class:</td>
<td>3:1</td>
<td>1.5:1</td>
</tr>
<tr>
<td>Emergent Class:</td>
<td>3:1</td>
<td>1.5:1</td>
</tr>
<tr>
<td>Open Water:</td>
<td>*</td>
<td>1:1</td>
</tr>
<tr>
<td>Category IV:</td>
<td>2:1</td>
<td>1:1</td>
</tr>
</tbody>
</table>

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

(b) The department may increase or decrease the ratios based on one or more of the following:

(i) The probable success of the proposed restoration or enhancement;

(ii) The period of time between destruction and replication of wetland functions;

(iii) Projected losses in functions and value;

(iv) Replacement as a result of an illegal action.

Adopted by Council Resolution 009-12, 6-12-2012
(6) Off-Site Compensatory Mitigation.

(a) The department may allow off-site compensation mitigation if on-site compensation is not scientifically feasible due to natural conditions; or is not practical due to potentially adverse impacts from existing surrounding land uses; or proposed functions at the site of the proposed restoration are greater than the lost wetland functions.

(b) Off-site compensation will occur within an area where mitigation success is most likely and where there will be significant improvement to the water resource.

(c) Off-site compensation will occur in the same watershed (drainage basin) which is adversely impacted.

(d) Off-site mitigation will be accomplished through the purchase of credit in an established mitigation bank and/or other sites approved by the department.

(7) Monitoring Requirements. The city shall require monitoring reports on an annual basis for a minimum of three years, or until the department determines that the mitigation project has achieved success. The wetlands mitigation plan shall provide specific criteria for monitoring the mitigation project. Criteria shall be project-specific and a scientifically acceptable means to aid the department in evaluating whether or not the project has achieved success (see POMC 18.14.050 for wetland mitigation performance standards).

(8) Mitigation Banking. The city encourages the creation of a public or private mitigation banking system when feasible.
PORT ORCHARD MUNICIPAL CODE SECTION 18 ENVIRONMENTAL REGULATIONS
(EXCERPTED SECTIONS OF PORT ORCHARD ORDINANCE 030-9 SECTION 3)
Chapter 18.04
WETLANDS

Sections:
- 18.04.010 Purpose.
- 18.04.020 Wetland categories.
- 18.04.030 Regulated and nonregulated wetlands classification.
- 18.04.040 Development standards.
- 18.04.050 Regulated uses and activities.
- 18.04.060 Additional development standards for regulated uses.
- 18.04.070 Special use review.

18.04.010 Purpose.
This chapter applies to all regulated uses within or adjacent to areas designated as wetlands, as categorized below. The intent of this chapter is to:

(1) Achieve no net loss and increase the quality and function of wetland acreage, functions and values within the city. Mitigation measures, as conditions of permits, must have a reasonable expectation of success. Under the conditions of this chapter, the department may deny development proposals that would irreparably impact regulated wetlands;

(2) Protect the public expenditures that could arise from improper wetland uses and activities;

(3) Plan wetland uses and activities in a manner that allows property holders to benefit from wetland property ownership wherever allowable under the conditions of this chapter and the other provisions of the critical areas ordinance;

(4) Preserve natural flood control, stormwater storage and drainage or stream flow patterns; and

(5) Prevent turbidity and pollution of wetlands, and fish or shellfish bearing waters to maintain the wildlife habitat. (Ord. 030-09 § 3 (Exh. A)).

18.04.020 Wetland categories.
(1) Wetlands are those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, estuaries, marshes, bogs, and similar areas. For regulatory purposes, wetland delineations shall be determined by using the Washington State Wetlands Identification and Delineation Manual, March 1997, or as amended hereafter.

Adopted by Council Resolution 009-12, 6-12-2012
The city uses the Department of Ecology’s Washington State Wetland Rating System for Western Washington, Second Edition, 1993, or as amended hereafter to categorize wetlands for the purposes of establishing wetland buffer widths, wetland uses and replacement ratios for wetlands. This system consists of four wetland categories (see Chapter 18.25 POMC, Attachments, Attachment A, for wetland categories). (Ord. 030-09 § 3 (Exh. A)).

18.04.030 Regulated and nonregulated wetlands classification.
(1) Regulated Wetlands. (See classifications in POMC 18.25.010.)

(a) Category I wetlands: All.

(b) Category II wetlands: All.

(c) Category III wetlands: 2,500 square feet or greater.

(d) Category IV wetlands: 10,000 square feet or greater.

(e) Wetlands intentionally created from nonwetland areas to mitigate conversion of other wetlands.

(f) Groups of isolated wetlands, any one or more of which may be smaller than any of the above categories, but which in aggregate may be as valuable as any of the above categories.

(2) Nonregulated Wetlands.

(a) Category III wetlands: Isolated wetlands less than 2,500 square feet.

(b) Category IV wetlands: Isolated wetlands less than 10,000 square feet.

(c) Created wetlands: Wetlands created intentionally from a nonwetland site that were not required to be constructed as mitigation for adverse wetland impacts. These may include, but are not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment ponds, farm ponds not contiguous, as defined in this title, and landscape amenities. The applicant shall bear the burden of proving that the wetland was intentionally created from a nonwetland site. Where enhancements or restorations are made to nonregulated, or Category III or IV wetlands for purposes other than mitigation, the original rating shall be maintained even if the changes would otherwise result in a higher classification. (Ord. 030-09 § 3 (Exh. A)).

