

1 **Public Review Draft 3/1/17**

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4 **Kitsap County Code Title 19**

5 **Critical Areas Ordinance**

68 Clean Version (No underlines or Strikeouts)

9

1

Chapter 19.100

2

INTRODUCTION AND APPROVAL PROCEDURES

3 Sections:

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18 **19.100.105 Statement of purpose.**

19 The purpose of the ordinance codified in this title is to identify and protect critical areas as required by the Growth Management Act of 1990 (Chapter 17, Laws of 1990). This title supplements the development requirements contained in the various chapters of the Kitsap County Zoning Ordinance (Title 17 of the Kitsap County Code) by providing for additional controls and measures to protect critical areas. This title is adopted under the authority of Chapter 36.70A RCW, Chapter 36.70 RCW and the Kitsap County Code, as now or hereafter amended.

20 A. Goal Statement. It is the goal of Kitsap County that the beneficial functions and values of critical areas be preserved, and potential dangers or public costs associated

with the inappropriate use of such areas be minimized by reasonable regulation of uses within, adjacent to or directly affecting such areas, for the benefit of present and future generations.

21 Include in this statement a clear intent and commitment to protect the rights of [private property as required by the Constitution and GMA

22 B. Policy Goals. To implement the purpose and goal stated above, it is the intent of this title to accomplish the following:

23 Include as Policy Goal number 1 a policy the adheres to the Constitution and GMA to protect individual property rights and hold those right protected from administrative takings and other infringements under this title.

24 1. Conserve and protect the environmental factors that add to the quality of life within the federal, state and county regulations that protect critical areas for the benefit of current and future residents of Kitsap County and the State of Washington.

Where is the specific GMA reference that supports this policy?

1 2. Protect the public against avoidable losses from maintenance and replacement of public facilities, property damage, costs of publicly subsidizing mitigation of avoidable impacts, and costs for public emergency rescue and relief operations.

2 Where is the specific GMA reference that supports this policy?

3 3. Identify critical areas and their environmental functions and values.

4 4. Protect critical areas and their functions and values by regulating use and management within these areas and adjacent lands.

5 Exactly what are adjacent lands? Who determines that status? When is the determination made? If “adjacent” is not critical why would critical guideline apply? Do you not see this as a wway to abuse the rights of a property owner?

6 5. Preserve the habitat, water quality, and water quantity functions and values of wetlands.

7 6. Protect water quality by controlling erosion and carefully siting uses and activities that can

8 detrimentally affect stream flows or aquatic habitat quality.

9 What activities cause detrimental affection and who determines that “ When is it determined?

10 7. Guide development proposals to the most environmentally suitable and stable portion of a

11 development site.

12 Exactly what authority exists for this policy? Be specific because it is directly
13 contrary to the provisions of the Constitution\ .

13 8. Avoid potential damage due to geological hazards or flooding.

14 9. Preserve natural flood control and stormwater storage.

15 **Is “stormwater” any precipitation that falls to the ground in Kitsap County?
If I catch the water from my roof in a rain barrel or cistern is it “stormwater”
under this title?**

16 10. Maintain groundwater recharge and prevent the contamination of
groundwater.

17 11. Prevent cumulative adverse environmental impacts to water, wetlands, fish
and wildlife habitats, frequently flooded areas, geologically hazardous areas, and
aquifer recharge areas.

18 12. Whenever mitigation is required, pursue as a preferred option, restoration and
19 enhancement of previously impacted critical areas and their buffers.

20 **How do we determine if an area was previously impacted and who gets to
choose what course of action is to be followed? This could have property
owner A trying to carry out mitigation on property B. Do you understand the
concepts of private property?**

21 **19.100.110 Applicability.**

22 A. Kitsap 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 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 regulated
by this title, except in compliance with the provisions of this title. Failure to comply with
the provisions of this title shall be considered a violation and subject to enforcement
procedures as provided for in this title.

23 **How about when a permit is not required? Does the property owner proceed at his
own risk because some third party may determine that some kind of critical area
exists on the property? This needs to be much tighter so as to remove the slop
and permissiveness for abuse by authority.**

1 B. This title applies to all uses and activities within areas or adjacent to areas designated
as regulated critical areas unless identified as exempt in KCC 19.100.125. The following
permits and approvals shall be subject to and coordinate with the requirements of this
title: site development activity permit; site plan approval; subdivision or short subdivision;
building permit; performance based development, shoreline substantial development;
variance; conditional use permit; certain forest practice permits (Class IV General, Class
III Conversion Option Harvest Plans); other permits leading to the development or
alteration of land; and rezones if not combined with another development permit.

2 **Once again extension of the title to “adjacent” areas is not appropriate. The specific land is either critical and regulated or not regulated under this title. The ability for authority to extend applicability without constraint or legislative approval is not appropriate.**

3 C. Non-project actions including, but not limited to, rezones, annexations, and the adoption of plans and programs, shall be subject to critical area review.

4 D. This title may require additional permits to those otherwise required by county ordinances. This title is an overlay to the Zoning Ordinance. Activities regulated by the Zoning Ordinance are also subject to critical area requirements.

5 E. The development standards and other requirements of this title shall be applied to uses and activities for any permit review or approval process otherwise required by county ordinances.

6 F. Uses and activities in critical areas or their buffers for which no permit or approval is required by any other county ordinance remain subject to the development standards and other requirements of this title. While this title does not require a review or approval process for such uses and activities, they remain subject to the title.

7 G. For the purpose of this title, the area of review is defined as the critical area and its largest potential buffer or setback. This defines the area of review only. Refer to Chapters 19.200 through 19.600 for specific development standards.

8 **19.100.115 Relationship to other county regulations.**

9 When any provision of any other chapter of the Kitsap County Code conflicts with this title, that which provides the most protection to the critical area, as determined by the department, shall apply. Applications for permits and approvals are subject to the provisions of this title as well as to other provisions of state and county law, which include, but are not limited to the following:

10 A. Title 2, Government;

11 B. Title 9, Health, Welfare and Sanitation;

12 C. Title 12, Storm Water Management;

13 D. Title 14, Buildings and Construction;

14 E. Title 15, Flood Hazard Areas;

- 1 F. Title 16, Land Division and Development;
- 2 G. Title 17, Zoning;
- 3 H. Title 18, Environment;
- 4 I. Title 21, Land Use and Development Procedures;
- 5 J. Title 22, Shoreline Management Master Program;
- 6 K. RCW 36.70A, Growth Management Act;
- 7 L. RCW 90.58, Shoreline Management Act;
- 8 M. RCW 43.21C, State Environmental Policy Act;

9 **19.100.120 Review authority.**

10 A. In evaluating a request for a development proposal regulated by this title, it shall be the responsibility of the department to determine the following:

11 **Delegating total responsibility to the “Department” or the director to act on what they perceive to be the intent of the legislative body or their interpretation of GMA is not consistent with the original delegation of authority to the elected Commissioners. The Commissioners, in their legislative actions, are responsible to the citizens of the county. Appointed Directors or general employees are not.**

- 12 1. The nature and type of critical area and the adequacy of any special reports required in applicable sections of this title;
- 13 2. Whether the development proposal is consistent with this title, by granting, denying or conditioning projects;
- 14 3. Whether proposed alterations to critical areas are appropriate under the standards contained in this title, or whether it is necessary for the applicant to seek a variance or other exception; and
- 15 4. Whether the protection mechanisms and the mitigation and monitoring plans and bonding measures proposed by the applicant are sufficient to protect the public health, safety and welfare consistent with the goals, purposes and objectives of this title, and if not, condition the permit or approval accordingly.

16 B. The department shall have the administrative authority to reduce buffers and building setbacks as outlined in specific critical area sections of this title.

17 **This is a clear example of why delegating authority to an appointed position is not**

appropriate. The title effectively places the burden of implementation, including a determination of both title intent and the legal basis for any action on the Department. A citizen has a specific right to know the actual meaning of a law or regulation that they are required to comply with. If ignorance of the law is appropriate then keeping the citizen ignorant is even more inappropriate. It is not up to a citizen to guess what a the title intends. Either make the title clear or do not enact it.

18 C. Where projects have been approved with conditions to protect critical areas under previous protection policies in effect prior to the ordinance codified in this title, those conditions will apply.

1 Nevertheless, this title shall apply in cases where the department determines, based on review of current information, that the prior conditions will result in a detrimental impact to a critical area.

2 **This provision states that previous permits and conditions are “grandfathered “except”. Either they are or they are not. This effectively leaves the property owner at risk for a later determination by “the department”. How does that protect property rights?**

3 D. Time Limitations.

4 1. Expiration of Approval.

5 a. Approvals granted under this title shall be valid for the same time period as the underlying permit (e.g. preliminary plat, site development, building permit). If the underlying permit does not contain a specified expiration date, then approvals granted under this title shall be in writing and shall be valid for a period of three years from the date of issue, unless a longer period is specified by the department.

6 b. The approval shall be considered null and void upon expiration, unless a time extension is requested and granted as set forth in subsection (2) below.

7 2. Time Extensions.

Why all this hassle over a request for time extension? Does anyone in the County actually understand the process of development and the timelines associated with the process. Does the time for a permit include all of the time spent on creating required studies and reports and participation in public hearings? If so, why is that time not granted to the requester so they actually have time to get the project underway? Certainly the County must know that until such time as all of the requirements are met and the permit actually issued, the developer will be at risk to obtain the necessary funding for the project. The extension should be granted lacking exceptional conditions that would preclude the extension.

- 8 a. The applicant or owner(s) may request in writing a one-year extension of
the original approval.
- 9 b. Knowledge of the expiration date and initiation of a request for a time
extension is the responsibility of the applicant or owner(s).
- 10 c. A written request for a time extension shall be filed with the department
at least 30 days prior to the expiration of the approval.
- 11 d. Upon filing of a written request for a time extension, a copy shall be sent
to each party of record together with governmental departments or agencies
that were involved in the original approval process. By letter, the
department shall request written comments be delivered to the department
within 15 days of the date of the letter.
- 12 e. Prior to the granting of a time extension, the department may require a
new application(s), updated study(ies), and fee(s) if:
- 13 (1) The original intent of the approval is altered or enlarged by the
renewal;
- 14 (2) The circumstances relevant to the review and issuance of the
original approval have changed substantially; or
- 1 (3) The applicant failed to abide by the terms of the original
approval.
- 2 f. The department has the authority to grant or deny any requests for time
extensions based upon demonstration by the applicant of good cause for
the delay. Time extensions shall be granted in writing and documented in
the file.
- 3 g. If approved, the one-year time extension shall be calculated from the
date of granting said approval.

7

8 **19.100.125 Exemptions.**

9 The following activities are exempt from the requirements of this title:

- 10 A. Emergencies that threaten the public health, safety and welfare. An “emergency” is an
unanticipated and immediate threat to public health, safety, or the environment that
requires action within a time too short to allow compliance with this title.
- 11 B. Pre-existing and ongoing agricultural activities on lands containing critical areas. For
the purpose of this title, “existing and ongoing” means that the activity has been

conducted and/or maintained within the past five years under a farm management plan or other best management practices not resulting in a net loss of critical area functions and values.

- 12 C. Normal and routine maintenance and operation of pre-existing retention/detention facilities, biofilters and other stormwater management facilities, irrigation and drainage ditches, farm ponds, fish ponds, manure lagoons, and livestock water ponds, provided that such activities shall not involve conversion of any wetland not currently being used for such activity.
- 13 D. Structural alterations to buildings, otherwise allowed under the Kitsap County Code and that do not alter the structural footprint or introduce new adverse impacts to an adjacent critical area.
- 14 **What is a new or adverse impact? Who determines it? Would it have to be a condition that did not exist at previous review? Who is responsible to authenticate the “newness”?**
- 15 E. Normal and routine maintenance or repair of existing utility structures within a right-of-way or within existing utility corridor or easements, including the cutting, removal and/or mowing of vegetation above the ground so long as in accordance with best management practices.
- 16 **What are the exact “best management practices”? Where are they documented? What title requires citizens of the county to implement these practices? Who determines if the practices are being followed? What if the practices are not effective, what then?**
- 17 F. Forest Practices conducted pursuant to RCW 76.09, except Class IV (general conversions) and Conversion Option Harvest Plans (COHP).

1 19.100.130 Standards for existing development.

2 A. Existing Nonconforming Structures.

3 1. “Existing nonconforming development” means a development that was lawfully constructed, approved or established prior to the effective date of the ordinance codified in this title, but does not conform to present regulations or standards of this title.

4 2. Structures in existence on the effective date of the ordinance codified in this title that do not meet the setback or buffer requirements of this title may be remodeled or reconstructed provided that the new construction or related activity does not further intrude into the critical area or its associated buffers.

5 **This is clearly an administrative taking because it redefines a pre-existing condition that was acceptable to the detriment of the property owner. This is not an argument against properly defining a critical area but against the open ability to redefine such areas after the fact.**

6 3. New construction or related activity connected with an existing single family dwelling shall not be considered further intruding into an associated buffer so long as the footprint of the structure lying within the critical area or its buffer is not increased by more than twenty (20%) percent and no portion of the new structure is located closer to the critical area than the existing structure; and provided further that reconstruction or remodeling meets the requirements of Title 15 of the Kitsap County Code (Flood Hazard Areas) and shall only be allowed if it does not create or continue a circumstance where personal or property damage is likely due to the nature of the critical area.

7 4. Nonconforming structures which are damaged or destroyed by fire, explosion, or other casualty, may be restored or replaced if reconstruction is commenced within 24 months of such damage. The reconstruction or restoration shall not serve to expand, enlarge or increase the nonconformity except as allowed through the provisions of this section.

8 B. Danger Tree Removal. Where a threat to human life or habitable structure is demonstrated, the department may allow removal of danger or hazard trees subject to the following criteria: (1) tree removal is the minimum necessary to balance protection of the critical area and its buffer with protection of life and property; and (2) the critical area or its buffer shall be replanted as determined by the department and the property owner. The department shall coordinate review with the property owner and Washington State Department of Fish and Wildlife as determined necessary to assure habitat protection. The department may require the applicant to consult with a professional forester or a certified arborist through a risk assessment report, or by the department through a danger tree site evaluation permit, prior to tree removal. Danger tree abatement can sometimes be achieved by felling the tree or topping the tree. Habitat needs may require leaving the fallen tree in the riparian corridor or maintaining a high stump for wildlife habitat.

9 **This entire section fails the test of logic and common sense. If a tree poses a danger to people or property, the property owner has a duty to correct that situation. Consulting with an approved arborist or getting County approval is not a part of that duty process. Wherever a tree that poses a danger may exist on a property the owner need the ability to remove it safely. The concept of replanting and restoration are just plain inappropriate. When a tree falls in the woods does the County require a permit? Who is liable when a wind storm fells a tree that causes property damage or injury? Does the County want to step up for that one?**

32

1 **19.100.135 Variances.**

2 A. A variance in the application of the regulations or standards of this title to a particular piece of property may be granted by Kitsap County, when it can be shown that the application meets all of the following criteria:

3 1. Because of special circumstances applicable to the subject property, including size, shape, or topography, the strict application of this title is found to deprive subject property of rights and privileges enjoyed by other properties in the vicinity; provided, however, the fact that those surrounding properties have been developed under regulations in force prior to the adoption of this ordinance shall

not be the sole basis for the granting of a variance.

4 **Property rights are not based on “what we let the other guy do” but are based in highest and best use as determined by the property owner. The County does not get to decide what that best use is or limit it (without, just compensation) based on what someone else settled for. The County bases property taxes on the highest and best use so the property owner should be able to expect that level of use.**

5 2. The special circumstances referred to in subsection 1 above are not the result of the actions of the current or previous owner.

6 **Exactly how would a new owner have knowledge of actions taken by a previous owner? What this introduces is a responsibility for errors or actions through the history of a property visited on a current owner. How does that work? Exactly what law imposes this kind of burden on individuals?**

7 3. The granting of the variance will not result in substantial detrimental impacts to the critical area, public welfare or injurious to the property or improvements in the vicinity and area in which the property is situated or contrary to the goals, policies and purpose of this title.

8 4. The granting of the variance is the minimum necessary to accommodate the permitted use.

9 5. No other practicable or reasonable alternative exists. (See Definitions, Chapter 19.150.)

10 6. A mitigation plan (where required) has been submitted and is approved for the proposed use of the critical area.

11 **Why is a mitigation plan required for a proposal to use private property? Exactly what kind of mitigation might be required and who gets to decide?**

12 B. Kitsap County shall conduct a public hearing on all variance applications pursuant to the review process and notice requirements established in Title 21 of the Kitsap County Code (Land Use and Development Procedures), as now or hereafter amended.

13 **Why is a “public hearing” required? Just exactly what role does a non-owner have in deciding the use of another’s private property? Please provide the specific law that requires this kind of nonsense. (That is LAW (RCW) not some WAC)**

14 C. Except when application of this title would deny all reasonable use of the property (Section 19.100.140), an applicant who seeks an exception from the standards and requirements of this title shall pursue relief by means of a variance as provided for in this title.

15 D. Requests for variances shall include the application requirements of Section 19.100.155 (Application Requirements, General), or Section 19.200.215 (Wetland Review Procedures), whichever is applicable.

16 E. The department shall review administrative buffer reductions based on the criteria
and standards referenced in this chapter.

1

2 F. The department may grant variances for public utilities to the substantive or
procedural requirements of this title when:

3 **If I read this correctly a public utility not necessarily the owner of a property) has
rights and privileges superior to a/the property owner? How does that work?**

4 1. Application of this title to the utility's activities would be inconsistent with the
Comprehensive Plan and the Utility's public service obligations;

5 2. The proposed utility activity does not pose an unreasonable threat to the public
health, safety or welfare on or off the development proposal site; and

6 3. Any alterations permitted to these critical areas shall be the minimum
necessary to reasonably accommodate the proposed utility activity and mitigate
when feasible.

7 **19.100.140 Reasonable use exception.**

**Articles 140 through 145 are the classic definition of an administrative taking and a
direct violation of the constitutional protections guaranteed by the State.**

8

9 If the application of this title would deny all reasonable use of the property, the applicant
may apply for a reasonable use exception pursuant to this section:

**Actually, the property owner would more properly file suit in Federal District Court
for a taking by the County and a violation of civil rights and a suit in state District
Court for a taking contrary to the provisions of Article I, ion 3 section 3
(PERSONAL RIGHTS. No person shall be deprived of life, liberty, or property,
without due process of law) and for failure to comply with section 16 EMINENT
DOMAIN.. I Section**

10

11 A. The applicant shall apply to the department, and the department shall prepare a
recommendation to the hearing examiner. The applicant may apply for a reasonable use
exception without first having applied for a variance if the requested exception includes
relief from standards for which a variance cannot be granted pursuant to the provisions of
the section. The property owner and/or applicant for a reasonable use exception has the
burden of proving that the property is deprived of all reasonable uses. The examiner shall
review the application and shall conduct a public hearing pursuant to the provisions of

12 Title 21 of the Kitsap County Code (Land Use and Development Procedures). The
examiner shall make a final decision based on the following criteria:

13 1. The application of this title would deny all reasonable use of the property;

14 2. There is no other reasonable use which would result in less impact on the

critical area;

Private Property means that the property owner decides highest best use for the property not the county. Again see Constitution Article I sections 3 and 16.

15 3. The proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site and is consistent with the general purposes of this title and the public interest, and does not conflict with the Endangered Species Act or other relevant state or federal laws; and

16 4. Any alterations permitted to the critical area shall be the minimum necessary to allow for reasonable use of the property.

17 B. Any authorized alterations of a critical area under this section shall be subject to conditions established by the examiner including, but not limited to, mitigation under an approved mitigation plan.

1 19.100.145 Special Use Review.

2 Special use review is an administrative process unless the underlying permit requires a public hearing. Special use review may be requested for revisions to existing permits, or when review by external authorities would be necessary to assure the department applies reasonable conditions to minimize, rectify, or compensate for impacts to the critical area or buffer. Those external authorities include, but are not limited to federal agencies, state agencies, tribes, public utilities, and Kitsap Public Health.

3 The department is authorized to take action on permits as required by this title. development identified as a special use review may be approved, approved with conditions, or denied according to the procedures and criteria outlined in this section.

4 A. The department may approve a permit after review of the application and any required special reports submitted in accordance with this title. 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 this title and it will not cause adverse impacts to the critical area or the buffer which cannot be mitigated. In taking action to approve a special use review, the department
5 may attach reasonable conditions.

6

7 B. The department shall deny a special use review request when it finds that the proposed use or activity is inconsistent with this title and/or will cause adverse impacts to the critical area or the buffer, which cannot be adequately mitigated and/or avoided.

C. Special use review determinations are appealable to the hearings examiner pursuant to Section 20 [19.100.150](#) (Appeals).

21 19.100.150 Appeals.

22 A. Appealable Actions. The following decisions or actions required by this title may be

appealed:

23 1. Any decision to approve, condition or deny a development proposal, or any disagreement on conclusions, methodology, rating systems, etc. between the department and such person or firm which prepares special reports pursuant to Chapter 19.700 may be appealed by the applicant or affected party to the Kitsap County hearing examiner.

24 **This would indicate that the Hearing Examiner has clear and documented evidence of the intent established by the Commissioners at the time of enactment of this Title. Since the Hearing Examiner is not a judicial entity they can neither establish case law or rule based on an opinion of intent. Would the appeal process not be more appropriate to include the Commissioners? That inclusion might also provide the opportunity for the Commissioners to recognize that the Title is not working as intended, that the department is not executing the program as intended or that the basic assumptions on which the title was created are not correct. What a unique idea.**

25 2. Any decision to approve, condition or deny a variance application by the department may be appealed by the applicant or affected party to the Kitsap County hearing examiner.

26 **See comment above**

27 3. Any decision to require, or not require a special report pursuant to this title may be appealed by the applicant or affected party to the Kitsap County hearing examiner.

See comment above

1 B. Appeal Process. The appeals process will be pursuant to procedures in KCC 21.04, or as amended hereafter.

2 **19.100.155 Critical area and buffer notice to title.**

3 Project applicants shall sign a "Critical Area and Buffer Notice to Title" (See Chapter 19.800, Appendix "E") to be filed with the Kitsap County auditor on all development proposals subject to this title and containing any critical area or its buffer. After review of the development proposal, the department will condition critical area development in accordance with this title. These standards will be identified on the approved notice to title, which shall run with the land in accordance with this title. This notice shall serve
4 as an official notice to subsequent landowners that the landowner shall accept sole responsibility for any risk associated with the land's identified critical area.

5 **Under criminal law, I believe this requirement would justify a charge of extortion. Just what authority does the County have to so encumber private property and use this kind of threat to force a property owner into compliance against his best**

interests and the provisions of the Constitutions?

6 Notice to title may not be required in cases where the clearing or building footprint for minor new development will not adversely impact a critical area or its buffer (i.e., normal repair and maintenance, not adjacent to a critical area). Lack of such notice on a specific parcel does not indicate that Kitsap County has determined critical areas or buffers do not exist on that parcel.

7 **In fair application of this section of the Title it would be incumbent on the county to identify every parcel for which title exists or could be issued on which a critical area exists so that proper notice could be recorded. To not do so places an unusual burden on those who the County would force into notice to title and would be a violation of the “equal protection under the law” criteria.**

8 **19.100.160 General application requirements.**

9 A. All applicants for new development are encouraged to meet with the department prior to submitting an application subject to Title 17 of Kitsap County Code. The purpose of this meeting is to discuss Kitsap County’s zoning and applicable critical area requirements, to review any conceptual site plans prepared by the applicant and to identify potential impacts and mitigation measures. Such conference shall be for the convenience of the applicant, and any recommendations shall not be binding on the applicant or the county.

10 **What is this all about? Have we gone from regulation to a “how to” manual? This is either required or not. Making a “recommendation” that can later be used against an applicant is inappropriate.**

11 B. The applicant must comply with the standards and requirements of this title as well as standards relating to Title 12 of the Kitsap County Code (Stormwater Management) set forth by the department, as now or hereafter amended. To expedite the permit review process, the department shall be the lead agency on all work related to critical areas. Development may be prohibited in a proposed development site based on criteria set forth in this title; the applicant should first determine whether this is the case before applying for permits from the department.

12 C. Application for development proposals, reasonable use exception or variances regulated by this title or for review of special reports shall be made with the department by the property owner, lessee, contract purchaser, other person entitled to possession of the property, or by an authorized agent as listed in Chapter 19.700 (Special Reports).

1 D. A filing fee in an amount established under KCC 21.10 shall be paid to the department at the time an application for a permit relating to a critical area or a special report review is filed.

2 E. Applications for any development proposal subject to this title shall be reviewed by the department for completeness and consistency or inconsistency with this title.

3 **Does this mean that all the blanks are filled in or that the content is technically**

correct> If the former, what in the world are we doing? If the later, will the County representative reviewing the document have the technical qualifications appropriate to the task and at least equal to those required of the individual completing the application? How will the County document those qualifications for their personnel?

- 4 F. At every stage of the application process, the burden of demonstrating that any proposed
- 5 development is consistent with this title is upon the applicant.
- 6 **Since there are so many “at the discretion of the department” or “as determined by the Director” just how does the applicant know before hand what is required so they may comply with this provision? Please do not refer me back to the “recommended” initial conference>**
- 7 G. All applications for development subject to this title shall include a site plan drawn to scale identifying locations of critical areas, location of proposed structures and activities, including clearing and grading and general topographic information as required by the department. If the department determines that additional critical areas are found on the subject property, the applicant shall amend the site plan to identify the location of the critical area. When it is determined that regulated activities subject to the provisions of the State Environmental Policy Act (SEPA) as implemented by Title 18 of the Kitsap County Code (Environment) are likely to cause a significant, adverse environmental impact to the critical areas identified in this title that cannot be adequately mitigated through compliance with this title, environmental assessment and mitigation measures may be imposed consistent with the procedures established in Title 18 of the Kitsap County Code (Environment).
- 8 **Somewhere else in this title we learn that the County locates “critical areas” generally and not exactly. How is the applicant supposed to create a site plan with specific location data? If the answer is that the County gets to survey the site before considering a permit, try again. If the answer is that the property owner is required to hire a “consultant” to complete the study and include that in the report, try again. This requirement essentially tell a property owner to first declare portions of their unusable and, no longer enterable, and then gives the County authority to expand that determination. Sorry, this is America spelled with a C..**
- 9 H. Prior to taking action on a zone reclassification or a Comprehensive Plan Amendment, the proponent shall complete an environmental review to confirm the nature and extent of any critical areas on or adjacent to the property; determine if the subsequent development proposal would be consistent with this title; and determine whether mitigation or other measures would be necessary if the proposal were approved. Such review shall occur prior to any SEPA threshold determination. Findings of such review may be used to condition or mitigate the impact through the SEPA threshold determination or to deny the proposal if the impacts are significant and cannot be mitigated.
- 10 **I approve the first three words of this paragraph because they clearly identify what this entire document is about. That said, if an environmental review has previously been completed on the property under question, why is a new review required?**

11 **19.100.165 Inventory provisions.**

12 The approximate location and extent of mapped critical areas within Kitsap County are shown on the maps adopted as part of this title, and incorporated herein by this reference. These maps shall be used only as a general guide for the assistance of the department and the public; the type, extent and boundaries may be determined in the field by a qualified specialist or staff person according to the requirements of this title. In the event of a conflict between a critical area location shown on the county's maps and that of an on-site determination, the on-site determination will apply.

Here is the little gem that says the County has a rough idea where some of the "critical" areas may be located but they are really not sure. The only way we can know for sure is to complete a survey when a permit is requested. There are at least two problems with this approach. If a critical area exists it apparently requires the protections applied to any other critical area. Therefore the protections should be applied regardless of permit status since a permit request cannot and does not constitute the initial definition of a critical area (only the opportunity for the County to define a new critical area. If the county is not going to impose common restrictions to all critical areas in the c County, the regulations are improperly applied in a discretionary manner which is both incorrect and illegal. Second, why in the world would a property owner subject themselves to this nonsense by applying for a permit to complete some minor renovation or other project on their property? This entire Title is so out of line with the initial concepts of zoning and property rights as to be the poster child for government abuse of citizens.

1 Kitsap County will review map inventory information of all critical areas as it becomes available. Mapping will include critical areas that are identified through site specific analysis by local, state and federal agencies, the Kitsap Conservation District, tribal governments, citizen groups and other sources.

2 **19.100.170 Enforcement.**

3 A. Authorization. The director is authorized to enforce this title, and to designate county employees as authorized representatives of the department to investigate suspected violations of this title, and to issue orders to correct violations and notices of infraction.

4 **Exactly what training and qualification program exists to make sure that "employees" are properly qualified to investigate and issue orders? Because such activity may have a direct fiscal and legal impact on the property owner, should there not be some significant level of training involved? Just knowing what some part of the Title says does not appear sufficient. If an "employee" issues an incorrect order, is the County willing to accept fiscal and legal liability without litigation or will the property owner need to bring suit to have themselves fully restored?**

5 B. Right of Entry. When it is necessary to make an inspection to enforce the provisions of this title, or when the director or his/her designee has reasonable cause to believe that a condition exists on property which is contrary to or in violation of this title, the director or his/her designee may enter the property to inspect, provided that if the property is occupied that the inspector's credentials be presented to the occupant and entry

requested. If the property is unoccupied, the director or his/her designee shall first make a reasonable effort to locate the owner or other person having charge or control of the premises and request entry. If entry is refused, the director or his/her designee shall have recourse to the remedies provided by law to secure entry.

