

Exhibit A

Island County Comprehensive Plan

EXHIBIT A

Island County Comprehensive Plan

....

GENERAL LAND USE POLICIES

....

CRITICAL AREAS

Goal:

Maintain healthy, functioning ecosystems to benefit the residents of the County through the protection of critical areas.

Policies:

1. Development regulations adopted to protect critical areas should be based on scientific information judged by the County to be the best available at the time of enactment.
2. To the fullest extent possible, the protection of critical areas should be accomplished through the voluntary cooperation of land owners and should minimize the burdens imposed on land owners.
3. To the fullest extent possible, any regulation adopted to protect critical areas should be based on and adapted to the local circumstances unique to Island County.
4. To the fullest extent possible, except when critical area regulations deny reasonable use of property, impacts from new uses or activities to critical areas or critical area buffers should be avoided.
5. When alteration by a new use or activity of a critical area or critical area buffer cannot be reasonably avoided, then the alteration should be reduced by modifying the scale or magnitude of or redesigning the action.
6. When alteration of a critical area or critical area buffer by a new use or activity cannot be reasonably avoided or reduced, then the alteration should be compensated for through mitigation.
7. Generally, on-site mitigation for the alteration of a critical area or critical area buffer should be preferred. Off-site mitigation should be preferred when on-site mitigation is not feasible, not practical or provides greater protection to critical areas. When neither on-site nor off-site mitigation is feasible, practical or provides greater protection to critical areas, then compensation for the alteration of a critical area or critical area buffer may occur through the payment of a fee in lieu of mitigation.
8. Regulations to protect critical areas:

- a. Should not make any existing parcel or lot unusable;
 - b. Should not prevent the provision of needed public facilities and services;
 - c. Should be sufficiently flexible to be adjusted on a case-by-case basis to meet site-specific conditions; and
 - d. Should utilize review processes that are proportional to the scope or scale of the proposal and or alteration under review.
 - e. When considering reasonable use of property, modifications of other regulations that may avoid or reduce the alteration is preferred before modifying critical areas standards.
9. Any changes to policies and regulations to protect critical areas should be applied in a fair and equitable manner based on a predictable process to allow property owners to transition from old to new rules and standards.

WETLANDS OVERLAY

Goal:

To protect wetlands from a net loss in functions.

Policies:

- A. Protect, preserve, and enhance wetlands with the intent to achieve no net loss of wetland functions:
- ~~((1. — Avoid land development that causes loss of wetland functions. When there is no reasonable alternative, minimize and mitigate adverse impacts to wetland functions.~~
 - ~~2. — Mitigation projects that add to existing wetlands or increase functions and values of degraded wetlands are preferred over efforts to create wetlands from non-wetland areas and should remain subject to wetlands protection regulations.~~
 - ~~3. — Prohibit alteration of land that results in degradation of wetlands, except for maintenance of existing public use or road or utility crossings that are the least environmentally damaging practical alternative or if necessary to permit reasonable use of the land. In such cases, minimize and mitigate the degradation.))~~
 - ~~((4))~~**1.** Implement non-regulatory wetlands protection measures such as acquisition and incentive programs and the public benefit ratings system.
 - ~~((5))~~**2.** Provide continuity of natural systems by establishing protected corridors of native vegetation between wetlands systems using buffer averaging, density incentives, land acquisition, site design and other techniques.
- B. Consider economic, environmental, and cultural costs when evaluating proposals for wetland alterations, and recognize instances where development or alteration within or

adjacent to wetlands ((is)) **may be** acceptable.

~~((1. Allow reasonable use of a property, provided all wetlands functions are evaluated, the least harmful alternative is pursued, and degraded functions are mitigated, on site as far as possible.))~~

- C. Development will be located away from regulated wetlands by use of buffers and PRDs.
 - D. Maps, site-specific studies, and information collected by other agencies available for public review will be made readily accessible ~~((to potential and existing landowners, interested citizens, and development interests))~~ to aid in the protection of these areas.
 - E. Alteration will occur only after careful consideration of the function of the area,~~((that))~~ **the** potential environmental costs of alterations, the sensitivity of the area to disturbance, and the intensity and potential risks associated with a proposed land use.
 - F. When a violation of the policies and regulations ~~((of this area))~~ is identified, the enforcement action and severity of any penalty will be proportional to the nature and circumstances of the violation and the damage or risk to private and public resources.
 - G. Overlay policies and development regulations shall be implemented in addition to those associated with the underlying land use designation. When there is a conflict in policy statements or development regulations, the more restrictive shall apply.
- ~~((H. Wetlands regulations are contained in ICC 17.02.))~~

Exhibit B

Chapter 17.02

Island County Critical Areas Ordinance

EXHIBIT B

Chapter 17.02
Island County Critical Areas Ordinance

Sections:

- 17.02.010 Authority**
- 17.02.020 Purpose**
- 17.02.030 Definitions**
- 17.02.040 Critical Areas**
- A. Purpose
 - B. Applicability
 - ~~((C.))~~ ~~((Permitted Uses))~~
 - C. Critical Area Review**
 - ~~((D.))~~ ~~((Reasonable Use—Single Family Residence on Existing Lots))~~
 - D. Exceptions**
 - E. Exemptions
 - F. Alteration
 - ~~((G.))~~ ~~((Reasonable Use Exception))~~
 - ~~((H.))~~ ~~((Physically Separated and Functionally Isolated Buffers))~~
 - ~~((I.))~~ **G.** Review Process
 - ~~((J.))~~ **H.** Assessment
 - ~~((K.))~~ **I.** Existing and On-Going Agricultural Activities
 - ~~((L.))~~ **J.** Monitoring **and Adaptive Management**
 - K. Critical Area Mitigation**
 - L. Critical Area Mitigation: Off-site**
 - M. Critical Area Protection**
 - N. Rural Stewardship Plans**
 - O. Penalties and Enforcement**
- 17.02.050 Overlay Zones**
- A. Wetlands (w)
 - B. Geologically Hazardous Areas (gh)
 - C. Fish and Wildlife Habitat Conservation Areas (fw)
 - ~~((D.—Penalties and Enforcement~~
 - ~~D.—Airport and Aircraft Safety (as) (Reserved)~~
 - ~~E.—Scenic Corridors (sc) (Reserved)~~
 - ~~F.—Water Resource (wr) (Reserved)~~
 - ~~G.—Critical Drainage (cd) (Reserved)~~
 - ~~I.—Historic (h) (Reserved))~~

17.02.060 Wetlands

- A. Wetland Mapping**
- B. Wetland Reports**
- C. Land Use Intensity**
- D. Wetland Classification System**
- E. Wetland Buffers**
- F. Wetland Buffer Modification**
- G. Wetland Mitigation Standards**
- H. Wetland Mitigation Ratios**
- I. Wetland Mitigation Plans**
- J. Wetland Mitigation Banks**

17.02.~~(060)~~ 070 Alteration of (~~Wetlands,~~) Deepwater Habitats, Fish and Wildlife Habitat Conservation Areas and Their Surrounding Buffers

17.02.~~(070)~~ 080 Severability

17.02.090 Effective Date

Protected Species, (~~Non-Native Wetland Species,~~) Species of Local Importance, and Habitats of Local Importance

17.02.010 Authority

- A. This (~~ordinance~~) **chapter** shall be known as the Island County Critical Areas Ordinance (**CAO**) and is hereby adopted under the authority of Chapters 36.70, **36.70A**, 39.34, 43.21C, 58.17, 76.09, 84.33, 84.34 and 90.58 RCW.
- B. The CAO is to be administered flexibly with attention to site-specific characteristics of Critical Areas. It is not the intent of the CAO to make any parcel or Lot unusable; or deny an Owner Reasonable Use; or prevent the provision of planned public facilities and services.**

17.02.020 Purpose

The purpose of the Island County Critical Areas Ordinance is to provide protective standards that will:

- A. Achieve better (~~use~~) **stewardship** of Island County’s land resources;
- B. Implement the Comprehensive Plan of Island County;
- C. Provide for the orderly planned use of Island County’s land resources;
- D. Permit developments which will provide a desirable and stable economic environment consistent with the rural characteristics of Island County and protection of its Critical Areas and natural features;