18.04.040 Development standards.
For the purpose of the provisions of the critical areas ordinance, a regulated wetland and its buffer is a critical area.

Adopted by Council Resolution 009-12, 6-12-2012
(1) There shall be no activity allowed within a regulated wetland or its buffer unless specifically allowed under the CAO in Table 18.04.050. Any regulated uses not specifically listed in Table 18.04.050 shall be considered unclassified and may be allowed if granted a special use review in accordance with POMC 18.04.070.

(2) Buffers. Buffers shall remain undisturbed natural vegetation areas except where the buffer can be enhanced to improve its functional attributes. Any buffer enhancement and/or limited view clearing activity must be reviewed and approved by the department. No refuse shall be placed in the buffer.

(3) Buffer Widths. All regulated wetlands shall be surrounded by a buffer zone as follows:

<table>
<thead>
<tr>
<th>Wetland Category</th>
<th>Buffer Width Standard</th>
<th>Minimum Building Setback</th>
<th>Other Development Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>200 feet</td>
<td>15 feet beyond buffer</td>
<td>See subsections (5), (6), and (7) of this section for criteria relating to buffer averaging, decreased buffer provisions and increased buffer provisions.</td>
</tr>
<tr>
<td>II</td>
<td>100 feet</td>
<td>15 feet beyond buffer</td>
<td></td>
</tr>
<tr>
<td>III</td>
<td>50 feet</td>
<td>15 feet beyond buffer</td>
<td></td>
</tr>
<tr>
<td>IV</td>
<td>25 feet</td>
<td>15 feet beyond buffer</td>
<td></td>
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</tbody>
</table>

(4) Buffer Measurement. All buffers shall be measured on a horizontal plane from the regulated wetland edge as marked in the field.

(5) Buffer Averaging. Standard buffer widths may be modified by the department for a development proposal by averaging buffer widths. The total area contained within the buffer after averaging shall be no less than that contained within the standard buffer prior to averaging. The buffer shall not be reduced by more than 50 percent of the standard buffer width at any point. The department may allow wetland buffer averaging where it can be demonstrated that such averaging can clearly provide as great or greater functions and values as would be provided under the standard buffer requirement. Averaging of buffer widths may be allowed where the applicant demonstrates one or more of the following:

(a) That the wetland contains variations in sensitivity due to existing physical characteristics;

Adopted by Council Resolution 009-12, 6-12-2012
(b) That low intensity uses would be located within 200 feet of areas where buffer width is reduced, and that such low intensity uses are guaranteed in perpetuity by covenant, deed restriction, easement, or other legally binding mechanism;

(c) That averaging is necessary to avoid an extraordinary hardship to the applicant caused by circumstances peculiar to the property.

(6) Decreased Buffer Provisions. The department may decrease buffer widths upon granting of a variance, according to the procedures of Chapter 18.01 POMC or through buffer averaging as outlined in subsection (5) of this section. Granting of a reduced buffer shall be the minimum necessary to accommodate the permitted use. In lieu of going through the formal variance process, an administrative reduction to buffer widths may be granted subject to the following criteria:

(a) For minor new development, the department may administratively reduce the buffer by up to 25 percent, pursuant to the variance criteria listed in POMC 18.01.070. Where an administrative buffer reduction is granted, fencing or signage of the buffer edge shall be required. The order of sequence for such buffer reductions shall be as follows:

(i) Use of buffer averaging maintaining 100 percent of the buffer area under the standard buffer requirement;

(ii) Reduction of the overall buffer area by no more than 25 percent of the area required under the standard buffer requirement;

(iii) Enhancement of existing degraded buffer area and replanting of the disturbed buffer area;

(iv) The use of alternative on-site wastewater systems in order to minimize site clearing;

(v) Infiltration of stormwater where soils permit; and

(vi) Retention of existing native vegetation on other portions of the site in order to offset habitat loss from buffer reduction.

(b) For major new development, the department may reduce the buffer by up to 25 percent, where it can be demonstrated in a special report that enhancement of the existing low quality buffer can clearly provide as great or greater functions and values as would be provided under the standard buffer requirement.

(c) A buffer enhancement plan must utilize native vegetation.

(d) The minimum buffer shall be no less than 25 feet, except as allowed under a formal variance or reasonable use approval.
(7) Increased Buffer Provisions. The department may increase buffer zone widths for a development project on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values. Such determination shall be based on site-specific and project related conditions, which include, but are not limited to:

(a) Wetland sites with known locations of endangered or threatened species for which a habitat management plan indicates a larger buffer is necessary to protect habitat values for such species;

(b) The adjacent land is susceptible to severe erosion and erosion control measures alone will not effectively prevent adverse wetland impacts;

(c) The adjacent land on the development proposal site has minimal vegetative cover or slopes greater than 30 percent; or

(d) The proposed development within 200 feet of the regulated wetland would be a high intensity use.

(8) Fencing and Signs. This subsection applies to those wetlands and their buffers that are within 200 feet of regulated development activities.

(a) Wetland buffers shall be temporarily fenced or otherwise suitably marked, as required by the department, between the area where the construction activity occurs and the buffer. Fences shall be made of a durable protective barrier and shall be highly visible. Silt fences and plastic construction fences may be used to prevent encroachment on wetlands or their buffers by construction. Temporary fencing shall be removed after the site work has been completed and the site is fully stabilized per city approval.

(b) The department may require permanent signs and/or fencing be placed on the common boundary between a wetland buffer and the adjacent land. Such signs will identify the wetland buffer. The department may approve an alternate method of wetland and buffer identification, if it provides adequate protection to the wetland and buffer.