6 **This is a lot of words to present an impression of an authority that does not exist. Citizens keep refusing to accept this intrusion but staff does not seem to learn. This paragraph could be reduced to –“County inspectors will not enter onto private property without prior permission of the property owner or under the provisions of a duly issued warrant. In the case of leased property the lessee, unless specifically delegated in writing, does not have the authority to grant permission to enter.”**

7 C. Stop Work Orders. Whenever any work or activity is being done contrary to the provisions of this title the director or his/her designee may order the work stopped by notice in writing, served on any persons engaged in the doing or causing such work to be done, or by posting the property, and any such persons shall forthwith stop such work or activity until authorized by the director or his/her designee to proceed.

8 **Except in the instance of immediate threat to personal safety, a stop work order must be delivered to the property owner or his designated agent. Imposing a stop work order on a project has serious financial and contract implications that should not be ignored or overturned lightly. An addition to this clause should provide that if a stop work order is determined to be inappropriate or in error, the county shall be liable for the loss suffered by the property owner or developer.**

9 D. Penalties. The violation of any provision of this title shall constitute a Class I civil infraction. Each violation shall constitute a separate infraction for each and every day or portion thereof during which the violation is committed, continued, or permitted. Infractions shall be processed in accordance with the provisions of Chapter 2.116 of Kitsap County Code, as now or hereafter amended.

10 **What is the penalty to the County for an incorrect or wrong determination?**

11 E. Imminent and Substantial Dangers. Notwithstanding any provisions of these regulations, the director or his/her designee may take immediate action to prevent an imminent and substantial danger to the public health, welfare, safety or the environment by the violation of any provision of this title.

12 **Exactly what constitutes an “imminent and substantial” danger to the environment? This is rather open ended and allows one more chance to “the department to determine”. If it cannot be specifically defined it does not exist.**

13 F. Other Legal or Equitable Relief. Notwithstanding the existence or use of any other remedy, the director or his/her designee may seek legal or equitable relief to enjoin any acts or practices or abate any conditions, which constitute or will constitute a violation of the provisions of this title.

14 **It is imperative that the property owner have equal opportunity to seek legal resolution under this title. That should be specifically noted in this section.**

Chapter 19.150
DEFINITIONS

1
2

3 Sections:

- 4 **19.150.05 Generally.**
- 5 **19.150.10 Adjacent.**
- 6 **19.150.10 Agricultural activities.**
- 7 **19.150.11 Alteration.**
- 8 **19.150.11 Anadromous fish.**
- 9 **19.150.12 Applicant.**
- 10 **19.150.13 Aquifer.**
- 11 **19.150.13 Aquifer recharge.**
- 12 **19.150.14 Aquifer recharge area.**
- 13 **19.150.14 Aquifer vulnerability.**
- 14 **19.150.14 Aquitard.**
- 15 **19.150.15 Bank stabilization.**
- 16 **19.150.15 Best available science.**
- 17 **19.150.16 Best management**
- 18 **19.150.16 Bog.**
- 19 **19.150.17 Buffer.**
- 20 **19.150.17 Buffer, standard.**
- 21 **19.150.17 Candidate species.**
- 22 **19.150.18 Channel migration zone.**
- 23 **19.150.18 Clearing.**
- 24 **19.150.19 Compensation.**
- 25 **19.150.19 Creation.**
- 26 **19.150.20 Conversion option harvest**
- 27 **19.150.21 Critical aquifer recharge**
- 28 **19.150.21 Critical areas.**
- 29 **19.150.22 Critical area protection**
- 30 **19.150.22 Critical facilities.**
- 31 **19.150.23 Danger trees.**
- 32 **19.150.23 Debris.**
- 33 **19.150.24 Department.**
- 34 **19.150.24 Detention facilities.**
- 35 **19.150.25 Development proposal site.**

- 1 **19.150.25 Director.**
- 2 **19.150.26 Draining.**
- 3 **19.150.26 Endangered species.**
- 4 **19.150.27 Enhancement.**
- 5 **19.150.27 Erosion.**
- 6 **19.150.28 Erosion hazard areas.**
- 7 **19.150.28 Excavation.**
- 8 **19.150.29 Existing and ongoing agriculture.**
- 9 **19.150.29 Exotic.**
- 10 **19.150.30 Extraordinary hardship.**
- 11 **19.150.30 Farm pond.**
- 12 **19.150.31 Fen.**
- 13 **19.150.32 Filling or fill.**
- 14 **19.150.32 Fish and wildlife habitat.**
- 15 **19.150.33 Fisheries biologist.**
- 16 **19.150.33 Floodplain.**
- 17 **19.150.34 Floodway.**
- 18 **19.150.34 Forage fish.**
- 19 **19.150.35 Forest practices.**
- 20 **19.150.35 Frequently flooded areas.**
- 21 **19.150.36 Functions and Values**
- 22 **19.150.36 Geological assessment.**
- 23 **19.150.37 Geologically hazardous areas.**
- 24 **19.150.37 Geologist.**
- 25 **19.150.38 Geotechnical engineer.**
- 26 **19.150.38 Geotechnical report and geological**
- 27 **19.150.39 Grading.**
- 28 **19.150.39 Grazed wet meadows.**
- 29 **19.150.40 Grubbing.**
- 30 **19.150.40 Groundwater.**
- 31 **19.150.41 Habitat management plan.**
- 32 **19.150.41 Habitat of local importance.**
- 33 **19.150.42 Hazardous substance.**
- 34 **19.150.42 Hearing examiner.**
- 35 **19.150.43 Hydric soils.**
- 36 **19.150.43 Hydrogeologist.**

- 1 **19.150.44 Impervious Surface.**
- 2 **19.150.44 Infiltration rate.**
- 3 **19.150.45 Landslide hazard areas.**
- 4 **19.150.45 Liquefaction.**
- 5 **19.150.46 Low impact activities.**
- 6 **19.150.46 Mitigation.**
- 7 **19.150.47 Native vegetation.**
- 8 **19.150.47 Normal maintenance.**
- 9 **19.150.48 Ordinary high water mark.**
- 10 **19.150.48 Out-of-kind compensation.**
- 11 **19.150.49 Permeability.**
- 12 **19.150.49 Pond.**
- 13 **19.150.50 Practicable alternative.**
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- 16 **19.150.51 Public facilities.**
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- 18 **19.150.52 Public right-of-way.**
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- 20 **19.150.53 Ravine.**
- 21 **19.150.54 Reasonable.**
- 22 **19.150.54 Reasonable alternative.**
- 23 **19.150.55 Reasonable use.**
- 24 **19.150.55 Reasonable use exception.**
- 25 **19.150.56 Re-establishment.**
- 26 **19.150.56 Refuse.**
- 27 **19.150.57 Regulated use or activity.**
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- 29 **19.150.58 Restoration.**
- 30 **19.150.58 Retention facilities.**
- 31 **19.150.59 Riparian area.**
- 32 **19.150.59 Salmonid.**
- 33 **19.150.60 Seismic Hazard Area.**
- 34 **19.150.60 Sensitive species.**
- 35 **19.150.61 Shorelines.**
- 36 **19.150.61 Significant tree.**

- 1 **19.150.62 Single-family dwelling.**
- 2 **19.150.62 Special flood hazard areas.**
- 3 **19.150.63 Species of concern.**
- 4 **19.150.63 State Environmental Policy Act or**
- 5 **19.150.64 Streams.**
- 6 **19.150.64 Swale.**
- 7 **19.150.65 Threatened species.**
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- 10 **19.150.67 Utilities.**
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- 15 **19.150.70 Wetland edge.**
- 16 **19.150.70 Wetlands.**
- 17 **19.150.71 Wetlands, isolated.**
- 18 **19.150.71 Wetlands, mosaic.**
- 19 **19.150.72 Wetlands of regional significance.**
- 20 **19.150.72 Wetlands of statewide**
- 21 **19.150.73 Wetlands report.**
- 22 **19.150.73 Wetlands specialist.**
- 23 **19.150.74 Wildlife biologist.**

24 **19.150.050 Generally.**

25 As used in this title, the following terms have the meanings given in this chapter.

26 **19.150.100 Adjacent.**

27 “Adjacent” means within an area of review as defined by Section 19.100.110(G).

28 **This is not the common language use of the term and that leads to misunderstanding or potential for violations. In addition, a definition that refers to a section of the title to complete itself is somewhat a circular error routine. There are numerous occurrences of non-standard application of common words or phrases in this section. It is inappropriate to require the citizen to master a new language to be in compliance with a title of this nature.**

29 **19.150.105 Agricultural activities.**

30 “Agricultural activities” means the normal actions associated with the production of crops

such as plowing,
31 cultivating, minor drainage, and harvesting; and/or raising or keeping of livestock,
including operation and
32 maintenance, and repair of farm and stock ponds, drainage ditches, irrigation systems,
and normal
33 operation, maintenance, and repair of existing serviceable agricultural structures,
facilities, or improved
34 areas. The term “agricultural activities” as used within this Title does not include the
practice of

1 aquaculture. Forest practices regulated under Chapter 76.09 RCW and Title 222 WAC
are not included in
2 this definition.

3 **19.150.110 Alteration.**

4 “Alteration” means a human-induced action that changes the existing condition of a
critical area or its

5 buffer. Alterations include but are not limited to: grading; grubbing; dredging; channelizing;
cutting,

6 clearing, relocating or removing vegetation, except noxious weeds identified by the
Washington State

7 Department of Agriculture or the Kitsap County Cooperative Extension; applying
herbicides or pesticides

8 or any hazardous or toxic substance; discharging pollutants; grazing domestic animals;
modifying for

9 surface water management purposes; or any other human activity that changes the
existing vegetation,

10 hydrology, wildlife or wildlife habitat.

11 This is not a definition but a “law” unto itself. Exactly what is “human induced”?

12 **19.150.115 Anadromous fish.**

13 “Anadromous fish” means fish whose life cycle includes time spent in both fresh and salt
water.

13 **19.150.120 Applicant.**

14 “Applicant” means the person, party, firm, corporation or legal entity, or agent thereof, that
proposes a

15 development of property in Kitsap County.

16 **19.150.130 Aquifer.**

17 “Aquifer” means a saturated body of rock, sand, gravel or other geologic material that is
capable of

18 storing, transmitting and yielding water to a well.

19 Some time ago (early 2000’s) the County completed a Water Resource Inventory paid for
by state funds to identify all of the aquifers in the county. Are the results of that study a
reference to this Title so applicants and citixzens will know the location of the aquifers in
the county? If not, why not since it appears that prior knowledge would be required to
properly complete a permit application?

20 **19.150.135 Aquifer recharge.**

21 “Aquifer recharge” means the process by which water is added to an aquifer. It may occur
naturally by the

22 percolation (infiltration) of surface water, precipitation, or snowmelt from the ground
surface to a depth
23 where the earth materials are saturated with water. The aquifer recharge can be
augmented by “artificial”
24 means through the addition of surface water (e.g., land application of wastewater or
storm water) or by
25 the injection of water into the underground environment (e.g., drainfields and drywells).

26 19.150.140 Aquifer recharge area.

27 “Aquifer recharge area” means those areas overlying aquifer(s) where natural or artificial
sources of water

28 can move downward to an aquifer(s).

**29 Because all water in Kitsap County is, by County declaration received from
precipitation falling within the County, it follows that the entire surface area of the
county is a “recharge area”. If that is not correct, please explain why it is not and
provide some clear scientific information to support the County position.**

30 19.150.145 Aquifer vulnerability.

31 “Aquifer vulnerability” means the combined effect of hydrogeological susceptibility to
contamination and

32 the contamination loading potential as indicated by the type of activities occurring on a
project area.

1 **19.150.150 Aquitard.**

2 “Aquitard” means an underground geologic layer that has low permeability.

3 **Just exactly how is this determined in a practical sense for the provisions of this Title? Who makes the determination and what level of technical, evidence is required to support the determination?**

4 **19.150.155 Bank stabilization.**

5 “Bank stabilization” means lake or stream modification including vegetation enhancement, used for the

6 purpose of retarding erosion, protecting channels, and retaining uplands.

7 **Not to be the issue, but under this definition sea walls and rock riprap would be appropriate for bank stabilization.**

8 **19.150.160 Best available science.**

9 “Best available science” means scientifically valid information in accordance with WAC 365-195-900, as

10 now or hereafter amended, that is used to develop and implement critical areas policies or regulations.

11 **Nice try. Best available science is that science, subjected to independent peer review, that is repeatable in independent analysis and testing, that has appropriate and direct application to an area under consideration. Just because the WAC cannot get it right does not mean the County should be exempt for a proper definition.**

12 **19.150.165 Best management practices (BMPs).**

13 “Best management practices” or “BMPs” means conservation practices (physical, structural and/or

14 managerial) or systems of practices and management measures that:

15 **Exactly who decides or how are “best practices” determined? Where are they documented and how are they presented to property owners who are supposed to implement them?**

16 A. Control soil loss and reduce water quality degradation caused by nutrients, pathogens, bacteria, toxic

17 substances, pesticides, oil and grease, and sediment;

18 B. Minimize adverse impacts to surface water and groundwater flow, circulation patterns, and to the

19 chemical, physical, and biological characteristics of critical areas;

20 C. Protect trees, vegetation, and soils designated to be retained and following site

construction and use

21 native plant species appropriate to the site for re-vegetation of disturbed areas; and
22 What is the scientific evidence that “native species” are superior to other plant types in
soils stabilization and water infusion? Should a property owner follow the lead of the
state and consider Scotch Broom as a viable use plant for soil stabilization? If not, please
explain why what is good for the state is not appropriate for individual citizens?

23 D. Provide standards for proper use of chemical herbicides within critical areas.

19 **19.150.170 Bog.**

20 “Bogs” are a type of wetland typically composed of acidic, low nutrient soils and waters,
high organic

21 matter and that support plants specifically adapted to such conditions that are not
commonly found

22 elsewhere. Bogs may have an overstory of spruce or shore pine and may be associated
with open water.

23 **19.150.175 Buffer.**

24 “Buffer” means a non-clearing vegetation area that is intended to protect the functions
and values of

25 critical areas. This includes preservation of existing native and non-native vegetation
where it exists,

26 unless otherwise required to be replaced with native vegetation through mitigation.

27 **Actually, a “Buffer” is a discretionary area of land surrounding a “critical; area”
established by the County using general criteria addressing “functions and
values” (as defined by government). The size of a buffer is not determined by
actual scientific process or actual site conditions but is a generally established
distance determined by the County. Buffers constitute additional land area that is
“taken” by government through administrative process and imposes stringent non-
entry and non-use regulations on the property owner.**

28 **19.150.180 Buffer, standard.**

29 “Standard buffer” means the buffer width established by each chapter of this title before
any buffer

30 adjustments are applied.

1 19.150.185 Candidate species (state-listed).

2 “Candidate species (state-listed)” means species under review by the Department of Fish
and Wildlife
3 (WDFW) for possible listing as endangered, threatened or sensitive. A species will be
considered for
4 state-candidate designation if sufficient scientific evidence suggests that its status may
meet criteria
5 defined for endangered, threatened, or sensitive in WAC [232-12-297](#) as now or hereafter
amended.
6 Currently listed state-threatened or state-sensitive species may also be designated as a
state-candidate
7 species if their status is in question. State-candidate species will be managed by the
Department of Fish
8 and Wildlife, as needed, to ensure the long-term survival of populations in Washington.
They are listed in
9 WDFW, Policy 5301, or as amended. .

10 19.150.190 Channel migration zone (CMZ).

11 “Channel migration zone” or “CMZ,” as defined by WAC [173-26-020 \(6\)](#), as now or
hereafter amended,
12 means the area along a river or stream within which the channel(s) can be reasonably
predicted to
13 migrate over time as a result of natural and normally occurring hydrological and related
processes when
14 considered with the characteristics of the river or stream and its surroundings.

15 19.150.195 Clearing.

16 “Clearing” means the destruction, disturbance or removal of vegetation by physical,
mechanical, chemical
17 or other means.
18 This includes cutting grass or a golf divot.

19 19.150.200 Compensation.

20 “Compensation” means replacement of project-induced critical area (e.g., wetland)
losses of acreage or
21 functions.

**22 No. Compensation is properly stated in Article I, section 16 in the meaning of “just
compensation” for a taking. Find some other word for this purposes. Might I
suggest “extortion payment”**

21 **19.150.205 Creation.**

22 “Creation” means the manipulation of the physical, chemical, or biological characteristics
present to

23 develop a wetland on an upland or deepwater site, where a wetland did not previously
exist. Activities

24 typically involve excavation of upland soils to elevations that will produce a wetland
hydroperiod and

25 hydric soils, and support the growth of hydrophytic plant species.

26 **19.150.210 Conversion option harvest plan (COHP).**

27 As it relates to forest practices, a “COHP” means a plan for landowners who want to
harvest their land but

28 wish to maintain the option for conversion pursuant to WAC [222-20-050](#). “Conversion” to
a use other than

29 commercial timber operation shall mean a bona fide conversion to an active use which is
incompatible

30 with timber growing.

31

1 19.150.215 Critical aquifer recharge areas.

2 “Critical aquifer recharge areas” means those areas with a critical recharging effect on
3 aquifers used for

4 potable water, including areas where an aquifer that is a source of drinking water is
5 vulnerable to

6 contamination that would affect the potability of the water, or is susceptible to reduced
7 recharge.

8 **9 Since the entire County surface is a recharge area, exactly how is a “Critical
10 recharge area” different from a normal recharge area? Where are the “critical
11 recharge areas documented?**

12 19.150.220 Critical areas.

13 “Critical areas” means those areas and ecosystems identified as: (a) wetlands; (b) areas
14 with a critical

15 recharging effect on aquifers; (c) fish and wildlife habitat conservation areas; (d)
16 geologically hazardous

17 areas; and (e) frequently flooded areas.

18 **19 This definition includes essentially all the surface area of the County. While that may be
20 the underlying intent of the Title, it is not well stated.**

21 19.150.225 Critical area protection easement.

22 “Critical area protection easement” means an agreement conveyed through a notice to
23 title, or shown on

24 the face of a plat or site plan, for the purpose of perpetual or long-term conservation.

25 19.150.230 Critical facilities.

26 “Critical facilities” means those facilities necessary to protect the public health, safety and
27 welfare,

28 including but not limited to schools, hospitals, police stations, fire departments and other
29 emergency

30 response facilities, and nursing homes. Critical facilities also include sites of hazardous
31 material storage

32 or production.

33 **34 I guess this means government facilities. So we have a separate set of rules for what
35 government thinks is right and proper and what property owners think they have the
36 Constitutionally protected right to do?**

37 19.150.235 Danger trees.

38 “Danger trees” means any tree of any height, dead or alive, that presents an immediate
39 hazard to the

22 public or habitable structure because of rot; root, stem or limb damage; lean; or any other
observable

23 condition created by natural process or man-made activity consistent with WAC 296-54-
505, and are

24 located within a tree length and a half of said structure as determined through a risk
assessment report by

25 a licensed arborist, or by the department through a danger tree site evaluation permit.

26 **Again, why ds a property owner, completing his duty to protect life and property
require a Licensed arborist or a County official to determine if a tree is a danger or
hazard. The tree belongs to the property owner and that owner has the right of
beneficial use. Will the County assume liability for any tree that falls and creates
either personal injury or property damage? Thought not.**

23 **19.150.240 Debris.**

24 See "Refuse."

25 **19.150.245 Department.**

26 "Department" means the Kitsap County Department of Community Development.

27 **Does that mean any and all employees of the Department?**

28 **19.150.250 Detention facilities.**

29 "Detention facilities" means stormwater facilities, including all the appurtenances
associated with their

30 designed functions, maintenance and security that are designed to store runoff while
gradually releasing it

31 at a pre-determined controlled rate.

32 **The County operates a Detention Facility in Port Orchard. The more proper term
for a storm water pond is that or a retention facility. Can we use simple common
language for our definitions?**

1 **19.150.255 Development proposal site.**

2 "Development proposal site" means the legal boundaries of the parcel or parcels of land
on which an

3 applicant has applied for authority from Kitsap County to carry out a development
proposal.

4 **19.150.260 Director.**

5 "Director" means the director of the Kitsap County department of community development
or a duly

6 authorized designee in the department.

7 **Is there a documented approval process for employees to be "designated" for
specific decision making authorities? Where is that documentation available?
Where is the listing of employee qualifications provided so the citizen knows who**

they are dealing with?

8 **19.150.265 Draining (related to wetland).**

9 “Draining” means any human activity that diverts or reduces wetland groundwater and/or
10 surface water

10 sources.

11 **19.150.270 Endangered species (state listed).**

12 “Endangered species” means a species native to the state of Washington that is
13 seriously threatened with

13 extinction throughout all or a significant portion of its range within the state. Endangered
14 species are

14 legally designated in WAC [232-12-014](#), as now or hereafter amended.

15 **19.150.275 Enhancement.**

16 “Enhancement” means the manipulation of the physical, chemical, or biological
17 characteristics of a

17 wetland to heighten, intensify, or improve specific function(s) or to positively change the
18 growth stage or

18 composition of the vegetation present. Enhancement is undertaken for specified
19 purposes such as water

19 quality improvement, flood water retention, or wildlife habitat. Enhancement may result in
20 a change in

20 wetland function(s) or can lead to a decline in other wetland functions, but does not result
21 in a gain in

21 wetland acres. Examples are planting vegetation, controlling non-native or invasive
22 species, and

22 modifying site elevations to alter hydroperiods.

23

22 **19.150.280 Erosion.**

23 “Erosion” means the process whereby the land surface is worn away by the action of
24 water, wind, ice or

24 other geologic agents, including processes such as gravitational creep or events such as
25 landslides

25 caused by natural or manmade impacts.

26 **19.150.285 Erosion hazard areas.**

27 “Erosion hazard areas” are those areas containing soils which, according to the U.S.
28 Department of

28 Agriculture Natural Resources Conservation Service Soil Survey Program, may
experience significant

- 29 erosion. Erosion hazard areas also include coastal erosion-prone areas and channel migration zones.
- 30 This designation pertains to water erosion and not wind erosion. These areas may not be highly erodible
- 31 until or unless the soil is disturbed by activities such as clearing or grading.

1 **19.150.290 Excavation.**

2 “Excavation” means the mechanical removal of earth material.

3 **19.150.295 Existing and ongoing agriculture.**

4 “Existing and ongoing agriculture” means agricultural activities (in existence as of Jan. 1, 2000), as

5 defined in this title, when undertaken pursuant to best management practices to minimize impacts to

6 critical areas on lands defined in RCW 84.34.020(2).

7 **19.150.300 Exotic.**

8 “Exotic” means any species of plant or animal that is not indigenous (native) to an area.

9 **What is the specific base timeline for exotic? As it determined? Does that time line precede known arrival of humans in the area and if so how is the nature of indigenous vegetation specifically determined? If the determination of indigenous plant is related to human presence, what record are used/available to support the determination?**

10 **19.150.305 Extraordinary hardship.**

11 “Extraordinary hardship” means where the strict application of this title and/or other programs adopted to

12 implement this title by the regulatory authority would prevent all reasonable use of the parcel.

12 **19.150.310 Farm pond.**

13 “Farm pond” means an open-water habitat of less than five acres and not contiguous with a stream, river,

14 lake or marine water created from a non-wetland site in connection with agricultural activities.

15 **19.150.315 Fen.**

16 “Fen” means a wetland with peat soils sixteen inches or more in depth, or any depth of organic soil over

17 bedrock, and vegetation such as certain sedges, hardstem bulrush and cattails. Fens may have an

18 overstory of spruce and may be associated with open water.

19 **19.150.320 Filling or fill.**

20 “Filling” or “fill” means a deposit of earth or other natural or manmade material placed by artificial means,

21 including, but not limited to, soil materials, debris, or dredged sediments.

22 **This includes virtually any material placed on the surface of the land by the property owner including beauty Bark and driveway gravel. Is that the intent?**

23 **19.150.325 Fish and wildlife habitat conservation areas.**

24 “Fish and wildlife habitat conservation areas” are those areas that serve a critical role in
sustaining
25 needed habitats and species for the functional integrity of the ecosystem, and which, if
altered, may
26 reduce the likelihood that the species will persist over the long term. These areas may
include, but are
27 not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat
elements
28 including seasonal ranges, breeding habitat, winter range, and movement corridors; and
areas with high
29 relative population density or species richness. The County may also designate locally
important habitats
30 and species. "Fish and wildlife habitat conservation areas" do not include such artificial
features or
31 constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or
drainage ditches that
32 lie within the boundaries of and are maintained by a port district or an irrigation district or
company.

1 **19.150.330 Fisheries biologist.**

2 “Fisheries biologist” means a person with experience and training in fisheries within the
3 past ten years

4 who is able to submit substantially correct reports on fish population surveys, stream
5 surveys and other

6 related data analyses of fisheries resources. “Substantially correct” is interpreted to mean
7 that technical

8 or scientific errors, if any, will be minor and do not delay or affect the site plan review
9 process.

10 Qualifications of a fisheries biologist include:

11 A. Certification by the American Fisheries Society; or

12 B. A Bachelor of Science degree in fisheries or the biological sciences from an
13 accredited institution

14 and two years of professional fisheries experience; or

15 C. Five or more years professional experience as a practicing fisheries biologist with a
16 minimum three

17 years professional field experience.

18 **19.150.335 Floodplain.**

19 “Floodplain” means the floodway and associated special flood hazard areas having the
20 potential to flood

21 once every one hundred years, or having a one percent chance of being equaled or
22 exceeded in any

23 given year. The regulatory flood hazard areas, floodplains and floodways are depicted on
24 the Federal

25 Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM) for Kitsap
26 County.

27 **19.150.340 Floodway.**

28 “Floodway” means the channel of a river or other watercourse and the adjacent land
29 areas that must be

30 reserved in order to discharge the base flood without cumulatively increasing the water
31 surface elevation

32 more than one foot.

33 **19.150.350 Forest practices.**

34 “Forest practices” means, as defined in WAC [222-16-010](#), as now or hereafter amended,
35 any activity

- 23 conducted on or directly pertaining to forest land that is related to growing, harvesting, or processing
- 24 timber, or removing forest biomass, including but not limited to:
 - 25 A. Activities in and over typed water;
 - 26 B. Road and trail construction;
 - 27 C. Harvesting, final and intermediate;
 - 28 D. Pre-commercial thinning;

- 1 E. Reforestation;
- 2 F. Fertilization;
- 3 G. Prevention and suppression of diseases and insects;
- 4 H. Salvage of trees; and
- 5 I. Brush control.

This seems to imply that if I cut down a bush on my property, even if I previously planted the bush, I am under the provisions of “forestry” practices”. Get real.

6

7 “Forest practices” shall not include: forest species seed orchard operations and intensive
8 forest nursery
9 operations; or preparatory work such as tree marking, surveying and road flagging; or
10 removal or harvest
11 of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe,
12 herbs, mushrooms,
13 and other products which cannot normally be expected to result in damage to forest soils,
14 timber or public
15 resources.

12 19.150.355 Frequently flooded areas.

13 “Frequently flooded areas” are lands in the floodplain subject to at least a one percent or
14 greater chance
15 of flooding in any given year, or within areas subject to flooding due to high ground water.
16 These areas
17 include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands, and areas
18 where high
19 ground water forms ponds on the ground surface. Generally, floodplains are designated
20 by FEMA on
21 Flood Insurance Rate and Boundary Maps.

18 19.150.360 Functions and Values.

19 “Functions and values” are generally those natural processes and benefits performed or
20 provided by
21 critical areas that are required to be protected by the GMA. These include, but are not
22 limited to,
23 improving and maintaining water quality, providing fish and wildlife habitat, supporting

terrestrial and

22 aquatic food chains, reducing flooding and erosive flows, water attenuation, historical or
archaeological

23 importance, educational opportunities, and recreation.

24 **Now we get to find out that the “functions and values” that are used to effectively
prohibit use of property by the property owner include educational opportunities
and recreation. Just exactly what is the value of a buffer that the property owner
may not exploit if government has the right to exploit it?. Can you say taking? If
the Buffer is to be used for education or recreation, can the property owner sell
tour tickets?**

23

24 **19.150.365 Geologic Assessment.**

25 A “geologic assessment” is an umbrella term used for the evaluation completed by a
geologist or

26 geotechnical engineer to meet the requirements of 19.400. The geologic assessment by
be in the form of

27 a Letter, as described in 19.400,440, a Geological report, or Geotechnical Report
(19.150.380).

28

29 **19.150.370 Geologically hazardous areas.** “Geologically hazardous areas” means
areas that because

30 of their susceptibility to erosion, sliding, earthquake, or other geological events, are not
suited to siting

31 commercial, residential or industrial development consistent with public health or safety
concerns.

1 **19.150.375 Geologist.**

2 “Geologist” means a person who is licensed in the State of Washington and meets all
3 experience and
4 training requirements in accordance with Chapter 308-15 WAC, as now or hereafter
5 amended.

6 **19.150.380 Geotechnical engineer.**

7 “Geotechnical engineer” means a practicing geotechnical/civil engineer licensed as a
8 professional civil
9 engineer with the state of Washington, with professional training and experience in
10 geotechnical
11 engineering, including at least four years’ professional experience in evaluating
12 geologically hazardous
13 areas.

14 **19.150.385 Geotechnical report and geological report.**

15 “Geotechnical report” and “geological report” means a study of potential site development
16 impacts related
17 to retention of natural vegetation, soil characteristics, geology, drainage, groundwater
18 discharge, and
19 engineering recommendations related to slope and structural stability. The geotechnical
20 report shall be
21 prepared by or in conjunction with a licensed geotechnical engineer meeting the minimum
22 qualifications
23 as defined by this title. Geological reports may contain the above information with the
24 exception of
25 engineering recommendations, and may be prepared by a geologist (See Chapter
26 19.700, Special
27 Reports, for minimum qualifications).

