

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

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4 **Kitsap County Code Title 19**

5 **Critical Areas Ordinance**

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8 Underline / Strike-out Version

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**Chapter 19.150
DEFINITIONS**

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- 30 **19.150.74055** Wildlife biologist.

31 **19.150.050** Generally.

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

33 **19.150.100** Adjacent.

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

1 **19.150.105 Agricultural activities.**

2 “Agricultural activities” means the normal actions associated with the production of crops such as plowing,
3 cultivating, minor drainage, and harvesting; and/or raising or keeping of livestock, including operation and
4 maintenance, and repair of farm and stock ponds, drainage ditches, irrigation systems, and normal
5 operation, maintenance, and repair of existing serviceable agricultural structures, facilities, or improved
6 areas. The term “agricultural activities” as used within this Title does not include the practice of
7 aquaculture. Forest practices regulated under Chapter 76.09 RCW and Title 222 WAC are not included in
8 this definition. activities related to vegetation and soil management, such as tilling of soil, control of
9 weeds, control of plant diseases and insect pests, soil maintenance and fertilization as well as animal
10 husbandry and upland finfish aquaculture.

11 **19.150.110 Alteration.**

12 “Alteration” means a human-induced action that ~~which~~ changes the existing condition of a critical area or
13 its buffer. Alterations include but are not limited to: grading; grubbing; dredging; channelizing; cutting,
14 clearing, relocating or removing vegetation, except noxious weeds identified by the Washington State
15 Department of Agriculture or the Kitsap County Cooperative Extension; applying herbicides or pesticides
16 or any hazardous or toxic substance; discharging pollutants; grazing domestic animals; modifying for
17 surface water management purposes; or any other human activity that changes the existing vegetation,
18 hydrology, wildlife or wildlife habitat.

19 **19.150.115 Anadromous fish.**

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

21 **19.150.120 Applicant.**

22 “Applicant” means the person, party, firm, corporation or legal entity, or agent thereof, that proposes a
23 development of property in Kitsap County.

24 ~~**19.150.125 Aquaculture practices.**~~

25 ~~“Aquaculture practices” means the harvest, culture or farming of food fish, shellfish, or other aquatic~~
26 ~~plants and animals including fisheries enhancement and the mechanical harvesting of shellfish and~~
27 ~~hatchery culture.~~

28 ~~**19.150.13025 Aquifer.**~~

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

31 ~~**19.150.1350 Aquifer recharge.**~~

1 “Aquifer recharge” means the process by which water is added to an aquifer. It may occur naturally by the
2 percolation (infiltration) of surface water, precipitation, or snowmelt from the ground surface to a depth
3 where the earth materials are saturated with water. The aquifer recharge can be augmented by “artificial”
4 means through the addition of surface water (e.g., land application of wastewater or storm water) or by
5 the injection of water into the underground environment (e.g., drainfields and drywells).

6 **19.150.14035 Aquifer recharge area.**

7 “Aquifer recharge area” means those areas overlying aquifer(s) where natural or artificial sources of water
8 can move downward to an aquifer(s).

9 **19.150.1450 Aquifer vulnerability.**

10 “Aquifer vulnerability” means the combined effect of hydrogeological susceptibility to contamination and
11 the contamination loading potential as indicated by the type of activities occurring on a project area.

12 **19.150.15047 Aquitard.**

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

14 **19.150.1550 Bank stabilization.**

15 “Bank stabilization” means lake or stream modification including vegetation enhancement, used for the
16 purpose of retarding erosion, protecting channels, and retaining uplands.

17 **19.150.16055 Best available science.**

18 “Best available science” means scientifically valid information in accordance with WAC [365-195-900905](#),
19 as now or hereafter amended, that is used to develop and implement critical areas policies or regulations.

20 **19.150.1650 Best management practices (BMPs).**

21 “Best management practices” or “BMPs” means conservation practices (physical, structural and/or
22 managerial) or systems of practices and management measures that:

23 A. Control soil loss and reduce water quality degradation caused by nutrients, pathogens, bacteria, toxic
24 substances, pesticides, oil and grease, and sediment;

25 B. Minimize adverse impacts to surface water and groundwater flow, circulation patterns, and to the
26 chemical, physical, and biological characteristics of critical areas;

27 C. Protect trees, vegetation, and soils designated to be retained and following site construction and use
28 native plant species appropriate to the site for re-vegetation of disturbed areas; and

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

1 **19.150.170~~65~~ Bog.**

2 “Bogs” are a type of wetland typically composed of acidic, low nutrient soils and waters, high organic
3 matter and that support plants specifically adapted to such conditions that are not commonly found
4 elsewhere. Bogs may have an overstory of spruce or shore pine and may be associated with open water.