- E. Permit flexibility that will encourage a more creative **low impact** approach in the development of land, while ensuring the retention ~~((,))~~ **and** protection ~~((and-use))~~ of the County's ~~((open spaces,))~~ Critical Areas and natural ecosystems;
- F. Ensure that the unique, fragile **and** sensitive ~~((and scenic))~~ areas of Island County are protected and enhanced **and support voluntary actions to do so**;
- G. Ensure that Island County's natural constraints are recognized and considered in planning decisions;
- H. Protect the public health, safety and general welfare of the residents of Island County;
- ~~((I.))~~ ~~Provide a bonus to land owners who wish to protect and preserve certain identified lands;~~
- ~~((J.))~~ **I.** Preserve the integrity of water resources by ensuring a balanced program controlling stormwater runoff and ground water recharge;
- ~~((K.))~~ **J.** Prevent pollution of surface and subsurface water resources;
- ~~((L.))~~ **K.** Protect the habitat of flora and fauna recognized by Island County as deserving of protection;
- ~~((M.))~~ **L.** Preserve critical fish and wildlife habitat, **in particular habitat for anadromous fish**, and encourage protection of Wetlands which provide such habitat;
- ~~((N.))~~ **M.** Minimize the hazards ~~((incident to))~~ **from** development on or adjacent to steep slopes or geologically hazardous areas;
- ~~((O.))~~ **N.** Protect the fundamental and inalienable right of the residents of Island County to a healthful environment and the Reasonable Use of their property;
- ~~((P.))~~ **O.** Provide a means for every resident of Island County to participate fairly and equitably in the land use decision making process and contribute to the preservation and enhancement of the environment;
- ~~((Q.))~~ **P.** Encourage in-fill of undeveloped residential lands consistent with limits imposed by natural constraints;
- ~~((R.))~~ **Q.** Provide for regulatory review processes which are proportional in scale, time and cost to **type, scope and scale ((and costs of development actions)) of the Critical Area or Critical Area Buffer Alteration** proposed.
- R. Provide for and encourage the voluntary Restoration of Critical Areas and Critical Area Buffers that have been Altered by historic natural processes or unregulated activities.**

17.02.030 Definitions

Unless expressly noted otherwise, words and phrases that appear in this Chapter shall be given the meaning attributed to them by this section. When not inconsistent with the context, words used in the present tense shall include the future; the singular shall include the plural and the plural the singular; the word “shall” is always mandatory and the words “may” and “should” indicate a use of discretion in making a decision. Capitalized words and phrases identify a term defined in this Chapter; other Chapters of Title 17; or Chapters contained in Title 16.

....

Accessory Use or Structure: A Use or Structure customarily considered to be incidental to or secondary to a Permitted Use or an approved Conditional Use on a Lot or on adjacent Lots under the same ownership. Examples of Accessory Structures include, but are not limited to, sheds, shops, garages, greenhouses, barns, Guest Cottage, etc.

Adaptive Management: A systematic process for continually improving management policies, regulations and practices by learning from the outcomes of previous policies, regulations and practices.

Alteration Approval: The process and action taken by the County to grant ~~((conceptual))~~ approval **of a Development Proposal** for Alteration of a Wetland, Deepwater Habitat, Fish and Wildlife Habitat Conservation Area or their Buffers.

Alteration of a Wetland, a Deepwater Habitat or a Fish and Wildlife Habitat Conservation Area: In any Wetland, Deepwater Habitat, or a Fish and Wildlife Habitat Conservation Area or required Buffer, the placement~~(-or)~~, erection **or expansion** of any solid material or Structure; the discharge or disposal of any dredged material or waste, including filling, grading, channelization, removing, dredging, draining, mining or extraction of any materials; the removal or harvesting of trees or other vegetation; **and** modification for use as a storm water retention/detention facility. ~~((or other Alteration))~~

Anadromous Fish Stream: A fresh water Stream that has been determined by the County to contain anadromous fish. Anadromous fish are those that are born in fresh water, migrate to the ocean to grow and mature and return to freshwater as adults to reproduce. Maxwellton, Glendale and Kristoferson Creeks have been designated Anadromous Fish Streams.

Anadromous Fish Stream Wetland: A Wetland that has a Wetland Outlet that connects the Wetland directly to an Anadromous Fish Stream or is within 500 feet of an Anadromous Fish Stream in an uphill direction and within the same Watershed.

....

~~((Artificial (Category C) Wetlands/Deepwater Habitats (Ponds): Areas that meet the definition of a wetland and/or deepwater habitat because of human action which impounded water by means such as construction of a dam or an embankment or excavation of a depression which was planned and executed for the specific purpose of creating a wetland where no wetland before existed. Ponds created for agricultural and/or aquacultural uses are considered Category C wetlands/deepwater habitats for purposes of this Chapter.))~~

....

Baseline Monitoring: Surface water quality sampling and other monitoring activities (such as vegetation surveys, etc.) designed to establish local trends and seasonal patterns necessary for the interpretation of County-wide data.

Best Management Practices: Conservation practices or systems of practices and management measures that:

- (1) control soil loss and reduce water quality degradation; and
- (2) minimize adverse impacts to surface water and ground water flow, circulation patterns, and to the chemical, physical, and biological characteristics of critical areas.

The Department shall maintain a selection of Best Management Practices which have been approved by the Board for those uses which are subject to Best Management Practices.

Bog: A Wetland comprised of plants that are listed as bog species in Table 3 of the 2004 Wetland Rating System prepared by the Washington State Department of Ecology. Many Bogs have acidic conditions, low nutrient levels, soils classified as peat or muck and are fed largely by precipitation. County maps identify the location of some but not all Bogs.

Buffer: The area adjacent to the outer boundary of a Critical Area that protects the Critical Area from Alterations caused by a Development Proposal. Buffers for Wetlands will be established based on Land Use Intensity, on the sensitivity of a Wetland to adverse impacts and Wetland Functions.

Cleared Area: The surface area on a Lot that is or will be Cleared or otherwise Altered by a Development Proposal. All areas that have been or are proposed to be Altered are considered Cleared Area including building site(s), drain field, well site, lawns, landscaping, driveways and access roads. See, Land Use Intensity.

Clearing: The act of removal or destruction of vegetation by mechanical or chemical means, but does not include normal cultivation associated with an agricultural operation **or the selective removal of vegetation as provided herein.**

Coastal Lagoon: A shallow water body adjacent to marine waters that is partly or completely separated from Puget Sound by a barrier beach. A Coastal Lagoon

receives periodic influxes of salt water which may occur from storm surges or flow through porous beach sediments. The water in a Coastal Lagoon is saline or brackish (>0.5 ppt measured near the bottom) during most of the year. The general locations of Coastal Lagoons have been mapped by the County.

Coastal Lagoon Wetland: A Wetland located within a Coastal Lagoon.

....

Compliance Assessment: A property or area specific evaluation of compliance with adopted Ag BMPs and other critical area requirements. Compliance Assessment will routinely be initiated if an Exceedence is identified and will typically precede Source Identification.

~~((**Conditional Use:** A use allowed only upon approval of a site plan or the granting of Use Approval.))~~

Contingency Plan: A plan outlining actions that would be triggered if Monitoring reveals a problem that will prevent the Mitigation from attaining its stated goals and benchmarks . Contingency Plans are a form of Adaptive Management. See, Mitigation Plan.

Contributing Area: The land and/or water area uphill from a Wetland that drains into that Wetland. Boundaries for a Contributing Area have been determined by the Department for all known Wetlands and are depicted in map format. Contributing Area is used to determine the sensitivity of a Wetland to adverse water quality impacts and the size of the water quality Buffer needed to protect Wetland Functions.

~~((**Conversion:** The change of land use from a forest use to a permitted or conditional rural residential use.))~~

Creation: A Mitigation action or actions that develop a Wetland on a Lot where a Wetland did not exist previously. See, Mitigation.

Critical Areas: Wetlands, areas with a critical recharging effect on aquifers used for potable water, Fish and Wildlife Habitat Conservation Areas, Frequently Flooded Areas and Geologically Hazardous Areas.

Deepwater Habitats: Any open water area that has a mean annual water depth greater than 6.6 feet, lacks soil, and/or is either unvegetated or supports only floating or submersed macrophytes and is not a Lake~~((or Category C pond as defined in this Chapter))~~.

Delta Estuary: An area of alluvial deposits from the Skagit or Stillaguamish Rivers where the surrounding marine water is measurably diluted by fresh water from these rivers. The general location of the Delta Estuary has been mapped by the County.

Delta Estuary Wetland: A Wetland located directly adjacent to or within a Delta Estuary.

Department: The Island County Department of Planning and Community Development.

Development Proposal: Any activity that requires authorization from Island County for a Lot that contains or is affected by a Critical Area or Critical Area Buffer. Development Proposals include Subdivisions, Short Subdivisions, PRD's, Conditional Use Permits, Site Plan Approvals, Boundary Line Adjustments, Septic Permits and Clearing/Grading Permits.

Enhancement: A Mitigation action or actions that heightens, intensifies or improves the processes, structure and/or Functions of a Wetland or Wetland Buffer. See, Mitigation.

Estuarine Wetlands: Tidal Wetlands containing emergent vegetation that are usually semi-enclosed by land but have open ((-)) **or** partly obstructed((,-or sporadic)) access to ((the open ocean)) **Puget Sound,**((and in which ocean seawater is measurably diluted by fresh water runoff from the land. Estuarine Wetlands have ocean-derived salinities of at least 0.05%))

....

Exceedence: A measured increase in a monitoring parameter above an adopted Water Quality Standard that will trigger a responsive action.

Exceptions: A specific activity or Use permitted by the County in a Critical Area or Critical Area Buffer if it complies with the standards established in ICC 17.02.040.D.