(9) Building or Impervious Surface Setback Lines. A building or impervious surface setback line of 15 feet is required from the edge of any wetland buffer. Minor structural or impervious surface intrusions into the areas of the setback may be permitted if the department determines that such intrusions will not adversely impact the wetland. The setback shall be identified on a site plan and filed as an attachment to the notice to title as required by POMC 18.01.100 (Critical area and buffer notice to title). (Ord. 030-09 § 3 (Exh. A)).

18.04.050 Regulated uses and activities.

(1) Major and minor new development activities on properties containing regulated wetlands and buffers are subject to the development standards in this chapter, as permitted in the underlying zoning
designation. Requirements for additional activities are specified in Table 18.04.050. The city may grant exceptions to these uses and activities according to the intent and specifications of the provisions of the critical areas ordinance. All authorized uses and activities in a regulated wetland or its buffer shall be subject to conditions established by the department and may be subject to mitigation as required by this title.

(2) Development shall be classified as “allowed,” “permitted,” “special use” (POMC 18.04.070) or “prohibited” according to this section. Any regulated uses not specifically listed in Table 18.04.050 shall be considered unclassified and may be allowed if granted a special use review in accordance with POMC 18.04.070. The wetland categories in Table 18.04.050 are defined in POMC 18.25.010 Attachment A. For the purpose of Table 18.04.050, “W” and “B” refer to the terms “wetland” and “buffer.”

Key:

A = Allowed outright

P = Permitted subject to development standards and underlying permit

S = Special use review required

X = Prohibited

| Table 18.04.050: Regulated Uses and Activities in Regulated Wetlands and Buffers | Category I | | Category II | | Category III | | Category IV |
|---|---|---|---|---|---|---|
| | W | B | W | B | W | B | W | B |
| Agriculture – Existing and ongoing | A | A | A | A | A | A | A | A |
| Agriculture – Building (grazed wet meadows) | X | X | X | S | S | P | P | |
| Agriculture conversion A. (Wetland dependent) | X | X | X | S | S | S | S | S |
| B. (Nonwetland dependent) | X | X | X | X | S | S | S | S |
| Bank stabilization | X | X | S | S | S | S | P | P |
| Boat ramp | X | X | S | S | S | S | S | S |
| Dock/float | S | S | S | S | S | S | P | P |
| Draining wetlands (associated with no other permitted use, except as allowed under POMC 18.01.040) | X | N/A | X | N/A | X | N/A | X | N/A |
| Education and scientific research (no permanent structures) | P | P | P | P | P | A | P | |

Adopted by Council Resolution 009-12, 6-12-2012
<table>
<thead>
<tr>
<th>Activity</th>
<th>S</th>
<th>S</th>
<th>P</th>
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<td>Enhancement</td>
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<td>X</td>
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<td>S</td>
<td>S</td>
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<tr>
<td>Excavation (not associated with enhancement)</td>
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<td>X</td>
<td>S</td>
<td>S</td>
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<tr>
<td>Fill (associated with no other use less than 0.49 acres)</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<td>Fish hatchery</td>
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<td>S</td>
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<td>S</td>
<td>S</td>
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<tr>
<td>Flooding (associated with no other use)</td>
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<td>X</td>
<td>S</td>
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<tr>
<td>Forest practice – Class IV general or COHP</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
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</tr>
<tr>
<td>Golf course</td>
<td>X</td>
<td>X</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
</tr>
<tr>
<td>Land division</td>
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<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
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<tr>
<td>Mineral extraction</td>
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<td>S</td>
<td>S</td>
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<tr>
<td>Mooring buoy</td>
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<td>P</td>
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<td>Navigational aid</td>
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<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
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<tr>
<td>Parks – Public and private</td>
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<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>P</td>
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<tr>
<td>Ponds – Stock watering</td>
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<td>X</td>
<td>S</td>
<td>X</td>
<td>S</td>
<td>S</td>
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</tr>
<tr>
<td>Public facility</td>
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<td>X</td>
<td>X</td>
<td>S</td>
<td>S</td>
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<td>Public project of significant importance</td>
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<td>Road/street – Public/private access</td>
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<td>Expand within:</td>
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<tr>
<td>A. Existing ROW</td>
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<td>S</td>
<td>S</td>
<td>S</td>
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<tr>
<td>B. New facilities</td>
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<td>X</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
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<td>Signs (interpretation, hazard, critical area boundary, survey markers)</td>
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<tr>
<td>Stormwater, private R/D facility</td>
<td>X</td>
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<td>X</td>
<td>S</td>
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<td>Stormwater, regional R/D facility</td>
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</tbody>
</table>
18.04.060 Additional development standards for regulated uses.

In addition to meeting the development standards above (POMC 18.04.040), those regulated uses identified below shall also comply with the standards of this section and other applicable state, federal and local ordinances.

1. Docks. Construction of a dock, pier, moorage, float or launch facility may be permitted subject to criteria in the city’s shoreline master program and where no existing buffer or wetland vegetation would be significantly altered.

2. Forest Practice, Class IV General, and Conversion Option Harvest Plans (COHPs). All timber harvesting and associated development activity, such as construction of roads, shall comply with the provisions of the critical areas ordinance, including the maintenance of buffers around regulated wetlands.