5 **19.150.175~~0~~ Buffer.**

6 “Buffer” means a non-clearing ~~native~~-vegetation area that is intended to protect the functions and values
7 of critical areas. This includes preservation of existing native and non-native vegetation where it exists,
8 unless otherwise required to be replaced with native vegetation through mitigation.

9 **19.150.180~~72~~ Buffer, standard.**

10 “Standard buffer” means the buffer width established by each chapter of this title before any buffer
11 adjustments are applied.

12 **19.150.185~~7~~ Candidate species (state-listed).**

13 “Candidate species (state-listed)” means species under review by the Department of Fish and Wildlife
14 (WDFW) for possible listing as endangered, threatened or sensitive. A species will be considered for
15 state-candidate designation if sufficient scientific evidence suggests that its status may meet criteria
16 defined for endangered, threatened, or sensitive in WAC [232-12-297](#) as now or hereafter amended.
17 Currently listed state-threatened or state-sensitive species may also be designated as a state-candidate
18 species if their status is in question. State-candidate species will be managed by the Department of Fish
19 and Wildlife, as needed, to ensure the long-term survival of populations in Washington. They are listed in
20 WDFW, Policy [5301](#), or as amended. ~~4802~~.

21 **19.150.190~~8~~ Channel migration zone (CMZ).**

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

26 **19.150.195~~8~~ Clearing.**

27 “Clearing” means the destruction, disturbance or removal of vegetation by physical, mechanical, chemical
28 or other means.

29 **19.150.200~~190~~ Compensation.**

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

1 **19.150.20519 Creation.**

2 “Creation” means the manipulation of the physical, chemical, or biological characteristics present to
3 develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Activities
4 typically involve excavation of upland soils to elevations that will ~~support a wetland~~ produce a wetland
5 hydroperiod and hydric soils, and support the growth of hydrophytic plant species.

6 **19.150.21000 Conversion option harvest plan (COHP).**

7 As it relates to forest practices, a “COHP” means a plan for landowners who want to harvest their land but
8 wish to maintain the option for conversion pursuant to WAC [222-20-050](#). “Conversion” to a use other than
9 commercial timber operation shall mean a bona fide conversion to an active use which is incompatible
10 with timber growing.

11 **19.150.2150 Critical aquifer recharge areas.**

12 “Critical aquifer recharge areas” means those areas with a critical recharging effect on aquifers used for
13 potable water, including areas where an aquifer that is a source of drinking water is vulnerable to
14 contamination that would affect the potability of the water, or is susceptible to reduced recharge. ~~and~~
15 ~~areas that contain hydrogeologic conditions that facilitate aquifer recharge and/or transmitting~~
16 ~~contaminants to an underlying aquifer.~~

17 **19.150.22015 Critical areas.**

18 “Critical areas” means those areas and ecosystems identified as: (a) wetlands; (b) areas with a critical
19 recharging effect on aquifers; (c) fish and wildlife habitat conservation areas; (d) geologically hazardous
20 areas; and (e) frequently flooded areas.

21 **19.150.2250 Critical area protection easement.**

22 “Critical area protection easement” means an agreement conveyed through a notice to title, or shown on
23 the face of a plat or site plan, for the purpose of perpetual or long-term conservation.

24 **19.150.23025 Critical facilities.**

25 “Critical facilities” means those facilities necessary to protect the public health, safety and welfare,
26 including but not limited to and which are defined as essential facilities or Category III and IV buildings in
27 accordance with Chapter 14.04 of this code, the Kitsap County Building and Fire Code. These facilities
28 include but are not limited to schools, hospitals, police stations, fire departments and other emergency
29 response facilities, and nursing homes. Critical facilities also include sites of hazardous material storage
30 or production.