Exemptions: A specific activity or Use allowed by the County to be conducted in a Critical Area or Critical Area Buffer if it complies with the standards established in ICC 17.02.040.E.

Existing: Unless otherwise expressly stated, legally established, created or erected. ((and existing on the effective date of this Chapter, October 1, 1998))

Existing Building: A structure, or portion thereof, which meets the definition of "Existing" and was lawfully ((erected and)) Maintained. ((including those which, because of the enactment of this Chapter, no longer conforms to the land use standards or use regulations of the zone in which it is located))

Existing Lot: A Lot or parcel of land which meets the definition of "Existing". ((and was also of record and lawfully established and maintained including those which, because of the enactment of this Chapter, no longer conforms to the land use standards or use regulations of the zone in which it is located.))

Existing Use: A Use which meets the definitions of "Existing" and was lawfully established and Maintained. ((including those which, because of the enactment of this Chapter, no longer conforms to the land Use standards or Use regulations of the Zone in which it is located.))

....

Farm Management Plan, Custom: A custom plan is site specific and is developed for a specific property owner/operator. A custom plan provides a farm management system that implements NRCS BMPs. The County requires a custom plan for Medium Intensity Agriculture. Conservation Districts as well as Island County, consultants, property owners and, with the consent of an owner, lessees are all eligible to prepare farm plans if the preparer is certified by NRCS and the document is determined by the County to meet NRCS standards.

Farm Management Plan, Standard: A standard plan implements NRCS BMPs for Low Intensity Agriculture. A standard plan is prepared and adopted by the County. There are two types of standard plans. The first type applies BMPs to protect Critical Areas and is used, on a county-wide basis, by Low Intensity Agriculture. The second type applies BMPs to protect Critical Areas for Low Intensity Agriculture located in the following drainage basins with salmon bearing streams or potential salmon bearing streams: Maxwellton, Glendale, Onamac and Triangle Drainage Basins.

Farmed Wet Meadows: ~~((Shall mean those Category B-w))~~ **Wetlands** whose vegetative cover has been sufficiently modified in the past as a result of grazing, seeding, cutting for hay or other agricultural practices, such that they are dominated by a pasture species (such as blue grass, orchard grass, fescue, clovers, reed canary grass, etc.) and invasive Wetland species indicative of continuous disturbance. They often are saturated or have standing water during the wet season and part of the growing season but are often dry during the summer months. **Farmed Wet Meadows are often referred to as wet pastures.**

....

Habitat: The physical location or type of environment in which a species lives or occurs. One Wetland Function is to provide Habitat for Wetland Dependent Species.

Habitat Management Plan: For Wetlands, a site-specific plan for Maintaining, Re-establishing, Rehabilitating, Enhancing, Creating or Preserving Habitat for a Wetland Dependent Species. For Fish and Wildlife Habitat Conservation Areas, specific requirements for a Habitat Management Plan (HMP) are set forth in ICC 17.02.050.C.

Habitat Rating System: The procedure for assigning a Habitat score to a Wetland, as defined by the *Washington State Wetland Rating System for Western Washington – Revised* or a comparable procedure established by the County.

Habitat of Local Importance: An area designated by the County pursuant to Chapter 36.70.A RCW. Once designated a Habitat of Local Importance becomes a Critical Area. The procedure and criteria for such designations are set forth in ICC 17.02.050.C and the areas that have been designated are listed in Appendix A to this Chapter.

.....

High Intensity Agriculture: Shall mean existing and on-going agriculture including dairies, animal feeding operations and concentrated animal feeding operations as those terms are used in federal and state regulations and livestock operations with an Animal Unit density greater than three (3) per acre.

Highly Erodible Soils: Soils that show extensive ongoing erosion as a result of land uses, or that have a “severe” or “very severe” susceptibility to erosion from water according to the NRCS. These include the following mapped soil series:

Alderwood find sandy loam (Ab)

Alderwood fine sandy loam (Ac)

Alderwood gravelly sandy loam (Af)

Bow loam (Bc)

Bozarth fine sandy loam (Be)

Carbondale muck (Ca)

Casey fine sandy loam (Cc, Cd)

Casey loam (Cf, Cg)

Coveland loam (Cn, Co)

Everett gravelly sandy loam (Ee)

Greenwood peat (Ga)

Hovde sand (Ha)

Hoypus coarse sandy loam (Hd)

Hoypus gravelly loamy sand (Hg)

Indianola loamy sand (Ib, Ic)

Keystone loamy sand (Kd, Ke)

Mulilteo peat (Mb, Mc)

Pondilla fine sand (Pa)

Rifle peat (Ra, Rb)

Semiahoo muck (Sc, Sd)

Swantown loam (Sm)

Tanwax peat (Tb)

Townsend sandy loam (Tf)

Townsend sandy loam (Tg)

Maps showing the locations of these soils are available from the NRCS and the County. The maps may be corrected following on-site determination of the soil series by a qualified soil scientist. The presence of Highly Erodible Soils on a slope may require an increase in the size of a Wetland Buffer. For purposes of buffer width determination, the determination of Highly Erodible Soil shall be made only for the area between the Wetland Edge and the nearest area to be occupied by the Development Proposal.

Hydrophytic Vegetation: Plant life growing in water or in a substrate that is at least periodically deficient in oxygen as a result of excessive water content. (See “Wetland Plants of the Pacific Northwest,” September, 1984, U.S. Army Corps of Engineers.)

Invasive Plant Species: A Non-Native plant Species that can displace Native plant Species if allowed to proliferate. See, Non-native Species.

....

Lake: A ~~((lake))~~**body of water** twenty (20) acres or greater in size which is subject to the provisions of the Shoreline Management Act (Goss Lake, Lone Lake, Crockett Lake, Deer Lake, Kristoferson Lake, Cranberry Lake), and three (3) unnamed lakes located in Section 24, Township 29 N, Range 2 E (26 acres); Section 6, Township 31 N, Range 1 E (25 acres); and, Section 18, Township 33 N, Range 2 E (50 acres).

Land Use Intensity: A determination by the Department for every Development Proposal regulated by this Chapter. Intensity shall be based on the type, character, density and location of the proposed Use or Structure as well as the Cleared Area proposed by the Development Proposal. Land Use Intensity is used to determine the size of a Wetland Buffer.

Large Poned Wetland: A Poned Wetland with visible evidence of at least five (5) acres of standing surface water at any time during the growing season. Most, but not all, Large Poned Wetlands have been mapped by the County.

....

Lot: A fractional part of divided lands having fixed boundaries. The term shall include tracts or parcels, including Existing tracts or parcels. The term Lot, as used in this Chapter, shall include both a standard section subdivision and also the corresponding equivalent fractional part of a section, for example, 1/128 of a section shall also mean five (5) acres.

Low Impact Development: A site design and/or Structures that incorporate specific measures to reduce and compensate for adverse water quality impacts to Critical Areas or Critical Area Buffers. Land Use Intensity may be reduced by incorporating Low Impact Development techniques into a Development Proposal. See, Land Use Intensity.

Low Intensity Agriculture: Shall mean existing and on-going agriculture including livestock management with an Animal Unit density of less than one (1) per acre; seasonal hay mowing and related activities and horticulture involving one (1) acre or less of cultivated land. For livestock, the amount of acreage shall be determined by the amount of grazed or mowed acreage where manure or compost made from manure is applied.

....

Macrophyte: Any plant species that can be readily observed without the aid of optical magnification.

Maintenance: An action or actions to prevent a decline, lapse or cessation of a Use, Structure, Critical Area or Critical Area Buffer.

Mature Forested Wetland: A Wetland that is comprised predominantly of Sitka Spruce, Western Red Cedar or Black Cottonwood in which a majority of the trees have diameters exceeding twenty-one (21) inches measured at 4.5 feet above ground level. County maps will identify Mature Forested Wetlands as they are located through reviews of Development Proposals.

....

Medium Intensity Agriculture: Shall mean existing and on-going agriculture including livestock operations with an Animal Unit density of one (1) but not greater than three (3) per acre and all horticultural operations larger than one (1) acre of cultivated land.

Mitigation: ((The recreation, replacement or enhancement of a Wetland, Deepwater Habitat, or Fish and Wildlife Habitat Conservation Area to maintain the functional characteristics and processes of a natural system proposed for Alteration.)) **An action taken to compensate for the Alteration of a Critical Area or Critical Area Buffer. Re-establishment, Rehabilitation, Enhancement, Preservation or Creation are all forms or types of Mitigation. See, Mitigation Plan and Wetland Report.**

Mitigation Banks: A site where Wetlands are Re-established, Rehabilitated, Enhanced, Preserved or Created expressly for the purpose of providing Mitigation in advance of any specific Development Proposal. Mitigation Banks must qualify and be certified under Chapter 173-700 before they can be established and used in Island County.