3. Agricultural Restrictions. In all development proposals which would permit introduction of agricultural uses, damage to Category I, II and III regulated wetlands shall be avoided. These restrictions shall not apply to those regulated wetlands defined as grazed wet meadows, regardless of their classification only where grazing has occurred within the last five years. Wetlands shall be avoided by one of the following methods:

   (a) Implementation of a farm conservation plan agreed upon by the conservation district and the applicant to protect and enhance the water quality of the wetland; and/or

   (b) Fencing located not closer than the outer buffer edge.

4. Road/Street Repair and Construction. Any private or public road or street repair, maintenance, expansion or construction, which is allowed, shall comply with the following minimum development standards:

   (a) No other reasonable or practicable alternative exists and the road or street crossing serves multiple properties whenever possible;

   (b) Publicly owned or maintained road or street crossings should provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc.;
(c) The road or street repair and construction are the minimum necessary to provide safe roads and streets;

(d) Mitigation shall be performed in accordance with specific project mitigation plan requirements.

(5) Land Divisions and Land Use Permits. All proposed divisions of land and land uses (including but not limited to the following: boundary or lot line adjustments, short plats, large lot subdivisions, master planned resorts, planned residential developments, conditional use permits, site plan reviews, binding site plans) which include regulated wetlands shall comply with the following procedures and development standards:

(a) Regulated wetlands, except the area with permanent open water, and wetland buffers may be included in the calculation of minimum lot area for proposed lots; provided, that other standards, including subsection (5)(c) of this section, are met.

(b) Land division approvals shall be conditioned to require that regulated wetlands and regulated wetland buffers be dedicated as open space tracts, or an easement or covenant encumbering the wetland and wetland buffer. Such dedication, easement or covenant shall be recorded together with the land division and represented on the final plat, short plat or binding site plan, and title.

(c) In order to implement the goals and policies of the provisions of the critical areas ordinance, to accommodate innovation, creativity, and design flexibility, and to achieve a level of environmental protection that would not be possible by typical lot-by-lot development, the use of the clustered development or similar innovative site planning is strongly encouraged for projects with regulated wetlands on the site.

(d) After preliminary approval and prior to final land division approval, the department may require the common boundary between a regulated wetland or associated buffer and the adjacent land be identified using permanent signs and/or fencing. In lieu of signs and/or fencing, alternative methods of wetland and buffer identification may be approved when such methods are determined by the department to provide adequate protection to the wetland and buffer.

(6) Surface Water Management. The following stormwater management activities within wetland or buffer areas may be allowed only if they meet the following requirements, in addition to the development standards in this chapter and in conformance with all other stormwater management regulations:

Surface water discharges from stormwater facilities or structures may be allowed; provided, that the new surface water discharges to regulated wetlands from retention/detention facilities, presettlement ponds, or other surface water management structures may be allowed; provided, that the discharge does not significantly increase or decrease the rate of flow and/or hydroperiod, nor decrease the water quality of

Adopted by Council Resolution 009-12, 6-12-2012
the wetland. Water quality treatment best management practices will be required prior to discharge. Pretreatment of surface water discharge through biofiltration or other means shall be required.

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

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

(b) Trails and related facilities shall be planned to minimize removal of trees, soil disturbance and existing hydrological characteristics, shrubs, snags and important wildlife habitat.

(c) Viewing platforms and benches, and access to them, shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected wetland.

(d) Trails and related facilities shall generally be located outside required buffers. Where trails are permitted within buffers they shall be located in the outer portion of the buffer and a minimum of 25 feet from the wetland edge, except where wetland crossings or viewing areas have been approved.

(e) Trails shall generally be limited to pedestrian use unless other more intensive uses, such as bike or horse trails, have been specifically allowed and mitigation has been provided.

(8) Utilities in Wetlands or Wetland Buffers.

(a) The utility development authorized in POMC 18.01.040 shall be allowed, subject to best management practices in wetlands and wetland buffers in accordance with Table 18.04.040.

(b) Construction of new utilities outside the road right-of-way or existing utility corridors may be permitted in wetlands or wetland buffers, only when no reasonable alternative location is available and the utility corridor meets the requirements for installation, replacement of vegetation and maintenance outlined below, and as required in the filing and approval of applicable permits and special reports (Chapter 18.14 POMC) required by this title.

(c) Sewer or On-Site Sewage Utility. Construction of sewer lines or on-site sewage systems may be permitted in regulated wetland buffers only when:

(i) The applicant demonstrates it is necessary to meet state and/or local health code minimum design standards (not requiring a variance for either horizontal setback or vertical separation); and/or

(ii) There are no other practicable or reasonable alternatives available and construction meets the requirements of this section. Joint use of the sewer utility corridor by other

Adopted by Council Resolution 009-12, 6-12-2012
utilities may be allowed. Special use review (POMC 18.04.070) will be required when such activities occur in wetland buffers.

(d) New utility corridors shall not be allowed when the regulated wetland or buffer has known locations of federal or state listed endangered, threatened or sensitive species, heron rookeries or nesting sites of raptors which are listed as state candidate or state monitor, except in those circumstances where an approved habitat management plan indicates that the utility corridor will not significantly impact the wetland or wetland buffer.

(e) New utility corridor construction and maintenance shall protect the regulated wetland and buffer environment by utilizing the following methods:

(i) New utility corridors shall be aligned when possible to avoid cutting trees greater than 12 inches in diameter at breast height (four and one-half feet), measured on the uphill side.