31 **19.150.2350 Danger trees.**

1 “Danger trees” means any tree of any height, dead or alive, that presents an immediate hazard to the
2 public or habitable structure because of rot; root, stem or limb damage; lean; or any other observable
3 condition created by natural process or man-made activity consistent with WAC 296-54-505, and are
4 located within a tree length and a half of said structure as determined through a risk assessment report by
5 a licensed arborist, or by the department through a danger tree site evaluation permit, the public because
6 ~~of rot; root, stem or limb damage; lean; or any other observable condition created by natural process or~~
7 ~~man-made activity consistent with WAC 296-54-505.~~

8 **19.150.24035 Debris.**

9 See “Refuse.”

10 **19.150.2450 Department.**

11 “Department” means the Kitsap County Department of Community Development.

12 **19.150.25045 Detention facilities.**

13 “Detention facilities” means stormwater facilities, including all the appurtenances associated with their
14 designed functions, maintenance and security that are designed to store runoff while gradually releasing it
15 at a pre-determined controlled rate.

16 **19.150.2550 Development proposal site.**

17 “Development proposal site” means the legal boundaries of the parcel or parcels of land on which an
18 applicant has applied for authority from Kitsap County to carry out a development proposal.

19 **19.150.26055 Director.**

20 “Director” means the director of the Kitsap County department of community development or a duly
21 authorized designee in the department.

22 **19.150.2650 Draining (related to wetland).**

23 “Draining” means any human activity that diverts or reduces wetland groundwater and/or surface water
24 sources.

25 **19.150.27065 Endangered species (state listed).**

26 “Endangered species” means a species native to the state of Washington that is seriously threatened with
27 extinction throughout all or a significant portion of its range within the state. Endangered species are
28 legally designated in WAC 232-12-014, as now or hereafter amended.

29 **19.150.2750 Enhancement.**

1 “Enhancement” means the manipulation of the physical, chemical, or biological characteristics of a
2 wetland to heighten, intensify, or improve specific function(s) or to positively change the growth stage or
3 composition of the vegetation present. Enhancement is undertaken for specified purposes such as water
4 quality improvement, flood water retention, or wildlife habitat. Enhancement may result in a change in
5 wetland function(s) or can lead to a decline in other wetland functions, but does not result in a gain in
6 wetland acres. Examples are planting vegetation, controlling non-native or invasive species, and
7 modifying site elevations to alter hydroperiods. ~~actions performed to improve the condition of an existing~~
8 ~~degraded critical area (e.g., wetlands or streams) such that the functions or values are of a higher quality,~~
9 ~~provided that this activity does not significantly degrade another existing function or value.~~

10 **19.150.28075 Erosion.**

11 “Erosion” means the process whereby the land surface is worn away by the action of water, wind, ice or
12 other geologic agents, ~~by including~~ processes such as gravitational creep or events such as landslides
13 caused by natural or manmade impacts.

14 **19.150.2850 Erosion hazard areas.**

15 “Erosion hazard areas” are those areas containing soils which, according to the U.S. Department of
16 Agriculture Natural Resources Conservation Service Soil Survey Program, may experience significant
17 erosion. Erosion hazard areas also include coastal erosion-prone areas and channel migration zones.
18 This designation pertains to water erosion and not wind erosion. These areas may not be highly erodible
19 until or unless the soil is disturbed by activities such as clearing or grading.

20 **19.150.29085 Excavation.**

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

22 **19.150.2950 Existing and ongoing agriculture.**

23 “Existing and ongoing agriculture” means agricultural activities (in existence as of Jan. 1, 2000), as
24 defined in this title, when undertaken pursuant to best management practices to minimize impacts to
25 critical areas ~~that have been conducted within the last five years~~ on lands defined in RCW [84.34.020](#)(2).

26 **19.150.300295 Exotic.**

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

28 **19.150.3050 Extraordinary hardship.**

29 “Extraordinary hardship” means where the strict application of this title and/or other programs adopted to
30 implement this title by the regulatory authority would prevent all reasonable use of the parcel.

31 **19.150.31005 Farm pond.**

1 "Farm pond" means an open-water habitat of less than five acres and not contiguous with a stream, river,
2 lake or marine water created from a non-wetland site in connection with agricultural activities.