Mitigation Plan: A detailed plan that describes and explains actions that are needed to compensate for Alterations to a Critical Area or Critical Area Buffer. A Mitigation Plan will usually include a plan for management of the Critical Area as well as a Monitoring and Contingency Plan. A Mitigation Plan is prepared when a Wetland or Fish and Wildlife Conservation Area is proposed to be Altered.

Monitoring: The repetitive measurement of some aspect of a natural resource and/or human activity using ecological indicators as the basis for identifying changes to that resource. See, Mitigation Plan.

Mosaic Wetland: A Poned Wetland that is within 300 ft of another Wetland, or a Wetland that is not a Poned Wetland but which is within 300 ft of a Poned Wetland.

....

Native Plant Wetland: A Wetland with visible evidence that at least a majority of its vegetated surface area is covered by Native Species. County maps identify some but not all Native Plant Wetlands.

Native ((Wetland)) Species: ((Wetland-species))**Plants and animals** which are indigenous to Island County. ((Such)) **Plant** species are defined in *Flora of the Pacific Northwest* (C. Leo Hitchcock and Arthur Cronquist, University of Washington Press).

Non-Residential: Describes the Use of a Structure for Commercial, Institutional, Light Manufacturing or similar Uses. Non-Residential is not used to characterize Agricultural or Forest Uses.

Non-Native ((Wetland)) Plant Species: ((Wetland-species))**Plant species** which have been ((accidentally or purposefully)) introduced into Island County. ((This Chapter shall contain a list of the principal Non-Native Wetland Species.))**For plants, Non-Native Species are defined in *Flora of the Pacific Northwest* (C. Leo Hitchcock and Arthur Cronquist, University of Washington Press).**

~~((Non-Wetlands: Non-wetlands include uplands and lowland areas that are neither deep water aquatic habitats, nor Wetlands, nor other special aquatic sites. They are seldom or never inundated, or if frequently inundated, they have saturated soils for only brief periods during the growing season, and, if vegetated, they normally support a prevalence of vegetation typically adapted for life only in aerobic soil conditions.))~~

~~**Permitted Use:** A use allowed outright by the terms of the land use classification.))~~

Planning Director: The Planning and Community Development Director of Island County, Washington, or his or her authorized representative.

Ponded Wetland: A non-Estuarine Wetland with visible evidence of standing water at any time during the growing season. See, Large Ponded Wetland.

Preservation: A Mitigation action or actions that remove a threat to or prevent the decline of a Category A, B or C Wetland that would otherwise be Altered by a Development Proposal. Preservation is also referred to as protection or maintenance. See, Mitigation.

Protected Species: ((Species of flora and fauna))**Plants and animals** listed by the federal government or the State of Washington as endangered, threatened or sensitive which are present in Island County and those species of flora and fauna which, while not necessarily endangered or threatened, are unique in Island County and worth of protection, designated as Habitats and Species of Local Importance. This Chapter shall contain a list of protected species which shall be revised by amending this Chapter as new species which warrant protection are recognized or a species which has been listed no longer needs protection. **Protected Species are listed in Appendix A to this Chapter.**

....

Re-establishment: A Mitigation action or actions that return natural or historic Functions to a former Wetland or Wetland Buffer. See, Mitigation.

Reasonable Use: The logical or rational use of a specific parcel of land which a person can be expected to conduct or maintain fairly and appropriately under the specific circumstances, **considering the size of the Lot, the type of Use or Structure proposed and similar Existing or allowed Uses and Structures in the general vicinity of the Lot.**

Rehabilitation: A Mitigation action or actions that repair natural or historic Functions of a degraded Wetland or Wetland Buffer. See, Mitigation.

....

Resident Salmonid Stream: A fresh water Stream that has been determined by the County to contain resident salmonids. A Resident Salmonid is a member of the salmonid family whose life history, i.e., spawning, rearing and maturation, occurs in freshwater. Cutthroat trout and steelhead trout are members of the salmonid family. North Bluff, Dugualla and Chapman Streams have been designated Resident Salmonid Streams. County maps identify the location of these Resident Salmonid Streams.

Resident Salmonid Stream Wetland: A Wetland that has a Wetland Outlet that connects the Wetland directly to a Resident Salmonid Stream or is within 500 feet of a Resident Salmonid Stream in an uphill direction and within the same Watershed.

Residential: Describes the Use of a Structure by a Family as a Dwelling Unit and may also include Home Occupation, Accessory Uses, or Structures. Residential is also used to describe a geographic area where Permitted Uses are typically Residential in character.

Restoration: Measures taken to (~~replace, recreate~~) **Re-establish, Rehabilitate** or otherwise return to their previous functioning condition (~~regulated wetlands, deepwater habitats, fish and wildlife conservation areas~~) **Critical Areas** or (~~their~~) **Critical Area** Buffers. **Restoration is required for Critical Areas or Critical Area Buffers** which have been lost or damaged through **unauthorized** Alteration activities (~~Restoration will be required when~~) **and** natural regeneration processes are found to be inadequate to restore the functions **of the Critical Area or Critical Area Buffer. Restoration may also occur voluntarily after the County has approved a specific plan for the voluntary Restoration. Restoration requirements for unauthorized Alterations are found in ICC 17.03.260.I.**

Rural Stewardship Plan: A detailed site plan prepared by or for an Owner that establishes the location for authorized Permitted Uses, the location and classification of Critical Areas and Critical Area Buffers and Best Management Practices for the long term

Use of the property. A Rural Stewardship Plan is a voluntary option available to all Owners of Lots one (1) acre or larger in size.

~~((**Routine Wetland Determination:** A type of wetland determination in which office data and relatively simple outside methods are employed to determine whether or not an area is a Wetland. Most Wetland determinations are of this type, which usually do not require collection of quantitative data. A classification and boundary determination may be made.))~~

Single-Family Dwelling: A Structure designed or used for residential purposes by not more than one (1) family and containing one (1) Dwelling Unit. A Mobile Home or Mobile/Manufactured home, including a Modular Home, shall be considered a Single-Family Dwelling.

Slope Gradient: The average slope, expressed as a percent, found within a Contributing Area measured from Wetland Edge to the nearest part of the Development Proposal. LiDAR imagery available from the Department may be used in this determination.

Small Contributing Area: A Contributing Area for a Wetland that is less than 10 times the surface area of the Wetland. A Wetland with a Small Contributing Area will require a larger Wetland Buffer because it is more sensitive to changes in water quality.

Source Identification: Sampling that is specific to an identified Watershed or portion of a Watershed intended to determine the source of an Exceedence in Water Quality Standards or Thresholds.

Species of Local Importance: Plants or animals designated by the County pursuant to Chapter 36.70.A RCW. The procedure and criteria for such designations are set forth in ICC.17.02.050.C and the designated Species of Local Importance are listed in Appendix A to this Chapter.

Streams: ~~((These))~~ Areas where naturally occurring surface water produce a defined channel, bed, bank or side, and where there is clear evidence of the passage of water such as bedrock channels, gravel beds, sand, silt beds and defined channel swales. The channel or bed need not contain water year-round. This definition is not intended to include irrigation or drainage ditches or swales, canals, storm or surface water run-off devices or other artificial watercourses unless they are used by salmonids or to convey Streams naturally occurring prior to construction of such watercourse.

Structure: That which is defined as a Structure under the Uniform Building Code (UBC).

....

Tributary Stream: A Stream, whether permanent or intermittent, which enters or exits a ~~((Category B or Category A))~~ Wetland and/or Deepwater Habitat. This definition does not include ditches, canals, storm water run-off devices or other entirely artificial watercourses.

Provided that a Stream which has been Altered by man to carry naturally occurring waters is a Tributary Stream within this definition.

Use: The purpose or activity for which land or any Structure thereon is designed, arranged, occupied or Maintained.

....

Watershed: The land and water area that drains to a particular Stream, estuary, or other water body. Sometimes called basin or sub-basin. The Department has mapped all Watersheds of Island County.

Water Quality Thresholds: A specific numeric measure established for a monitoring parameter set at a more stringent level than a Standard that, if exceeded, will typically require some change in the monitoring program but not require immediate action.

Water Quality Trend: A detectable change over time for a monitoring parameter after Baseline Monitoring is completed. A Trend can serve as early warning that an Exceedence may occur in the future.

Wetland/Deep Water Boundary: The boundary between a Wetland and Deep Water Habitat lies at a depth of two (2) meters, (6.6 feet) below low water; however, if emergents, trees or shrubs grow beyond this depth at any time their deep water edge is the boundary.

Wetland Category: Wetlands in Island County have been grouped or classified into four Wetland Categories, A through D.

Wetland Type: A determination made by the County or a Wetland Professional that is based upon the natural characteristics of a Wetland. Ten Types of Wetlands are regulated by this Chapter.

Wetland Dependent Species: A plant or animal species that requires a Wetland for some part of its life cycle and whose population in the County would decline if a particular Wetland Type is unavailable; or, the species occurs disproportionately in a Wetland compared to other Habitats.

Wetland Edge: The upland limit of a Wetland is designated as the boundary between land with predominantly Wetland vegetation cover and land without such cover.