28 *Is there a requirement that the County employees reviewing these report (and other
29 required under this title) must have qualifications at least equal to the person required by
30 the title to prepare the report? If not, what is the logic that permits an unqualified
31 employee to reject a report/? Does the County recognize that a person holding a state
32 license has a fiduciary duty to the person who contracts with him for a report and is liable
33 if his product is not correct as contracted? If the County contests the findings of a
34 licensed consultant, what liability does the County have if proven wrong?*

35 **19.150.390 Grading (construction).**

36 “Grading” means any excavating, filling, grubbing, recontouring or mechanical removal of
37 earth materials
38 on the surface layer or any combination thereof.

21 **Nice definition of what occurs during normal gardening.**

22 **19.150.395 Grazed wet meadows.**

23 “Grazed wet meadows” means wetlands whose vegetative cover has been greatly
24 modified as a result of
25 grazing, seeding, or cutting for hay. Grazed wet meadows are typically dominated by a
26 pasture species
27 (such as blue grass, orchard grass, fescue, clovers, reed canary grass, etc.) as well as
28 non-native
29 wetland species such as soft rush and buttercup. They are saturated or have standing
30 water during the
31 wet season and part of the growing season but are dry during the summer months. Wet
meadows are
used, or have been used within the last five years, for livestock grazing, seeding or
cutting for hay.

27 **19.150.400 Grubbing.**

28 “Grubbing” means the removal of vegetative matter from underground, such as sod,
29 stumps, roots, buried
30 logs, or other debris, and includes the incidental removal of topsoil to a depth not
31 exceeding twelve
inches.

31

1 19.150.405 Groundwater.

2 “Groundwater” means water that exists beneath the land surface or beneath the bed of
any stream, lake

3 or reservoir, or other body of surface water, regardless of the geological formation or
structure in which

4 such water stands or flows, percolates or otherwise moves.

5 19.150.410 Habitat management plan.

6 “Habitat management plan” means a report prepared by a professional wildlife biologist
or fisheries biologist that discusses and evaluates critical fish and wildlife habitat functions
and evaluates the measures necessary to maintain, enhance and improve habitat
conservation on a proposed development site.

**7 Why would a property owner be required to enhance or improve wildlife habitat on
their private property? This is another extreme measure to inhibit the best use of
property with a decision process controlled by a government agency. That is not a
function of government.**

8 19.150.415 Habitats of local importance.

9 “Habitats of local importance” are designated fish and wildlife habitat conservation areas
that are found to be locally important by the County.

**10 Who is charged with the authority to make the determination? What are their
qualifications? Is this not subject to a public process?**

11 19.150.420 Hazardous substance.

12 “Hazardous substance” means any liquid, solid, gas or sludge, including any materials,
substance, product, commodity or waste, regardless of quantity, that exhibits any of the
characteristics or criteria of hazardous waste described in WAC 173-303-090 and WAC
173-303-100 including waste oil and petroleum products.

**13 Will this include CO2 under the current appreciation of the hazard of that
substance to our climate?**

14 19.150.425 Hearing examiner.

15 “Hearing examiner” means a person appointed to hear or review certain land use
decisions pursuant to

16 RCW 36.70.970 and chapter 2.10 KCC.

17 19.150.430 Hydric soils.

18 “Hydric soils” means soils which are wet long enough to periodically produce anaerobic
conditions, thereby influencing the growth of hydrophitic plants.

19 19.150.435 Hydrogeologist.

- 20 “Hydrogeologist” means a person who is qualified to engage in the practice of hydrogeology, has met the qualifications in hydrogeology established under chapter [18.220 RCW](#), and has been issued a license in hydrogeology by the Washington State Geologist Licensing Board.
- 21 **19.150.440 Impervious Surface.**
- 22 ‘Impervious surface” means a surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development or a non-vegetated surface area that causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present

- 1 under per-development or pre-developed conditions. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater.
- 2 **This definition would include every possible “development” to property. How id “pre-development” determined and documents?**
- 3 **19.150.445 Infiltration rate.**
- 4 “Infiltration rate” means a general description of how quickly or slowly water travels through a particular soil type.
- 5 **19.150.450 Landslide hazard areas.**
- 6 “Landslide hazard areas” means areas at risk of mass movement due to a combination of geologic,
7 topographic, and hydrologic factors.
- 8 **19.150.455 Liquefaction.**
- 9 “Liquefaction” means a process in which a water-saturated soil, upon shaking, suddenly loses strength
10 and behaves as a fluid.
- 11 **19.150.460 Low impact activities.**
- 12 “Low impact activities” means activities that do not require a development permit and/or do not result in any alteration of hydrology or adversely impact the environment.
- 13 **The Title seems to be able to provide example for virtually every other definition where appropriate. How about some examples for “Low impact”.**
- 17 **19.150.465 Mitigation.**
- 18 “Mitigation” means avoiding, minimizing or compensating for adverse critical area impacts. Mitigation includes the following specific categories:
- 19 A. Compensatory mitigation: replacing project-induced critical area losses or impacts, including, but not limited to, restoration, creation, or enhancement.
- 20 B. Creation mitigation: mitigation performed to intentionally establish a critical area (e.g., wetland) at a site where it does not currently exist.
- 21 **What is the scientific basis for the creation of a new “critical area” that has no geographic association with the one on the permitted property and making a “critical area” from essentially whole cloth? This seem to imply that man can create a “critical area” how does that works without impacting one of the other conditions set forth in the Title?**

- 22 C. Enhancement mitigation: mitigation performed to improve the condition of existing degraded critical areas (e.g., wetlands) so that the functions they provide are of a higher quality.
- 23 D. Restoration mitigation: mitigation performed to reestablish a critical area (e.g., wetland), or its functional characteristics and processes, which have been lost by alterations, activities or catastrophic events within an area which no longer meets the definition of a critical area.

29

1 **19.150.470 Native vegetation.**

2 “Native vegetation” means vegetation indigenous to the Puget Sound coastal lowlands.

3 **See the comments regarding Exotic. Why does the definition include the entire Puget Sound region and not just Kitsap? Is there some scientific evidence that the vegetation history of hood canal is the same as Bellingham bay or the Straits of Juan de Fuca?**

4 **19.150.475 Normal maintenance.**

5 “Normal maintenance” means those usual acts to prevent a decline, lapse or cessation from a lawfully established condition. Normal maintenance includes removing debris from and cutting or manual removal of vegetation in crossing and bridge areas. Normal maintenance does not include:

6 A. Use of fertilizer or pesticide application in wetlands, fish and wildlife habitat conservation areas, or their buffers;

This effectively means that a property owner on whose property a critical area or buffer exists, without their knowledge will be in violation if that use fertilizer or pesticides. Is that the intent and if so, how will this be enforced?

7

8 B. Re-digging ditches in wetlands or their buffers to expand the depth and width beyond the original

9 ditch dimensions;

10 C. Re-digging existing drainage ditches in order to drain wetlands on lands not classified as existing

11 and ongoing agriculture under Section 19.100.130 (General Exemptions).

12 **19.150.480 Ordinary high water mark.**

13 “Ordinary high water mark” means 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 existing 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;.

14 The definition is further guided by the additional criteria to clarify this mark in salt and fresh water environments, as contained in WAC 173-22-030, as now or hereafter amended.

15 **19.150.485 Out-of-kind compensation.**

16 “Out-of-kind compensation” means to replace a critical area (e.g., wetland) with a

substitute critical area (e.g., wetland) whose characteristics do not closely approximate those destroyed or degraded by an activity. It does not refer to replacement out-of-category such as replacement of wetland loss with new stream segments.

17 **Once again the improper use of “compensation” for property related issues. The science that supports this entire process is not demonstrated.**

18 **19.150.490 Permeability.**

19 “Permeability” means the capacity of an aquifer or confining bed to transmit water.

28 **19.150.495 Pond.**

29 “Pond” means a naturally existing or artificially created body of standing water not regulated by Title 22 of the Kitsap County Code.

1 19.150.500 Practicable alternative.

2 “Practicable alternative” means an alternative that is available and capable of being
3 carried out after taking into consideration cost, existing technology, and logistics in light
4 of overall project purposes, and having less impacts to critical areas. A practicable
5 alternative may include an area not owned by the applicant for which an easement has
6 been obtained in order to fulfill the basic purpose of the proposed activity.

**3 Balderdash. A person cannot build a home on an easement. The criteria for use is
“highest and best use” which is a function of economic benefit and personal
enjoyment of the property owner not the County. This is another attempt at trying
to replace individual rights with non-existent public good or public rights. Rights
belong to individuals. Group rights do not exist.**

4 19.150.505 Priority habitat.

5 “Priority habitat” means a habitat type with unique or significant value to many species
6 and may be described by a unique vegetation type or dominant plant species, by a
7 successional stage, or specific habitat features of key value to fish and wildlife. An area
8 identified and mapped as priority habitat has one or more of the following attributes:

- 6 Comparatively high fish and wildlife density or species diversity;
- 7 Important fish and wildlife breeding habitat, seasonal ranges, or movement
8 corridors;
- 8 Limited availability;
- 9 High vulnerability to habitat alteration; or
- 10 Unique or dependent species.

11 19.150.510 Priority species.

12 “Priority species” means species requiring protective measures and/or management
13 actions to ensure their persistence at genetically viable population levels. Priority species
14 include state-listed or state proposed endangered, threatened or sensitive species and
15 candidate and monitored species. Priority species may also include vulnerable
16 aggregations (heron rookeries, seabird concentrations, shellfish beds, etc.), or species of
recreational, commercial and/or tribal importance.

13 19.150.515 Public facilities.

14 “Public facilities” means facilities which are owned, operated or maintained by a public
15 agency.

15 19.150.520 Public project of significant importance.

16 “Public project of significant importance” means a project funded by a public agency,
department or jurisdiction that is found to be in the best interests of the citizens of Kitsap
County and is so declared by the Kitsap County board of commissioners in a resolution.

17 19.150.525 Public right-of-way.

18 “Public right-of-way” means any road, alley, street, avenue, arterial, bridge, highway, or other publicly owned ground or place used or reserved for the free passage of vehicular and/or pedestrian traffic or other services, including utilities.

1 19.150.530 Public utility.

2 “Public utility” means a business or service, either governmental or having appropriate
approval from the state, which is engaged in regularly supplying the public with some
commodity or service which is of public consequence and need, such as, electricity, gas,
sewer and/or wastewater, water, transportation or communications.

6 19.150.535 Ravine.

7 “Ravine” means a V-shaped landform, generally having little to no floodplain and normally
containing steep slopes, which is deeper than ten vertical feet as measured from the
centerline of the ravine to the top of the slope. Ravines are typically created by the
wearing action of streams.

8 **How about U-Shaped? Try Webster’s. They seem to get it correct and more easily
understood.**

10 19.150.540 Reasonable.

11 “Reasonable” means not excessive or extreme; fair.

12 19.150.545 Reasonable alternative.

13 “Reasonable alternative” means an activity that could feasibly attain or approximate a
proposal’s objectives, but at a lower environmental cost or decreased level of
environmental degradation.

14 19.150.550 Reasonable use.

15 “Reasonable use” is a legal concept articulated by federal and state courts in regulatory
taking cases.

16 **Also one abused by local governments in trying to avoid “taking” findings and
other legal actions.**

17 19.150.555 Reasonable use exception.

18 “Reasonable use exception” means an exception to the standards of this title that allows
for the use of a property that cannot otherwise conform to the requirements set forth in
this title, including the variance criteria. (See Section 19.100.140 for Reasonable Use
Exception procedures.).

19 **The only provision for reasonable use is one that permits the property owner to
exercise their rights to best and highest use and enjoyment of the property. Whne
government knowingly sets out to subvert those rights they are not complying
with the authority delegated to them by the citizens and are abusing the power of
their elected officies.**

20 19.150.560 Re-establishment.

21 “Re-establishment” means the manipulation of the physical, chemical or biological
characteristics of a site

22 with the goal of returning natural or historical functions to a former wetland. Activities could include

23 removing fill material, plugging ditches, or breaking drain tiles.

25 **19.150.565 Refuse.**

26 “Refuse” means material placed in a critical area or its buffer without permission from any legal authority. Refuse includes, but is not limited to, stumps, wood and other organic debris, as well as tires, automobiles, construction and household refuse. This does not include large woody debris used with an approved enhancement plan.

27 **How about dead animals, wind blow tree limbs, fallen trees, and all those other things that seem to make up the real world?**

30

1 19.150.570 Rehabilitation.

2 “Rehabilitation” means the manipulation of the physical, chemical or biological
3 characteristics of a site
4 with the goal of repairing natural or historical functions and processes of a degraded
5 wetland. Activities
6 could involve breaching a dike to reconnect wetlands to a floodplain, restoring tidal
7 influence to a wetland,
8 or breaking drain tiles and plugging drainage ditches. Rehabilitation results in a gain in
9 wetland function
10 but does not result in a gain in wetland acres.

7 19.150.575 Restoration.

8 “Restoration” means the manipulation of the physical, chemical, or biological
9 characteristics of a site with
10 the goal of returning natural or historic functions to a former or degraded wetland. For the
11 purpose of
12 tracking net gains in wetland acres, restoration is divided into re-establishment and
13 rehabilitation.

11 19.150.580 Retention facilities.

12 “Retention facilities” means drainage facilities designed to store runoff for gradual release
13 by evaporation,
14 plant transpiration, or infiltration into the soil. Retention facilities shall include all such
15 drainage facilities
16 designed so that none or only a portion of the runoff entering the facility will be eventually
17 discharged as
18 surface water. Retention facilities shall include all appurtenances associated with their
19 designed function,
20 maintenance and security.

17 19.150.585 Riparian area.

18 “Riparian area” means a vegetated ecosystem along a water body through which energy,
19 materials, and
20 water pass. Riparian areas characteristically have a high water table and are subject to
21 periodic flooding
22 and influence from the adjacent water body. These systems encompass wetlands,
23 uplands, or some
24 combination of these two landforms. They will not in all cases have all the characteristics
25 necessary for
26 them to be also classified as wetlands.

23 **19.150.590 Salmonid.**

24 “Salmonid” means a member of the fish family salmonidae. This family includes Chinook,
25 coho, chum,
26 sockeye and pink salmon; rainbow, steelhead, cutthroat, brook and brown trout; and
Dolly Varden char,
kokanee, and whitefish.

27 **19.150.595 Seismic hazard areas.**

28 “Seismic hazard areas” are areas subject to severe risk of damage as a result of
earthquake induced
29 ground shaking, slope failure, settlement, soil liquefaction, debris flows, lahars, or
tsunamis.

30 **19.150.600 Sensitive species (state listed).**

31 “Sensitive species” means a wildlife species, native to the state of Washington that is
vulnerable or
32 declining and is likely to become endangered or threatened in a significant portion of its
range within the

1 state without cooperative management or the removal of threats. Sensitive species are
legally designated
2 in WAC-232-12-011, as now or hereafter amended.

3 **19.150.605 Shorelines.**

4 “Shorelines”, as defined by Chapter 90.58 RCW are regulated under Title 22 KCC,
Shoreline Master Program. Those portions of streams where the mean annual flow is
twenty cubic feet per second or less, lakes less than twenty acres in size, and wetlands
associated with either, are regulated under this Title.

5 **19.150.610 Significant Tree.**

6 “Significant tree” means any healthy tree that is at least six inches in diameter at breast
height. A tree growing with multiple stems shall be considered significant if at least one
of the stems, as measured at a point six inches from where the stems digress from the
main trunk, is at least four inches in diameter. Any tree that is planted to fulfill
requirements of this title shall be considered significant, regardless of size or species.

7 **Do you realize how ridiculous this definition is? Breast height to who or what?
Does it have to be “native” or is exotic also included? But wait, seedlings can
also be “significant”. Does location matter? How about who plants it and Why?**

8

9 **19.150.615 Single-family dwelling.**

10 “Single family dwelling” (attached or detached) means a building or structure that is
designed for occupancy by not more than one family and including accessory structures
and improvements.

11 **Please define “family” for the purpose of this title. Is that legal relationship family
or extended family” since you intend to use the definition to impose restrictions
on property owners they have a need to know the specifics.**

12 **19.150.620 Special flood hazard areas.**

13 “Special flood hazard area” means an areas subject to a base or one hundred-year flood;
areas of special flood hazard are shown on a flood hazard boundary map or flood insurance
rate map as Zone A, AO, A1- 19 30, AE, A99, AH, VO, V1-30, VE, or V..

20 **19.150.625 Species of concern.**

21 “Species of concern” means those species that have been classified as endangered,
threatened, sensitive, candidate, or monitored by the Washington State Department of
Fish and Wildlife.

22 **19.150.630 State Environmental Policy Act or SEPA.**

23 “State Environmental Policy Act” or “SEPA” means the state environmental law (Chapter
43.21C RCW) and rules (Chapter 197-11 WAC) as implemented by Kitsap County

Code, Title 18 (Environment).

26 **19.150.635 Streams.**

1 “Streams” mean those areas in Kitsap County where the surface water flows are sufficient to produce a defined channel or bed. A defined channel or bed is an area which demonstrates clear evidence of the passage of water and includes but is not limited to bedrock channels, gravel beds, sand and silt beds and defined-channel swales. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff devices or other artificial watercourses unless they are used by fish or used to convey streams naturally occurring prior to construction.

2 **If the primary consideration for streams is as habitat for fish or in support of other creatures, it would seem that the presence of water year round would be a prerequisite. Otherwise sections of my gravel driveway would meet the definition of a stream.**

3 **19.150.640 Swale.**

4 “Swale” means a shallow drainage conveyance with relatively gentle side slopes, generally with flow depths less than one foot.

5 **19.150.645 Threatened species (state listed).**

6 “Threatened species” means a species, native to the state of Washington that is likely to become endangered in the foreseeable future throughout a significant portion of its range within the state without cooperative management or the removal of threats. Threatened species are legally designated in WAC 232-12-011, as now or hereafter amended.

7 **Under a strict adherence to the provisions of this Title, the habitat available for humans in Kitsap County will be severely curtailed and diminished. Can humans be declared a “threatened” species?**

11 **19.150.650 Toe of slope.**

12 “Toe of slope” means a distinct topographic break in a slope. Where no distinct break exists, this point shall be the lowermost limits of the landslide hazard area as defined and classified in Chapter 19.400.

14 **19.150.655 Top of slope.**

15 “Top of slope” means a distinct topographic break in a slope. Where no distinct break in a slope exists, this point shall be the uppermost limit of the geologically hazardous area as defined and classified in Chapter 19.400.

16 **19.150.660 Use or activity.**

17 “Use or activity” means any development proposal that includes or directly affects a critical area or its buffer, or occurs within the area of review, as described in Section 19.100.110(G), and is not otherwise exempt under 19.100.125.

18 **So walking, hunting, fishing, “brushing” and such other non-developmental**

practices are not use or activity?

22 19.150.665 Utilities.

23 “Utilities” means facilities or structures that produce or carry services consumed by the public, such as electrical power, gas, sewage, water, communications, oil, publicly maintained stormwater facilities.

24 **Does this include solar panels and windmills that might be installed on a property. Because they are impervious and or might endanger certain species or because they might be best located in a buffer, does the desire for green energy impact the need for protecting the environment? If so what has priority?**

25 19.150.670 Utility corridor.

26 “Utility corridor” means areas set aside for or containing above or below ground utilities. A utility corridor is usually contained within and is a portion of any right-of-way or easement.

27 19.150.675 Wellhead protection area.

28 “Wellhead protection area” means the surface and subsurface area surrounding a well or wellfield that supplies a public water system.

29 **To what specific distance or is this just open ended? What is the definition of a Public water system or utility?**

1 19.150.680 Wetland delineation.

2 “Wetland delineation” means the identification of wetlands and their boundaries pursuant to this title, which shall be done in accordance with the approved federal wetlands delineation manual and applicable regional supplements.

3 **Exactly what are these references? How is a property owner to know if they are using correct guidance?**

4 19.150.685 Wetland determination.

5 “Wetland determination” means an on-site determination as to whether a wetland exists on a specific parcel, completed by either a wetland specialist or the department.

6 **Exactly how is this to be done? Who does it? When is it done? How is access to Private property gained to complete the determination? How do you use a term under definition to define itself?**

7 19.150.690 Wetland edge.

8 “Wetland edge” means the line delineating the outer edge of a wetland established in Section 19.200.210.

10 19.150.695 Wetlands.

11 “Wetlands” means those 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, but are not limited to swamps, marshes, estuaries, bogs, and ponds less than twenty acres, including their submerged aquatic beds and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, storm water 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. However, wetlands may include those legally established artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

12 **OK, you certainly lost me on this one. Wetlands may not be artificially created (except before July 1990 - as if there was something magic about that date) and as provided by government mandate. I fail to follow the logic in this definition. I thought “wetland” was a technical and not a political definition.**

13 **19.150.700 Wetlands, isolated.**

14 “Wetlands, isolated” or “isolated wetlands” means wetlands that (a) are outside of and not contiguous to any one-hundred-year floodplain of a lake, river, or stream; and (b) have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water or other wetland within a one- hundred-foot radius.

15 **What is the scientific rationale for the 100 foot separation and where is the “radius” measured from (point of origin. This definition will lead to confusion and abuse.**

16 **19.150.705 Wetlands, mosaic.**

17 “Wetlands, mosaic” or “mosaic wetlands” means an area with a concentration of multiple small wetlands, in which each patch of wetland is less than one acre; on average, patches are less than 100 feet from each other; and areas delineated as vegetated wetland are more than 50% of the total area of the entire mosaic, including uplands and open water.

18 **If I was confused by the “isolated” definition this one really has me lost. What exactly are you trying to say and how exactly will this be determined in the field? Are there any limits to how much land can be included in a “mosaic” if “wetland” areas are found across a large spread of the landscape? Is it possible for a major parcel of property to be “consumed” by a “mosaic”?**

31

1 **19.150.710 Wetlands of regional significance.**

2 “Wetlands of regional significance” means those wetlands determined by the department, or otherwise determined, to have characteristics of exceptional resource value, which should be afforded the highest levels of protection.

3 **Say what? A site is either a wetland or not. How does allowing “the department” determine some level of protection priority fit in with the overall nature of this Title? Does that not permit discretion without specific guidance or limits?**

4 **19.150.715 Wetlands of statewide significance.**

5 “Wetlands of statewide significance” means those wetlands recommended by the Washington State Department of Ecology (DOE) and determined by the department to have characteristics of exceptional resource value which should be afforded the highest levels of protection.

6 **Please see the comments for .710**

7 **19.150.720 Wetlands report.**

8 “Wetlands report” means a wetland delineation report or wetland mitigation plan consistent with applicable provisions of Chapter 19.200 (Wetlands) and Chapter 19.700 (Special Reports).

9 **What are the applicable provisions or is the determination left up to the applicant only later to be identified by the County?**

10 **19.150.725 Wetlands specialist.**

11 “Wetlands specialist” means a person with experience and training in wetland issues who is able to submit substantially correct reports on wetland delineations, classifications, functional assessments and mitigation plans. Substantially correct is interpreted to mean that errors, if any, will be minor and do not delay or affect the site plan review process. Qualifications of a wetlands specialist include:

12 A. Certification as a Professional Wetland Scientist (PWS) or Wetland Professional in Training (WPIT) through the Society of Wetland Scientists;

13 B. A Bachelor of Science degree in the biological sciences from an accredited institution and two years of professional field experience; or

14 C. Five or more years professional experience as a practicing wetlands biologist with a minimum three years professional experience delineating wetlands.

15 **The way this is written all three (A,,B, C) are required. How are B and C determined and certified? There are in excess of 40 defined BS in biological sciences, most of which have absolutely nothing to do with environment or wet lands. Do degrees in any of those areas satisfy the requirement?**

16 **19.150.730 Wildlife biologist.**

17 “Wildlife biologist” means a person with experience and training within the last ten years in the principles of wildlife management and with practical knowledge in the habits, distribution and environmental management of wildlife. Qualifications include:

18 A. Certification as Professional Wildlife Biologist through The Wildlife Society; or

19 B. Bachelor of Science or Bachelor of Arts degree in wildlife management, wildlife biology, ecology, zoology, or a related field from an accredited institution and two years of professional field experience; or

20

- 1 C. Five or more years of experience as a practicing wildlife biologist with a minimum of three years of practical field experience.
- 2 **TWS with leadership involving numerous current state government employees, requires a BS and 5 years' experience. They also have a course preparing an individual for certification. Reviewing the TWS mission it appears they are more closely aligned with the nature conservancy and Sierra club than with average citizens. Why is the County certification different from TWS?**

3

4

Chapter 19.200 WETLANDS

5

6 Sections:

7 **19.200.20 Purpose and Objectives.**

8 **19.200.21 Wetland identification and functional**

9 **19.200.21 Wetland review procedure.**

10 **19.200.22 Wetland buffer requirements.**

11 **19.200.22 Additional development standards for**

12 **19.200.25 Wetland mitigation requirements.**

13 **19.200.26 Incentives for wetlands protection.**

14 **19.200.205 Purpose and Objectives.**

15 This chapter applies to all uses within or adjacent to areas designated as wetlands, as defined in Section 19.150.705, except those identified as exempt in 19.100.125. The intent of this chapter is to:

16 A. Achieve no net loss and increase the quality, function and values of wetland acreage within Kitsap County by and maintaining and enhancing, when required, the biological and physical functions and values of wetlands with respect to water quality maintenance, stormwater and floodwater storage and conveyance, fish and wildlife habitat, primary productivity, recreation, and education;

17 **If the County does not have an accurate inventory of wet lands and other critical areas in the County how is 'no net loss' to be achieved" What is the bench mark against which loss will be measured and who is responsible to maintain the documentation? What happens if there is a net gain?**

18 B. Protect the public's health, safety and welfare, while preventing public expenditures that could arise from improper wetland uses and activities;

19 **What does "could arise" mean and how is it determined? Who is the authority for that determination?**

20 C. 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 title ;

21 **If I read this correctly, the Title gives the County the authority to “plan” the use of private property so the “holder” whatever that is, to benefit wherever possible. First the term is “private property owner” not “holder” which appears to imply that people somehow “hold” property for the use and benefit of others. Second, the responsibility and RIGTH to determine best and highest use of property lies with the owner, not government.**

22 D. Prevent turbidity and pollution of wetlands and fish or shellfish bearing waters; and

23 **You have not defined either turbidity or pollution for purposes of this Title. If common use is to be considered, it would appear that government itself is the major polluter of local waters and the primary cause of turbidity in those same waters. Does the Title apply to government or “public” actions and activities?**

24 E. Maintain the wildlife habitat.

25 **By definition (an apparent intent) the entire land, water, and air space of the County is considered to be wildlife habitat. Unfortunately, most of that same area or space is also private property. Under the protections of the Constitutions, government has no role ,or authority to maintain anything on private property.**

26 **19.200.210 Wetland identification and functional rating.**

27 A. General.

1 1. All wetland delineations shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplement. All areas within the county meeting the wetland designation criteria are hereby designated critical areas and are subject to the provisions of this title.

2 **Unless the County has a specific inventory of “wetlands” with appropriate definitions of wetland boundaries, this section is nothing more than a declaration of intent to future action to identify and encumber property. Unfortunately, the County is not delegated the authority to carry out such actions as relate to private property. Either produce a complete inventory of “wetlands” so the citizens are fully aware of where and when this title applies or change the approach.**

3 2. Kitsap County uses the Washington Department of Ecology Washington State Wetland Rating System for Western Washington, revised 2014 or as hereafter amended, to categorize wetlands for the purposes of establishing wetland buffer widths, wetland uses and replacement ratios for wetlands. Wetlands shall be generally designated as follows (See Chapter 19.800, Appendix A, for more detailed description).

4 B. Wetlands.

5 **If all of these descriptions are in the referenced manual why are they repeated here? Has the County modified any descriptions? Why are not wetlands on the County inventory already classified and so identified? Should this entire section be deleted?**

6 1. Category I Wetlands. Category I wetlands include, but are not limited to, wetlands that represent rare or unique wetland types, those that are more sensitive to disturbance than most wetlands, those and that are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime, or those that provide a high level of function. Category I wetlands score 23 points or more out of 27 on the wetlands ratings system.

7 2. Category II Wetlands. Category II wetlands are those regulated wetlands that are more difficult to replace and provide high levels of some functions. Category II wetlands score between 20-22 points out of 27 on the wetlands ratings system.

8 3. Category III Wetlands. Category III wetlands are those wetlands with a moderate level of function and can often be adequately replaced with mitigation. Category III wetlands score between 16-19 points on the wetlands ratings system. Activities affecting isolated, non-mosaic

9 Category III wetlands that are less than 1,000 square feet may be allowed provided that the wetlands report identifies the specific wetland function affected or at risk, and the proposed mitigation to replace the wetland function, on a per function basis.

10 4. Category IV Wetlands. Category IV wetlands have the lowest level of function and are often heavily disturbed. Category IV wetlands that score less than 16 points out of 27 on the wetlands ratings system. Activities affecting isolated, non-mosaic Category IV wetlands that are less than 4,000 square feet may be allowed provided that the wetlands report identifies the specific

11 wetland function affected or at risk, and the proposed mitigation to replace the wetland function, on a per function basis.

1 **19.200.215 Wetland review procedures.**

2 A. Application Requirements. Except as otherwise provided herein, all applications for development within a wetland or its largest potential buffer width shall include the following special reports at the time of application. This shall not prohibit the department from requesting reports or other information.

3 **If the County has not previously identified an existing wetland on a parcel, how will the applicant know to prepare and submit this report? If the county has properly defined the wet land, why is this report required? This section implies that the County is on a fishing expedition to find and define wetlands at the expense of the property owner and applicant. If that is not the case please explain exactly how this works.**

4 1. Wetland delineation report (Section 19.700.710)

5 2. Wetland mitigation report (Section 19.700.715)

6 B. Delineation of Wetland Boundaries.

7 1. The applicant shall be responsible for hiring a qualified wetlands specialist to determine the wetland boundaries by means of a wetland delineation. This specialist shall stake or flag the wetland boundary. When required by the department, the applicant shall hire a professional land surveyor licensed by the state of Washington to survey the wetland boundary line. The wetland boundary and wetland buffer established by this chapter shall be identified on all grading, landscaping, site, on-site septic system designs, utility or other development plans submitted in support of the project.