3 **~~19.150.310 Feeder Bluff.~~**

4 ~~"Feeder bluff" means an eroding and/or retreating shore bluff that is part of natural coastal processes~~
5 ~~yielding sediment to area beaches.~~

6 **19.150.315 Fen.**

7 "Fen" means a wetland with peat soils sixteen inches or more in depth, or any depth of organic soil over
8 bedrock, and vegetation such as certain sedges, hardstem bulrush and cattails. Fens may have an
9 overstory of spruce and may be associated with open water.

10 **19.150.320 Filling or fill.**

11 "Filling" or "fill" means a deposit of earth or other natural or manmade material placed by artificial means,
12 including, but not limited to, soil materials, debris, or dredged sediments.

13 **19.150.325 Fish and wildlife habitat conservation areas.**

14 ~~"Fish and wildlife habitat" means those areas identified as being of critical importance to the maintenance~~
15 ~~of fish, wildlife, and plant species, including: areas with which endangered, threatened, and sensitive~~
16 ~~species have a primary association; habitats and species of local importance; commercial and~~
17 ~~recreational shellfish areas; kelp and eelgrass beds, forage fish spawning areas; naturally occurring~~
18 ~~ponds and their submerged aquatic beds that provide fish or wildlife habitat; waters of the state; lakes,~~
19 ~~ponds, streams or rivers planted with game fish by a government or tribal entity, or private organization;~~
20 ~~State natural area preserves and natural resource conservation areas.~~

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

30

1 **19.150.330 Fisheries biologist.**

2 “Fisheries biologist” means a person with experience and training in fisheries within the past ten years
3 who is able to submit substantially correct reports on fish population surveys, stream surveys and other
4 related data analyses of fisheries resources. “Substantially correct” is interpreted to mean that technical
5 or scientific errors, if any, will be minor and do not delay or affect the site plan review process.

6 Qualifications of a fisheries biologist include:

7 A. Certification by the American Fisheries Society; or

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

10 C. Five or more years professional experience as a practicing fisheries biologist with a minimum three
11 years professional field experience.

12 **19.150.335 Floodplain.**

13 “Floodplain” means the floodway and associated special flood hazard areas having the potential to flood
14 once every one hundred years, or having a one percent chance of being equaled or exceeded in any
15 given year. The regulatory flood hazard areas, floodplains and floodways are depicted on the Federal
16 Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM) for Kitsap County.

17 **19.150.340 Floodway.**

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

21 **19.150.350 Forest practices.**

22 “Forest practices” means, as defined in WAC [222-16-010](#), as now or hereafter amended, 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 CB. Harvesting, final and intermediate;

28 DC. Pre-commercial thinning;

- 1 ~~ED~~. Reforestation;
- 2 ~~FE~~. Fertilization;
- 3 ~~GF~~. Prevention and suppression of diseases and insects;
- 4 ~~HG~~. Salvage of trees; and
- 5 ~~IH~~. Brush control.

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

11 **19.150.355 Frequently flooded areas.**

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

17 **19.150.360 Functions and Values.**

18 “Functions and values” are generally those natural processes and benefits performed or provided by
19 critical areas that are required to be protected by the GMA. These include, but are not limited to,
20 improving and maintaining water quality, providing fish and wildlife habitat, supporting terrestrial and
21 aquatic food chains, reducing flooding and erosive flows, water attenuation, historical or archaeological
22 importance, educational opportunities, and recreation.

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 **19.150.37065 Geologically hazardous areas.** “Geologically hazardous areas” means areas that
30 because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to
31 siting commercial, residential or industrial development consistent with public health or safety concerns.

1 **19.150.3750 Geologist.**

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

4 **19.150.38075 Geotechnical engineer.**

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

9 **19.150.3850 Geotechnical report and geological report.**

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

17 **19.150.39085 Grading (construction).**

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

20 **19.150.3950 Grazed wet meadows.**

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

27 **19.150.400395 Grubbing.**

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

31 **19.150.4050 Groundwater.**

1 “Groundwater” means water that exists beneath the land surface or beneath the bed of any stream, lake
2 or reservoir, or other body of surface water, regardless of the geological formation or structure in which
3 such water stands or flows, percolates or otherwise moves. ~~in a saturated zone or stratum beneath the~~
4 ~~surface of land or water.~~

5 **19.150.41005 Habitat management plan.**

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

10 **19.150.4150 Habitats of local importance.**

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

13 **19.150.42015 Hazardous substance.**

14 “Hazardous substance” means any liquid, solid, gas or sludge, including any materials, substance,
15 product, commodity or waste, regardless of quantity, that exhibits any of the characteristics or criteria of
16 hazardous waste described in WAC [173-303-090](#) and WAC [173-303-100](#) including waste oil and
17 petroleum products.