Wetland Functions: The beneficial roles served by Wetlands ((, ~~including but not limited to,~~) **in Island County for** water quality protection and enhancement **including groundwater recharge and discharge and** fish and wildlife Habitat. ((~~food chain support, flood storage, conveyance and attenuation, groundwater recharge and discharge, erosion control, wave attenuation, historical and archaeological value protection, aesthetic value and recreation.~~)) These beneficial roles are not listed in order of priority.

Wetland Maps: Site-specific maps prepared and maintained by the Department that depict the general location and Type of Wetlands.

Wetland Outlet: The location or locations where there is visible evidence that a Stream, ditch or other watercourse allows the discharge of surface water from a Wetland at any season of the year. The size of the Buffer needed to protect a Wetland is based in part on whether the Wetland has a Wetland Outlet. A Wetland with no Wetland Outlet will require a larger Wetland Buffer because it is more sensitive to changes in Water Quality.

Wetland Professional: A person with both professional education typically a B.S. or higher degree in biology, environmental studies or related field, as well as training and experience in Wetland technical issues such as experience performing Wetland classification and delineations, assessing Wetland Functions, analyzing impacts to Wetlands, and designing Mitigation. A Wetland Professional should be a certified professional Wetland scientist or have a minimum of five (5) years of experience in Wetland technical issues.

Wetland Report: A study prepared by the County or a Wetland Professional.

Wetland Vegetation: ((When hydrophytic vegetation comprises a community where indicators of hydric soils and wetland hydrology also occur, the area has Wetland Vegetation.)) Plant species characteristically adapted for prolonged saturation and anoxic soil conditions and listed by the US Army Corps of Engineers, US Fish and Wildlife Service or the Washington State Department of Ecology as Wetland indicator plants.

Wetlands: ((Those a)) Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial Wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those Wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands include those artificial Wetlands intentionally created from nonwetland areas created to mitigate conversion of Wetlands. ((Groups of two (2) or more Wetlands which are hydrologically connected through surface or shallow ground water within twelve inches (12") of the surface are considered to be associated with each other. For regulatory purposes, the total area of associated Wetlands shall be considered as constituting a single Wetland.)) Saltwater areas dominated by sea grasses or seaweed are not considered Wetlands.

Wetlands Associated with a Bog, Coastal Lagoon or Delta Estuary: A Wetland that has a Wetland Outlet that connects the Wetland directly to a Bog, Coastal Lagoon or Delta

Estuary, or is within 500 feet of a Bog, Coastal Lagoon or Delta Estuary in an uphill direction and within the same Contributing Area.

17.02.040 Critical Areas

- A. **Purpose.** This section establishes general requirements and regulations for the protection of Critical Areas pursuant to the Growth Management Act which shall apply throughout this Title.
- B. **Applicability.** This section shall apply to all properties which are designated as Critical Areas by Island County. Designated Critical Areas are:
1. Wetlands. Wetlands are regulated pursuant to ~~((the Wetlands Overlay Zone, ICC 17.02.050.A, the Land Use Standards governing wetlands, deepwater habitats and their surrounding buffers, ICC 17.02.060, 17.03.260.I and))~~ **Chapters 17.02 and 17.03 ICC, the Land Development Standards, Chapter 11.01 ICC, the Clearing and Grading Standards of Chapter 11.02 ICC, the Stormwater Management Standard of Chapter 11.03 ICC and the County Shoreline Master Program, Chapter 17.05 ICC.**

....

C. Critical Area Review.

1. **Before any Development Proposal for a Lot that contains or is affected by a Critical Area may be approved by the County, a Critical Area review shall be completed by the Department as set forth below.**
2. **Unless an Owner or applicant elects otherwise, Development Proposals that have been reviewed and approved under prior Critical Area regulations (December 31, 1984 for Wetlands and October 1, 1998 for other Critical Areas) shall be governed by any conditions and restrictions established by the County for the approved Development Proposal.**

- 3. Unless an Owner or applicant elects otherwise, Development Proposal applications that have been submitted prior to the effective date of amendments to the CAO, shall be reviewed under the Critical Area regulations in effect on the date the application was determined to be complete.**
- 4. For all other Development Proposals on Lots that contain or are affected by Critical Areas that are not Exempt and that require an Alteration of the Critical Area or Critical Area Buffer the County shall apply the following Critical Area review criteria:**

 - a) When practical and reasonable, Alteration of a Critical Area or Critical Area Buffer shall be avoided; and**
 - b) When avoidance of a Critical Area or Critical Area Buffer is not practical and reasonable, then to the extent practical and reasonable, the Alteration shall be reduced in scale or magnitude. The following actions shall be considered:**

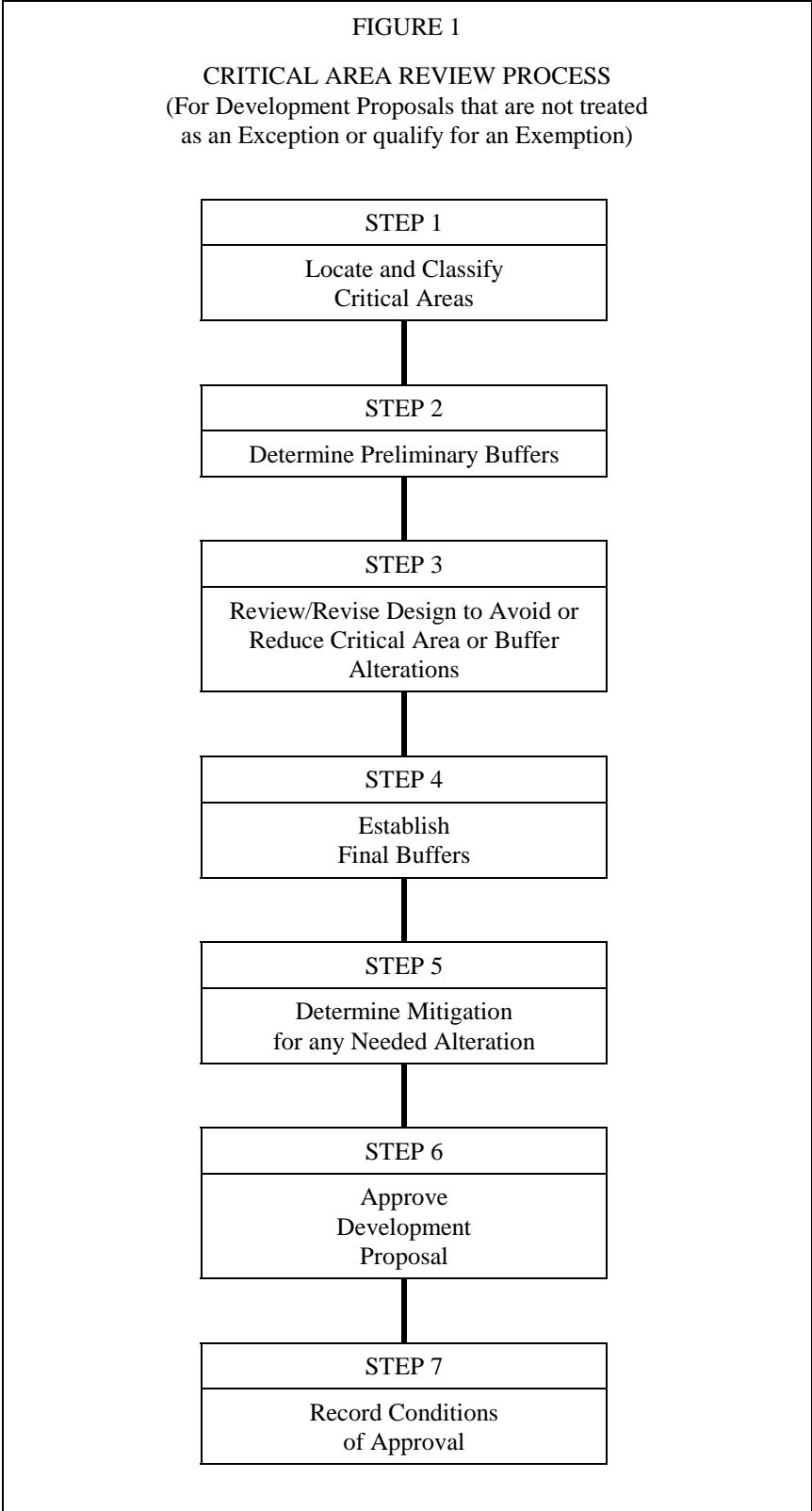
 - (i) reducing the size of the Development Proposal; or**
 - (ii) relocating the Use or Structure(s) on the site; or**
 - (iii) modifying the timing of construction of the Use, Structure or Clearing activities.**
- 5. As depicted in Figure 1, after the effective date of these 2007 amendments, the Critical Area review of Development Proposals that are neither Exempt nor treated as an Exception, shall include:**

 - a) Determining whether a Critical Area or Areas is/are located on or affect the Lot;**
 - b) If a Buffer is required, initially establishing the appropriate Buffer for the Critical Area;**
 - c) Applying the Critical Area review criteria set forth in ICC 17.02.040.C.4, determining whether the Development Proposal will require approval of an Alteration of the Critical Area or Critical Area Buffer;**
 - d) Establishing final Buffers and for Wetlands determining whether Buffers need to be increased, whether Buffers may be decreased or whether Buffer averaging is appropriate;**
 - e) If an Alteration is required, establishing the Mitigation needed to compensate for the Alteration; and**
 - f) After final approval, recording conditions of approval.**

6. If any provision of this Chapter conflicts with any other provision of this Chapter or any other ordinance adopted by the Island County Board of Commissioners, Critical Area review shall be based on the more stringent requirement, regulation, restriction standard or limitation.