(ii) New utility corridors shall be revegetated with appropriate native vegetation at preconstruction densities or greater, immediately upon completion of construction, or as soon thereafter as possible, if due to seasonal growing constraints. The utility shall ensure that such vegetation survives.

(iii) Any additional utility corridor access for maintenance shall be provided as much as possible at specific points, rather than by parallel roads. If parallel roads are necessary, they shall be of a minimum width but no greater than 15 feet; and shall be contiguous to the location of the utility corridor on the side away from the wetland. Mitigation will be required for any additional access through restoration of vegetation in disturbed areas.

(iv) The department may require other additional mitigation measures.

(f) Utility corridor maintenance shall include the following measures to protect the regulated wetland and buffer environment:

(i) Where feasible, painting of utility equipment such as power towers shall not be sprayed or sandblasted, nor should lead-based paints be used.

(ii) No pesticides, herbicides or fertilizers may be used in wetland areas or their buffers except those approved by the EPA and Ecology. Where approved, herbicides must be applied by a licensed applicator in accordance with the safe application practices on the label.

(g) Parks. Development of public park and recreation facilities may be permitted; provided, that the following standards are followed:

No alteration of wetlands or wetland buffers is allowed except for such uses which are allowed in Table 18.04.050. For example, enhancement of wetlands and development of trails may be

Adopted by Council Resolution 009-12, 6-12-2012
allowed in wetlands and wetland buffers subject to special use requirements and approval of a wetland mitigation plan. (Ord. 030-09 § 3 (Exh. A)).

18.04.070 Special use review.
Development identified as a special use review in Table 18.04.050 may be approved, approved with conditions, or denied according to the procedures and criteria outlined in this section and per the process identified in Chapter 16.06 POMC. Special use review is an administrative process unless the underlying permit requires a public hearing. The department is authorized to take action on permits as required by this section.

(1) The department may approve a permit after review of the application and a wetland mitigation plan submitted in accordance with this chapter. The department shall determine whether the use or activity cannot be avoided because no reasonable or practicable alternative exists, the proposed use is consistent with the spirit and intent of the provisions of the critical areas ordinance and it will not cause adverse impacts to the wetland or the wetland buffer which cannot be mitigated. In taking action to approve a special use review, the department may attach reasonable conditions as necessary to minimize impacts, rectify impacts or compensate for impacts to the wetland or wetland buffer.

(2) The department shall deny a special use review request when it finds that the proposed use or activity is inconsistent with the provisions of the critical areas ordinance and/or will cause adverse impacts to the wetland or wetland buffer, which cannot be adequately mitigated and/or avoided.

(3) Special use review determinations are appealable to the hearing examiner pursuant to Chapter 16.06 POMC (appeals). (Ord. 030-09 § 3 (Exh. A)).

Adopted by Council Resolution 009-12, 6-12-2012
Chapter 18.06
FISH AND WILDLIFE HABITAT CONSERVATION AREAS

Sections:
18.06.010 Purpose.
18.06.020 Fish and wildlife habitat conservation area categories classification.
18.06.030 Development standards.

18.06.010 Purpose.
This chapter applies to all regulated uses included in the critical areas ordinance, or uses within 200 feet of areas designated as fish and wildlife habitat conservation areas, as categorized in POMC 18.06.020. The intent of this section is to:

(1) Preserve natural flood control, stormwater storage and drainage or stream flow patterns;

(2) Control siltation, protect nutrient reserves and maintain stream flows and stream quality for fish and marine shellfish;

(3) Prevent turbidity and pollution of streams and fish or shellfish bearing waters;

(4) Preserve and protect habitat adequate to support viable populations of native wildlife in both the city and Kitsap County; and

(5) Encourage nonregulatory methods of habitat retention whenever practical, through education, and the open space tax program. (Ord. 030-09 § 3 (Exh. A)).

18.06.020 Fish and wildlife habitat conservation area categories classification.
The following categories shall be used in classifying fish and wildlife habitat conservation areas:

(1) Streams. All streams which meet the criteria for Type S/1, F/2, Np/3, Ns/4 and 5 waters as set forth in the DNR Water Rating System (See Table 18.06.030).

(2) Saltwater Shorelines, and Lakes 20 Acres and Greater in Surface Area. Those saltwater shorelines and lakes defined as shorelines of the state in the Shoreline Management Act of 1971 and the city’s shoreline master program, as now or hereafter amended. Shorelines include: Type 1 waters as set forth in WAC 222-16-030 (DNR Water Rating System), as now or hereafter amended; commercial and recreational shellfish areas; kelp and eelgrass beds; and herring and smelt spawning areas.

(3) Lakes Less Than 20 Acres in Surface Area. Those lakes which meet the criteria for Type 2, 3, 4 and 5 waters as set forth in WAC 222-16-030, as now or hereafter amended. This includes lakes and ponds less than 20 acres in surface area and their submerged aquatic beds, and lakes and ponds planted with game fish by a governmental or tribal authority.

(4) Wildlife Conservation Areas.

Adopted by Council Resolution 009-12, 6-12-2012
(a) Class I Wildlife Conservation Areas.

(i) Habitats recognized by federal or state agencies for federal and/or state listed endangered, threatened and sensitive species documented in maps or databases available to Kitsap County and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.

(ii) Areas targeted for preservation by the federal, state and/or local government which provide fish and wildlife habitat benefits, such as important waterfowl areas identified by the U.S. Fish and Wildlife Service.

(iii) Areas that contain habitats and species of local importance.

(b) Class II Wildlife Conservation Areas.