18 **19.150.4250 Hearing examiner.**

19 “Hearing examiner” means a person appointed to hear or review certain land use decisions pursuant to
20 RCW [36.70.970](#) and [chapter 2.10 KCC](#).

21 **19.150.43025 Hydric soils.**

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

24 **19.150.4350 Hydrogeologist.**

25 “Hydrogeologist” means a person who is qualified to engage in the practice of hydrogeology, has met the
26 qualifications in hydrogeology established under chapter [18.220 RCW](#), and has been issued a license in
27 hydrogeology by the Washington State Geologist Licensing Board.

28 **19.150.440 Impervious Surface.**

29 ‘Impervious surface’ means a surface area that either prevents or retards the entry of water into the soil
30 mantle as under natural conditions prior to development or a non-vegetated surface area that causes
31 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
2 limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt
3 paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly
4 impede the natural infiltration of stormwater.
5

6 **19.150.4450 Infiltration rate.**

7 “Infiltration rate” means a general description of how quickly or slowly water travels through a particular
8 soil type.

9 **19.150.45045 Landslide hazard areas.**

10 “Landslide hazard areas” means areas at risk of mass movement due to a combination of geologic,
11 topographic, and hydrologic factors.

12 **19.150.4550 Liquefaction.**

13 “Liquefaction” means a process in which a water-saturated soil, upon shaking, suddenly loses strength
14 and behaves as a fluid.

15 ~~**19.150.455 Lot.**~~

16 ~~“Lot” means a platted or unplatted parcel of land which has the minimum area, setbacks, widths and open~~
17 ~~space required by Title 17, Zoning, of the Kitsap County Code, for occupancy by a principal use and~~
18 ~~meets the access requirements of Title 17 of the Kitsap County Code.~~

19 **19.150.460 Low impact activities.**

20 “Low impact activities” means activities that do not require a development permit and/or do not result in
21 any alteration of hydrology or adversely impact the environment.

22 **19.150.465 Mitigation.**

23 “Mitigation” means avoiding, minimizing or compensating for adverse critical area impacts. Mitigation
24 includes the following specific categories:

25 A. Compensatory mitigation: replacing project-induced critical area losses or impacts, including, but not
26 limited to, restoration, creation, or enhancement.

27 B. Creation mitigation: mitigation performed to intentionally establish a critical area (e.g., wetland) at a
28 site where it does not currently exist.

29 C. Enhancement mitigation: mitigation performed to improve the condition of existing degraded critical
30 areas (e.g., wetlands) so that the functions they provide are of a higher quality.

1 D. Restoration mitigation: mitigation performed to reestablish a critical area (e.g., wetland), or its
2 functional characteristics and processes, which have been lost by alterations, activities or catastrophic
3 events within an area which no longer meets the definition of a critical area.

4 **19.150.470 Native vegetation.**

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

6 ~~19.150.475 Non-conforming use or structure.~~

7 ~~“Non-conforming use or structure” means a use of land or structure which was lawfully established or built~~
8 ~~and which has been lawfully continued, but which does not conform to the current regulations of the zone~~
9 ~~in which it is located as established by Title 17, Zoning, of the Kitsap County Code.~~

10 **19.150.475~~80~~ Normal maintenance.**

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

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

16 B. Re-digging ditches in wetlands or their buffers to expand the depth and width beyond the original
17 ditch dimensions;

18 C. Re-digging existing drainage ditches in order to drain wetlands on lands not classified as existing
19 and ongoing agriculture under Section [19.100.130](#) (General Exemptions).