~~((C. **Permitted Uses.** The Director may authorize pursuant to Chapters 16.19 and 16.14C ICC the following activities in Wetlands, Streams, or their buffers:~~

- ~~1. Roads or utilities where they are the least environmentally damaging, practical alternative, the width of the fill is limited to the minimum necessary, Best Management Practices are implemented during construction culverts are installed when necessary to maintain hydrology and mitigation proportionate to the impacts is provided pursuant to ICC 17.02.060 (Wetlands) and ICC 17.02.050.C Streams.~~
- ~~2. Installation of underground utilities or moderate impact storm water facilities, such as grass lined swales, in the outer thirty three percent (33%) of buffers for Type 1, Type 2, and Type 3 streams and Category A wetlands, the outer fifty percent (50%) of Type 4 streams, and the outer ten percent (10%) of Type 5 streams and Category B Wetlands where topsoil is stockpiled outside of the buffer for use in restoration, and best management practices are used during construction.~~
- ~~3. Conservation, preservation, or enhancement projects to protect functions of Critical Areas. The Director shall require a Biological Site Assessment in order to determine whether the proposed activity would conserve, preserve or enhance Critical Areas functions.))~~



D. Exceptions. The following Development Proposals that require an Alteration shall be permitted by the County if the Alteration cannot be avoided as required by ICC 17.02.040.C.4.

1. **Single Family ((Residence)) Dwelling on Existing Lot. For a new Single Family ((residence)) Dwelling and Accessory Structures or an expansion of an Existing Single Family Dwelling or Accessory Structure on an Existing Lot, ((s. This section applies to new single family residences on existing, legal lots where application of this Chapter would preclude reasonable economic use. The Director may modify or waive the requirements pertaining to Critical Areas, including mitigation and buffer requirements, if he or she finds all of the following)) a Wetland or Fish and Wildlife Habitat Conservation Area Buffer Alteration shall be approved when:**
 - ~~((1))~~ **a)** The ~~((proposal is the minimum necessary to accommodate the principal residence, access and necessary appurtenances including, if necessary, well site, septic system and drainfield utilities, provided that the foundation of the principal residence and any accessory structures shall not exceed 2,800))~~ **Buffer Alteration has not and will not exceed cumulatively 2,800** square feet;
 - ~~((2))~~ **b)** ~~((The building footprint, access driveway and utilities are located so as to have the least impact on the Critical Area and its Buffer;))~~ **The Development Proposal is a Reasonable Use of the Lot and the Alteration of the required Buffer has been reduced as required by ICC 17.02.040.C.4.**
 - ~~((3))~~ ~~The proposal does not degrade the functions of Wetlands and Streams beyond that needed to achieve the proposal ;))~~
 - ~~((4))~~ **c)** Adverse impacts resulting from Alterations of a Steep Slope or Geologically Hazardous Area are minimized;
 - ~~((5))~~ **d)** The proposal includes Mitigation required by this Chapter;
 - ~~((6))~~ **e)** Disturbed Critical Areas and their Buffers will be immediately restored consistent with good restoration practices; and
 - ~~((7))~~ **f)** This action does not allow Wetlands or Fish and Wildlife Habitat Conservation Areas or their Buffers to be converted to lawn or residential landscaping.
2. **Reasonable Use. Nothing in this Chapter is intended to preclude Reasonable Use of property. Strict application of the Critical Area regulations contained in this Chapter shall not cause the denial of Uses allowed under Chapter 17.03 ICC including a Single Family Dwelling that does not qualify for an Exception under subsection (1). A Development Proposal that requires an Alteration of a Critical Area or Critical Area Buffer shall be approved when:**
 - a)** **A report on Reasonable Use has been prepared. Unless modified by the**

Planning Director, the report shall include:

- (i) a description of the function and condition of the Critical Area and/or Critical Area Buffer that would be Altered;
- (ii) an analysis of the affect of the Development Proposal on the Critical Area and or Critical Area Buffer;
- (iii) a description of actions that can be taken to modify the Development Proposal to avoid or reduce the Alteration of the Critical Area and/or Critical Area Buffer and a discussion of whether these modifications are practical and reasonable;
- (iv) an explanation of why the Development Proposal should be considered a Reasonable Use considering the size of the Lot, the type of use proposed and similar Uses that either Exist or are allowed within the vicinity of the Development Proposal;
- (v) a Mitigation Plan if a Plan is required by this Chapter.

b) The Development Proposal is a Reasonable Use of the Lot and the Alteration has been reduced as required by ICC 17.02.040.C.4; and

c) The Development Proposal includes Mitigation required by this Chapter.

3. Public Transportation and Utility Projects. Nothing in this Chapter is intended to preclude the installation of a public transportation or utility project. Alteration of a Critical Area or Critical Area Buffer for a public transportation or utility project shall be approved when:

- a) The project is needed to serve Island County residents. A project shall be presumed needed if it is included in the County's Capital Facility Plan;
- b) The Alteration has been reduced as required by ICC 17.02.040.C.4;
- c) To the extent feasible, crossing of naturally vegetated corridors is avoided;
- d) When necessary, culverts are installed to maintain hydrology; and
- e) The project includes Mitigation required by this Chapter.

4. Voluntary Restoration. Some Wetlands and Wetland Buffers were Altered prior to adoption of Wetland regulations (December 31, 1984) or the Alteration occurred after the implementation of Wetland regulations but the Alteration was not regulated. Voluntary Restoration of these Altered Wetlands and Wetland Buffers is encouraged, as well as Enhancement of Wetlands and Wetland Buffers, and shall be approved by the Department upon approval of a specific plan for the voluntary Restoration.

5. Base Density Exception. Critical Area Buffers may be reduced by the County

- Hearing Examiner when a property owner of a ten (10) acre or larger Existing Lot is unable to achieve the base density allowed under Chapter 17.03 ICC due to the requirements of this Chapter. Buffer modification requests under this subsection shall be reviewed under the review procedures set forth for Type III decisions in Chapter 16.19 ICC. Such Buffer modifications may be permitted, when:**
- a) **The owner demonstrates that the lot averaging provisions of Chapter 17.03 ICC, the use of a Planned Residential Development under Chapter 16.17 ICC and the Alteration, Exception or Exemption provisions of this Chapter do not allow the owner to achieve base density;**
 - b) **The owner demonstrates that modification of Critical Area Buffer requirements is the only practical and reasonable option to achieve the base density;**
 - c) **The Alteration has been reduced as required by ICC 17.02.040.C.4; and**
 - d) **The Development Proposal includes Mitigation required by this Chapter.**
- 6. For any Development Proposal that requires an Exception under subsection (1) or (2), the Exception shall not be granted if the need for the Exception is due to action(s) by the applicant or owner after December 31, 1984 (Wetlands) or October 1, 1998 (other Critical Areas) that:**
- a) **Were regulated under this Chapter but did not receive County authorization: or**
 - b) **Were not regulated under the County's Land Division regulations, Chapter 16.06 ICC.**
- 7. For any Development Proposal that is granted an Exception under subsection (1) or (2), the Planning Director may reduce development standards required by Chapter 11.01 and 17.03 ICC when the modification will reduce the otherwise required Alteration. Such modifications shall be considered before reducing standards that protect Critical Areas and may be allowed without requiring a Variance.**
- a) **Zoning Setbacks may be modified as follows:**
 - (i) **One hundred (100) foot Front Yard and fifty (50) foot Side and Rear Yard Setbacks may be reduced up to fifty percent (50%); and**
 - (ii) **All other required Front and Rear Yard Setbacks may be reduced up to ten percent (10%).**
 - b) **Other Development Standards may be modified when public health or safety is not impaired.**