(i) Habitats for state listed candidate and monitored species documented in maps or databases available to Kitsap County and its citizens, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.

(ii) Habitats which include attributes such as comparatively high wildlife density; high wildlife species richness; significant wildlife breeding habitat, seasonal ranges or movement corridors of limited availability and/or high vulnerability. These habitats may include caves, cliffs, islands, meadows, old-growth/mature forest, snag-rich areas, talus slopes, and urban natural open space. (Ord. 030-09 § 3 (Exh. A)).

18.06.030 Development standards.
Those regulated uses identified below within designated fish and wildlife habitat conservation areas shall comply with the performance standards outlined in this section:

(1) Buffers and Building Setbacks. Buffers or setbacks shall be maintained along the perimeter of fish and wildlife habitat conservation areas, as listed in Table 18.06.030. Distances shall be measured from the ordinary high water mark (OHM) or from the top of the bank where the OHM cannot be identified. Buffers shall be retained in their natural condition. It is acceptable, however, to enhance the buffer by planting indigenous vegetation, as approved by the department. Alteration of buffer areas may be allowed for water-dependent and water-related activities subject to subsection (4) of this section, and for development authorized by POMC 18.01.080, Reasonable use exception, POMC 18.01.040, General exemptions, POMC 18.01.060, Standards for existing development, or POMC 18.01.070, Variances. The buffer width shall be increased to include streamside wetlands which provide overflow storage for storm waters, feed water back to the stream during low flows or provide shelter and food for fish. In braided channels, the ordinary high water mark or top of bank shall be defined so as to include the entire stream feature. Refuse shall not be placed in buffers.

Adopted by Council Resolution 009-12, 6-12-2012
Table 18.06.030: Fish and Wildlife Habitat Conservation Area Development Standards

<table>
<thead>
<tr>
<th>CATEGORY</th>
<th>BUFFER WIDTH STANDARD</th>
<th>MINIMUM BUILDING SETBACK</th>
<th>OTHER DEVELOPMENT STANDARDS</th>
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<tr>
<td>Streams</td>
<td></td>
<td></td>
<td>For minor new development the department may reduce the buffer width by up to 25% through an administrative buffer reduction process when review with the Washington State Department of Fish and Wildlife determines that conditions are sufficient to protect the affected habitat. The buffer shall not be less than 25 feet. Where applicable, refer to the development standards in POMC 18.04.040 (Wetlands) and POMC 18.08.030 (Geologically hazardous areas). Where such features occur on a site, the more restrictive buffer or building setback will apply.</td>
</tr>
<tr>
<td>Water Type</td>
<td>S  200 feet 15 feet beyond buffer</td>
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<td></td>
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<tr>
<td></td>
<td>F  150 feet 15 feet beyond buffer</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>Np  50 feet 15 feet beyond buffer</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ns  50 feet 15 feet beyond buffer</td>
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<tr>
<td>Saltwater Shorelines, Lakes – 20 Acres and Greater (Defined as Waters of the State) as Regulated by the Port Orchard Shoreline Management Plan</td>
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<td>See POMC Chapter 19, Shoreline Master Program</td>
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<td>Lakes – Less Than 20 Acres (Non-Type 1 Waters of the State)</td>
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<td>Zoning Designation</td>
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<td>Commercial, Mixed Use</td>
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<td>Employment</td>
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<td>Greenbelt, Residential</td>
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<td>Wildlife Habitat Conservation Areas</td>
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</table>

Adopted by Council Resolution 009-12, 6-12-2012
(a) Buffer Widths and Setbacks for Shorelines. The building setback or buffer width for new development shall be based on the city’s shoreline master program environment designation.

(b) Provision for Decreasing Buffer. For minor new development, the department may decrease the buffer in consultation with the Washington State Department of Fish and Wildlife, and after review of a mitigation plan when required, if the city determines that conditions are sufficient to protect the affected habitat. A habitat management plan (Chapter 18.16 POMC) may be required. The department may reduce the buffer width by up to 25 percent, but the buffer shall not be less than 25 feet. Granting of reduced buffer shall be the minimum necessary for the permitted use. The order of sequence for such buffer reductions shall be as follows:

(i) Use of buffer averaging maintaining 100 percent of the buffer area under the standard buffer requirement;

(ii) Reduction of the overall buffer area by no more than 25 percent of the area required under the standard buffer requirement;

(iii) Enhancement of existing degraded buffer area and replanting of the disturbed buffer area;

(iv) The use of alternative on-site wastewater systems in order to minimize site clearing;

(v) Infiltration of stormwater where soils permit; and

(vi) Retention of existing native vegetation on other portions of the site in order to offset habitat loss from buffer reduction.

(c) Provision for Increasing Buffer. The department may increase the buffer width whenever a development proposal has known locations of endangered or threatened species for which a habitat management plan indicates a larger buffer is necessary to protect habitat values for such species; or when the buffer is located within a landslide or erosion hazard area.

(d) Streams in Ravines – Buffers. For streams in ravines with ravine sides 10 feet or greater in height, the minimum buffer width shall be the minimum buffer required for the stream type, or a buffer width which extends 25 feet beyond the top of the slope, whichever is greater.

(e) Conditional Buffer Alterations. Water-dependent structures and utilities may alter the required buffer when no other reasonable or practicable alternative exists and the development is consistent with the city’s shoreline master program. Any alteration of a buffer shall be the least
necessary and shall require, except for approved water dependent uses for minor new development, an approved habitat management plan, which adequately protects habitat values.