20 ~~19.150.485 Open space.~~

21 ~~“Open space” means land used for outdoor recreation, critical area or resource land protection, amenity,~~
22 ~~safety or buffer, and includes structures incidental to these open space uses, but excludes yards required~~
23 ~~by this title and land occupied by dwellings or impervious surfaces not related to the open space uses.~~

24 **19.150.480~~9~~ Ordinary high water mark.**

25 “Ordinary high water mark” means that mark that will be found by examining the bed and banks and
26 ascertaining where the presence and action of waters are so common and usual, and so long continued
27 in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in
28 respect to vegetation as that condition existing on June 1, 1971, as it may naturally change thereafter, or
29 as it may change thereafter in accordance with permits issued by a local government or the department;

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

3 **19.150.4859 Out-of-kind compensation.**

4 “Out-of-kind compensation” means to replace a critical area (e.g., wetland) with a substitute critical area
5 (e.g., wetland) whose characteristics do not closely approximate those destroyed or degraded by an
6 activity. It does not refer to replacement out-of-category such as replacement of wetland loss with new
7 stream segments.

8 ~~**19.150.500 Performance based development (PBD).**~~

9 ~~“Performance based development” means development characterized by comprehensive planning of the
10 total project, though it may contain a variety of individual lots and/or uses.~~

11 ~~Typically, a project may include clustering of structures and preservation of open space with a number of
12 flexible and customized design features specific to the natural features of the property and the uses
13 sought to be implemented. Specific lot area and setback requirements may be reduced or deleted in
14 order to allow maximization of open space, critical areas and other components of the project.~~

15 **19.150.490505 Permeability.**

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

17 ~~**19.150.510 Permit.**~~

18 ~~“Permit” means any development, variance, conditional use permit, or revision authorized under RCW
19 [90.58](#) or Kitsap County regulations.~~

20 **19.150.495415 Pond.**

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

23 **19.150.500520 Practicable alternative.**

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

29 **19.150.50525 Priority habitat.**

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

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

10 ~~“Priority habitat” means a seasonal range or habitat element with which a given species has a primary~~
11 ~~association, and which, if altered may reduce the likelihood that the species will maintain and reproduce~~
12 ~~over the long term. These might include areas of high relative density or species richness; breeding,~~
13 ~~nesting, feeding, foraging, and migratory habitat; winter range, movement corridors; and/or habitats that~~
14 ~~are of limited availability or high vulnerability to alteration. Priority habitats are established by the~~
15 ~~Washington State Department of Fish and Wildlife within their Priority Habitats and Species Database.~~

16 **19.150.5~~1030~~ Priority species.**

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

22 **19.150.5~~1535~~ Public facilities.**

23 “Public facilities” means facilities which are owned, operated ~~or~~ and maintained by a public agency.

24 **19.150.5~~2040~~ Public project of significant importance.**

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

28 **19.150.5~~2545~~ Public right-of-way.**

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

32 **19.150.5~~3050~~ Public utility.**

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

5 **19.150.53555 Ravine.**

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

9 **19.150.54060 Reasonable.**

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

11 **19.150.54565 Reasonable alternative.**

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

14 **19.150.55070 Reasonable use.**

15 “Reasonable use” is a legal concept articulated by federal and state courts in regulatory taking cases.
16 ~~means a property that is deprived of all reasonable use when the owner can realize no reasonable return~~
17 ~~on the property or make any productive use of the property. Reasonable return does not mean a~~
18 ~~reduction in value of the land, or a lack of a profit on the purchase and sale of the property, but rather,~~
19 ~~where there can be no beneficial use of the property; and which is attributable to the implementation of~~
20 ~~the Critical Areas Ordinance.~~

21 **19.150.5557 Reasonable use exception.**

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

25 **19.150.56080 Re-establishment.**

26 “Re-establishment” means the manipulation of the physical, chemical or biological characteristics of a site
27 with the goal of returning natural or historical functions to a former wetland. Activities could include
28 removing fill material, plugging ditches, or breaking drain tiles.

29 **19.150.5658 Refuse.**

30 “Refuse” means material placed in a critical area or its buffer without permission from any legal authority.
31 Refuse includes, but is not limited to, stumps, wood and other organic debris, as well as tires,

1 automobiles, construction and household refuse. This does not include large woody debris used with an
2 approved enhancement plan.