8 **This certainly support the comment above and the transfer of responsibility from the County to the property owner to identify something the County needs to define so it can assign protections and deny use. This activity is covered in the Constitution, where?**

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

10 **Does this mean the County will complete the task at County expense or that the County will conduct the study an transfer the expense to the property owner?**

11 3. 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 require that a wetland specialist make adjustments to the boundary.

12 **Let's see. First you require a licensed and certified consultant to perform a study, to make out boundaries and may require a surveyor to also be involved. The person doing the work is under contract to the applicant (not the County) and has a fiduciary relationship with the applicant. The County reserves the "right" to check the work of that licensed consultant and require modifications of the consultant's report. This implies that the County reviewer will have qualifications at least equal to those required of the professional consultant (including license if one is involved), have completed and independent study of the area in question, and have provided scientific evidence documenting the errors in the original report. If that is not the case, what is it the County will do? Will the County accept liability for any suit raised by either the applicant or the consultant regarding the report? It would appear that if the County does not accept the report as presented they are challenging the professional competence of the consultant which could lead to civil suit (not the Hearing Examiner).**

13 C. Wetland Review Process for Single-family Dwellings.

14 1. Expedited Approval. Applicants proposing a single-family dwelling may receive expedited approval by the department if they choose to adopt the largest buffer width from the appropriate wetland category. Expedited approval removes the requirements of the wetland certification process for single-family dwellings (subsection (2), below) provided that the wetland delineation and/or wetland rating is not disputed. Administrative buffer reductions or variances will not apply.

15 **Notwithstanding the apparent graciousness of the section, is it not just another attempt at the property extortion that says "If you don't question what we are doing and fall in line with our demands we will let you proceed"? To accept this provision, the property owner, under this title, freely gives their property to government. How is that proper?**

16 Expedited approval is not the same as expedited review, which is sometimes available for additional fees.

17 **Never pass up the opportunity to squeeze a bit more out of the applicant. However, if applicant A pays the extra fees for expedited review, given a fixed work force, does that not mean that all other applicant will experience a delay in review?**

18 2. Wetland Certification Process for Single-family Dwellings (No Encroachment into a Wetland or its Standard Buffer).

1 a. Prior to issuance of a building permit, site development permit, or on-site sewage system permit, the applicant may submit a single-family wetland certification form completed by a wetland specialist that certifies either:

2 (1) No wetlands are present within 250 feet of the project area; or

3 **For the first time we are stating that the default (standard) wetland buffer is 250 feet surrounding the wet land. There has been no identification of the science being the definition or any reasonable discussion about how the distance was determined. In the real world, the 250 foot buffer will eliminate the development of significant properties in the County, drive the value of those properties in tot the cellar, and have immediate and lasting impact on the economic well-being of citizens. Does the County not recognize that this determination, administrative in taking is a major violation of Constitutional protections of private property. If an acre is 4840 square yards (a square of 208 feet per side) the 250 foot buffer encompasses about 6900 square yards or 1.5 acres. In urban zoning which has a norm of 5-9 homes per acre this means that not fewer than 15 homes would be built because of a minimal wetland and the potential for no acceptable use of**

the property exists. Just how exactly does this all work out to the benefit of the property owner? If this condition is found to exist, will the County refund all property taxes on the encumbered property that have been collected since 1990?

4 (2) Wetlands are present within 250 feet of the project area, but all regulated activities associated with the dwelling (e.g., landscaped areas, septic facilities, outbuildings, etc.) will occur outside of the standard buffer of the identified wetland.

5 b. If wetland buffers extend onto the site, the wetland specialist shall place permanent, clearly visible, wetland buffer signs at the edge of the buffer. A wetland buffer sign affidavit, signed by the wetland specialist, shall be submitted to the department as verification that the wetland buffer signs have been placed on the subject site.

6 **This requires that the property owner not only permanently identify those portions of the property that are no longer subject to highest and best use but also implies that the property owner will have a continuing duty to maintain the signage to some acceptable level as determined by the County. Does this include a permanent authority for the County to enter into the property to make inspection to certify the wet land border is being maintained and properly identified? What are the penalties for non-compliance?**

7 c. A survey will not be required with a single-family wetland certification form.

8 d. The single-family certification form may be used only to authorize single-family dwellings and associated home site features such as driveways, gardens, fences, wells, lawns, and on-site septic systems. It may not be used for new agricultural activities, expansion of existing agricultural activities, forest practice activities, commercial projects, land divisions, buffer width modifications, or violations.

9 e. The single-family certification process will be monitored by the department for accuracy, and enforcement actions will be initiated should encroachment into a wetland or buffer occur.

10 f. The applicant/property owner assumes responsibility for any and all errors of the single-family certification form.

11 g. Single-family certification forms shall be filed with the Kitsap County auditor's office.

12 **19.200.220 Wetland buffer requirements.**

13 A. Determining Buffer Widths. The following buffer widths are based on three

factors: the wetland category, the intensity of the impacts, and the functions or special characteristics of the wetland that need to be protected as established through the rating system. These factors must be determined by a qualified wetland professional using the *Washington State Wetland Rating System for Western Washington: 2014*

- 1 *Update* (Ecology Publication #14-06-029, or as revised and approved by Ecology). If a wetland meets more than one of the characteristics listed in tables 19.200.220(B) through (E), the greater of the buffers recommended to protect the wetland is applied. Buffers shall be measured horizontally from a perpendicular line established at the wetland edge based on the buffer width identified using the tables below.

If the information in table .220A is provided in the reference documents, why include it in this Title? Does that not lead to the impression that the County is establishing the criteria? Equally important, if the reference document is revised, how would an applicant using this Title be aware of the revisions?

**TABLE 19.200.220(A)
LAND USE IMPACT "INTENSITY" BASED ON
DEVELOPMENT TYPES**

Rating of Impact From Proposed Changes in Land Use	Examples of Land Uses that Cause the Impact Based on Common
High	Commercial, Urban, Industrial, Institutional, Retail Sales, Residential subdivisions with more than 1 unit/acre, New agriculture (high-intensity processing such as dairies, nurseries and greenhouses, raising and harvesting crops requiring annual tilling, raising and maintaining animals), New transportation
Moderate	Single-family residential lots, Residential subdivisions with 1 unit/acre or less, Moderate-intensity open space (parks), New agriculture (moderate-intensity such as orchards and hay fields), Transportation
Low	Forestry, Open space (low-intensity such as passive recreation and natural resources preservation, minor

4By zoning definitions all urban area wetlands must be High and virtually all other residential area (rural) will be moderate. For clarification is this an upper limit with potential for reduction or a lower limit with potential for increase in restrictions? Since it appears that is the responsibility of the County to identify and delineate wetlands

should this information not already be a matter of record and not require definition in this Title?

1
2

TABLE 19.200.220(B)
Width of Buffers for Category IV Wetlands

Wetland Characteristics	Buffer Widths by Impact of	Other Measures Recommended for
Score for all 3 basic functions is less than 40 points	Low- 25 feet Moderate- 40 feet High- 50 feet	

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TABLE 19.200.220(C)
Width of Buffers for Category III Wetlands

Wetland Characteristics	Buffer Widths by Impact of	Other Measures Recommended for
Moderate level of function for habitat (5-7 points)*	Low- 75 feet Moderate- 110 feet High- 150 feet	
Score for habitat 3-4 points	Low- 40 feet Moderate- 60 feet High- 80 feet	

6
7

*If wetland scores 8-9 habitat points, use Table 19.200.220(D) for Category II buffers

8
9

TABLE 19.200.220(D)
Width of Buffers for Category II Wetlands

Wetland Characteristics	Buffer Widths by Impact of Proposed Land Use (most protective applies if more	Other Measures Recommended for Protection
High level of function for habitat score (8-9)	Low- 150 feet Moderate- 225 feet High- 300 feet	Maintain connections to other habitat

Moderate level of function for habitat	Low- 75 feet Moderate- 110 feet High- 150 feet	
High level of function for water quality improvement (8-9 points) and low for habitat (less than 5 points)	Low- 50 feet Moderate- 75 feet High- 100 feet	No additional surface discharges of untreated runoff
Estuarine	Low- 75 feet Moderate- 110 feet High- 150 feet	
Interdunal	Low- 75 feet Moderate- 110 feet High- 150 feet	
Not meeting above characteristics	Low- 50 feet Moderate- 75 feet High- 100 feet	

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TABLE 19.200.220(E)
Width of Buffers for Category I Wetlands

Wetland Characteristics	Buffer Widths by Impact of Proposed Land Use (most protective applies if more)	Other Measures Recommended for Protection
Wetlands of High Conservation Value	Low- 125 feet Moderate- 190 feet High- 250 feet	No additional surface discharges to wetland or its tributaries No septic systems within 300 feet of wetland

Bogs	Low- 125 feet Moderate- 190 feet High- 250 feet	No additional surface discharges to wetland or its tributaries <i>Restore degraded parts of</i>
Forested	Buffer width to be based on score for habitat functions or water quality functions	If forested wetland scores high for habitat (8-9 points), need to maintain connections to other habitat areas
Estuarine	Low- 100 feet Moderate- 150 feet <i>High- 200 feet</i>	
Wetlands in Coastal Lagoons	Low- 100 feet Moderate- 150 feet <i>High- 200 feet</i>	
High level of function for habitat (8-9 points)	Low- 150 feet Moderate- 225 feet High- 300 feet	Maintain connections to other habitat areas <i>Restore degraded parts of</i>
Interdunal wetland with high level of function for habitat (8-9 points)	Low- 150 feet Moderate- 225 feet High- 300 feet	Maintain connections to other habitat areas <i>Restore degraded parts of</i>
Moderate level of function for habitat <i>(5-7 points)</i>	Low- 75 feet Moderate- 110 feet <i>High- 150 feet</i>	
High level of function for water quality improvement (8-9 points) and low for habitat (less than 5 points)	Low- 50 feet Moderate- 75 feet High- 100 feet	

Not meeting any of the above	Low- 50 feet Moderate- 75 feet High 100 feet	
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1 **See the comments above about repeating data from referenced document.>**

2 B. Modification of Buffer Widths. The following modifications to buffer widths may
be considered provided the applicant first demonstrates, using all available means,
that reductions or alterations to the required wetland buffer cannot be avoided,
minimized or mitigated (in that order).

3 1. . Buffer Averaging. Standard buffer widths may be modified by the
department for a development proposal by averaging buffer widths, but only
where the applicant can demonstrate that such averaging can clearly
provide as great or greater functions and values as would be provided under
the standard buffer. The following standards shall apply to buffer averaging:

4 a. The decrease in buffer width is minimized by limiting the
degree or magnitude of the regulated activity.

5 **This means changing your highest and best use to satisfy
County requirement. This appropriate under what
authority?**

6 b. For wetlands and/or required buffers associated with
documented habitat for endangered, threatened, or sensitive
fish, or wildlife species, a habitat assessment report has been
submitted that demonstrates that the buffer modification will
not result in an adverse impact to the species of study.

7 **We are introducing a complete new series of buffer
rationales without first identifying what those regulated
limitations are. Exactly how is the applicant /property
owner supposed to know when a “habitat assessment”
report is required?**

8 c. Width averaging will not adversely impact the wetland.

9 **What is width averaging and how is “adverse impact”
determined? Is this magic or is there a documented
procedure that the applicant can consider before hand?**

10 d. The total buffer area after averaging is no less than the total
buffer area prior to averaging.

11 **This implies that no matter what the considerations might
be, the property owner must surrender highest and best
use of a fixed area of their property, as determined by the
County, in order to receive County permission to use**

what may remain. Is there something wrong with this concept?

12 e. The minimum buffer width at any point will not be less than 75 percent of the widths established after the categorization is done and any buffer adjustments applied in accordance with this chapter.

13 f. If significant trees are identified, such that their drip line extends beyond the reduced buffer edge, the following tree protection requirements must be followed:

14 (1). A tree protection area shall be designed to protect each tree or tree stand during site development and construction. Tree protection areas may vary widely in shape, but must extend a minimum of five feet beyond the existing tree canopy area along the outer edge of the dripline of the tree(s), unless otherwise approved by the department.

15 **Where the heck did this come from? Does the County realize that this is the Pacific Northwest and that the most common presence on an undeveloped lot is trees? When did we decide that protecting trees (which belong to the property owner) had a higher priority than allowing the owner their right to use the property?**

1 (2). Tree protection areas shall be added and clearly labeled on all applicable site development and construction drawings, submitted to the department.

2 (3). Temporary construction fencing at least 30 inches tall shall be erected around the perimeter of the tree protection areas prior to the initiation of any clearing or grading. The fencing shall be posted with signage clearly identifying the tree protection area. The fencing shall remain in place through site development and construction.

3 (4). No clearing, grading, filling or other development activities shall occur within the tree protection area, except where approved in advance by the department and shown on the approved plans for the proposal.

4 (5). No vehicles, construction materials, fuel, or other materials shall be placed in tree protection areas. Movement of any vehicles within tree protection areas shall be prohibited.

5 (6). No nails, rope, cable, signs, or fencing shall be attached to any tree proposed for retention in the tree protection area.

6 (7). The department may approve the use of alternate tree protection techniques if an equal or greater level of protection will be provided.

7 **After reading this section, it appears that it would be in the best interest of the property owner to pray for fire or windstorm to level the property. There does not appear to be any other reasonable assurance that the property might ever be used so long as the County assumes unconstitutional use jurisdiction.**

8 2. Administrative Buffer Reductions. Standard buffer widths may be modified by the department for a development proposal by reducing buffers, but only where the applicant can demonstrate that such is the minimum necessary to accommodate the permitted use and that the reduction can clearly provide as great or greater functions and values as would be provided under the standard buffer requirement. The following standards shall apply to buffer reductions:

9 **If a buffer can be “administratively reduced” it would follow that the science underlying the creation of the buffer is subject to “administrative interpretation” if that is the case, the science is not science but is an administrative decision based on some rationale other than science. If science is not the primary and only driver, why are we trying to restrict the use of private property?**

10 a. For proposed single-family dwellings, the department may administratively reduce a buffer by up to 25 percent, pursuant to the variance criteria listed in Section 19.100.135. 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:

Not only can we introduce the illogic of “administrative buffer reductions” but we can also create an administrative procedure to do it. How much does it cost the property owner for this slight of hand?

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

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

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

4 (4). The use of alternative on-site wastewater systems in

order to minimize site clearing;

5 (5). Infiltration of stormwater where soils permit; and

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

7 **Looking at the “administrative process” what appears to be present is a different act of extortion to require a high priced ineffective alternate to a common septic system and keeping “native” plants on the site instead of permitting appropriate landscaping. What is the scientific evidence that these alternatives are either effective or necessary? Please recall, all these environmental protection decisions are to be based in “Best Available Science”.**

8 b. The minimum buffer shall be no less than 75 percent of the
required width, except as allowed under a formal variance or
reasonable use approval.

9 c. The buffer widths recommended for proposed land uses with
high-intensity impacts to wetlands can be reduced to those
recommended for moderate- intensity impacts under the following
conditions:

10 i. For wetlands that score moderate or high for habitat (5
points or more the habitat functions), the width of the buffer
can be reduced if both of the following criteria are met:

11 A relatively undisturbed, vegetated corridor at
least 100- feet wide is protected between the
wetland and any other Priority Habitats as
defined by the Washington Department of Fish
and Wildlife. The corridor must be protected for
the entire distance between the wetland and the
Priority Habitat by some type of legal protection
such as a conservation easement.

12 Measures to minimize the impacts of different
land usesv on wetlands, such as the examples
summarized in Table

29 19.200.220(F).

1 ii. For wetlands that score less than 5 points for habitat, the
 buffer width can be reduced to that required for moderate land-
 use impacts by applying measures to minimize the impacts of
 the proposed land uses, such as the examples summarized in
 Table 19.200.220(F).

5 **TABLE 19.200.220(F)**
 6 **Examples of Measures to Minimize Impacts to Wetlands**

**Who in the State or County are we paying to stay up late into the night to first dream
 this stuff up and then have the audacity to actually put it in print. Does this title come in
 a small booklet form with red covers? Do the people who wrote this stuff live in Kitsap
 and in actual homes?**

Examples of Disturbance	Activities and Uses that Cause	Examples of Measures to
Lights Is a full moon a disturbance?	<ul style="list-style-type: none"> • Parking lots • Warehouses • Manufacturing • Residential 	<ul style="list-style-type: none"> • Direct lights away from wetland
Noise How about overflight of helicopters?	<ul style="list-style-type: none"> • Manufacturing • Residential 	<ul style="list-style-type: none"> • Locate activity that generates noise away from

Stormwater runoff	<ul style="list-style-type: none"> • Parking lots • Roads • Manufacturing • Residential areas • Application of agricultural pesticides • Landscaping • Commercial • Landscaping 	<ul style="list-style-type: none"> • Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150 ft of wetland • Apply integrated pest
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Change in water regime	<ul style="list-style-type: none"> • Impermeable surfaces • Lawns • Tilling 	<ul style="list-style-type: none"> • Infiltrate or treat, detain, and disperse into buffer new runoff from impervious
<p>Pets and human disturbance</p> <p>Is the County actually designating the very existence of human beings (also known as citizens and taxpayers) as a “disturbance”?</p>	<ul style="list-style-type: none"> • Residential areas 	<ul style="list-style-type: none"> • Use privacy fencing; plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the
Dust	<ul style="list-style-type: none"> • Tilled fields 	<ul style="list-style-type: none"> • Use best management

2 3.. Variance. In cases where proposed development cannot meet the
administrative buffer reduction criteria described in this section, a variance shall be
required as described in Section

4 19.100.135.

5 C. Fencing and Signs.

6 1. 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
7 the site is fully stabilized per county approval.

8 **What does “fully stabilized” and per County approval’ mean? Please be a lot
more specific about adding cost and time to a project.**

9 2. The department may require that permanent signs and/or fencing be placed on
the common boundary between a wetland buffer and the adjacent land of the
project site. 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.

10 **Going back to the table above, it would appear that the County is directing a
disturbance to prevent a disturbance. How are the boundary fence and signs
to be put in place in a semi-permanent or permanent manner without making
noise, vibrating the ground and inviting human intrusion?**

1 D. Protection of Buffers. Buffer areas shall be protected as required by the department.
The buffer shall be identified on a site plan and filed as an attachment to the notice to title
as required by Section 19.100.150 (Critical Area and Buffer Notice to Title). Refuse shall
not be placed in buffers.

2 **This says the department gets to decide how a buffer is protected. That is about as
ambiguous as possible. If the Title cannot include clear definition of what is
required, there must be doubt about the actual requirement.**

3 E. 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 Section 19.100.150 (Critical Area and Buffer Notice to Title).

**If a grass lawn is an impervious surface, what materials may be used adjacent
(common meaning) to the edge of a buffer?**

4

5 **19.200.225 Additional development standards for certain uses.**

6 In addition to meeting the development standards of this chapter, those uses identified
7 below shall also comply with the standards of this section and other applicable state,
8 federal and local laws.

7 A. 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, including the maintenance of buffers around
wetlands.

8 B. Agricultural Restrictions. In all development proposals that would introduce or expand
agricultural activities, a net loss of functions and values to wetlands shall be avoided.
These restrictions shall not apply to those 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 at least one of the following methods:

9 **What manner of proof ,is required to demonstrate activity within the last 5 years
and what specific level of activity meets the criteria?**

10 1. Locate fencing no closer than the outer buffer edge; and/or

11 2. Implement a farm resource conservation and management plan agreed upon
by the conservation district and the applicant to protect and enhance the water
quality of the wetland.

12 C. Road/Street Repair and Construction. Any private or public road or street repair,
maintenance, expansion or construction may be allowed within a critical area or its buffer
only when all of the following are met:

13 1. No other reasonable or practicable alternative exists and the road or street
serves multiple properties whenever possible;

14 **Exactly what does this statement mean? It is so subjective that a property
owner/developer is actually at a loss to understand and open to department
determinations without recourse.**

15 2. For publicly owned or maintained roads or streets, other purposes, such as
utility crossings, pedestrian or bicycle easements, viewing points, etc., shall be
allowed whenever possible.

**A property owner will be forced to essentially abandon property because of
a “critical area (wet lands) but that same land can be used for “pedestrian
or bicycle easements, viewing points+ whenever possible. What happened
to the criticality of the area and the no net loss rule?**

1 3. The road or street repair and construction are the minimum necessary to
provide safe roads and streets; and
2 **How about “as necessary to maintain roads and streets to the standards
established for such”**
3 4. Mitigation shall be performed in accordance with specific project mitigation plan
requirements.

4 **So there is an established road or street that needs to be
repaired/maintained. Although it is in existence there may now be a
mitigation plan required to allow it to be restored to standard? What are the
specific criteria for requirement of a mitigation plan and how does the
property owner know of that requirement?**

5 D. Land Divisions and Land Use Permits. All proposed divisions of land and land uses
(including but not limited to the following: short plats, large lot subdivisions, performance
based developments, conditional use permits, binding site plans) which include
regulated wetlands, shall comply with the following procedures and development
standards:

6 1. Except the area with permanent open water, and the area of a wetland and its
buffers may be included in the calculation of minimum lot area for proposed lots.

7 2. Land division approvals shall be conditioned to require that wetlands and
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.

8 **Once again, in order to gain use of some part of their property, the owner
must first surrender some portion of that property, as determined by the
department, an forsake any further use or entry into that land. In addition, by
so agreeing, the owner willingly reduces the value of the property and opens
himself to future additional restrictions as may be determined by the
department. Please identify the specific provisions of the Constitutions that
delegate this authority to the State or the County.**

9 >

10 3. 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 clustered development or similar innovative site planning is strongly
encouraged for projects with regulated wetlands on the site.

11 **What this says is that a stack em and pack em approach is preferred to single lot development because that “allows” maximum dwelling construction on a minimum site foot print which is good for the critical area> What about it is good for the property owner who actually wants a less dense construction profile?**

12 4. 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.

13 **When is this determination to be made? Exactly what constitutes permanent signs or fencing? Who is responsible for the maintenance of the “permanent’ features? How is this to be enforced over time (permanence)?**

14 E. Surface Water Management. Surface water discharges from stormwater facilities or structures may be allowed in wetlands and their buffers when they are in accordance with Title 12 of the Kitsap County Code (Stormwater Management) subject to the provisions of Section 19.100.145, Special Use Review, and this subsection. The discharge shall neither significantly increase or decrease the rate of flow or hydro-period, nor decrease the water quality of the wetland. Pre-treatment of surface water discharge through biofiltration or other best management practices (BMPs) shall be required.

15 **This is about as clear as the mud that apparently would be created by an “increase” in the rate of flow. Exactly how is the property owner supposed to know what this means and it implications without a “finding” by the department?**

1 F. 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 standards:

2 **Is this not a direct violation or reversal of the entire set of preceding rules and regulations which set wetlands aside as inviolate and sacred? The property owner has to sign away right to use property for a critical area and a buffer, give up an additional 15 feet outside the buffer , erect signs and fences, and be responsible for permanent maintenance of boundary markings and yet, we can turn the same wetland and buffer into essentially a public park. What did I miss about the critical nature of a critical area? This is but one more example of understanding that entire exercise is a political statement and has little or nothing to do with environmental concerns. This is central planning at its ultimate execs.**

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

- 4 2. Trails and related facilities shall be planned to minimize removal of trees, soil disturbance and existing hydrological characteristics, shrubs, snags and important wildlife habitat.
- 5 3. 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 wetland. Platforms shall be limited to one hundred square feet in size, unless demonstrated through a wetland mitigation plan that a larger structure will not result in a net loss of wetland functions.
- 6 4. Trails and related facilities shall generally be located outside required buffers. Where trails are permitted within buffers they shall be located in the outer 25% of the buffer, except where wetland crossings or for direct access to viewing areas have been approved by the Department.
- 7 5. 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. Trail width shall not exceed five feet unless there is a demonstrated need, subject to review and approval by the department. Trails shall be constructed with pervious materials except where determined infeasible.

8 F. Utilities. Placement of utilities within wetlands or their buffers may be allowed pursuant to the following standards:

- 9 1. The utility maintenance or repair, as identified in Section 19.100.125(E), shall be allowed in wetlands and wetland buffers so long as best management practices are used.
- 10 2. Construction of new utilities outside the road right-of-way or existing utility corridors may be permitted in wetlands or wetland buffers only when: (a) no reasonable alternative location is available, (b) the new utility corridor meets the requirements for installation, replacement of vegetation and maintenance outlined below, and (c) all requirements in any as required in the filing and approval of applicable permit or special report (Chapter 19.700) required by this title are satisfied.

If utility corridor is an easement through private property for which a notice to title has been imposed, how does the easement get approved? If the corridor is through private property other than that owned by the utility, who is responsible for the maintenance aspects of boundary marking and fencing? If the utility equipment in the corridor experiences a major failure, what permits and studies are associated with entry to make repairs and who is responsible for those permits and studies?

1 3. Construction of sewer lines or on-site sewage systems may be permitted in wetland buffers only when: (a) the applicant demonstrates that the location is necessary to meet state or local health code minimum design standards (not requiring a variance for either horizontal setback or vertical separation), and (b) there are no other practicable or reasonable alternatives available and (c) construction meets the requirements of this section. Joint use of the sewer utility corridor by other utilities may be allowed.

2 **Once again, it appears acceptable to locate a septic system inside a buffer (with department approval) but effectively no other activity (by the property owner) is allowed. Forgive me if I find it a bit difficult to follow, the logic of these regulations. Doing major excavation in a “buffer” to support either sewer lines or a septic system is permissible but planting a non-native bush is not? Exactly what is the reason and logic behind these regulations?**

3 4. New utility corridors shall not be allowed when the 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.

4 **What is “significant impact” Who determines that impact and what are the specific criteria used?**

5 5. New utility corridor construction and maintenance shall protect the wetland and buffer environment by utilizing the following methods:

6 a. New utility corridors shall be aligned to avoid cutting trees greater than 12 inches in diameter at breast height (four and one-half feet), measured on the uphill side, unless no reasonable alternative location is available.

7 b. New utility corridors shall be revegetated with appropriate native vegetation at not less than 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;

8 c. Any additional utility corridor access for maintenance shall be provided at specific points rather than by parallel roads, unless no reasonable alternative is available. If parallel roads are necessary, they shall be the minimum width necessary for access, 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.

9 d. The department may require other additional mitigation measures.

10 **Another of those wonderful open ended unknown cost “department may require” items. Under exactly what circumstances would the department require additional mitigation?**

11 **As a separate issue - it would appear that while the County professes a knowledge of the location and extent of wetlands and other critical area that id really not the case and that for each permit request a discover and define effort will be undertaken. This create at least two significant problems for those attempting to develop property First, the actual land available for development can not be determined until a request for permit including a site plan has been presented. Thus the developer is already invested in the project, beyond land cost< and has no assurance that that investment will result in a viable project. Second, the processes identified in this Title only come into play when a developer submit a request for a permit. This means that not all wetland or other critical areas within he county are receiving similar protections or that all property and property owners are being treated equally under the law. It would seem that, if wetlands and other critical areas have such essential importance to the health and public safety of the residents of the County and the State that the rules and regulations would be issued at the state level and enforce universally throughout the state. Please explain the error in that logic.**

12 6. Utility corridor maintenance shall include the following measures to protect the wetland and buffer environment:

1 a. Painting of utility equipment, such as power towers, shall not be sprayed or sandblasted, unless appropriate containment measures are used. Lead-based paints shall not be used.

2 b. No pesticides, herbicides or fertilizers may be used in wetland areas or their buffers except those approved by the U.S. Environmental Protection Agency (EPA) and Washington Department of Ecology. Where approved, they must be applied by a licensed applicator in accordance with the safe application practices on the label.

3 G. Parks. Development of public park and recreation facilities may be permitted in wetlands or its buffer subject to the provisions of Section 19.100.145, Special Use Review, and other applicable chapters of the Kitsap County. For example, enhancement of wetlands and development of trails may be allowed in wetlands and wetland buffers subject to special use requirements and approval of a wetland mitigation plan.

4 **I presume this applies to public lands only and that some specific authorization process involving Commissioner approval is required to make this possible. If not, it would seem to imply that there is a different set of r**ules **for public land and**

private property with the greater restrictions being set against private property.

5 **19.200.250 Wetland mitigation requirements.**

6 A. Mitigation Sequencing. All impacts to wetlands or buffers shall be mitigated according
to this title in the following order:

7 1. Avoiding the impact altogether by not taking a certain action or parts of actions.

8 **This seems just a bit unusual since the several above sections identify how
wetlands and buffers can be violated.**

9 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
reduce impacts.

10 **What is appropriate technology and affirmative steps? Are these known only
to the department or should the developer/property owner have knowledge
of them beforehand?**

11 3. Using one of the following mitigation types, listed in order of preference:

12 a. Rectifying the impact by reestablishing, rehabilitating, or restoring the
affected environment;

13 b. Compensating for the impact by replacing or providing substitute
resources or environments; or

14 **This seems to address the ability of man to create a wetland where
one does not naturally exist to replace a natural wetland. Exactly how
does that work and who determines the effectiveness of the
replacement? Where are the plans and procedures to create the
replacement documented so the developer/property owner can be
advised beforehand and make a sound decision as to how to best
proceed?**

15 c. Compensating for the impact by improving the environmental processes
that support wetland systems and functions.

16 4. Monitoring the impact and compensation and taking appropriate corrective
measures.