- E. **Exemptions.** The following activities ((~~or~~)) in Critical Areas **or Critical Area Buffers** are Exempt from the provisions of this ((~~section, ICC 17.02.050.A, 17.02.050.C and 17.02.060, where restoration of a disturbed critical area or its buffer requires planting, native species shall be used~~)) **Chapter. Unless noted expressly, Exempt activities do not require review or approval by the Department. All Exempt activities shall be conducted so that any required Alteration is avoided or reduced as required by ICC 17.02.040.C.4. No new permanent intrusion into a Critical Area or Critical Area Buffer is allowed and any temporary Alteration of a Critical Area or Critical Area Buffer that is needed to complete the Exempt activity shall be restored promptly upon completion of the Exempt activity.**
1. **Forest Practices.** Forest practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practice regulations, Title 222 WAC, and which are Exempt from Island County jurisdiction.
 2. **Operation, Maintenance, Reconstruction, Remodeling or Repair. Operation, Maintenance, ((~~or~~)) reconstruction, remodeling or repair of Existing Structures and serviceable infrastructure improvements including, utilities, wells, septic drain fields, public or private roads, paths, bicycle ways, trails, bridges, ditches, dikes, tide gates and ((~~associated~~)) storm drainage facilities when ((~~undertaken pursuant to~~)) Best Management Practices are implemented ((~~to minimize impacts to Critical Areas and to immediately restore a any disturbed Critical Area or its Buffer, provided that reconstruction does not involve expansion of facilities~~)).**
 - ~~((3. Maintenance and repair of Existing serviceable drainage facilities or systems, including, but not limited to, ditches, culverts, catch basins, tidegates and outfalls when undertaken pursuant to best management practices to minimize impacts to Critical Areas and immediately to restore any disturbed Critical Area or its buffer.))~~
This Exemption shall not apply to tidegates which historically drained Wetlands where: (i) lack of maintenance of the tidegate for five (5) consecutive years has allowed positive indicators of Wetland hydrology, ((~~hydrophytic~~)) **Wetland** Vegetation and hydric soils to become established; and (ii) maintenance or repair of the tidegate would result in adverse Alteration of Wetland hydrology.
 - ~~((4. For the following utility activities, when undertaken pursuant to best management practices to minimize impacts to Critical Areas and immediately to restore any disturbed Critical Area or its buffer:~~
 - a) ~~Normal and routine maintenance or repair of Existing utility facilities or rights-of way.~~
 - b) ~~Installation, construction, relocation and replacement, operation, repair, or alteration of all utility lines, equipment, or appurtenances, not including substations, in improved road rights-of way.))~~

- ~~((5))~~ ~~((Reconstruction, remodeling, or Maintenance of Existing Structures. The Exemption shall not apply to reconstruction which is proposed as a result of structural damage associated with a Critical Area, such as slope failure in a Geologically Hazardous Area and does not allow further intrusion into a Wetland, Deepwater Habitat, Fish and Wildlife Habitat Conservation Area or their Buffers))~~
- ~~((6))~~ **3.** Site investigative work. Site investigative work necessary for land use application submittals such as surveys, soil logs, and percolation tests involving no fill or use of heavy equipment in a Wetland, or a Fish and Wildlife Habitat Conservation Area or their Buffers. Provided that ~~((disturbed Critical Areas and their Buffers are immediately restored and))~~ Best Management Practices are implemented and any area ~~((excavation))~~ **excavated** for soil logs or percolation tests is filled pursuant to ICC 8.07C.110.H.3.d).
- ~~((7))~~ **4.** Emergency action. Emergency action necessary to prevent imminent threat or danger to public health or safety, or to public or private property, or serious environmental degradation. The Department shall review all proposed emergency actions to determine the existence of the emergency and reasonableness of the proposed actions taken unless the nature of the emergency is such that it is not possible to first gain approval of the Department, in which case such review must occur within ten (10) days of the conclusion of the emergency work.
- ~~((8. Artificial (Category C wetlands/deep water habitats (ponds).))~~
- ~~9—Flood Control. Operation, maintenance and repair of dikes, ditches, reservoirs, and other structures and facilities which were created or developed as part of normal flood control activities on or prior to December 31, 1984, except that this exemption does not extend to the permanent draining or permanent alteration of any regulated Wetland.~~
- ~~10—Irrigation. Operation, maintenance and repair of ditches, reservoirs, ponds and other structures and facilities which were created or developed as part of normal irrigation activities on or prior to December 31, 1984.)~~
- ~~((11))~~ **5.** Recreational Uses. Swimming, boating and fishing. Construction, placement, maintenance and repair of docks, piers, boat launches and floats in Lakes (provided that the proposed action complies with the requirements of the Shoreline Management Act), in Deepwater Habitats one (1) acre or greater in size when such activities are for recreational purposes and do not involve Alteration of or construction through, over, or in a regulated Wetland.
- ~~((12))~~ **6.** Existing Residential Landscaping and Agriculture. Planting, irrigating, fertilizing, spraying, mowing and pruning and maintenance and repair of yard or garden structures when such activities are part of existing normal residential landscaping activities and no building permit is required. Residential Agriculture includes uses that are considered Accessory Uses under Chapter 17.03 ICC.

Accessory Uses must be incidental to or secondary to a single family dwelling. Examples of Residential Agriculture include vegetable/flower gardens or orchards normally associated with a rural home and animal husbandry involving less than one (1) Animal Unit per two and one-half (2.5) acres. This Exemption does not allow further intrusion into a Wetland, Fish and Wildlife Habitat Conservation Area, Geologically Hazardous Area or their Buffers.

~~((13. All Wetlands/Deepwater Habitats wherein Wetland Vegetation is being maintained only because of man-induced water, and it can be determined that the Wetland Vegetation would no longer exist if the activity (for example, irrigation or pumping water) were to be terminated.))~~

~~((14))~~7. **Selective Vegetation Removal.** Removal **of the following vegetation from Critical Areas and/or Critical Area Buffers** ~~((or destruction of noxious weeds listed in Chapter 16-750 WAC is the responsibility of the landowner,))~~ provided that, the following conditions are met:

- a) The removal or control of noxious weeds **listed in Chapter 16-750 WAC;** **and** ~~((shall follow guidelines issued by the Island County Noxious Weed Control Board. The Island County Noxious Weed Control Board shall coordinate with the Department of Planning and Community Development (in preparation of the guidelines) for the control of noxious weeds in Wetlands;))~~
- b) ~~((38.))~~ **The removal or control of Invasive Species including, Himalayan Blackberry and Evergreen Blackberry shall be with hand labor, herbicides and/or light equipment.** All herbicide applications in aquatic environments shall conform to the rules of the Department of Ecology, Department of Agriculture and Department of Natural Resources, pursuant to Chapters 173-201, 16-228, and 222 WAC; **and**
- c) **All noxious weeds or Invasive Species removed from a Critical Area or Critical Area Buffer shall be removed using Best Management Practices and shall be taken away and disposed of appropriately. Revegetation with appropriate Native plant Species at natural densities is allowed in conjunction with the removal.**

~~((15. All Category A wetlands less than one-fourth (1/4th) acre in size and all Category B wetlands less than one (1) acre in size are exempt from regulation by this section and 17.02.060. Provided that in the Rural (R) Zone, for Parcels that are not devoted to existing and on-going Agriculture, these size thresholds are reduced to one-eighth (1/8th) acre for Category A wetlands and one-fourth (1/4th) acre for Category B wetlands. Provided further there shall be no size exemption for estuarine wetlands regardless of the zone in which it is located.))~~

~~((16))~~8. ~~((Wildlife Nesting Structure.))~~ **Passive Activities. Conservation, recreation, education and scientific research activities within Critical Area**

Buffers including fishing, hiking and bird watching. Installation of fences to protect Habitat is allowed provided Best Management Practices are implemented.

9. Beaver. The trapping and removal of Beaver from Critical Areas or Critical Area Buffers provided no Alteration occurs except the removal of the Beaver dam and the trapping or removal is authorized by the Washington State Department of Fish and Wildlife (DFW) through the issuance of a Hydraulic Project Approval (HPA).

- F. **Alteration.** Unless expressly otherwise authorized by ((sections 17.02.040.C, 17.02.040.D 17.02.050.C, or 17.02.050.A.4.b)) **this** Chapter ((or exempted by section 17.02.040.E,)) any Alteration of a ((wetland,)) Deepwater Habitat, Fish and Wildlife Habitat Conservation Area or their Buffers may be permitted only pursuant to ((the alteration standards in)) ICC ((17.02.050.A,)) 17.02.0((60))**70. No Alteration of a Category A Wetland is permitted unless the activity or Use is treated as an Exception or qualifies for an Exemption. Unless Exempt or treated as an exception, Alteration of all other Wetlands or Wetland Buffers may be permitted only pursuant to ICC 17.02.060.** ((and 17.02.260 and Chapter 16.19 or, if the application of this Chapter would preclude reasonable economic use, by a reasonable use exception pursuant to ICC 17.02.040.G.
- G. ~~**Reasonable Use Exception:** If the application of this section would deny reasonable use of an existing parcel, development may be allowed which is consistent with the general purposes of this section, the public interest, and the following standards:~~
- ~~Nothing in this Chapter is intended to preclude reasonable economic use of property as set forth herein. If an applicant can prove that strict application of the critical areas standards will deny reasonable use, development as conditioned will be permitted if the applicant demonstrates all of the following:~~
- ~~1.— There is no other reasonable economic use or feasible alternative to the proposed development with less impact on the critical area; and~~
 - ~~2.— The proposed development does not pose a threat to public health, safety and welfare on or off the subject property; and~~
 - ~~3.— Any alterations permitted pursuant to the requirements of this Chapter shall be the minimum necessary to allow for reasonable use of the property; and~~
 - ~~4.— The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant in subdividing the property or adjusting a boundary line, thereby creating the undevelopable condition after December 31, 1984 (wetlands) or October 1, 1998 (other critical areas); and~~
 - ~~5.— The proposal mitigates the impacts on the critical area to the maximum extent possible, while still allowing reasonable economic use of the lot.~~

~~A report shall accompany a reasonable use exception proposal which provides information on the function and value of the critical area proposed for alteration, impact of development on the~~

critical and any required buffer, what constitutes a reasonable economic use of the property, steps taken to minimize the impact of the alteration, needed modifications of the code, and other information as deemed necessary.)