3 ~~19.150.590~~ **Use or activity.**

4 ~~“Use or activity” means any development proposal that includes or directly affects a critical area or its~~
5 ~~buffer, or occurs within the area of review, as described in Section 19.100.110(G), and ..~~

6 ~~19.150.570~~~~595~~ **Rehabilitation.**

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

12 ~~19.150.575~~~~600~~ **Restoration.**

13 “Restoration” means the manipulation of the physical, chemical, or biological characteristics of a site with
14 the goal of returning natural or historic functions to a former or degraded wetland. For the purpose of
15 tracking net gains in wetland acres, restoration is divided into re-establishment and rehabilitation. ~~return~~
16 ~~of a critical area (e.g., stream or wetland) to a state in which its functions and values approach its~~
17 ~~unaltered state as closely as possible.~~

18 ~~19.150.580~~~~605~~ **Retention facilities.**

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

24 ~~19.150.585~~~~610~~ **Riparian area.**

25 “Riparian area” means a vegetated ecosystem along a water body through which energy, materials, and
26 water pass. Riparian areas characteristically have a high water table and are subject to periodic flooding
27 and influence from the adjacent water body. These systems encompass wetlands, uplands, or some
28 combination of these two landforms. They will not in all cases have all the characteristics necessary for
29 them to be also classified as wetlands. ~~n area of land that supports riparian vegetation and may include~~
30 ~~some upland areas, depending on site conditions. These generally occur adjacent to water bodies where~~
31 ~~specific measures are needed to protect fish and wildlife habitat and watershed functions.~~

32 ~~19.150.590~~~~615~~ **Salmonid.**

1 "Salmonid" means a member of the fish family salmonidae. This family includes Chinook, coho, chum,
2 sockeye and pink salmon; rainbow, steelhead, cutthroat, brook and brown trout; and Dolly Varden char,
3 kokanee, and whitefish.

4 **19.150.595 Seismic hazard areas.**

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

8 **19.150.600625 Sensitive species (state listed).**

9 "Sensitive species" means a wildlife species, native to the state of Washington that is vulnerable or
10 declining and is likely to become endangered or threatened in a significant portion of its range within the
11 state without cooperative management or the removal of threats. Sensitive species are legally designated
12 in WAC-232-12-011, as now or hereafter amended.

13 **19.150.60530 Shorelines.**

14 ~~For the purposes of this title, "shorelines" means all of the water areas of the state, as defined by Chapter~~
15 ~~90.58 RCW, including reservoirs, and their associated wetlands, together with the lands underlying them;~~
16 ~~except (a) shorelines on segments of streams upstream of a point where the mean annual flow is twenty~~
17 ~~cubic feet per second or less and the wetlands associated with such upstream segments; and (b)~~
18 ~~shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.~~

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

23 **19.150.610 Significant Tree.**

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

30 **19.150.61540 Single-family dwelling.**

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

3 **19.150.62045 Special flood hazard areas.**

4 “Special flood hazard area” means an areas subject to a base or one hundred-year flood; areas of special
5 flood hazard are shown on a flood hazard boundary map or flood insurance rate map as Zone A, AO, A1-
6 30, AE, A99, AH, VO, V1-30, VE, or V. ~~the area adjoining the floodway which is subject to a one percent~~
7 ~~or greater chance of flooding in any year, as determined by engineering studies acceptable to Kitsap~~
8 ~~County. The coastal high hazard areas are included within special flood hazard areas.~~

9 **19.150.62550 Species of concern.**

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

12 **19.150.63055 State Environmental Policy Act or SEPA.**

13 “State Environmental Policy Act” or “SEPA” means the state environmental law (Chapter [43.21C](#) RCW)
14 and rules (Chapter [197-11](#) WAC) as implemented by Kitsap County Code, Title 18 (Environment).

15 **19.150.63560 Streams.**

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

23 **19.150.64065 Swale.**

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

26 **19.150.64570 Threatened species (state listed).**

27 “Threatened species” means a species, native to the state of Washington that is likely to become
28 endangered in the foreseeable future throughout a significant portion of its range within the state without
29 cooperative management or the removal of threats. Threatened species are legally designated in WAC
30 [232-12-011](#), as now or hereafter amended.