(f) Dedication of Buffers. Buffer areas shall be dedicated as permanent open space tracts or dedicated easements, functioning as critical areas buffers or as required by the department.

(2) Class I Wildlife Conservation Areas Development Standards. All development as described within this title or within 200 feet of designated Class I wildlife conservation areas shall adhere to the following standards:

(a) All sites with known locations of Class I wildlife conservation areas or sites within 200 feet to known locations of Class I wildlife conservation areas will require, for all development permits, the submittal and approval of a habitat management plan as specified in Chapter 18.14 POMC (Special Reports) by the department. In the case of bald eagles, an approved bald eagle management plan by the Washington State Department of Fish and Wildlife, meeting the requirements and guidelines of the bald eagle protection rules (WAC 232-12-292), as now or hereafter amended shall satisfy the requirements for a habitat management plan (HMP). An HMP shall consider measures to retain and protect the wildlife habitat and shall consider effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of natural vegetation.

(b) All new development within ranges and habitat elements with which Class I wildlife have a critical habitat may require the submittal of a habitat management plan (HMP) as specified in Chapter 18.14 POMC (Special Reports). An HMP shall consider measures to retain and protect the wildlife habitat and shall consider effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of natural vegetation. The requirement for an HMP shall be determined during the SEPA/critical areas review on the project.

(3) Class II Wildlife Conservation Area Development Standards. All development within designated Class II wildlife conservation areas shall adhere to the following standards:

All major new development within Class II wildlife conservation areas may require the submittal of a habitat management plan (HMP). An HMP shall consider measures to retain and protect the wildlife habitat and shall consider effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of natural vegetation. The requirement for an HMP shall be determined during the SEPA/critical areas review on the project.

(4) Stream Crossings. Any private or public road expansion or construction which is allowed and must cross streams classified within this title shall comply with the following minimum development standards:

(a) Bridges or bottomless culverts shall be required for all Type 1, 2 and 3 streams, which have salmonid breeding habitat. Other alternatives may be allowed upon submittal of a habitat management plan which demonstrates that other alternatives would not result in significant

Adopted by Council Resolution 009-12, 6-12-2012
impacts to the fish and wildlife conservation area, as determined appropriate through the Washington State Department of Fish and Wildlife, hydraulics project approval process. The plan must demonstrate that salmon habitat will be replaced on a 1:1 ratio;

(b) Crossings shall not occur in salmonid spawning areas unless no other feasible crossing site exists. For new development proposals, if existing crossings are determined to adversely impact salmon spawning or passage areas, new or upgraded crossings shall be located as determined necessary through coordination with the Washington State Department of Fish and Wildlife;

(c) Bridge piers or abutments shall not be placed in either the floodway or between the ordinary high water marks unless no other feasible alternative placement exists;

(d) Crossings shall not diminish flood carrying capacity;

(e) Crossings shall serve multiple properties whenever possible;

(f) Where there is no reasonable alternative to providing a conventional culvert, the culvert shall be the minimum length necessary to accommodate the permitted activity.

(5) Stream Relocations. Stream relocations for the purpose of flood protection and/or fisheries restoration shall only be permitted when adhering to the following minimum performance standards and when consistent with Washington State Department of Fish and Wildlife hydraulic project approval:

(a) The channel, bank and buffer areas should be replanted with native vegetation that replicates a natural, undisturbed riparian condition; and

(b) For those shorelands and waters designated as frequently flooded areas pursuant to Chapter 18.10 POMC, a professional engineer licensed in the state of Washington shall provide information demonstrating that the equivalent base flood storage volume and function will be maintained;

(c) Relocated stream channels shall be designed to meet or exceed the functions and values of the stream to be relocated.

(6) Pesticides, Fertilizers and Herbicides. No pesticides, herbicides or fertilizers may be used in fish and wildlife conservation areas or their buffers, except those approved by the EPA and approved under a DOE water quality modification permit for use in fish and wildlife habitat conservation area environments. Where approved, herbicides must be applied by a licensed applicator in accordance with the safe application practices on the label.

(7) Land Divisions and Land Use Permits. All proposed divisions of land and land uses (subdivisions, short subdivisions, short plats, long and large lot plats, planned residential developments, conditional use permits, site plan reviews, binding site plans) which include fish and wildlife habitat conservation areas shall comply with the following procedures and development standards:

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(a) The open water area of lakes, streams, and tidal lands shall not be permitted for use in calculating minimum lot area.

(b) Land division approvals shall be conditioned so that all required buffers are dedicated as open space tracts, or an easement or covenant encumbering the buffer. Such dedication, easement or covenant shall be recorded together with the land division and represented on the final plat, short plat or binding site plan.

(c) In order to avoid the creation of non-conforming lots, each new lot shall contain at least one building site that meets the requirements of this title, including buffer requirements for habitat conservation areas. This site must also have access and a sewage disposal system location that are suitable for development and does not adversely impact the fish and wildlife conservation area.

(d) After preliminary approval and prior to final land division approval, the department may require the common boundary between a required buffer and the adjacent lands be identified using permanent signs. In lieu of signs, alternative methods of buffer identification may be approved when such methods are determined by the department to provide adequate protection to the aquatic buffer.

(e) In order to implement the goals and policies of this title, to accommodate innovation, creativity, and design flexibility, and to achieve a level of environmental protection that would not be possible by typical lot-by-lot development, the use of the planned residential development process is strongly encouraged for projects within designated fish and wildlife habitat conservation areas.