17 **Who is responsible for this and who determines when corrective measures
are required? How long does this process continue? Will the newly created
wetland have the same buffer, fencing and sign requirements as the original
or can it be otherwise delineated? What happens if the created wetland**

fails? Will the property then be returned to unlimited use?

- 1 B. Mitigation Report. Where mitigation is required under the sequencing in subsection (A), a mitigation report shall be provided in accordance with Section 19.700.715. Acceptance of the mitigation report shall be signified by a critical area Notice to Title signed by the applicant and department director or designee, and recorded with the Kitsap County Auditor (Appendix E, 19.800). The notice shall refer to all requirements for the mitigation project.
- 2 C. Wetland Replacement Ratios.
- 3 1. The following ratios appearing below in the Table 19.200.250 (Wetland Mitigation Replacement Ratios), as well as consideration of the factors listed in this section, shall be used to determine the appropriate amounts of restored, rehabilitated, created or enhanced wetland that will be required to replace impacted wetlands. The first number specifies the amount of wetland area to be restored, rehabilitated, created or enhanced, and the second number specifies the amount of wetland area lost.
- 4 **What logic and science is behind this table? How was a 12 to 1 ratio or 16 to one ratio determined as opposed to a 5 to 1 or 22 to 1 ratio?**

5

**TABLE 19.200.250
WETLAND MITIGATION REPLACEMENT
RATIOS TABLE**

Wetland Category	Re-establishment or	Rehabilitation	1:1 Reestablishment or Creation	Enhancement
All Category IV	1.5:1	3:1	1:1 R/C and	6:1
All Category III	2:1	4:1	1:1 R/C and	8:1
Category II Estuarine	Case-by-case	4:1 rehabilitation of an estuarine	Case-by-case	Case-by-case
All other Category	3:1	8:1	1:1 R/C and	12:1
Category I	6:1	12:1	1:1 R/C and	24:1

Category I other (based on	4:1	8:1	1:1 R/C and 12:1 E	16:1
Category I Wetlands of High	Not considered	Case-by-case	Case-by-case	Case-by- case

Category I Coastal	Case-by-case	6:1 rehabilitation of a coastal	Case-by-case	Case-by-case
Category I Bog	Case-by-case	6:1 rehabilitation of a bog	Case-by-case	Case-by-case
Category I Estuarine	Case-by-case	6:1 rehabilitation of an estuarine	Case-by-case	Case-by-case

1 2. The above ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Accordingly, in the appropriate circumstances identified below, the department may increase or decrease the ratios:

2 a. Replacement ratios may be increased under the following circumstances:

3 (1) Uncertainty exists as to the probable success of the proposed restoration or
4 creation;

5 (2) A significant period of time will elapse between impact and establishment of wetland functions at the mitigation site;

6 (3) Proposed compensation will result in a lower category wetland or reduced functions relative to the wetland being impacted; or

7 (4) The impact was an unauthorized impact.

8 b. Replacement ratios may be decreased under the following circumstances:

9 (1) Documentation by a qualified wetland specialist demonstrates certainty that the proposed compensation actions will be successful. For example, demonstrated prior success with similar compensation actions as those proposed, and/or extensive hydrologic data to support the proposed water regime;

10 (2) Documentation by a qualified wetland specialist demonstrates that the proposed compensation actions will provide functions and values that are significantly greater than the wetland being impacted; or

1 (3) The proposed mitigation actions are conducted in advance of
the impact and are shown to be successful.

2 D. Alternative Mitigation Plans

3 1. The department may approve alternative wetland mitigation plans identified in this
section that are based on best available science, such as priority restoration plans
that achieve restoration goals identified in Title 22 KCC, Restoration Plan.
Alternative mitigation proposals must provide an equivalent or better level of
protection of wetland functions and values than would be provided by the strict
application of this chapter.

4 The department shall consider the following for approval of an alternative mitigation
proposal:

5 a. The proposal uses a watershed approach consistent with *Selecting Wetland
Mitigation Sites Using a Watershed Approach (Western Washington)* (Ecology
Publication #09-06-32, Olympia, WA, December 2009).

6 b. Creation or enhancement of a larger system of natural areas and open space
is preferable to the preservation of many individual habitat areas.

7 c. Other on-site mitigation, as described above, are not feasible due to site
constraints, such as parcel size, stream type, wetland category, or geologic
hazards.

8 d. There is clear potential for success of the proposed mitigation at the proposed
mitigation site.

9 e. The plan contains clear and measurable standards for achieving compliance
with the specific provisions of the plan. A monitoring plan shall, at a minimum,
meet the provisions of the Wetland Mitigation Plan (19.700, Special Reports).

10 2. Off-Site Compensatory Mitigation.

11 a. Considerations for determining whether off-site mitigation is preferable include,
but are not limited to:

12 i.. On-site conditions do not favor successful establishment of the required
vegetation type, or lack the proper soil conditions, or hydrology, or may be
severely impaired by the effects of the adjacent;

13 ii. On-site compensation would result in isolation from other natural
habitats;

14 iii. Off-site location is crucial to one or more species that is threatened,
endangered, or

15 otherwise of concern, and the on-site location is not;

1 iv. Off-site location is crucial to larger ecosystem functions, such as
providing corridors between habitats, and the on-site location is not; and

2 v. Off-site compensation has a greater likelihood of success or will provide
greater functional benefits.

3 b. When determining whether off-site mitigation is preferable, the value of the site-
specific wetland functions at the project site, such as flood control, nutrient
retention, sediment filtering, and rare or unique habitats or species, shall be fully
considered.

4 c. When conditions do not favor on-site compensation, off-site compensatory
mitigation should be located as close to the impact site as possible, but at least
within the same watershed, while still replacing lost functions.

5 d. Off-site compensatory mitigation may include the use of a wetland mitigation
bank or an in-lieu fee program.

6 **Cap And Trade comes to the wet lands. All of these “mitigation: schemes
appear to be little more than additional cost to the developer with significant
loss of future use of property with little or no specific impact on the actual
environment. It also appears that current and future developers are being
forced to pay a price not incurred by prior development or those enjoying
life in urban areas which were developed without consideration of “critical
areas” Perhaps an explanation to a property owner as to why they must
surrender use of their property while the city of Seattle was and continues to
exploit critical areas without restriction. Reference to photographs of Kitsap
County in the early 1900’s (about 100 years ago) demonstrate a heavy
lumber industry impact. Between that time and 1900 (GMA implementation)
the wood reaerated even with continued cutting and use. Exactly what
reference to Kitsap history and the actual regenerative ability of natural
resources hasa been factored into this Titel?**

7
8 i. Mitigation Banking. Kitsap County encourages the creation of a public or
private mitigation banking system when feasible. Credits from a certified
wetland mitigation bank may be used to compensate for impacts located
within the service area specified in the mitigation bank instrument. Use of
credits from a wetland mitigation bank certified under Chapter 173-700
WAC is allowed if:

9 (1). The approval authority determines that it would provide
appropriate compensation for the proposed impacts;

10 (2). The impact site is located in the service area of the bank;

11 (3). The proposed use of credits is consistent with the terms and
conditions of the certified mitigation bank instrument; and

12 (4). Replacement ratios for projects using bank credits is consistent
with replacement ratios specified in the certified mitigation bank
instrument.

13 ii. In-Lieu Fee Mitigation. Credits from an approved in-lieu-fee program may
be used when all of the following apply:

14 (1). The approval authority determines that it would provide
environmentally appropriated compensation for the proposed
impacts.

1 (2). The proposed use of credits is consistent with the terms and
conditions of the approved in-lieu-fee program instrument.

2 (3). Projects using in-lieu-fee credits shall have debits associated
with the proposed impacts calculated by the applicant's qualified
wetland professional using the credit assessment method specified
in the approved instrument of the in-lieu-fee program.

3 (4). The impacts are located within the service area specified in the
approved in-lieu-fee instrument t.

4 3. Advance Mitigation. Mitigation for projects with pre-identified impacts to wetlands
may be constructed in advance of the impacts if the mitigation is implemented
according to federal, state and local laws and guidance on advance mitigation, and
state water quality regulations consistent with Interagency Regulatory Guide:
Advance Permittee-Responsible Mitigation (Ecology Publication #12-06-15).

5 E. Monitoring Requirements. Kitsap County shall require monitoring reports on an
annual basis for a minimum of five years and up to ten years, or until the department
determines that the mitigation project has achieved success. The wetland mitigation plan
shall provide specific criteria for monitoring the mitigation project. Criteria shall be project-
specific and use best available science to aid the department in evaluating whether or not
the project has achieved success (See Chapters 19.700, 19.710 and Section 19.700.715,
Special Reports).\

6 **Please see the comments above about monitoring, determination of success and
what happens if success is not achieved. Assigning a ten year or longer authority
to a department that has a significant turnover of personnel and an apparent 5
year horizon on revisions to this Title does not appear to be appropriate.**

7 **19.200.260 Incentives for wetland mitigation.**

8 Kitsap County recognizes that property owners wish to gain economic benefits from their land. The county encourages such mechanisms as the Open Space Tax Program (KCC 18.12), conservation easements and donations to land trusts, in order to provide taxation relief upon compliance with the regulations in this title. Buffers dedicated as permanent open space tracts may qualify for the open space taxation program and will be offered the opportunity to be entered into this program. Kitsap County may offer to purchase these lands through the Conservation Futures Fund, as funding is available.

9 **This seems to present a situation in which after the county has decreed a parcel of property as a wetland (or other critical area) and determined a buffer, there is a possibility that the County would purchase the land using tax dollars (that is the only source of County funds). This opens two areas of abuse. First the County is in the position of deciding what land to designate and therefore determine what quality of land it would like to acquire. Second, the County would take the property off the tax rolls by purchase but leave it on the rolls if retained by the property owner. Is this not a significant conflict of equal application of the law and a violation of Constitutional protections?**

1 **Chapter 19.300**
2 **FISH AND WILDLIFE HABITAT CONSERVATION AREAS**

3 Sections:

4 **19.300.30 Purpose.**

5 **19.300.31 Fish and wildlife habitat conservation area**

6 **19.300.31 Development standards.**
_

7 **19.300.305 Purpose.**

8 This chapter applies to all uses within or adjacent to fish and wildlife habitat conservation areas, defined in 19.150.325, except those identified as exempt in 19.100.125.. The intent of this chapter is to identify fish and wildlife habitat conservation areas and establish habitat protection procedures and mitigation measures designed to achieve a no net loss of critical area functions and values and to maintain viable fish and wildlife populations and habitat over the long term . Further, it is also the intent of this chapter to:

9 A. Preserve natural flood control, storm water storage, and drainage or stream flow patterns;

10 B. Prevent turbidity and pollution, control siltation, protect nutrient reserves, and maintain water flows and quality for anadromous and resident fish, marine shellfish and forage fish;

11 C. Encourage non-regulatory methods of habitat retention whenever practical, through mechanisms such as education and the open space tax program; and

12 D. Avoid or minimize human and wildlife conflicts through planning and implementation of wildlife corridors where feasible.

13 **19.300.310 Fish and wildlife habitat conservation area categories.**

14 A. General. Fish and wildlife habitat conservation areas, are typically identified by known point locations of specific species (such as a nest or den) or by habitat areas or both and may occur on both public and private lands.

15 B. Classification and Designation. The following categories shall be used in classifying and designating fish and wildlife habitat conservation areas:

1 1. Streams. All streams which meet the criteria for Type, F, Np or Ns waters as set forth in WAC 222-16-030 of the Washington Department of Natural Resources (DNR) Water Typing System, as now or hereafter amended, and Table 19.300.310 (See also Chapter 19.800, Appendix "B"). Type S waters are regulated through the Shoreline Master Program (Kitsap County Code, Title 22). The DNR stream maps should not be the only source for identifying regulated areas or establishing buffers. Other modeled or field-verified stream type maps should also be used, and stream conditions, identification of flow alterations, and location of fish passage barriers shall be identified through a site-specific field visit. Field verification of all intermittent or non-fish bearing streams should occur during the wet season months of October to March if feasible, or as determined by the Department.

2 **This paragraph seems to imply that although the DNR is well aware of all the streams in Kitsap and has designated each, the County is not certain and needs to complete an On-site survey to make a final determination. It also appears that the determination will not be accurate if completed in other than the "wet" months. The county already has a series of "maps" that identify the streams of the county and depicts the "buffers" established for each. Why is this chapter more specific to those maps and buffers?**

**Table 19.300.310
DNR Water Typing System**

Water	
Current DNR Water	Previous DNR Water
Type S	Type 1
Type F	Type 2 and 3
Type Np	Type 4
Type Ns	Type 5

3 2. Lakes Less Than 20 Acres in Surface Area. Those lakes which meet the

criteria for Type F,

4 Np, and Ns waters as set forth in WAC [222-16-030](#), as now or hereafter amended. This includes lakes and ponds less than twenty acres in surface area and their submerged aquatic beds, and lakes and ponds planted with game fish by a governmental or tribal authority.

5 3. Wildlife Habitat Conservation Areas.

6 a. Class I Wildlife Habitat Conservation Areas.

7 (1) 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, including but not limited to the database on Priority Habitats and Species provided by the Washington Department of Fish and Wildlife.

8 **Where can the property owner find the maps or documentation that identifies these areas. If they do not currently exist, why not? This Title has been in effect for over ten years so there should be no “discovery” of habitat areas during site survey. If as new “specie” is added to this list, how does the County determine the specific land and water areas in the County which are impacted by the listing? Is this another application in which the rules are applicable only is a permit application is entered or does it actually apply equally throughout the County? If a “specie” is removed from the listing, how are impacted property owners notified and what process does the County use to document the reduction in restrictions on a property?**

9

10 (2) Areas targeted for preservation by the federal, state and/or local government which provide fish and wildlife habitat benefits, including but not limited to, important waterfowl areas identified by the U.S. Fish and Wildlife Service and WDFW Wildlife Areas; or

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

2 b. Class II Wildlife Habitat Conservation Areas. Habitats for state listed
candidate and monitored species documented in maps or databases
available to Kitsap County, and which, if altered, may reduce the likelihood
that the species will maintain a viable population and reproduce over the
long term.

3 Is there any part of Kitsap County that does not fall under the Wildlife
Habitat conservation area umbrella? Exactly where are those areas and
how were they defined? What process does the County employ to verify on
a continuing and periodic basis that all areas that should be designated are
so

4 **19.300.315 Development standards.**

5 Activities within a designated fish and wildlife habitat conservation area with its buffer are
subject to the regulatory provisions of this chapter and shall comply with the performance
standards outlined in this chapter.

6 A. Buffers and Building Setbacks.

7 1. Buffers. Buffers shall remain undisturbed natural vegetation areas except
where the buffer can be enhanced to improve its functional attributes. Buffers shall
be maintained along the perimeter of fish and wildlife habitat conservation areas,
as listed in Table 19.300.315. Refuse shall not be placed in buffers.

8 **What if the “buffer” is not natural vegetation area when the County defines
it?. Who is responsible to make it such? Who foots the bill? How does the
County monitor the area to make sure that only “native” vegetation grows in
the area” If an invasive plant, say Scotch Broom< begins to grow in the area,
who is responsible to remove it? What exactly can be done to “enhance”
and area and how is that determined? Who decides if “enhancement” is
appropriate? Who carries it out? Who pays for it?**

TABLE 19.300.315 FISH AND WILDLIFE HABITAT CONSERVATION AREA DEVELOPMENT STANDARDS			
Stream			
Water Type	Buff er	Minim um Buildi	Other Development Standards

F	150 feet	15 feet beyo	Where applicable, refer to the development standards in Chapters 19.200 (Wetlands) and 19.400 (Geologically Hazardous Areas). Where such features occur on site, the more restrictive buffer or building setback shall apply.
Np	50 feet	15 feet beyo	

Ns	50 feet	15 feet beyo	
Lakes less than 20	100 feet	15 feet beyo	
Wildlife Habitat Conservation Areas			
Class I	Buffer widths and setbacks will be determined through a mandatory Habitat Management Plan (HMP)		
Class	Site-specific conditions will determine the need for the preparation of a HMP		

1. 2. Buffer Measurement. 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 and building setbacks may be allowed for development authorized by Section 19.100.140 (Reasonable Use Exception), Section 19.100.125 (Exemptions), Section 19.100.130 (Standards for Existing Development) or Section 19.100.135 (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 include the entire stream feature.
2. **How many staff members has the County dedicated to establishing and monitoring these buffers throughout the County? Does OHM apply to lakes at the 100,year rainfall level or just day to day measurements.? You do realize that a lake in Kitsap county, unless it is physically connected to a larger body of water, say Puget Sound) is little more than an isolated body of water. Any longer term sustained fish in such a lake are either hatchery or of a population that is self-sufficient to survive. Exactly what are we trying to accomplish by this nonsense? Please keep in mind that the only way the water so f Eastern Kitsap a get included in this lunacy is by expanding the definition of what is being protected? How soon are we going to move on**

the aquarium in my home to protect the goldfish?

- 1 3. Provision for Decreasing Buffer. The department may grant, an administrative reduction to buffer widths, in accordance with the requirements of this subsection. The applicant must demonstrate, pursuant to the variance criteria in 19.100.135, that buffer widths cannot be met, and submit a habitat management plan (HMP) that meets the requirements as described in Chapter 19.700 (Special Reports). Upon review of the HMP and after consultation with the Washington State Department of Fish and Wildlife, the department may grant a reduction if it determines a reduction is the minimum necessary for the permitted use and that the conditions are sufficient to assure no net loss of ecological functions of the affected fish and wildlife habitat conservation area. The department may reduce the buffer width by up to twenty-five percent in a Type I Permit under chapter 21.04. Reductions of greater than twenty-five percent for single-family dwellings will be a Type II decision and require notification (see Chapter 19.800, Appendix F). All other reductions shall be pursuant to a variance under 19.100.135. When applicable, the order of sequence for buffer reductions shall be as follows:

This actually is little more than a process by which a property owner, having fallen in the clutches of the permit authority and actually wanting to move forward with their project, is furthest deprived of the right of use. Under the guise of “decreasing” a buffer, the department exercises an unlimited authority to extort other concession in the use of land from the owner. It really is impressive when the department gets to refer to at least two or three more “Chapters” and require production of one more plan.

- 2 i. Use of buffer averaging, maintaining one hundred percent of the buffer area under the standard buffer requirement;
- 3 ii. Reduction of the overall buffer area by no more than twenty-five percent of the area required under the standard buffer requirement;
- 4 iii. Enhancement of existing degraded buffer area and replanting of the disturbed buffer area;
- 5 iv. Use of alternative on-site wastewater systems in order to minimize site clearing;
- 6 v. Infiltration of stormwater where soils permit; and
- 7 vi. Retention of native vegetation on other portions of the site in order to offset habitat loss from buffer reduction.

- 8 4. 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.

9 **This one actually confuses me. If the provisions for buffer size are based on types of habitat and types of specie, and the buffers are based on “best available science” how is it possible that an expansion of a buffer will be necessary? Either the science is wrong or the County just wants authority to encumber any property it desires?**

10 5. Buffers for Streams in Ravines. For streams in ravines with ravine sides ten feet or greater in height, the buffer width shall be the minimum buffer required for the stream type, or a buffer width that extends twenty-five feet beyond the top of the slope, whichever is greater. Building setbacks for geologically hazardous areas may still apply (19.400), if determined necessary.

11 **What is the specific science behind this determination? If the walls of the ravine are 250 feet deep why would an additional 25 feet at the top of the ravine (not considering geological hazards) be appropriate? How is the distance measured,, actual land distance or vertical height from the OHM of the stream? Does this presume that the setback for a stream will vary on the land above the ravine on a foot by foot basis (or more frequently) to match the ravine depth or will an averaging method be used?**

12 6. Channel Migration Zones. In areas where channel migration zones can be identified the buffer distance shall be measured from the edge of the channel migration zone.). Building setbacks for geologically hazardous areas may also apply (19.400), if determined necessary.

13 **Exactly how is a channel migration zone identified, and what is the historical limit for such a zone? Does this imply that if the current channel is not the same as is was 100 years ago, notwithstanding the development and other factors that might impact steam channels, the pre-existing zone will become a “migration” zone in current use?**

14 7. Protection of Buffers. Buffer areas shall be protected as required by the department. The buffer shall be identified on a site plan and filed as an attachment to the notice as required by 19.100.150 (Critical Area and Buffer Notice to Title).

15 **Why does the department get to identify how a buffer will be protected in this instance? Id there any limit to what may be required? How is boundary identification of this buffer different from any other?**

16 **Why is it necessary to repeat the “Buffer” rules several times in this Title? Would it nor t be possible to set on standard set of rules for buffer identification, boundary marking, buffer reeducation or variation and buffer increase just once in the document?**

1 8. Building or Impervious Surface Setback Lines. A building or impervious surface setback line of 15 feet, or as determined by an HMP, is required from the edge of

any fish and wildlife habitat conservation area 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 fish and wildlife habitat conservation area. The setback shall be identified on a site plan and filed as an attachment to the notice as required by 19.100.150 (Critical Area and Buffer Notice to Title).

2 **This paragraph, like so many other in the Title, provide a very clear understanding of what is wrong with the Title and the approach being taken by the County. The authority to determine exactly how a property may be used is vested in the department and not the owner. The property owner has to be in specific compliance with requirements not fully identified before the fact. The restrictions of the Title and the implementation of those restrictions are executed by unelected employees and are broad enough to allow those employees to “interpret” the intent of the Commissioners” without specific reference or consultation. The Title establishes a broad administrative process , using loosely defined guidelines to impose significant restriction of the use of private property with no consideration of the protections of the Constitution.**

3 B. Class I Wildlife Habitat Conservation Areas Development Standards. All development permits within known Class I wildlife habitat conservation areas will require the submittal and approval of a habitat management plan (HMP) as specified in Chapter 19.700 (Special Reports). In the case of bald eagles, the HMP shall comply with the federal Bald and Golden Eagle Protection Act (16 USC 668) to avoid impacting eagles and their habitat.. In the case of listed fish species, a HMP shall be required only if a buffer reduction is proposed under the provisions of Section 19.300.315(A). The 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.

4 **How does the property owner or the County determine a known” area? Does the habitat area for an eagle nesting area go away if the tree falls down or if the eagles cease to nest in the area? Once again we have this emphasis on “Natural” vegetation. Exactly how id compliance assured? (I have an example of a steam in my location that was over planted with “native” vegetation and is no virtually impassable. The over plant has also supported the appearance of a family of beavers, a new beaver dam and much more significant flooding of the area adjacent to the stream) Exactly how does that work out for creating and maintain a buffer? The stream “migration” is now considerably larger and the buffer must, by definition, be much greater but it was modified by action of the County.**

5 C. Class II Wildlife Habitat Conservation Area Development Standards. All development permits within known Class II wildlife conservation areas may require the submittal of a habitat management plan (HMP), as determined during the SEPA/critical areas review on the project. The 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.

6 **“.All development permits... may require” is another example of lack of clarity. Under what circumstances would the expense and project time delay for a plan actually be required and who determines that requirement? When is the requirement determined and how?**

7 D. Stream Crossings. Any private or public road expansion or construction proposed to cross streams classified within this title, shall comply with the following minimum development standards. All other state and local regulations regarding water crossing structures will apply, and the use of the *Water Crossing Design Guidelines* (WDFW, 2013) or as amended, is encouraged.

8 1. Crossings shall not occur in salmonid streams 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 relocated as determined by the Washington State Department of Fish and Wildlife (WDFW).

9 **Is this actually serious? Major highways and roads throughout the state cross rivers and streams that the state has designated as “salmonid” yet this section would prohibit or seriously restrict the ability of a property owner to either access their property or fully use that property. Who determines feasibility of crossings and suitability of crossings? Just because the state has undertaken a process to replace virtually every culver in the state to satisfy some poorly defined objective is not reason to impose the same nonsense on private property owner. What is the exact science that determines the “crossing” suitability for each individual location? Is the determination made by an independent professional, licensed to make the determination or by a County employee?**

10 2. Bridges or bottomless culverts shall be required for all Type F streams that have salmonid habitat. Other alternatives may be allowed upon submittal of a habitat management plan that demonstrates that other alternatives would not result in significant impacts to the fish and wildlife conservation area, as determined appropriate through the Washington State Department of Fish and Wildlife (WDFW), Hydraulic Project Approval (HPA) process. The plan must demonstrate that salmon habitat will be replaced on a 1:1 ratio.

11 **Is this for all natural salmonid habitat or does it include habitat created by introduction of hatchery fish to streams. That makes a difference because it could allow the state to significantly modify the use and access to property by undertaking a stocking action? For example, the salmon in Clear Creek are there because of a hatchery that was operated in the vicinity of half mile road some time ago. Is Clear Creek now a declared salmonid stream and if so what is the scientific basis for the determination?**

1 3. 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 or to provide mid-span footings for the purpose of increased floodplain connectivity.

2 **Just exactly how does protecting a single stream take priority over good engineering practices associated with construction of a bridge? The geology and mechanics associated with bridge construction, assuming safety of users, must take priority over t some non-scientific concerns about placement of footings to protect salmon, Can we bring just a bit of common sense to this Title?**

3 4. Crossings shall not diminish flood carrying capacity.

4 5. Crossings shall serve multiple properties whenever possible.

5 **Does this imply that a single crossing may be required to be associated with easements to permit access to properties other than the one on which the crossing is located? How is this beneficial to the impacted property owner? Exactly what authority does the county use to make the determination of how many crossing is the correct number and when the requirement for easements might be excessive?**

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

7 E. Stream Relocations. Stream relocations shall not be permitted unless for the purpose of flood protection and/or fisheries restoration and only when consistent with the WDFW Hydraulic Project Approval (HPA) process and the following minimum performance standards:

8 **Does Gorst Creek come to mind? It appears that the only possible authority able to determine the need or scientific justification for “relocation” of a creek or stream resides in government. Is there a documented history of relocation success in the state?**

9 1. The channel, bank and buffer areas shall be replanted and maintained with native vegetation that replicates a natural, undisturbed riparian condition, when required by a habitat management plan; and

10 2. For those shorelands and waters designated as frequently flooded areas pursuant to Chapter 19.500, 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.

11 3. Relocated stream channels shall be designed to meet or exceed the functions and values of the stream to be relocated.

12 **The preceding three paragraphs provide no sense of assurance that the governing authority has any notion of how to make this work properly. Something shall happen when required by a plan that is open to subjective interpretation. A licensed engineer is going to certify that a projected occurrence based on ill defined assumption and loosely defined boundaries will be adequately covered by a proposed modification. And somehow ill-defined “functions and values” will be replicated or improved upon by a relocation? Exactly where is the specific science and best engineering practices that support this effort?**

13 F. Pesticides, Fertilizers and Herbicides. No pesticides, herbicides or fertilizers may be used in fish and wildlife habitat conservation areas or their buffers, except those approved by the U.S. E.P.A. or Washington Department of Ecology for use in fish and wildlife habitat conservation area environments and applied by a licensed applicator in accordance with the safe application practices on the label.

14 **If it becomes require to apply either a pesticide, herbicide, or fertilizer to properly maintain the Native vegetation within a buffer or to control or eradicate a noxious or invasive plant in those areas, who is responsible to make that happen? Who pays the bill? Who is liable if the application has negative results on the buffer or habitat?**

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

Is this not a zoning consideration? Why is it in This Title or is the Title referred to in the zoning Title?

16 1. The open water area of lakes, streams, and tidal lands shall not be used in calculating minimum lot area.

1 2. Land division approvals shall be conditioned so that all required buffers are dedicated as open space tracts, or as 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, and title.

2 **This is a taking or extortion. Your choice.**

3 3. 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 shall 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.

4 **This implies thjat no matter how much property may be encumbered by this Title, a aggregation of land shall be required such that a building lot, as defined by the department, must be included? Exactly how does this support the Constitutional guarantees and make sure that the property owner realizes highest and best use of their property? It has become increasingly apparent that the state has determined that, by law< it has the authority to impose burden and restrictions on property owners that are associated with conditions that have existed prior to creation of the state and certainly prior to the establishment of private property within the state. A basic question that needs to be addressed somewhere in this Title is where the constitutional authority, delegated to government by the people, exists for the implementation of the level of restrictions and conditions of use on private property.**

5 4. After preliminary approval and prior to final land division approval, the department may require that 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 buffer.

6 **Another case of ill-defined authority being delegated to employees. Either a boundary needs to be positively identified or it does not. Why is this a department determination issue?**

7 5. 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 performance based development process is strongly encouraged for projects within designated fish and wildlife habitat conservation areas.

8 **What exactly is “performance based development? Who created it? Where is it documented? How would a property owner/developer know about it?**

9 G. Agricultural Restrictions. In all development proposals that would introduce or expand agricultural activities , a net loss of functions and values to the critical area shall be avoided by at least one of the following methods:

10 1. Locate fencing no closer than the outer buffer edge; or

11 2. Implement a farm resource conservation and management plan agreed upon by the conservation district and the applicant to protect and enhance the fish and wildlife habitat conservation area.

12 H. 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:

13 **This receives the same comment as the previous guidance on the subject. Considering all of the rules and restrictions imposed on the property owner to protect critical areas and the associated buffers it is incongruous to now propose that that same property can be used as essentially a public park or playground. The land under consideration is to either be so inviolate that it must be protected from inappropriate use and damage by the property owner or not. If it is permissible to create trails and educational opportunities in the area, then mother is not realistic reason to preclude the property-owner for highest and best use of the property. There is no authority, other than eminent domain, that allows the state to take property for a greater public use. Creating a nature trail is not appropriate for eminent domain and certainly not without just compensation.**

14 1. Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or other such previously disturbed areas.

1 2. Trails and related facilities shall be planned to minimize removal of trees, shrubs, snags and important wildlife habitat.

2 **Minimize? Why should removal be authorized for important features?**

3 3. 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. Platforms shall be limited to one hundred square feet in size, unless demonstrated through a Habitat Management Plan that a larger structure will not result in a net loss of habitat and critical functions.