31 **19.150.65075 Toe of slope.**

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

3 **19.150.65580 Top of slope.**

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

7 **19.150.660 Use or activity.**

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

11 ~~**19.150.685 Unavoidable and necessary impacts.**~~

12 ~~“Unavoidable and necessary impacts” means an impact to a critical area that remains after an applicant~~
13 ~~proposing to alter such an area has demonstrated that no practicable alternative exists for the proposed~~
14 ~~project~~

15 **19.150.66590 Utilities.**

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

18 **19.150.67095 Utility corridor.**

19 ~~“Utility corridor” means areas identified in the Comprehensive Plan for utility lines, including electrical,~~
20 ~~gas, sewer, water lines; and public right-of-way and other dedicated utility right-of-way on which one or~~
21 ~~more utility lines are currently located. The term “other dedicated utility right-of-way” means ownership,~~
22 ~~easements, permits, licenses or other authorizations affording utilities the right to operate and maintain~~
23 ~~utility facilities on private property set aside for or containing above or below ground utilities. A utility~~
24 ~~corridor is usually contained within and is a portion of any right-of-way or easement.~~

25 **19.150.675700 Wellhead protection area.**

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

28 **19.150.680705 Wetland delineation.**

29 ~~“Wetland delineation” means the identification of the wetland boundary as determined by using the~~
30 ~~Washington State Wetlands Identification and Delineation Manual, March 1997, as now or hereafter~~

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

3 **19.150.~~685710~~ Wetland determination.**

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

6 **19.150.~~690715~~ Wetland edge.**

7 “Wetland edge” means the line delineating the outer edge of a wetland established in Section [19.200.210](#).

8 **19.150.~~695720~~ Wetlands.**

9 “Wetlands” means those areas that are inundated or saturated by surface or ground water at a frequency
10 and duration sufficient to support, and that under normal circumstances do support, a prevalence of
11 vegetation typically adapted for life in saturated soil conditions. Wetlands generally include, but are not
12 limited to swamps, marshes, estuaries, bogs, and ponds less than twenty acres, including their
13 submerged aquatic beds and similar areas. Wetlands do not include those artificial wetlands intentionally
14 created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined
15 swales, canals, storm water facilities, wastewater treatment facilities, farm ponds, and landscape
16 amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of
17 the construction of a road, street, or highway. However,, wetlands may include those legally established
18 artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

19 **19.150.~~700725~~ Wetlands, isolated.**

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

24 **19.150.~~70530~~ Wetlands, mosaic.**

25 “Wetlands, mosaic” or “mosaic wetlands” means an area with a concentration of multiple small wetlands,
26 in which each patch of wetland is less than one acre; on average, patches are less than 100 feet from
27 each other; and areas delineated as vegetated wetland are more than 50% of the total area of the entire
28 mosaic, including uplands and open water. ~~groups of isolated wetlands, any one or more of which may be~~
29 ~~smaller than any of the categories, but which in aggregate may be as valuable as any of the categories.~~

30 **19.150.~~71035~~ Wetlands of regional significance.**

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

4 **19.150.71540 Wetlands of statewide significance.**

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

8 **19.150.72045 Wetlands report.**

9 “Wetlands report” means a wetland delineation ~~characterization and analysis of potential impacts to~~
10 ~~wetlands~~ report or wetland mitigation plan consistent with applicable provisions of Chapter 19.200
11 (Wetlands) and Chapter [19.700](#) (Special Reports).

12 **19.150.72550 Wetlands specialist.**

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

- 17 A. Certification as a Professional Wetland Scientist (PWS) or Wetland Professional in Training (WPIT)
18 through the Society of Wetland Scientists;
- 19 B. A Bachelor of Science degree in the biological sciences from an accredited institution and two years
20 of professional field experience; or
- 21 C. Five or more years professional experience as a practicing wetlands biologist with a minimum three
22 years professional experience delineating wetlands.

23 **19.150.73055 Wildlife biologist.**

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

- 27 A. Certification as Professional Wildlife Biologist through The Wildlife Society; or
- 28 B. Bachelor of Science or Bachelor of Arts degree in wildlife management, wildlife biology, ecology,
29 zoology, or a related field from an accredited institution and two years of professional field experience; or

- 1 C. Five or more years of experience as a practicing wildlife biologist with a minimum of three years of
- 2 practical field experience.

3

4