(8) Agricultural Restrictions. In all development proposals, which would permit introduction of agriculture to fish and wildlife habitat conservation areas, damage to the area shall be avoided by one of the following methods:

   (a) Implementation of the farm conservation plan, agreed upon by the Kitsap conservation district and the applicant, to protect and enhance the water quality of the aquatic area; and/or

   (b) Fencing located not closer than the outer buffer edge.

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

   (a) Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or other such previously disturbed areas;
(b) Trails and related facilities shall be planned to minimize removal of trees, shrubs, snags and important wildlife habitat;

(c) Viewing platforms, interpretive centers, benches and access to them shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected conservation area;

(d) Trails, in general, shall be set back from streams so that there will be no or minimal impact to the stream from trail use or maintenance. Trails shall be constructed with pervious surfaces when feasible.

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

(a) The minor utility development authorized in POMC 18.01.040 shall be allowed within designated fish and wildlife habitat conservation areas, subject to best management practices.

(b) Construction of utilities may be permitted in fish and wildlife habitat conservation areas or their buffers, only when no practicable or reasonable alternative location is available and the utility corridor meets the requirements for installation, replacement of vegetation and maintenance outlined below, and as required in the filing and approval of special reports (Chapter 18.14 POMC) which may be required by this title.

(c) Sewer or On-Site Sewage Utility. Construction of sewer lines or on-site sewage systems may be permitted in fish and wildlife habitat conservation areas or their buffers when the applicant demonstrates it is necessary to meet state and/or local health code requirements; there are no other practicable alternatives available; and construction meets the requirements of this section. Joint use of the sewer utility corridor by other utilities may be allowed.

(d) New utility corridors shall not be allowed in fish and wildlife habitat conservation areas with known locations of federal or state listed endangered, threatened or sensitive species, heron rookeries or nesting sites of raptors which are listed as state candidate or state monitor, except in those circumstances where an approved habitat management plan indicates that the utility corridor will not significantly impact the conservation area.

(e) New Utility Corridor Construction. Utility corridor construction and maintenance shall protect the environment of fish and wildlife habitat conservation areas and their buffers.

   (i) New utility corridors shall be aligned when possible to avoid cutting trees greater than 12 inches in diameter at breast height (four and one-half feet) measured on the uphill side;

   (ii) New utility corridors shall be revegetated with appropriate native vegetation at not less than preconstruction vegetation densities or greater, immediately upon completion of

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construction or as soon thereafter as possible due to seasonal growing constraints. The utility shall ensure that such vegetation survives;

(iii) Any additional corridor access for maintenance shall be provided wherever possible at specific points rather than by parallel roads. If parallel roads are necessary, they shall be of a minimum width but no greater than 15 feet; and shall be contiguous to the location of the utility corridor on the side away from the conservation area.

(f) Utility corridor maintenance shall include the following measures to protect the environment of regulated fish and wildlife habitat conservation areas.

(i) Utility towers should be painted with brush, pad or roller and should not be sandblasted or spray painted, nor should lead-based paints be used.

(ii) Pesticides, Fertilizers and Herbicides. No pesticides or fertilizers may be used in fish and wildlife conservation areas or their buffers, except those herbicides approved by a licensed applicator in accordance with the safe application practices on the label.

(11) Bank Stabilization. A stream channel and bank, bluff, and shore may be stabilized when naturally occurring earth movement threatens existing structures (defined as requiring a building permit pursuant to the International Building Code), public improvements, unique natural resources, public health, safety or welfare, or the only feasible access to property, and, in the case of streams, when such stabilization results in maintenance of fish and wildlife habitat, flood control and improved water quality. Bluff, bank and shoreline stabilization shall also be subject to the standards of the city's shoreline master program, and any floodplain management plan adopted by the city.

Where bank stabilization is determined to be necessary, bioengineering or other nonstructural methods should be the first option for protection. Bulkheads and retaining walls may only be utilized as an engineering solution where it can be demonstrated that an existing residential structure cannot be safely maintained without such measures, and that the resulting retaining wall is the minimum length necessary to provide a stable building area for the proposed structure. The department may require that bank stabilization be designed by a professional engineer licensed in the state of Washington with demonstrated expertise in hydraulic actions of shorelines. Bank stabilization projects may also require a site development permit and hydraulic project approval from the Washington Department of Fish and Wildlife.

Nonstructural shoreline protective techniques are preferred to bulkheads or other types of shoreline armoring. Nonstructural techniques include but are not limited to: beach nourishment; coarse beach fill; gravel berms; vegetation plantings and bioengineering.

(12) Fencing and Signs. Prior to approval or issuance of permits for land divisions and new development, the department may require the common boundary between a required buffer and the adjacent lands be identified using fencing or permanent signs. In lieu of fencing or signs, alternative methods of buffer

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identification may be approved when such methods are determined by the department to provide adequate protection to the buffer.

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

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

   (a) No other reasonable or practicable alternative exists and the road or street crossing serves multiple properties whenever possible;

   (b) Expansion or construction of any private or public road shall only be allowed when adverse impacts cannot be avoided;

   (c) Public and private roads should provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc.;

   (d) The road or street construction is the minimum necessary, as required by the department, and shall comply with the department guidelines to provide public safety and mitigated stormwater impacts;

   (e) Construction time limits shall be determined in consultation with the Washington Department of Fish and Wildlife in order to ensure habitat protection. (Ord. 030-09 § 3).