4 **This imposition can be authorized but a property owner who might require a minor incursion into a buffer area is subject to professional studies and mitigation. How does this work?**

5 4. Trails and related facilities shall generally be located outside required buffers. Where trails are permitted within buffers they shall be located in the outer 25% of the buffer, except where stream crossings or for direct access to viewing areas have been approved by the Department.

6 **Again, a property owner who needs a stream crossing to access or fully use property is subject to lengthy study and restrictions but a wildlife viewing trail, created on his property within a buffer, is just appropriate. Please identify the logic in this approach.**

7 5. 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. Trail width shall not exceed five feet unless there is demonstrated need, subject to review and approval by the department. Trails shall be constructed with pervious materials except where determined infeasible.

8 **An individual is forced (through administrative extortion) to surrender both use and value of property but a bike trail could be established on that same land area? Does this not bother anybody in government?**

9 I. Utilities. Placement of utilities within designated fish and wildlife habitat conservation areas and buffers may be allowed pursuant to the following standards:

Comments similar to previous sections dealing with utilities.

10 1. The normal and routine utility maintenance or repair authorized in Section 19.100.125 shall be allowed within designated fish and wildlife habitat conservation areas, subject to best management practices.

11 **Are best management practices fixed or dynamic? If practices change to allow less restriction on property use, are those changes back fit into existing applications and do property owners benefit from the changes?**

12 2. 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. Utility construction shall adhere to the development standards set forth in (5) and (6), below. As required, special reports (Chapter 19.700) shall be reviewed and approved by the department.

13 3. Construction of sewer lines or on-site sewage systems may be permitted in fish and wildlife habitat conservation areas or their buffers only when: (a) the applicant demonstrates that the location is necessary to meet state or local health code requirements; (b) there are no other practicable alternatives available, and (c) construction meets the requirement of this chapter. Joint use of the sewer utility corridor by other utilities may be allowed.

1 4. New utility corridors shall not be allowed in Class I or II fish and wildlife habitat conservation areas (Section 19.300.310(B) and (C)) except in those circumstances where an approved HMP indicates that the utility corridor will not significantly impact the conservation area.

2 5. Utility corridor construction and maintenance shall protect the environment of fish and wildlife habitat conservation areas and their buffers by utilizing the following methods:

3 a. New utility corridors shall be aligned to avoid cutting trees greater than twelve inches in diameter at breast height (four and one-half feet) measured on the uphill side, unless no reasonable alternative location is available.

4 b. In order of preference, new utility corridors shall be located.

5 i. On an existing road;

6 ii. On an existing bridge;

7 iii. Placed deep enough under the culvert to allow for future culvert
14 replacement and to avoid grade barriers.

15 b. New utility corridors shall be revegetated with appropriate native
16 vegetation at not less than pre-construction vegetation densities or greater,
17 immediately upon completion of construction, or as soon thereafter as
18 possible due to seasonal growing constraints. The utility entity shall ensure
19 that such vegetation survives.

20 **How is this enforced? Who established the before construction and
21 post construction baselines? The way this is written the County could
22 bankrupt a utility.**

23 c. Any additional corridor access for maintenance shall be provided at
24 specific points rather than by parallel roads, unless no reasonable
25 alternative is available. If parallel roads are necessary, they shall be the
26 minimum width necessary for access, but no greater than fifteen feet; and
27 shall be contiguous to the location of the utility corridor on the side away
28 from the conservation area. Mitigation will be required for any additional
29 access through restoration of vegetation in disturbed areas.

30 6. Utility corridor maintenance shall include the following measures to protect the
31 environment of fish and wildlife habitat conservation areas.

32 a. Utility towers shall be painted with brush, pad or roller and shall not
33 sandblasted or spray painted, unless appropriate containment measures
34 are used. Lead-based paints shall not be used.

35 **Where in the commercial market are lead based paints available? How
36 about paints with cupric oxide use in wet areas?**

37 b. No pesticides, herbicides or fertilizers may be used in wetland areas or
38 their buffers except those approved by the U.S. Environmental Protection
39 Agency (EPA) and Washington Department of Ecology. Where approved,
40 they must be applied by a licensed applicator in accordance with the safe
41 application practices on the label.

42 J. Bank Stabilization. A stream channel and bank, or shoreline may be stabilized when
43 documented naturally occurring earth movement presents an imminent threat to existing
44 primary structures (defined as requiring a building permit pursuant to Chapter 14.04 of
45 this code, the Kitsap County Building and Fire Code), to public improvements, to unique
46 natural resources, to public health, safety or welfare, to the only feasible access to
47 property, or, in the case of streams, when such stabilization results in the maintenance of
48 fish and wildlife habitat, flood control for the protection of primary structures and
49 appurtenances, or improved water quality.

50 **3 The entirety of this section, although appearing to support “bank stabilization”**

actually presents a set of requirements and a process that makes it virtually impossible to create any kind of non-natural barrier or structure to restrict bank collapse or erosion. What the section does (as does its counterpart in the Shoreline Master Plan, is present a situation for natural erosion and the loss of property as being preferable to a logical course of action to protect property.

- 4 1. Channel, bank and shoreline stabilization may also be subject to the standards of Title 22 of the Kitsap County Code (Shoreline Management Master Program), and of Title 15 of the Kitsap County Code (Flood Hazard Areas). Documentation of earth movement and/or stability shall be provided through Section 19.700.725 (Special Reports), geological and geotechnical report requirements.
- 5 2. Where bank stabilization is determined to be necessary, soft-shore protective techniques shall be evaluated and may be required over other types of bank protection. Techniques include, but are not limited to, gravel berms, vegetation plantings, and placement of large, woody debris (logs and stumps). Special consideration shall be given to protecting the functions of channel migration zones.
- 6 3. Bulkheads and retaining walls may only be utilized as an engineering solution where it can be demonstrated through a geotechnical report (See Section 19.700.725) 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 subject structure. A variance pursuant to Section 19.100.135 must be obtained in all other cases.
- 7 4. 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 rivers and streams. Bank stabilization projects may also require a Kitsap County site development activity permit under Title 12 of this code (Stormwater Management) or a Hydraulic Project Approval (HPA) from WDFW.
- 1 K. Fencing and Signs. Prior to approval or issuance of permits for land divisions and new development, the department may require that 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 identification may be approved when such methods are determined by the department to provide adequate protection to the buffer.
- 2 L. 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 with Title 12 (Stormwater Management) and Title 22 (Shoreline Management) of the Kitsap County Code, including the maintenance of buffers, where required.
- 3 M. Road/Street Repair and Construction. When no other reasonable or practicable alternative exists road or street expansion or construction is allowed in fish and wildlife habitat conservation areas or their buffers, subject to the following minimum development

standards:

4 [See comments on previous section addressing this subject.](#)

- 5 1. The road or street shall serve multiple properties whenever possible;
- 6 2. Public and private roads should provide for other purposes, such as utility corridor crossings, pedestrian or bicycle easements, viewing points, etc.; and
- 7 3. The road or street construction is the minimum necessary, as required by the department, and shall comply with the department's guidelines to provide public safety and mitigated stormwater impacts; and
- 8 4. Construction time limits shall be determined in consultation with WDFW in order to ensure habitat protection.
- 9 5. Mitigation shall be performed in accordance with specific project mitigation requirements.

19

20

Chapter 19.400

21

GEOLOGICALLY HAZARDOUS AREAS

22

19.400.405 Purpose and applicability.

23

19.400.410 General requirements.

24

19.400.415 Designation of geologically hazardous areas.

25

19.400.420 Erosion hazard areas.

26

19.400.425 Landslide hazard areas.

27

19.400.430 Seismic hazard areas.

28

19.400.435 Development standards.

29

19.400.440 Review procedures.

1

19.400.445 Independent consultant review.

2

19.400.450 Recording and disclosure.

3

19.400.405 Purpose and applicability.

4

A. This chapter regulates uses and activities in those areas susceptible to erosion, sliding, earthquake, or other geologic events. Some geological hazards can be reduced or mitigated by engineering, design, or modified construction or mining practices so that risks to public health and safety are minimized.

5

[Should not the protection of property also be included within the considerations? The intent below indicates that is part of the issue.](#)

6 The intent of this section is to:

- 7 1. Provide standards to protect human life and property from potential risks;
- 8 2. Regulate uses of land in order to avoid damage to structures and property
being developed and damage to neighboring land and structures;
- 9 3. Control erosion, siltation, and water quality to protect anadromous and resident
fish and shellfish.
- 10 4. Provide controls to minimize erosion caused by human activity; and
- 11 5. Use innovative site planning by placing geologically hazardous areas and
buffers in open space and transferring development density to suitable areas on
the site.

16

17 B. This chapter applies to development activities, actions requiring project permits, and
clearing, except those identified as exempt in 19.100.125 and except those activities
related to soils testing or topographic surveying of slopes for purposes of scientific
investigation, site feasibility analysis, and data acquisition for geotechnical report
preparation, provided it can be accomplished without road construction.

18 **If road construction is required to gather data or complete the field study for the
report, does that mean that a permit will not be considered?**

19 **19.400.410 General requirements.**

20 A. Any development activity or action requiring a project permit or any clearing within an
erosion or landslide area shall:

- 21 1. Comply with the requirements in an approved geotechnical report when one is
required, including application of the largest buffer and/or building setback;

22 **Who determines when a report is required? Why is there an automatic
determination of maximum buffer and set back before any reasonable
engineering process to mitigate or stabilize is considered?**

- 23 2. Utilize best management practices (BMPs) and all known and available
technology appropriate for compliance with this chapter and typical of industry
standards;

24 **Exactly what does this mean? If good engineering practices include
retaining walls or supporting piles to stabilize or safely use a site, as desired
by the property owner, is that acceptable?**

- 25 3. Prevent collection, concentration or discharge of stormwater or groundwater
within an erosion or landslide hazard area and be in compliance with Title 12 of
this code (Stormwater Management);

26 4. Minimize impervious surfaces and retain vegetation to minimize risk of erosion or landslide hazards;

27 **What if there is an alternative manner under best practices or is that not possible?**

1 B. Any development activity or action requiring a project permit or any clearing within an erosion or landslide area shall not:

2 1. result in increased risk of property damage, death or injury;

3 **Just exactly how is this determined and who makes that determination? Who has the liability if the determination is incorrect?**

4 2. cause or increase erosion or landslide hazard risk;

5 3. increase surface water discharge, sedimentation, slope instability, erosion or landslide potential to adjacent downstream and down-drift properties beyond pre-development conditions;

6 4. adversely impact wetlands, fish and wildlife habitat conservation areas or their buffers; or

7 5. be identified as a critical facility necessary to protect public health, safety and welfare. This includes, but is not limited to, schools, hospitals, police stations, fire departments and other emergency response facilities, nursing homes, and hazardous material storage or production.

11

12 C. Field marking requirements. The proposed clearing for the project and all critical area buffers shall be marked in the field for inspection and approval by the department prior to beginning work. Field marking requirements for construction of a single-family dwelling will be determined on a case-by-case basis by the department. The field marking of all buffers shall remain in place until construction is completed, and final approval is granted by the department. Permanent marking may be required as determined necessary to protect critical areas or its buffer.

13 **Please see comments on previous section dealing with the same issues.**

14 D. Clearing, grading and vegetation removal.

15 1. Minor pruning of vegetation for view enhancement may be allowed through consultation with the department. The thinning of limbs on individual trees is preferred to topping of trees for view corridors. Total buffer thinning shall not exceed twenty-five percent and no more than thirty percent of the live tree crowns shall be removed.

16 This says a proeprty owner need to consult with the department to get permission

to limb a tree or cut a bush. What is the specific logic and authority for this requirement? Is there some underlying documented evidence that property owners are incapable of protecting their own property or that without government intervention a direct hazard to public safety is created?

17 2. Vegetation shall not be removed from a landslide hazard area, except for hazardous trees based on review by a qualified arborist or as otherwise provided for in a vegetation management and restoration plan.

18 **See the previous discussion on “hazard” trees. What happens if a tree is felled by wind or other natural occurrence?**

19 3. Seasonal restrictions. Clearing and grading shall be limited to the period between May 1 and October 1, unless the applicant provides an erosion and sedimentation control plan prepared by a professional engineer licensed in the state of Washington that specifically and realistically identifies methods of erosion control for wet weather conditions.

20 **This effectively either stops all development for 7 months of the year or adds cost to the development without adding value to the project. Is there some point in time that property owners and developers could be trusted to actually do things correctly and not require government oversight? What happens if the County approves a control plan but the weather exceeds norms and some erosion occurs? Who has the burden for corrective action? The actual question is – When the County places a requirement and approved the proposal submitted to satisfy the requirement, who is responsible when the proposal does not work? Can the property owner/developer be assured that County approval has actual meaning?**

21 4. Only the clearing necessary to install temporary erosion control measures will be allowed prior to clearing for roads and utilities construction.

This is to be taken to mean regardless of the illogic of the underlying considerations or the added cost to the project. Is there any variance to this rule?

1 5. The faces of cut and fill slopes shall be protected to prevent erosion as required by the engineered erosion and sedimentation control plan.

2 6. Clearing for roads and utilities shall be the minimum necessary and shall remain within marked construction limits.

3 7. Clearing for overhead power lines shall be the minimum necessary for construction and will provide the required minimum clearances for the serving utility corridor.

4 E. Existing logging roads. Where existing logging roads occur in geologically hazardous

areas, a geological assessment may be required prior to use as a temporary haul road or permanent access road under a conversion or COHP forest practices application.

5 Does the County not know where all existing logging roads are and the geological condition associated with those roads?

6 F. The department may also require:

7 1. clustering to increase protection to geologically hazardous areas; or

8 Exactly what does this mean and how is it decided and imposed? What options (other than non-use) does the property owner have?

9 2. enhancement of buffer vegetation to increase protection to geologically hazardous areas.

10 19.400.415 Designation of geologically hazardous areas.

11 The county has designated geologically hazardous areas pursuant to RCW 36.70A.170 by defining them and providing criteria for their identification. Project proponents are responsible for determining whether a geologically hazardous area exists and is regulated pursuant to this chapter. The department will verify on a case-by-case basis the presence of geologically hazardous areas identified by project proponents. Specific criteria for the designation of geologically hazardous areas are contained in this chapter. While the county maintain some maps of potentially geologically hazardous areas, they are for informational purposes only and may not accurately represent all such areas.

12 If they are for informational purposes only where exactly are the specific criteria and guldelies located so the property owner may properly understand?

13 Apparently, since the following paragraphs are for information only, have little or no actual value in determining the existence of a condition, and are subject to determination of both the intent of the section and the definition of conditions by the department, there is little use commenting on the materials.

14 19.400.420 Erosion hazard areas.

15 A. General. Erosion hazard areas include areas likely to become unstable, such as bluffs, steep slopes, and areas with unconsolidated soils. These include coastal erosion-prone areas and channel migration zones, and may be inclusive of landslide areas.

16 B. Potential erosion hazard areas. Potential erosion hazard areas are depicted on the Kitsap County Erosion Hazards map. These potential erosion hazard areas are identified using the following criteria:

17 1. Areas of high erosion hazard

18 a. Channel Migration Zones, as mapped by the Washington Department of Ecology;

- 1 b. Coastal erosion with a sediment source rating value of 0.6 to 1.0, per
the Prioritization Analysis of Sediment Sources in Kitsap County;
- 2 2. Areas of moderate erosion hazard
- 3 a. Areas identified as geologically hazardous for soil erosion (soil type and
slope grade) by NRCS Kitsap County Soil Survey;
- 4 b. Slopes 15 percent or greater, not classified as I, U, UOS, or URS with
soils classified by the U.S. Department of Agriculture NRCS as “highly
erodible” or “potentially highly erodible”;
- 5 c. Coastal erosion with a sediment source rating value of 0.3 to 0.6 per the
Prioritization Analysis of Sediment Sources in Kitsap County.

6 C. Erosion Hazard Indicators. The project proponents are responsible for determining
actual presence and location of an erosion hazard area. These areas may be indicated
by, but not limited to, the following:

- 7 1. Any of the above criteria currently identified in subsection (B) or amended
hereafter.
- 8 2. Coastal Erosion Hazards.
- 9 a. Areas with active bluff retreat that exhibit continuing sloughing or calving
of bluff sediments, resulting in a vertical or steep bluff face with little or no
vegetation;
- 10 b. Lands located directly adjacent to freshwater or marine waters that are
identified as regressing, retreating, or potentially unstable as a result of
undercutting by wave action or bluff erosion. The limits of the active
shoreline erosion hazard area shall extend landward to include that land
area that is calculated, based on the rate of regression, to be subject to
erosion processes within the next ten year time period.
- 11 3. Channel Migration Zones. The lateral extent that a river or stream is expected
to migrate over time due hydrologically and geomorphologically related processes,
as indicated by historic record, geologic character, and evidence of past migration
over the past one hundred years.

12 **The definitions above all seem to rely on some sort of study or survey which
implies a physical field examination of the subject conditions and a detailed
record of the findings. Is this correct? If not, how were the determinations
made? When addressing features as historically evident exactly how was**

the history created and validated? For purposes of consistency, were owners of property that were “surveyed” or those that fall under one of the categories identified advised of the studies, requested to participate, or advised of the results? If not, why not? Are the properties identified in the results of the studies and the various maps subject to and currently under “notice to Title”? If not, why not?

25

26 **19.400.425 Landslide hazard areas.**

1 A. General. Landslide hazard areas include those areas at risk of mass movement due to a combination of geologic, topographic, and hydrologic factors, such as bedrock, soil, slope (gradient), slope aspect, structure, hydrology, and other factors. Landslide hazards are further classified as either shallow or deep-seated.

2 B. Potential Landslide Hazard Areas. Potential landslide hazard areas are depicted on the Kitsap County Landslide Hazards map. These potential landslide hazard areas are identified using the following criteria:

3 1. Areas of high landslide hazard.

4 a. Shallow landslide areas with Factor of Safety (FS) of 0.5 to 1.5. FS is a method (Harp, 2006) for slope stability based on the angle of the slope from LiDAR elevation data and strength parameters.

5 b. Areas with slopes greater to or equal to 30 percent in grade and deemed by a qualified geologist or geotechnical engineer to meet the criteria of U, UOS, or URS.

6 c. All deep-seated landslides areas.

7 2. Areas of moderate landslide hazard.

8 a. Shallow landslide areas with FS of 1.5 to 2.5

9 b. Slopes of 15 percent or greater and not classified as I, U, UOS, or URS, with soils classified by the U.S. Department of Agriculture NRCS as “highly erodible” or “potentially highly erodible”; or slopes of 15 percent or greater with springs or groundwater seepage

10 c. Slopes in all areas equal to or greater than 40 percent.

19

20 C. Landslide Hazard Indicators. Project proponents are responsible for determining the actual presence and location of a seismic hazard area. These areas may be indicated by, but not limited to the following:

- 21 1. Any of the above criteria currently identified in subsection (B) or amended
hereafter;
- 22 2. Areas of historic failures, including areas of unstable, old and recent
landslides or landslide debris within a head scarp;
- 1 3. Areas within active bluff retreat that exhibit continuing sloughing or calving of
bluff sediments, resulting in a vertical or steep bluff face with little or no vegetation;
- 2 4. Hillsides that intersect geologic contacts with a relatively permeable sediment
overlying a relatively impermeable sediment or bedrock;
- 3 5. Slopes that are parallel or sub-parallel to planes of weakness, such as
bedding planes, joint systems, and fault planes in subsurface materials;
- 4 6. Areas exhibiting geomorphological features indicative of past slope failure,
such as hummocky ground, back-rotated benches on slopes, etc.;
- 5 7. Areas with tension cracks or ground fractures along and/or near the edge of
the top of a bluff or ravine;
- 6 8. Areas with structures that exhibit structural damage such as settling and
cracking of building foundations or separation of steps or porch from a main
structure that is located near the edge of a bluff or ravine;
- 7 9. The occurrence of toppling, leaning, bowed, or jack strawed trees that are
caused by disruptions of ground surface by active movement;
- 8 10. Areas with slopes containing soft or liquefiable soils;
- 9 11. Areas where gulying and surface erosion have caused dissection of the bluff
edge or slope face as a result of drainage or discharge from pipes, culverts, ditches,
and natural drainage courses;
- 10 12. Areas where seeps ,springs or vegetative indicators of a shallow groundwater
table are observed on or adjacent to the face of the slope;
- 11 13. Areas that include alluvial or colluvial fans located at the base of steep slopes
and drainages.
- 12 14. Areas within 300 feet of areas classified as U, UOS, I, URS.

13 **See comments above concerning erosion hazards area definition.**

14 **19.400.430 Seismic hazard areas.**

15 A. General. Seismic hazard areas are areas subject to severe risk of damage as a

result of earthquake-induced landsliding, seismic ground shaking, dynamic settlement, fault rupture, soil liquefaction, or flooding caused by tsunamis and seiches.

1 B. Potential Seismic hazard areas. Potential seismic hazard areas are depicted on the
Kitsap County Seismic Hazards map. These potential seismic hazard areas are identified
using the following criteria:

2 1. Areas of high seismic hazard are those areas with faults that have evidence of
rupture at the ground surface.

3 2. Areas of moderate seismic hazard

4 a. Areas susceptible to seismically induced soil liquefaction, such as hydric
soils as identified by the NRCS, and areas that have been filled to make a
site more suitable for development. This may include former wetlands that
have been covered with fill.

5 b. Areas identified as Seismic Site Class D, E, and F.

6 c. Faults without recognized evidence of rupture at the ground surface.

7 C. Seismic Hazard Indicators. Project proponents are responsible for determining actual
presence and location of a seismic hazard area. These areas may be indicated by, but
not limited to, the following:

8 1. Any of the above criteria currently identified in subsection (B) or amended
hereafter;

9 2. Areas identified as potential landslide areas. Includes slopes that can become
unstable as a result of strong ground shaking, even though these areas may be
stable under non-seismic conditions;

10 3. Areas identified as high and moderate liquefaction and dynamic settlement
hazard areas by the Washington Department of Natural Resources, including
areas underlain by unconsolidated sandy or silt soils and a shallow groundwater
table (static groundwater depth <30 feet) capable of liquefying in response to
earthquake shaking. Dynamic settlement hazard areas are those underlain by
more than 10 feet of loose or soft soil not susceptible to liquefaction, but that could
result in vertical settlement of the ground surface in response to earthquake
shaking.

11 4. Tsunami and Seiche hazard areas. Generally, these are areas that are
adjacent to Puget Sound marine waters and lakes that are designated as "A" or
"V" zones as identified by FEMA and depicted on the FEMA maps or other maps
adopted by Kitsap County.

1 5. Fault rupture hazard areas, including areas where displacement (movement
up, down, or laterally) of the ground surface has occurred during past

earthquake(s) in the Holocene Epoch, and areas adjacent that may be potentially subject to ground surface displacement in a future earthquake.

2 **See comments above about erosion hazard areas.**

3 **19.400.435 Development standards.**

4 A. Erosion and Landslide Hazard Development Standards.

5 1. Development activities or actions requiring project permits or clearing shall not be allowed in landslide hazard areas unless the applicant demonstrates:

6 a. There is no alternate location for the structure on the subject property;
and

7 b. a geotechnical report demonstrates that building within a landslide hazard area will provide protection commensurate to being located outside the landslide hazard area and meets the requirements of this section. This may include proposed mitigation measures.

8 2. Top of slope building setback. All development activities or actions that require project permits or clearing in erosion and landslide hazard areas shall provide native vegetation from the toe of the slope to twenty-five feet beyond the top of slope, with an additional minimum fifteen-foot building and impervious surface setback, unless otherwise allowed through a geologic assessment. The minimum building and setback shall be increased from the top of the slope as

9 follows:

10 a. For high landslide hazard areas, the setback shall be equal to the height of the slope (1:1 horizontal to vertical) plus the greater of one-third of the vertical slope height or twenty-five feet.

11 **This requirement could make a property with no 100-year history of ground movement unusable simply because of inherent features. Why is this criteria fixed?**

12 b. For moderate landslide hazard areas, the setback shall be forty feet from the top of slope.

13 3. Toe of slope building setback. A geotechnical report may be required based on slope height and stability indicators. Where slope hazard indicators are not identified, the requirements of Title 14.04 of this code, the Kitsap County Building and Fire Code will apply.

14 4. The department may require a larger native vegetation width than the standard buffer distance as determined above, if any of the following are identified through the geological assessment process:

15 **Why is additional buffer space or planting native vegetation acceptable but a properly engineered drainage flow system is not?**

16 a. The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse impacts; or

1 b. The area has a severe risk of slope failure or downslope stormwater drainage impacts.

2 5. The minimum native vegetation width and/or building setback requirement may be decreased if a geotechnical report demonstrates that a lesser distance, through design and engineering solutions, will adequately protect both the proposed development and the erosion or landslide hazard area. The department may decrease the setback when such a setback would result in a greater than 1:1 slope setback.

3 **B. Seismic Hazard Development Standards.**

4 1. Development activities or actions requiring a project permit occurring within 200 feet of a seismic hazard area may be allowed with an approved geotechnical report that confirms the site is suitable for the proposed development and addresses any fill or grading that has occurred on the subject parcel.

5 **Exactly how does a geotechnical report determine that construction in or near a seismic activity area is safe. Is the issue relative safety or absolute safety. Keeping in mind that the engineer who prepares the report and the individual who approves the report may have a fiduciary responsibility to the property owner and be liable if the report is proven wrong at some future date.**

6 3. Development activities or actions requiring a project permit within in a seismic hazard area shall be in accordance with Chapter 14.04 of this code, the Kitsap County Building and Fire Code.

7 **19.400.440 Review Procedures.**

8 A. Map review. The Kitsap County Geologically Hazardous Areas Maps (Erosion, Landslide, and Seismic) provide an indication of where potential geologically hazardous areas are located within the County. The department will complete a review of the map to determine if the proposed activity is located within a hazard area.

9 **How frequently are these maps reviewed and updates? What are the qualifications of the individuals assigned responsibility to approve the information reflected on the maps?**

10 B. A geological assessment shall be required when the proposed activity is located within a potential hazard area.

11 C. A geotechnical professional shall complete a field investigation and geological
assessment to determine whether or not the site for the proposed activity is located within
200 feet of the geologic hazard. (Special Reports 19.700).

12 D. The geological assessment shall be submitted in the most applicable form as follows:

13 1. A geological letter. When the geologist or geotechnical professional finds that
no hazard area exists within 200 feet of the site, a stamped letter may be
submitted demonstrating those

1 2. A geological report. When the geologist finds that a geologically hazardous
area exists within 200 feet of the site, but will not impact the site or need
engineering design
2 recommendations;

3 3. A geotechnical report. When the geotechnical engineer finds that a
geologically hazardous
4 area exists within 200 feet of the site, and will require engineering design
recommendations or
5 other mitigation measures necessary in order to construct or develop within the
geologically
6 hazardous area.

7 E. The department shall review the geological assessment and either:

8 1. Accept the geological assessment and approve the application; or

9 2. Reject the geological assessment and require revisions or additional
information.

11

12 **19.400.445 Independent consultant review.**

13 If the department lacks the necessary expertise, the department may require an
independent consultant review of the application by a qualified professional to assess
compliance with this chapter. If independent consultant review is required, the applicant
shall make a deposit with the department to cover the cost of the review. Unexpended
funds will be returned to the applicant following final decision on the application.

14 **Wrong. If the County directs an applicant to complete and file a study, it is correct
to assume that the department has the technical ability to make detailed
assessment of the information provided. This requirement has the applicant
paying one licensed professional to prepare a study and report and then paying
for a second over which they have no contractual authority) to review that report. If
the department does not have the technical expertise to conduct a proper review
of a required report why are they insisting on that report?**

15 **19.400.450 Recording and disclosure.**

16 In addition to the required Critical Area Notice to Title for development activities within a
critical area, the following shall be signed, notarized, recorded with the County Auditor
prior to permit issuance for development in a geologically hazardous area requiring a
geotechnical report:

17 A. An abstract and description of the specific types of risks identified in the geotechnical
report;

18 B. A statement that the owner(s) of the property understands and accepts the
responsibility for the risks associated with developments on the property given the
described condition, and agrees to inform future purchasers and other successors and
assignees of the risks; and

19 C. A statement that the owner(s) of the property acknowledge(s) that this chapter does
not create liability on the part of Kitsap County, any officer or employee thereof for any
damages that result from reliance on this chapter or any administrative decision lawfully
made thereunder.

20 **This one is specifically bothersome considering the County would require the
applicant to pay for technical review of the very report that the county now
absolves itself from for any future liability. This is another clear example of the
misapplication of improperly delegated authority to deprive an owner of use of
property or to extort an agreement to not hold anyone responsible for anything.**

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**Chapter 19.500
FREQUENTLY FLOODED AREAS**

3 Sections:

4 **19.500.505 Purpose.**

5 **19.500.505 Purpose.**

6 The purpose of this section is to protect the public health, safety and welfare from harm
caused by flooding. It is also the intent to prevent damage and/or loss to both public and
private property. In addition, this section will give special consideration to anadromous
fish habitat in combination with Chapter 19.300, Fish and Wildlife Habitat Conservation
Areas and Title 22 Shoreline Master Program. To fulfill this purpose, Kitsap County uses
the Title 15 of this code (Flood Hazard Areas), adopted by reference, which designates
special flood hazard areas and establishes permit requirements for these areas.

7 In addition, the Kitsap County Geographic Information System (GIS) database for critical
drainage areas, as defined in Title 12 of the Kitsap County Code (Stormwater), will be
included for areas of review under Frequently Flooded Areas.

**Please see the previous comments about how these special hazard areas were
identified and defined and the active participation of property owners in the
process.**

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Chapter 19.600
CRITICAL AQUIFER RECHARGE
AREAS

Sections:

- 19.600.60 Purpose.**
- 19.600.61 Critical aquifer recharge area categories.**
- 19.600.61 Development standards.**
- 19.600.62 Activities with potential threat to groundwater.**

19.600.605 Purpose.

1 Potable water is an essential life-sustaining element for people and many other species and because the majority of Kitsap County drinking water comes from groundwater supplies in aquifers, critical aquifer recharge areas are very important to ensure the quality and quantity of shallow and deep water aquifers. Once groundwater is contaminated, it is difficult, costly, and sometimes impossible to clean up. Preventing contamination is necessary to avoid exorbitant costs, hardships, and potential physical harm to people and ecosystems. In addition, without replenishment, the amount of water for potable use can be diminished or even depleted. The intent of this chapter is thus to identify and classify aquifer recharge areas in accordance with RCW 36.70A.170 and address land use activities that pose a potential to directly or indirectly contaminate or otherwise threaten aquifer water quality and quantity. This section does not affect any right to use or appropriate water as allowed under state or federal law. In addition, these requirements do not apply to those activities that have potential contaminant sources below threshold amounts set forth in applicable statutes of the Revised Code of Washington or local regulations.

2 **As determined and documented in the WRIA studies, the entire surface of Kitsap County is an aquifer recharge area in that all water sources in the county are dependent on precipitation falling on county lands to maintain those sources. That said, it would appear that in considering recharge” of aquifers, the first priority should be, to the maximum extent possible, retaining all water that exists in the county and minimizing outflow of those resources. In addition, the effort to maintain water resources should first and foremost identify those practices which most adequately support retention and infiltration. Because of the unique water resource situation for Kitsap (no mountain snowpack or mountain river flow) it would appear that the realization that stream flows are a direct result of aquifer overcharge and that stream flows should not be required to meet some minimum level. In essence, stream flows are determined by the annual levels of precipitation falling on the county (including the seasonal variations) and not some anecdotal prescribed flow level.**

3 It is the policy of Kitsap County to accomplish the following:

4 **I am confused once again. Is this a Title requiring compliance or a general policy document upon which a title might be based? If this is a policy document, where**

and how has it be subjected to public review for purposes of establishment of policy? If it has not be so reviewed, why not and how does the county now determine that rules and regulations can be established based on an unapproved policy?

5 A. Identify, preserve and protect aquifer recharge areas that are susceptible to contamination by preventing degradation of the quality and, if needed, the quantity of potable groundwater;

6 **Based on WRIA this would include the entire surface area of the county.**

7 B. Recognize the relationship between surface and groundwater resources; and

8 C. Give priority to potable water resource areas per WAC 365-190-100 in the planning and regulation of land uses that may directly or indirectly contaminate or degrade groundwater.

9 D. Balance competing needs for water supply while preserving essential natural functions and processes, especially for maintaining critical fish and wildlife habitat conservation areas.

10 **19.600.610 Critical aquifer recharge area categories.**

11 As defined at Section 19.150.210, a critical aquifer recharge area means those land areas that contain hydrogeologic conditions that facilitate aquifer recharge and/or transmit contaminants to an underlying aquifer. Critical aquifer recharge areas under this title may be established based on general criteria, specifically designated due to special circumstances, or based on scientific studies and mapping efforts. Factors considered in the identification of critical aquifer recharge areas include depth to water table, presence of highly permeable soils (specifically Group A Hydrologic Soils), presence of flat terrain, and the presence of more permeable surficial geology.

12 Again, I will assume that the information regarding identification of specific recharge areas is the result of a specific study. This would raise the same questions asked about erosion areas. If the definitions for recharge and the areas defined are based on the WRIA study, it was my understanding that the study was never approved or adopted by the county and, as such, should not mbe used for water related regulations or rules. am i wrong regarding the WRIA study and if so please advise when that studyn was approved and adopted? Is there anyone in DCD or any of th Commissioners who have read the WRIA study?

13 A. Category I Critical Aquifer Recharge Areas. Category I critical aquifer recharge areas are those areas where the potential for certain land use activities to adversely affect groundwater is high. Category I critical aquifer recharge areas include:

14 1. Areas inside the five-year time of travel zone for Group A water system wells, calculated in accordance with the Washington State Well Head

Protection Program.

- 1 2. Areas inside the ten-year time of travel zones in wellhead protection areas and which are not separated from the underlying aquifers by an impermeable layer that provides adequate protections from contamination to the aquifer(s) below.
- 2 3. Areas identified as significant recharge areas due to special circumstances or identified in accordance with WAC 365-190-100(4) as aquifer areas of significant potable water supply with susceptibility to groundwater contamination, including but not limited to the following:
 - 3 a. Hansville Significant Recharge Area. The Hansville aquifer is a significant potable water supply that is highly susceptible to the introduction of pollutants. Additional information regarding this aquifer is available from the Kitsap Public Utility District.
 - 4 b. Seabeck Significant Recharge Area. The Seabeck aquifer is a significant potable water supply that is being developed for use in central and north Kitsap County. Additional information regarding this aquifer is available from the Kitsap Public Utility District.
 - 5 c. Island Lake Significant Recharge Area. The Island Lake aquifer is a significant potable water supply for the Silverdale area. Additional information regarding this aquifer is available from the Silverdale Water District.
 - 6 d. Gorst Significant Recharge Area. Aquifers in the Gorst basin are highly susceptible to the introduction of pollutants and provide significant potable water supplies for the City of Bremerton.
 - 7 e. Poulsbo Significant Recharge Area. The Poulsbo aquifer is highly susceptible to the introduction of pollutants and provides a significant potable water supply for the Kitsap Public Utility District and City of Poulsbo.
- 8 4. The department may add, reclassify or remove Category I critical aquifer recharge areas based on additional information about areas of significant potable water supply with susceptibility to groundwater contamination or supply reduction, or based on changes to sole source aquifers or wellhead protection areas as identified in wellhead protection programs.

Please see the comments at erosion areas for concerns that apply to the designation of these recharge areas. If the “maps” or recharge area designations are maintained by utility districts, how does the department control the actual definition of area boundaries? If the department may revise areas and boundaries, what specific criteria

are used and how are those determinations made and verified before that are included in the existing reports and maps?

1 B. Category II Critical Aquifer Recharge Areas. Category II critical aquifer recharge areas are areas that provide recharge effects to aquifers that are current or potentially will become potable water supplies and are vulnerable to contamination based on the type of land use activity. The general location of these areas is available on the Kitsap County geographic information system.

2 Category II critical aquifer recharge areas include:

3 1. Highly Permeable Soils (Group A Hydrologic Soils). The general location and characteristics of Group A Hydrologic Soils in Kitsap County is given in the Soil Survey of Kitsap County by the U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS). The soil survey information is available on the Kitsap County geographic information system (GIS).

4 2. Areas above shallow aquifers or surface areas that are separated from the underlying aquifers by an impermeable layer that provides adequate protections from contamination to the aquifer(s) below. The general location of shallow aquifers in Kitsap County is based upon the professional judgment of licensed hydrogeologists with knowledge of the area. The location of shallow aquifers is available on the Kitsap County geographic information system (GIS).

5 **This implies that a licensed hydrogeologist either uses GIS information or the results of their field studies are imposed on GIS data. Which is the case? Is there any ongoing verification or validation of the information or is it locked in place once defined?**

6 3. Areas above the Vashon Aquifer. Surface areas above the Vashon Aquifer that are not separated from the underlying aquifers by a poorly permeable layer that provides adequate protections to preclude the proposed land use from contaminating the Vashon aquifer below. Vashon aquifers in Kitsap County are typically mapped as “Qva” (Vashon advance aquifer) or “Qvr” (Vashon recessional aquifer) on geologic maps. Best available information concerning the location of Vashon aquifers is available on the Kitsap County geographic information system (GIS).

7 4. Areas with high concentration of potable water supply wells.

8 5. The department may add, reclassify or remove Category II critical aquifer recharge areas based on additional information about areas of potential potable water supply with susceptibility to groundwater contamination or supply reduction, or based on changes to sole source aquifers or wellhead protection areas as identified in wellhead protection programs.

30

1 C. Mapping. Kitsap County, in coordination with water purveyors and other agencies, will produce maps indicating the location of critical aquifer recharge areas and their defining characteristics.

2 **Will produce or has produced? What is the exact status of the “maps” since they are heavily referenced in the paragraphs above?**

3 **19.600.615 Development standards.**

4 A. Category I Critical Aquifer Recharge Areas.

5 1. Land uses identified in Table 19.600.620 are prohibited in Category I critical aquifer recharge areas, unless a waiver is granted by the department.

6 2. Requests for waivers for activities listed in Table 19.600.620 shall include a hydrogeological report (See Chapter 19.700, Special Reports) that includes a detailed risk-benefit analysis that considers credible, worst-case scenarios. The hydrogeological report shall evaluate potential impacts of a proposed land use or activity on both groundwater and surface water quality and quantity. The waiver will be evaluated and treated as a special use review (19.100.145) and be reviewed by the department Kitsap Public Health, affected tribes, and the affected water purveyors.

7 B. Category II Critical Aquifer Recharge Areas.

8 1. Land uses identified in Table 19.600.620 that are proposed in a Category II aquifer recharge area may be required to submit a hydrogeological report (See Chapter 19.700, Special Reports), as determined in subsection (2) below. The scope of the report shall be based on site-specific conditions.

9 2. The need for a hydrogeological report will be determined by the department, the health district and the affected water purveyor when the proposed land use or activity may impact groundwater and surface water quality and quantity. Based on the results of the report, controls, mitigation, and/or other requirements will be established as a condition of approval.

10 **Not fewer than three different jurisdictions get to decide what studies will be required and, apparently, have the authority to review and approve or disapprove the application. How exactly does this work?**

11 C. Notification and Review.

12 1. Affected water purveyors, tribes and the Kitsap Public Health will be notified and invited to comment during the preliminary phases of the county’s review of any development application in a critical aquifer recharge

area. . The purveyor may recommend appropriate mitigation to reduce potential impacts and the department will consider these recommendations to develop appropriate permit conditions.

13 **Where is the specific authority for the “tribes” to become involved with use of private property? If this section is correct, it would imply that the title to private property is conditional upon the agreement of the “tribes”. Is that what the county has in mind?**

1 2. The department will also notify Kitsap Public Health and affected water purveyors through the environmental review process when those development activities listed in Table 19.600.620 are proposed outside the areas designated critical aquifer recharge areas.

2 D. Stormwater. Stormwater best management practices shall be accomplished in accordance with Title 12 KCC.

3 **19.600.620 Activities with potential threat to groundwater quality.**

**TABLE 19.600.620
ACTIVITIES WITH POTENTIAL THREAT TO
GROUNDWATER QUALITY**

A	Above & Below Ground Storage Tanks
1	Hazardous and industrial waste treatment
2	Hazardous and industrial waste storage
3	Hazardous material storage
B	Animal Feedlots
C	Commercial Operations
1	Gas stations/service stations/truck terminals
2	Petroleum distributors/storage
3	Auto body repairs shops/rust proofers
4	Auto chemical supply storers/retailers
5	Truck, automobile, and combustion engine repair shops
6	Dry cleaners

	7	Photo processors
	8 *	Auto washes
	9 *	Laundromats
	10	Beauty Salons

	11	Research or chemical testing laboratories, which handle significant quantities of hazardous materials
	12	Food processors/meat packers/slaughter houses
	13	Airport maintenance/fueling operation areas
	14	Junk and salvage yards
	15	Storing or processing manure, feed, or other agriculture by products by commercially permitted businesses
	16	Large-scale storage or use of pesticides, insecticides, herbicides, or fertilizer by commercial or agricultural operations
	17	Golf courses
	18	Cemeteries
	D Deep Injection Wells	
	1	Waste-water disposal wells (wells that after treatment inject water
	2	Oil and gas activity disposal wells
	3	Mineral extraction disposal wells
	F De-icing Salts Storage Piles	
	F Industrial Operations	
	1	Furniture strippers/painters/finishers
	2	Concrete/asphalt/tar/coal companies
	3	Industrial manufacturers: chemicals, pesticides/herbicides, paper, leather products, textiles, rubber, plastic/fiberglass, silicone/glass, pharmaceuticals,
	4	Metal platers/heat treaters/smelters/annealers/descalers
	5	Wood preservatives

	6	Chemical reclamation facilities
	7	Boat refinishers
	8	Hydrocarbon extraction
G.	Land Application	

	1	Waste-water application (spray irrigation)
	2	Waste-water byproduct (sludge) application
	3	Petroleum refining waste application
	4	Hazardous waste applications
H.	Landfills	
	1	Industrial hazardous and non-hazardous landfill
	2	Municipal sanitary landfill
I.	Material Transfer Operations	
	1	Hazardous and industrial waste transfers
	2	Hazardous material transfers
J.	Materials Stockpiles	
K.	Mining and Mine Drainage	
L.	Onsite Septic Systems (Large Onsite Septic System or LOSS Category)	
M.	Pipelines	
	1	Hazardous and industrial waste transfer
	2	Hazardous material transfer
N.	Radioactive Disposal Sites and Processing of Radioactive Wastes	
O.	Sand and Gravel Mining Operations	
	* If not on a sewer system with a treatment plant	

1

21 **How was this list developed? What public review process was involved? How is the list maintained to make sure that uses no longer considered hazards are removed and newly identified hazards are added. For example, It is apparent that on-site septic systems are identified as a potential hazard while sewage treatment plants and public**

sewer systems are not. That is a bit concerning because of the most recent instances of pollution to creeks, streams and open water, public sewer systems have been the major offenders.

Chapter 19.700 SPECIAL REPORTS

2 Sections:

3 **19.700.70 Special reports.**

4 **19.700.71 Wetland delineation report.**

5 **19.700.71 Wetland mitigation report.**

6 **19.700.72 Habitat management plan**

7 **19.700.72 Geological assessments.**

8 **19.700.73 Hydrogeological report.**

9

10 **19.700.705 Special reports.**

11 A. Purpose. The following special reports may be required to provide environmental information and to present proposed strategies for maintaining, protecting and/or mitigating impacts to critical areas:

12 1. Wetland Delineation Report (Section 19.700.710)

13 2. Wetland Mitigation Plan (Section 19.700.715).

14 3. Habitat Management Plan (Section 19.700.720).

15 4. Geotechnical Report /Geological Report (Section 19.700.725).

16 5. Hydrogeological Report (Section 19.700.730).

17 **This entire section needs to be reviewed and comments on by licensed professionals who would be required to prepare and submit the report in this chapter. Only those individuals can identify the minimum level of effort necessary and the minimum documentation necessary to properly document the conditions on the property under review. A mandatory part of that review and comment should be the inclusion of a anticipated cost to the applicant for the conduct or required study and survey and the required report in each instance. A specific effort needs to be made to minimize both effort and cost and still meet actual definition requirements. Quite frankly , it appears that the county is attempting to more ,clearly define and document the geophysical and habitat conditions of the county at the expense of the property owner. While most of the required studies refer to “maps” held by**

the county, they require a greater level of specificity of actual conditions on a site. It is not clear to what end the reports are actually used. If information from the individual reports is subsequently used to update or improve county documents and records, why is the applicant footing the bill?

18 B. When Required. Special reports shall be submitted by the applicant for approval by the department when required by this title .

19 C. Responsibility for Completion. The applicant shall pay for or reimburse the county for the costs incurred in the preparation of special reports or tests, and for the costs incurred by the county to engage technical consultants or staff for review and interpretation of data and findings submitted by or on behalf of the applicant. The applicant shall pay permit fees or technical assistance fees as required by the Title 21 of the Kitsap County Code, as now or hereafter amended. In such circumstances where a conflict in the findings of a special report and the findings of the county in review of the special report exists, the applicant or affected party may appeal such decisions of the county pursuant to the procedures in Section 19.100.150 (Appeals) and KCC 21.04 of this code.

1 D. Qualifications of Professionals. Any special report required herein shall be prepared and signed by the professionals identified below and in chapter 19.500.), and shall include his or her resume, or other list of qualifications, to aid the department in assessing these qualifications.

5 19.700.710 Wetland delineation report.

6 A. Wetland delineation reports shall be valid for a period of five years from the date of the report unless a longer or shorter period is specified by the department. An extension of an original report may be granted upon submittal of a written request to the department prior to expiration. Prior to granting an extension, the department may require updated studies if, in its judgement, the original intent of the application is altered, enlarged or if circumstances relevant to the review and issuance of the original permit have changed substantially, or if the applicant failed to abide by the terms of the original approval. Time extensions shall be granted in writing and documented in the file.

7 B. A wetland delineation report shall include, but not be limited to, the following:

8 1. Vicinity map;

9 2. When available:

10 a. A copy of a National Wetland Inventory Map (U.S. Fish and Wildlife Service) and/or a Kitsap County Wetland Inventory Map identifying the wetlands on or within two hundred fifty feet of the site;

11 b. A copy of any known previous delineations or investigations;

12 c. A copy of forms used to delineate the wetland area (*1987 Wetland Delineation Manual, Western Mountains, Valleys, and Coast Regional Supplement*).

- 13 3. A site map setting forth all of the following:
- 14 a. Surveyed wetland boundaries based upon a delineation by a wetlands
15 specialist;
- 16 b. Site boundary property lines and roads;
- 17 c. Internal property lines, right-of-way, easements, etc.;
- 1 e. Contours at the smallest readily available intervals, preferably at two-
2 foot intervals;
3 [Is this really necessary? Why not five feet or eight feet? The cost of
4 determining and producing this contour map will be significant.](#)
- 4 f. Hydrologic mapping showing patterns of surface water movement and
5 known subsurface water movement into, through, and out of the site area.
- 5 g. Location of all test holes and vegetation sample sites, numbered to
6 correspond with flagging in the field and field data sheets.
- 6 h. The most recent, dated air photo with overlays displaying the site
7 boundaries and wetland delineation.
- 7 4. Location information (legal description, parcel number and address);
- 8 5. Discussion of wetland boundary. The delineation report shall delineate the
entire wetland boundary. If the wetland extends outside the site, the delineation
report shall discuss methods for delineation beyond the site if physical access was
not granted. Remote mapping methods may be used, but this should be noted in
the report.
- 9 6. General site conditions within one quarter mile of the subject wetland(s),
including topography, acreage, and surface areas of all wetlands identified in the
Kitsap County Wetland Inventory Map and water bodies, including ditches and
streams,;
- 10 7. Hydrological analysis, including topography, of existing surface and known
significant sub-surface flows into and out of the subject wetland(s), and location of
the wetland within the watershed;
- 11 8. Analysis of the functional values of existing wetland(s), including vegetative,
fauna, habitat, water quality, and hydrologic conditions;
- 12 9. A summary of proposed activity and potential impacts to the wetland(s);

- 13 10. Recommended wetland category using the Washington State Wetlands Rating System Categories (See Chapter 19.800, Appendix “A”), including rationale for the recommendation and a copy of the completed Wetland Rating Summary Form with associated figures;
- 14 11. Recommended buffer boundaries, including rationale for boundary locations;
- 15 12. Site plan of proposed activity, including location of all parcels, tracts, easements, roads, structures, and other modifications to the existing site. The location of all wetlands and buffers shall be identified on the site plan.

16 C. Administrative Wetland Boundary and Ranking Evaluation.

- 1 1. The department may delineate and evaluate wetland areas for any proposed single-family dwelling project listed in Chapter 19.200 (Wetlands), unless the applicant wishes to employ a qualified wetland biologist at the applicant’s expense, or a wetland delineation report is required by the department. Fees may be collected for this determination and evaluation, as specified in Title 21 of the Kitsap County Code.
- 2 2. The wetland boundary shall be field-staked prior to department review and this line shall be depicted on the building site plan application.
- 3 3. The wetland boundary and buffer shall be identified on all grading, building site, utility or other development plans submitted on the project. Wetland delineation stakes shall remain in place for the duration of the application process and not removed until project completion / final inspection when wetland buffer signs have been reviewed and installed.

4 **19.700.715 Wetland mitigation report.**

5 Compensatory mitigation shall be required for activities that result in the loss of wetland acreage or functions, in accordance with 19.200.250 (Wetland Mitigation Requirements) .

- 6 1. A compensatory mitigation plan shall be completed. The applicant shall submit a detailed mitigation plan for compensatory mitigation to the department.
- 7 2. The detailed mitigation plan shall be prepared, signed, and dated by the wetland specialist to indicate that the plan is in accordance with specifications as determined by the wetland specialist. A signed original mitigation plan shall be submitted to the department.
- 8 3. Approval of the detailed mitigation plan shall be signified by a critical area Notice to Title, signed by the applicant and department director or designee, and recorded with the Kitsap County Auditor (Appendix E, 19.800). The Notice shall refer to all requirements for the mitigation project.

- 9 4. The mitigation project shall be completed according to a schedule agreed upon between the department and the applicant.
- 10 5. Wetland mitigation shall occur according to the approved wetland mitigation plan and shall be consistent with provisions of this chapter and title.
- 11 6. The wetland specialist shall be onsite during construction and plant installation phases of all mitigation projects.
- 1 7. Upon completion of construction for the wetland mitigation project, the wetland specialist shall submit an as-built report to the department for review and approval.

2 As required by Section [19.200.250](#) (Wetland Mitigation Requirements), a mitigation report shall be prepared and A shall contain the following:

- 3 A. Cover / Title Page
- 4 1. Project name.
- 5 2. Reference numbers to other permit applications (Local, State and/or Federal).
- 6 3. Date of publication.
- 7 4. Who it was prepared for / contact information.
- 8 5. Who is was prepared by / contact information.
- 9 B. Table of Contents, including a list of figures and tables
- 10 C. Responsible Parties. Provide the names, titles, addresses, phone numbers, and information regarding the professional experience (if applicable) for those involved in the development and mitigation projects. Provide the name of the company or agency, as well as the individuals involved.
- 11 D. Applicant(s).
- 12 1. Applicant's representative / agent.
- 13 2. Preparer(s) of the wetland delineation report
- 14 3. Preparer(s) of the mitigation report, mitigation construction plans and specifications.
- 15 4. Parties responsible for monitoring, long-term maintenance, and contingency plans. If this is unknown at the time the mitigation report is submitted, provide this information with the monitoring reports.
- 16 D. Executive summary that summarizes the project, its potential wetland related impacts, and the proposed mitigation. The executive summary shall include the following information:
- 17 1. Applicant Name/Address/Phone.
- 18 2. Agent/Consultant.

- 19 3. Description of land use proposal and location.
- 20 4. Description of the measures taken to avoid and minimize the impacts to the wetland and other aquatic resources.
- 21 5. Description of unavoidable wetland impacts and the proposed compensatory mitigation measures:

- 1 a. Size (acres);
- 2 b. Cowardin Wetland classification;
- 3 c. Hydrogeomorphic (HGM) classification;
- 4 d. Wetland rating;
- 5 e. Wetland functions;
- 6 f. Compensation ratios used.
- 7 6. Description of mitigation area.
- 8 7. Explanation of other unavoidable impacts to other aquatic resources .
- 9 8. Other relevant details, including but not limited to:
 - 10 a. Goals and objectives .
 - 11 b. Proposed improvements to the functions and environmental processes
of the larger watershed.
 - 12 c. Proposed buffers for the compensatory mitigation site (minimum and
maximum width and total area).
- 13 E. Project Description.
 - 14 1. Type of development (existing and proposed land uses).
 - 15 2. Development project size.
 - 16 3. Implementation schedule (start date and duration).
 - 17 4. Project location and maps.
 - 18 a. Section, Township, Range
 - 19 b. Water Resource Inventory Area (WRIA)
 - 20 c. Watershed and subwatershed

1 d. Vicinity Map

2 5. Description of the Development Site. .

3 a. Historic and current land uses, zoning designations, and structures on
development site and adjacent properties (if known).

4 b. A local area map (zoning, land use, wetlands, other aquatic resources,
100 year floodplain).

5 c. Existing wetlands on or adjacent to the development site. Attach
delineation report.

6 d. Other aquatic resources on the site or adjacent properties, noting
hydrologic connections. Describe any flooding that affects the development
site and the location of the development within the floodplain, where
applicable.

7 e. Known historic or cultural resources on the development site.

8 F. Ecological Assessment of Impact.

9 1. Description of the impacts and extent of disturbance to wetlands (including
acreage). This includes temporary, indirect, and direct impacts.

10 2. Description of the site in context of other wetlands/water bodies.

11 3. Description of the water regime.

12 a. Describe the source of water to the wetland being affected by the
development project. For multiple sources, estimate the percentage of
each.

13 b. Describe the hydrologic regime of the wetland being affected through
qualitative estimates of duration and frequency of inundation / saturation.

14 c. Map of the surface and groundwater flowing into the impacted areas
with the directions of water flow indicated.

15 4. Description of the soils.

16 a. Description of the soil characteristics of the wetland being affected
including; soil type and classification; and a description of texture, color,
structure, permeability, and organic content.

- 1 b. Soil survey map (indicate the source of the map).
- 2 c. Map showing soil sampling locations (typically the location of the soil pits used for delineation).
- 3 5. Description of the plant communities.
- 4 a. Qualitative descriptions of the different Cowardin (1979) classes at the wetland being affected (including subclass and water regime modifiers). If a forested class is present, also estimate the average age of the canopy species.
- 5 b. Estimate the relative abundance of dominant and subdominant plants within each Cowardin class (use information collected during routine delineation unless more detailed data are available).
- 6 c. List of the wetland indicator status of dominant and subdominant species (obligate- OBL, facultative-FAC, facultative wet-FACW)
- 7 d. Description of the prevalence and distribution of non-native and/or invasive species, if any are present at the wetland being affected.
- 8 e. General description of upland plant communities within 330 ft (100m) of the wetland being affected, if any.
- 9 f. List of rare plants and plant communities that are known to occur on the development project site or adjacent properties. If any of these species are observed on the site, include descriptions of the occurrence and any potential impacts to them.
- 10 6. Description of any fauna using the site. If a biological assessment was prepared for the project, the report may simply be referenced in this mitigation report.
- 11 a. Description of any animals (including amphibians) using the wetland being affected or its buffer. Especially note evidence of past or present beaver use. In most cases, a list of species likely to use the habitats on the site is sufficient, with brief descriptions of the existing habitats.
- 1 b. Include a description of endangered, threatened, sensitive, and candidate animal species that are known to occur in the general areas (distance depends on species) of the development site, as well as observations of such species. Also, include those listed as "Priority Species" or "Species of Concern" by the Washington Department of Fish and Wildlife.

- 2 7. Landscape position and geomorphology.
- 3 a. Class of the wetland being affected by the development project. Use the
- 4 hydrogeomorphic classification (class and subclass) to describe its position
- in the watershed.
- 5 b. Qualitative description of the functions performed by the wetland
- affected relative to the position in the watershed. This may include its role in
- attenuating flooding, as a corridor for wildlife between different region of the
- watershed, as part of a regional flyway, or in improving water quality
- regionally.
- 6 8. Description of functions provided.
- 7 a. Description of the functions provided by the wetland being affected and
- to what level they are performed. The method used to assess functions,
- varies depending on the scale of the impact (size/type), the complexity of
- the wetland, etc. The same method must be used for assessing the impact
- site and the mitigation site, as well as for monitoring.
- 8 b. Qualitative or quantitative description of the characteristics that enable
- the wetland being affected to perform specific functions, depending on the
- method used.
- 9 c. Description of the sampling and assessment methods used.
- 10 d. Documentation of the training of professionals assessing the functions.
- 11 e. List of the references consulted.
- 12 9. Wetland category rating and buffer requirements.
- 13 a. The category of the wetland being affected using the Washington State
- rating system for western Washington, as revised.
- 14 b. Copies of the original data sheets used to rate the wetland.
- 15 c. Size (width) of the undeveloped upland buffer within 330 feet (100m) of
- the wetland being affected by the development project.

1 d. Qualitative description of the dominant vegetation in the buffer and the
physical structure of the plants in it (e.g., deciduous forest, coniferous
forest, and prevalence of snags and downed woody debris.)

2 e. Maps of the buffer areas and the vegetation types.

3 10. Information on water quality, where applicable.

4 a. Description of any known or observable water quality problems at the
development site and whether they will continue after the development
project is completed. Basic water quality parameters that should be
considered include dissolved oxygen (DO), pH and alkalinity, temperature,
turbidity/suspended solids/sediment accretion, nutrients, fecal coliform, and
heavy metals.

5 b. Assessment of whether the development project is expected to worsen
or improve existing water quality conditions.

6 G. Mitigation Approach.

7 1. Mitigation sequencing followed.

8 a. Descriptions of the specific steps taken to avoid and minimize impacts
to the maximum extent practicable. Larger projects may need to include an
Alternatives Analysis in an appendix.

9 b. Description of the specific steps to minimize wetland impacts to the site
or reduce impacts over time (timing of project, redesign of project,
orientation and/or location). Where applicable, note how proposed
stormwater treatment facilities may reduce water quality impacts.

10 c. Discussion of wetland rectification strategies. Where applicable note
how temporary impacts, occurring during implementation of the development
project, could be rectified through restoration and maintenance activities.

11 d. Notation of the size and type of compensation being proposed. Include
a description of the mitigation ratios and why they are adequate to
compensate for the lost or degraded area and functions. A full description of
the compensatory mitigation should be provided as described in the
following sections.

1 2. Goals and objectives. Identify the goal or goals of the compensatory mitigation
project.

2 3. Mitigation strategy. Describe in general terms the strategies (actions) that will
be use to achieve the goals. .

3 H. Proposed Mitigation Site.

4 1. Site description (location, size, maps):

5 a. Ownership;

6 b. Total area of mitigation site (acres);

7 c. Current/past land use. Include, also, a description of the constraints at
the mitigation site that could affect the success of the mitigation project, and
strategies used to address each constraint.

8 2. Site selection rationale. Discuss how the site fits with the environmental needs
in the watershed. If watershed or regional planning efforts exist for the area,
explain how the selection of the compensation site is consistent with those plans.

9 3. Existing/baseline ecological conditions of the mitigation site:

10 a. Summary of historic and current on-site and nearby land uses ;

11 i. Historic land uses and structures on the mitigation site and
adjacent properties, if known;

12 ii. Current land uses and structures on the mitigation site;

13 iii. Current land uses and zoning designations of adjacent properties;

14 iv. A local area map showing land uses and zoning designations.

15 b. Description of any known cultural resources on the site. If a separate
report on cultural/historic resources was prepared, it may be referenced in
the mitigation report.

16 i. List of structures listed or eligible for historic registers;

17 ii. Brief description of resources having archaeological or cultural
significance.

1 c. Description of the site in context of other wetlands. Any existing wetland
boundaries shall be summarized here, but may reference the delineation
report. A topographic base map (scale 1 in. = 400 ft. or smaller) outlining the
boundaries of the wetlands that are under state, federal, or local jurisdiction;

- 2 ii. Name of the delineation manual and method used. Included date
field work was performed, field data sheets documenting the data
collected on the three criteria (hydrology, vegetation, soils);
- 3 iii. Provide the total area of wetlands on the mitigation site,
identifying the area (acres) of individual wetlands.
- 4 d. Description of other aquatic resources on the mitigation site and
adjacent properties.
- 5 i. Description of the other aquatic resources (e.g., streams, lakes,
tidal waters) on the mitigation site and adjacent properties, noting
hydrologic connections among them and with existing wetlands.
- 6 ii. Include and/or reference a map showing the approximate location
of all aquatic resources.
- 7 iii. Description of any flooding that affects the mitigation site and
location of the development within the floodplain, where applicable,
indicating on a map whether the project is located within the mapped
100-year floodplain).
- 8 f. Description of the water regime.
- 9 i. Description of the source of water to the mitigation site. If several
sources are present, estimate the percentage contribution from each
- 10 ii. Description of the existing water regimes at the mitigation site (ie.,
rough, qualitative estimate of duration and frequency of inundation
and/or saturation.
- 11 iii. Map of the surface and groundwater flowing into the mitigation
area with the directions of water flow indicated.
- 12 g. Description of the soils;
- 1 i. Description of the soil characteristics of the mitigation site
including; soil type and classification; and a description of texture,
color, structure, permeability, and organic content. Use soil surveys
confirmed by representative soil samples:
- 2 ii. Soil survey map (indicate source);
- 3 iii. Map showing soil sampling locations (typically the location of the
soil pits used for delineation).

- 4 h. Description of the plant communities;
- 5 i. Qualitative descriptions of the different Cowardin (1979) classes at
the mitigation site (include subclass and water regime modifiers). If a
forested class is present, also estimate the average age of the
canopy species;
- 6 ii. Estimate the relative abundance of dominant and subdominant
plants within each Cowardin class (use information collected during
routine delineation unless more detailed data are available);
- 7 iii. List of the wetland indicatory status of dominant and subdominant
species (obligate-OBL, facultative-FAC, facultative wet-FACW);
- 8 iv. Description of the prevalence and distribution of non-native and/or
invasive species, if any are present;
- 9 v. General description of upland plant communities within 330 ft
(100m) of the mitigation site, if any;
- 10 vi. List of rare plants and plant communities that are known to occur
on the mitigation site or adjacent properties. If any of these species
area observed on the site, include descriptions of the occurrence and
any potential impacts to them.
- 11 i. Description of any fauna using the site if a biological assessment was
prepared for the project, the report may simply be referenced in this
mitigation plan.
- 1 i. Description of any animals (including amphibians) using the
wetland being affected or its buffes. Especially note evidence of past
or present beaver use. In most cases, a list of species likely to use
the habitats on the site is sufficient, with brief descriptions of the
existing habitats.
- 2 ii. Include a description of endangered, threatened, sensitive, and
candidate animal species that are known to occur in the general
areas (distance depends on species) of the development site, as well
as observations of such species. Also, include those listed as
“Priority Species” or “Species of Concern” by the Washington
Department of Fish and Wildlife.
- 3 j. Landscape position and geomorphology;
- 4 i. Class of any existing wetlands on the mitigation site. Use
hydrogeomorphic classification (class and subclass) to describe the

position in the watershed;

5 ii. Qualitative description of the functions performed by the mitigation site relative to the position in the watershed. This may include its role in attenuating flooding, as a corridor for wildlife between different regions of the watershed, as part of a regional flyway, or in improving water quality regionally.

6 k. Description of functions provided.

7 i. Description of the functions provided by the wetland being affected and to what level they are performed. The method used to assess functions, varies depending on the scale of the impact (size/type), the complexity of the wetland, etc. The same method must be used for assessing the impact site and the mitigation site, as well as for monitoring;

8 ii. Qualitative or quantitative description of the characteristics that enable the wetland being affected to perform specific functions, depending on the method used;

9 iii. Description of the sampling and assessment methods used;

10 iv. Documentation of the training of professionals assessing the functions; and

11 v. List of the references consulted.

12 l. Wetland rating of any existing wetlands, buffer requirements.

1 i. The category of the wetland being affected using the Washington State rating system for western Washington, as revised;

2 ii. Copies of the original data sheets used to rate the wetland;

3 iii. Size (width) of the undeveloped upland buffer within 330 feet (100m) of the mitigation site. Note how much of the existing buffers extend off-site;

4 iv. Qualitative description of the dominant vegetation in the buffer and the physical structure of the plants in it (e.g., deciduous forest, coniferous forest, and prevalence of snags and downed woody debris.); and

5 v. Maps of the buffer areas and the vegetation types.

6 m. Information on water quality, where applicable.

7 i. Description of any known or observable water quality problems at
the mitigation site and whether they will continue after the mitigation
project is completed. Basic water quality parameters that should be
considered include dissolved oxygen (DO), pH and alkalinity,
temperature, turbidity/suspended solids/sediment accretion,
nutrients, fecal coliform, and heavy metals.

8 ii. Assessment of whether the mitigation project is expected to
worsen or improve existing water quality conditions.

9 4. Site constraints.

10 I. Preliminary Site Plan.

11 1. A qualitative description of the water regime and of how adequate hydrology
will be provided to support a wetland over the long term.

12 2. Discussion of how project was designed to provide the proposed functions,
including description of the hydrologic data that will support the proposal. Provide
a rationale for each proposed function and describe the design features that will
contribute to providing the function.

13 3. Schematic drawings:

14 a. Change in topography:

1 b. Hydrologic (water control) structures;

2 c. Soils;

3 d. Vegetation distributions;

4 e. Habitat attributes (structures) and their location;

5 f. Existing and proposed buffers.

6 4. Section drawings showing relationship of topography to water regime and
vegetation.

7 J. Final Site Plan/Design.

8 1. Site survey and topography.

9 a. Site surveys are needed when the mitigation project includes changes
to ground elevations. If no changes to grade are proposed, then a simpler

map of the site will be sufficient showing property and wetland boundaries, landmarks, scale, site features, and other existing conditions;

10 b. Orientation and scale (north arrow; typically scales are 1 inch = 25 or 50 ft.);

11 c. Existing and proposed elevation contours. Contours at one-foot intervals are typically sufficient for most mitigation reports. Contours at 6-inch intervals may be desirable in certain cases where the seasonal fluctuation of water levels is low or in specific areas on the mitigation site where it is critical to have a high level of accuracy;

12 d. Spot elevations for low points, high points and structures (culverts, hydraulic controls, utilities, and roads);

20 e. Property boundaries;

21 f. On-site wetland boundaries (including all wetlands existing and after mitigation);

22 g. Survey benchmarks;

23 h. Location and elevation of soil borings or test pits and water level sampling devices;

24 i. Location of soils to be stockpiled, if any;

1 j. Description of methods of erosion control and bank stabilization, if applicable;

2 k. Buffer areas proposed for the mitigation site and their boundaries.

3 2. Water regime including:

4 a. Description of the proposed frequency and duration of flooding, inundation, or soil saturation;

5 b. Description of the proposed groundwater and surface water sources and
6 characteristics;

7 c. Description of the elevation of the water table and dates when
measured (note if table is perched).

8 d. Engineering drawings of any proposed water control structures;

9 3. Soil amendments.

- 10 a. Soil logs from an on-site evaluation. Depending on proposed depth of grading, soil information may come from hand-dug shallow pits or from deeper samples that are typically obtained with small drilling rigs. As a minimum, the shallow soil profile should be described even if no changes in site elevations are proposed.
- 11 b. Description of how the soil characteristics will be affected by the mitigation activities.
- 12 4. Landscape plans. For most projects, planting plans should be prepared by a landscape architect with assistance from a wetland or plant ecologist. In some cases where very simple planting plans are proposed for small areas, the level of expertise provided by a landscape architect may not be needed. The list below includes the minimum information needed for planting plans.
- 13 a. Section drawing of proposed plant distribution, density and spacing, in relation to topography and water levels. The projected average water level during winter wet season, early growing season, and late summer dry season should be displayed
- 14 b. List of plant materials (common and Latin names, sizes, sources, quantity, etc).
- 15 c. Location of existing or proposed upland buffers;
- 1 d. Description of the methods that will be used to control invasive and exotic plants if they exist in the vicinity;
- 2 **Does this include those invasive plants used by the state for erosion control and bank stability?**
- 3 e. A plan for irrigating the plants until they are established including method, frequency, and amount of water;
- 4 f. Erosion control;
- 5 g. Map of the location of habitat structures or habitat features;
- 6 h. Location of upland buffers;
- 7 i. Description of the soil amendments, including use and sources of mulch.
- 8 5. Construction specifications.
- 9 K. Monitoring Plan. A monitoring plan describes the methods used to collect and analyze data needed to show that performance standards are being met. They are also used to track environmental changes at mitigation sites throughout the monitoring period.

Monitoring plans will vary depending on mitigation objectives and performance standards, but all must be designed to assess the quantitative or qualitative performance standards. The methods used for monitoring specific variables generally need to be the same as those used in establishing baseline data at the wetland affected by the development project.

10 It is of interest that the county would require a monitoring plan (with specific detail and reporting criteria) when the county has consistently failed to incorporate monitoring on the effectiveness of this Title in achieving the established goals.

11 Monitoring plans will typically include the elements described below.

12 1. Variables to be measured (plant survival, canopy cover, plant diversity, water levels and duration of inundation/saturation);

13 2. Sampling methods for each variable;

14 3. A map of the sampling locations for each variable or a description of the methods that will be used to determine sampling locations for each monitoring event. Permanent sampling locations may be the best choice for some variables, but for others, such as percent cover of vegetation, sampling locations may be varied through random selection or other methods for each monitoring event. The map should include clearly identifiable markers on the ground to act as reference points for orientation. These may include roads, benchmarks, and permanent structures;

15 4. Laboratory methods to be used, if applicable;

16 5. Provide a timetable for reporting monitoring results to the agencies. It is preferred to tie the specific dates to the start of construction;

1 L. Site Protection.

2 1. Physical site protection.

3 2. Legal protection (deed restriction, conservation easement). Provide copies.

4 3. Buffers.

5 M. Maintenance and Contingency Plans. The need for activities such as inspecting irrigation systems, replacing plants, weeding, preventing or managing herbivory, removing trash, and controlling erosion (and the funding to conduct them) should be anticipated based on the site characteristics, level of public access to the mitigation site, and typical uses of adjacent areas. Frequency of the activities may change through the monitoring period, so maintenance plans should be written with room for flexibility.

6 Contingency plans contain corrective measures that will be taken if monitoring indicates that performance standards are not being met.

7 1. Maintenance schedule for each activity. Include a description of and reason for
each maintenance activity planned.

8 2. Contingency plan:

9 a. Description of initiating procedures. If a performance standard is not met
within the time specified in the mitigation plan the permittee will be required
to complete the activities in the following list

10 **Once again the county requires a “contingency “ plan but has no idea of
how this title is meeting objectives> Why should a n applicant have to meet
criteria that the county is not willing or able to implement?**

11 i. An analysis of the causes of failure;

12 ii. Description of the proposed corrective actions;

13 ii. Timeframe for implementing these actions.

14 b. Description of a contingency fund ;. A contingency fund should be
established for use if any corrective actions are necessary. The description
should include what funds will be available for planning, implementing and
monitoring any contingency procedures that may be required to achieve the
mitigation goals. Generally, the fund amount should equal 20% of the total
cost of mitigation associated with the project.

15 c. Responsible parties.

16 N. Implementation Schedule.

1 1. Construction sequence and time schedule for project start, grading, water
diversions, plantings, completion etc. The applicant must work with the department
to develop an agreed construction schedule for the mitigation project. Delays in
implementing the construction of the mitigation site may result in an increase in the
mitigation required and enforcement actions.

2 2. Completion. Acknowledgement that the wetland specialist will submit an as-
built report to the department for review and acceptance.

3 O. Permit Conditions. Any compensation project prepared pursuant to this section and
approved by the department shall become part of the application for the permit. The
department will require an additional growing season year for approval of mitigation plan
unless the applicant requests an inspection for final monitoring year during the final
monitoring year assessment.

4 P. Performance Bonds and Demonstration of Competence. A demonstration of financial

resources, administrative, supervisory, and technical competence and scientific expertise of sufficient standing to successfully execute the compensation project shall be provided. A compensation project manager shall be named, and the qualifications of each team member involved in preparing the mitigation plan and implementing and supervising the project shall be provided, including educational background and areas of expertise, training and experience with comparable projects. 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. Typically, this amount is one and a half times the estimated cost of mitigation. This bond, assignment of savings, or the security will be released no earlier than five years after completion of the mitigation project. If the approved mitigation is not completed or fails to meet its success standards, the property owner must agree to a property access release form, with forfeiture of funds after the specified monitoring period.

5 Q. Waiver. The department may waive portions of a wetland mitigation report if there is adequate information available on the site to determine its impacts and appropriate measures.

6 R. List of Qualified Consultants. The department shall establish a list of qualified consultants to prepare mitigation plans.

7 **Does the county use consultants from this list to serve as a reviewing authority when the county does not have the required technical expertise? It would appear that in creating this list, the county is identifying only those individuals qualified and licensed to perform a study and in doing so, by limiting the discretion of the applicant is also providing inherent approval of the qualifications of the consultant. What happens when the department does not agree with the consultant's report? Who is actually liable for any added expense? What impact on cost to the applicant does having to use this list of "qualified" consultants incur?**

8 **19.700.720 Habitat management plan (HMP).**

1 A. A HMP is a site investigation report to evaluate the potential presence or absence of a regulated fish or wildlife species or habitat affecting a subject property and proposed development. This report shall identify how development impacts to fish and wildlife habitat from a proposed project will be mitigated. WDFW Priority Habitat and Species (PHS) management recommendations, dated May 1991 and all applicable volumes and revisions, or the National Bald Eagle Management Guidelines may serve as guidance for this report.

2 **The bald eagle has been removed from the list of threatened and endangered species in 2007. Why do we continue to treat them as threatened or endangered in Kitsap County?**

3 B. The HMP shall contain a map prepared at an easily readable scale, showing:

4 1. The location of the proposed development site;

- 5 2. The relationship of the site to surrounding topographic, water features, and cultural features;
- 6 3. Proposed building locations and arrangements;
- 7 4. A legend that includes a complete legal description, acreage of the parcel, scale, north arrow, and date of map revision; and
- 8 5. A WDFW PHS Data Base search that is no older than one year from the project submittal.

9 C. The habitat management plan shall also contain a report which describes:

- 10 1. The nature and intensity of the proposed development;
- 11 2. An analysis of the effect of the proposed development, activity or land use change upon the wildlife species and habitat identified for protection; and
- 12 3. A discussion on how the applicant proposes to avoid, minimize and mitigate any adverse impacts to fish and wildlife habitats created by the proposed development. (See Sections [19.700.710](#) and [19.700.715](#), Wetland Report/Wetland Mitigation Plan requirements.).

13 D. Examples of mitigation measures to be included in the HMP report, include, but are not limited to:

- 14 1. Establishment of Buffer Zones. When applicable, the order of sequence for buffer reductions shall be as follows :
 - 15 a. Reduction of building setback;
 - 16 b. Use of buffer averaging maintaining one hundred percent of the buffer area under the standard buffer requirement;
 - 17 c. Reduction of the overall buffer area by no more than twenty-five percent of the area required under the standard buffer requirement;
 - 1 d. Enhancement of existing degraded buffer area and replanting of the disturbed buffer area;
 - 2 e. The use of alternative on-site wastewater systems in order to minimize site clearing;
 - 3 f. Infiltration of stormwater where soils permit; and

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

5 2. Preservation of native plants and trees that is essential to maintaining habitat
function, including connection to existing wildlife corridors;

6 **Since we have learned that Spotted Owls are happy to reside in K-Mart signs
and actually are more threatened by Barred Owls that anything else, just
how exactly does one determine what plants are more conducive as habitat
for each specie and how are the differences in requirements reconciled for
this plan?**

7 3. Limitation of access to habitat areas;

8 4. Seasonal restriction of construction activities; and

9 5. Establishing phased development requirements and/or a timetable for periodic
review of the plan.

10 E. A HMP shall be prepared by a fish or wildlife biologist, as defined at Sections
[19.150.330](#) and [19.150.730](#). For proposed single-family dwelling construction, the
department may complete the plan. Fees may be collected for this plan as specified in
Title 21 of the Kitsap County Code.

11 **19.700.725 Geological Assessments.**

12 Whenever development is proposed in a potentially geologically hazardous area or
shoreline setback as defined in Chapters 19.300 and 19.400 of this title, or when the
department determines that additional soils and slope analysis is appropriate on a
particular site, the applicant is required to submit a geological assessment. This
assessment may be in the form of a letter, a geological report, or geotechnical report, as
determined in 19.400. These assessments evaluate the surface and subsurface soil
conditions on the site.

13 A. Qualifications.

1. Geotechnical reports shall be prepared by a geotechnical engineer (defined at
Section 25 [19.150.370](#)).

26 2. Geological reports or letters may be prepared by a licensed geologist (Section
[19.150.365](#)), or geotechnical engineer (Section [19.150.370](#)).

1 B. General Provisions. Report recommendations for earthwork, clearing or siting
structures in geologically hazardous areas shall be based on existing site conditions
rather than measures that have not yet been successfully approved, designed, or
constructed (e.g., slope recontouring, slope retaining walls, vegetation improvements,
bulkheads, etc.). Shoreline bulkheads and retaining walls may only be utilized only as an
engineering solution where it can be demonstrated that:

- 2 1. An existing residential structure or other permitted existing public or private structures or public facilities such as roads or highways, cannot be safely maintained without such measures;
- 3 2. Other non-structural methods of beach stabilization have been considered and determined infeasible; and
- 4 3. The resulting stabilization structure is the minimum necessary to provide stability for the existing structure and appurtenances.

5 Minor repair activities on existing permitted structures (e.g., those that do not involve design modifications, changes in structure location, and/or demolition or abandonment of failed structure and replacement with new structure) are not subject to the following project submittal standards.

6 C. Geological Report Submittal Standards. A Geological Report is required for site development proposals that involve development activity or the installation of structures within a geologically hazardous area or shoreline setbacks, or as otherwise required pursuant to Chapters 19.300 and 19.400 of this title, but do not involve or require engineering design recommendations. The following minimum information is
7 required:

- 8 1. Site information regarding the Kitsap County Shoreline Environment Designation and critical areas designations that affect site features.
- 9 2. Description of surface and subsurface conditions, including ground materials, vegetation, surface drainage, groundwater, and a preliminary geologic hazard assessment which includes the locations of structures and the identification of the slope and/or coastal processes occurring at the site and factors that contribute to them;
- 10 3. Review of available site information, literature, and mapping;
- 11 4. Detailed description of slope and other topographic features; and
- 1 5. Conceptual siting of structures and general recommendations, which include methods and practices that avoid and/or reduce slope and shore impacts. Minimum recommendations should include upland and slope drainage control, groundwater control, site vegetation management, and erosion control.

2 D. Geotechnical Report Submittal Standards. A geotechnical report is required when the department or a Geological Report determines that a site development proposal requires additional site information such as engineering design recommendations, slope stability analysis, subsurface exploration and testing, coastal process analyses, or construction recommendations. Depending on the level of activity proposed, the report will either be a

more limited geotechnical slope evaluation report or a full geotechnical design investigation report as described below.

3 1. Geotechnical Slope Evaluation Report. A geotechnical slope evaluation report is required when slope stability analyses are confined to addressing only existing surface and/or drainage conditions, including the relationship of natural and constructed slope features to proposed changes in environmental conditions such as drainage, vegetation removal and slope geometry.

4 The following minimum information is required:

5 a. All the information required under subsection C, above (Geological Report);

6 b. Subsurface data, exploration logs, and testing data, when required by the geotechnical engineer;

7 c. Estimated (or surveyed) site plan with ground surface profiles and typical cross-sections;

8 d. Relative location of Ordinary High Water (OHW) on the surface profile and cross-sections, which includes Mean Higher High Water (MHHW) for the site location, where applicable;

9 e. Soil strength parameters;

10 f. Stability analysis of existing site;

11 g. Analysis of the relationship of vegetation and slope stability; and

12 h. Conceptual site development plans and cross-sections.

1 2. Geotechnical Design Investigation Report. A geotechnical design investigation report is required for site development activities that propose design and construction measures at the slope crest, face and/or toe. If a designed structure does not impact slope stability or coastal processes, the report will not be required to perform all items listed under this section, as long as each item is addressed and the report details why a particular item does not apply. The report shall include all items considered necessary by the engineer to fully address the engineering design requirements of the site. The following minimum information is required:

2 a. All the information required under subsection (D)(1), above (Geotechnical Report);

3 b. Geotechnical requirements and measures to reduce risks;

4 c. Geotechnical criteria used for any designs including all critical

dimensions, lateral earth pressures, soil bearing pressures, location and limits of structures on or near the slope, maximum constructed slope angles, minimum soil reinforcement embedment, soil compaction requirements, and structure heights;

- 5 d. Temporary construction slope stability recommendations and analysis of proposed final site stability measures;
- 6 e. Required construction specifications and construction monitoring procedures;
- 7 f. Revegetation and surface and groundwater management requirements;
- 8 g. Evaluation of erosion potential, recommendations for erosion avoidance and any proposed mitigation measures;
- 9 h. Detailed tabulation of all basic geotechnical engineering test results pertinent to design and construction, and when required for clarification, detailed examples of tests conducted for the project; and
- 10 i. Information outlined in the geotechnical design investigation report site evaluation checklist (See subsection (F), below).

11 E. Additional Requirements for Sites in Geologically Hazardous Areas. When a project site is located within a landslide-prone geologically hazardous area, as classified in Section 19.400.415, the following additional project submittal requirements shall apply:

1 1. Erosion Control Information. An evaluation of the erosion potential on the site during and after construction is required. The evaluation shall include recommendations for mitigation, including retention of vegetative buffers and a revegetation program. The geotechnical engineer shall provide a statement identifying buffer areas at the top or toe of a slope based on geotechnical site constraints and the impacts of proposed construction methods on the erosion potential of the slope.

2 2. Seismic Information. The geotechnical engineer shall submit a statement that the design criteria consider the one-in-one-hundred-year seismic event (an earthquake ground motion that has a 40 percent probability of exceedance in 50 years). Calculations of soil bearing capacity, general soil stability, and wall lateral earth pressures shall be adjusted to reflect a one-in-100 year seismic event and the structural plans for the project shall be reviewed by the geotechnical
3 engineer for consistency with these design criteria.
4

5 Analysis for the one-in-one-hundred-year seismic event shall be based on a near crustal event having an assumed magnitude of 6.5 and occurring directly below the site. Based on regional studies performed by others, the department will allow the use of the following minimum general values of horizontal peak ground accelerations for this event:

6 a = 0.2g for fill, alluvial soils

7 a = 0.17g for till, firm glaciated soils

8 a = 0.15g for rock.

9 The appropriateness of the above accelerations shall be confirmed by the geotechnical engineer based on the actual site characteristics. Reduction in the above values may be considered when supported by the appropriate analytical evidence. Slope stability, lateral pressures, and liquefaction of the site shall be assessed by using subsurface soil, rock and groundwater conditions, as well as the seismic parameters discussed above.

10 3. Recommendations on Relative Site Stability. The geotechnical engineer shall make recommendations as to which portion of the site are the least prone to instability and the preferred location of the structure. The limits of any area proposed for grading activity shall be identified.

1 4. Construction Season Limitation. In general, no excavation will be permitted in landslide-prone geologically hazardous areas during the typically wet winter months. When excavation is proposed, including the maintenance of open temporary slopes, between October 1 and April 30, technical analysis shall be provided to ensure that no environmental harm, threat to adjacent properties, or safety issues would result. In addition, recommendations for temporary erosion control and shoring/mitigating measures shall be provided. The technical analysis shall consist of plans showing mitigation techniques and a technical memorandum from the geotechnical engineer.

2 5. Revisions to Geotechnical Report. Further recommendations shall be provided by the geotechnical engineer should there be additions or exceptions to the original recommendations based on the plans, site conditions, or other supporting data. If the geotechnical engineer who revises the plans and specifications is not the same engineer who prepared the geotechnical report, the new engineer shall, in a letter to the department, express his or her agreement or disagreement with the recommendations in the geotechnical report and state whether the plans and specifications conform to his or her recommendations.

3 6. Plan and Specification Review. The geotechnical engineer shall submit a statement that in his or her judgment, the plans and specifications (if prepared by others) conform to the recommendations in the geotechnical report and that all portions of the site which are disturbed or impacted by the proposed development have appropriate measures or specifications that permit construction to occur while addressing slope stability so that the work does not create additional risk. The statement shall also indicate whether or not a relative gain in slope stability will be achieved after construction is complete.

4 7. Construction Inspection. A final inspection report shall be provided by the

geotechnical engineer stating that construction has or has not implemented the design recommendations of the geotechnical report, and evaluating of any deviation from the design recommendations.

5 F. Geotechnical Design Investigation Report – Site Evaluation Checklist. The following
are general report guidelines for geotechnical design investigation reports. The following
guidelines are not intended to be all-inclusive. It is the responsibility of the geotechnical
engineer to address all factors, which in their opinion are relevant to the site. The
checklist information shall be included as part of the geotechnical design investigation
report. All items listed below must be addressed in the report. Information shall be
provided for those items, which are not relevant to a given site to demonstrate why the
items are not applicable.

6 1. Project Information:

7 a. Site Owner Name;

8 b. Project Proponent Name;

9 c. Shoreline Environment Designation (where applicable); and

1 d. Critical Areas Ordinance (CAO) designations affecting site features.

2 2. Project Description:

3 a. Description of proposed structures, site improvements, and adverse
impact avoidance and reduction methods.

4 b. Location and total area of the construction zone.

5 **19.700.730 Hydrogeological report.**

6 The report shall address the impact the proposed land use will have on both the quality
and quantity of the water transmitted to the aquifer.

7 A. The report shall be submitted to the department and shall address, at a minimum, the
following criteria:

8 1. Surficial soil type and geologic setting;

9 2. Location and identification of wells within 1,000 feet of the site;

10 3. Location and identification of surface water bodies and springs within 1,000
feet of the site with recharge potential;

11 4. Description of underlying aquifers and aquitards, including water level,
gradients and flow direction;

- 12 5. Available surface water and groundwater quality data;
- 13 6. Effects of the proposed development on water quality;
- 14 7. Sampling schedules required to assure water quality;
- 15 8. Discussion of the effects of the proposed development on the groundwater resource;
- 16 9. Recommendations on appropriate BMPs (Best Management Practices) or mitigation to assure no significant degradation of groundwater quality; and
- 17 10. Other information as required by the Kitsap Public Health .
- 18 11. The report shall also address the types of pesticides, herbicides and fertilizers that can safely be used for the care of landscaping proposed by the applicant.

1 B. The hydrogeologic report shall be prepared by a professional geologist/hydrologist or by a soil scientist with a strong background in geology (See Section 19.150.365).

2 C. Applications for development or operations with underground storage of petroleum products will be processed using the appropriate procedure as specified in existing Kitsap County ordinances.

3 D. Analysis for a specific parcel(s), using the criteria outlined below, will be employed to confirm if the soils present require a recharge area designation. Data collection will include, at a minimum, six soil logs to a depth of ten feet (or to a depth four feet below the lowest proposed excavation point whichever is greater) for each acre in the parcel(s) being evaluated. At least one well, two hundred feet or greater in depth with an adequate drilling report, must be available within one mile. The associated data shall be analyzed and included in the hydrogeologic report to determine the presence of highly permeable soils with the recharge area designation.

4 For development proposals within aquifer recharge areas of concern, the hydrogeological report may be based on quarter-quarter section basis where the number of wells within a half-mile radius is thirty-six or more. To facilitate computer analysis, the evaluation may be done on a quarter-quarter section basis using the quarter-quarter section in which a parcel of interest is located and all the surrounding quarter-quarter sections, in place of the half-mile circle.

17

18 **Chapter 19.800 APPENDICES**

19 The purpose of the appendices is to provide supporting documentation to assist in the implementation of the ordinance codified in this title.

20	Contents:
21	Appendix A Washington State Wetlands Rating System Categories.
22	Appendix B Washington State DNR Stream Typing System.
23	Appendix C Kitsap County GIS Database of Critical Areas Information.
24	Appendix D Site Development Figures.
25	Appendix E Kitsap County Critical Area and Buffer Notice to Title.
26	Appendix F Critical Area Decision Types.
27	Appendix G Checklist and Sample Outline for a Delineation Report.
28	Appendix H Mitigation Plan Checklist
30	
31	