~~((H. Physically Separated and Functionally Isolated~~

~~((1. Areas which are both physically separated and functionally isolated from a Critical Area and do not protect the Critical Area from adverse impacts due to Existing public roads, structures, or vertical separation, shall be excluded from buffers otherwise required by this Chapter. The Director shall require a Biological Site Assessment to determine whether the buffer is functionally isolated.))~~

~~((F.))~~**G. Review Process**

1. Single Family ~~((Residence))~~ **Dwelling** on Existing Lot **Exception and Reasonable Use Exceptions. The Exception for a Single Family ((Residence)) Dwelling on an Existing Lot shall be reviewed under the process set forth for Type I decisions in Chapter 16.19 ICC. All Reasonable Use Exceptions shall be reviewed under the process set forth for Type II decisions in Chapter 16.19 ICC.**

~~((2. Permitted Uses and Reasonable Use Exceptions. Permitted Uses and Reasonable Use exceptions shall be reviewed under the process set forth in Chapter 16.19 ICC for the underlying permit decision.))~~

~~((3))~~**2. Alterations and Base Density Exceptions: Alteration((s)) of a Deepwater Habitat, Fish and Wildlife Habitat Conservation Area and Base Density Exceptions shall be reviewed under the process set forth for Type III decisions in Chapter 16.19 ICC.**

~~((4))~~**3. ~~((For all))~~ All other ((developments)) Development Proposals: For all other Development Proposals located on property which ~~((may))~~ contains or is affected by a Critical Area, the applicable Critical Areas regulations shall be applied to the underlying permit through the review process applicable to that permit.**

4. Wetland Map Corrections: Requests to correct a Wetland Map shall be reviewed under the process set forth for Type I decisions in Chapter 16.19 ICC.

5. Rural Stewardship Plan. A Rural Stewardship Plan shall be reviewed under the process set forth for Type I decisions in Chapter 16.19 ICC. Provided, if the Plan is submitted with a Development Proposal, then the Plan will be reviewed through the review process applicable to the Development Proposal.

6. Restoration Plans. Voluntary Restoration Plans shall be reviewed under the process set forth for Type I decisions in Chapter 16.19 ICC. Compliance Restoration Plans required by an Enforcement Order will be reviewed under the review process set forth for Type III decisions in Chapter 16.19 ICC.

~~((F))~~ **H. Assessment.** The Assessor's Office shall consider the protection and Buffering requirements of this ~~((Title))~~ **Chapter** in determining the fair market value of land.

....

~~((E))~~ **J. Monitoring and Adaptive Management.** Monitoring water quality is important to determining whether exemptions and uses permitted under this Chapter, including Existing and On-going Agricultural Activities, are adversely affecting Critical Areas. Commencing in 2006, the Director shall implement an interdepartmental water quality monitoring program and shall report on monitoring to the public, State Agencies and the Board of Commissioners as part of the annual Comprehensive Plan review process. The Water Quality Monitoring Program shall have three components: baseline monitoring, source identification, and adaptive management. A more detailed discussion of the Monitoring Program is contained in the January 2006 Report of Dr. Paul Adamus. This Report is available from Planning and Community Development upon request.

Sampling Wetland Vegetation will be used, in combination with water quality Monitoring to judge the effectiveness of Island County's Critical Areas Ordinance. Without Vegetation information, establishing a water quality baseline in a Wetland may be difficult or impossible.

Both Vegetation and water quality Monitoring are required to determine the overall health of a Wetland. Wetland Vegetation composition is a biological indicator of overall Wetland health, while water quality is a chemical indicator of Wetland health. Obviously, both are mutually dependent and affect each other.

1. Purpose. The primary focus of the County's Water Quality Monitoring Program is to detect and respond to potential sources of contamination of surface water that are adversely affecting Critical Areas. The sources of concern are primarily non-point source contaminants from uses allowed in the rural area of the County. **The Program will also sample Wetland vegetation. Vegetation, together with water quality monitoring will be used to evaluate the effectiveness of Buffers. Monitoring will evaluate the overall risks or effects of various Buffer intrusions from activities such as Exemptions and Exceptions. Standard operating procedures for monitoring Wetland vegetation will be established and incorporated into the County's Water Quality Monitoring Program. These procedures will be refined and adjusted over time as experience is gained in Wetland Monitoring.**
2. Guiding Principles. The following principles shall be used to guide the

implementation of the Water Quality Monitoring Program and adaptive management actions that are used by the County to address Exceedences in Water Quality Standards and Thresholds that are adversely affecting designated Critical Areas.

- a) Monitoring of water quality shall be conducted countywide to establish baseline conditions in both Watersheds that have experienced a low level of alteration and those Watersheds that have experienced the full range of allowed rural uses. **Vegetation Monitoring shall also be conducted for selected Wetlands. Vegetation Monitoring will be conducted yearly when conditions allow for accurate plant species identification and accurate cover percentages to be determined.**
- b) The identification of the source or sources of contamination shall generally follow after commencing monitoring to assess the baseline water quality condition of a Watershed. However, existing data may trigger Compliance Assessment and/or Source Identification when the existing data reliably documents ongoing Exceedences.
- c) Both Baseline Monitoring and Source Identification shall utilize the best available “peer reviewed” protocols for sampling and measuring contaminants, generally those recommended by the Washington State Department of Ecology (WSDOE) and the United States Environmental Protection Agency (USEPA).
- d) Except when authorized pursuant to ICC 17.03.260A, access to private and property to conduct Baseline Monitoring Source Identification shall only occur if the property owner voluntarily consents in writing to such access.
- e) If Baseline Monitoring identifies an Exceedence, the first step initiated by the County will typically be Compliance Assessment to determine whether a source or sources can be readily identified. Subsequently, the County may initiate Source Identification.
- f) All property owners must comply with State water quality standards and WSDOE is charged with the responsibility to initiate enforcement actions when such actions are required under State law. The County will use Water Quality Standards to identify Exceedences and is responsible for addressing adaptive management actions that may be required under this Chapter to ensure that Ag BMPs are effective.
- g) The monitoring program shall be conducted in a manner that encourages the involvement of property owners and voluntary compliance. Educational outreach will be the first action taken by the County after Compliance Assessment or Source Identification determines that an Exceedence is attributable to a specific source or sources.

- h) Adaptive actions initiated by the County to address non-point source contamination that is adversely affecting designated critical areas shall usually be through legislative changes in critical area regulations typically applied county-wide and applicable to new and not Existing Uses.
 - i) When specifically authorized by this Chapter, the Director may order a property owner(s) to modify Best Management Practices being used by Existing and Ongoing Agriculture only when it has been determined through Source Identification that site or area specific management practices need to be modified to address water quality Exceedences that are adversely affecting designated Critical Areas.
 - j) Any order directing that best management practices be modified may be appealed as a Type I decision to the Hearing Examiner by a property owner that is required to modify management practices. Appeals will be governed by this Chapter and Chapter 16.19 ICC.
 - k) Enhancement or restoration projects initiated by the County to address water quality contamination from Existing Uses that are adversely affecting designated Critical Areas shall conform to the conditions established in the Multi-Species Salmon Recovery Plan adopted by the Board of Commissioners in May 2005.
3. Baseline Monitoring. The goal of the County will be to establish baseline surface water quality conditions countywide within five (5) years of the commencement of the Water Quality Monitoring Program.
- a) Monitoring parameters used by the County to establish baseline conditions shall include:
 - (i) Dissolved Oxygen;
 - (ii) Fecal Coliform;
 - (iii) Nitrate;
 - (iv) pH;
 - (v) Phosphorus;
 - (vi) Temperature;
 - (vii) Turbidity;
 - (viii) Conductivity;
 - (ix) Hardness; and
 - (x) Vegetation
 - b) The parameters listed in subsection 3.a) may be changed by the Board from time to time based on data from Baseline Monitoring; changed standards of State or Federal agencies; or the need to assess the potential adverse effect of unlisted parameters on critical areas.
4. Source Identification.

- a) Generally, Source Identification will be initiated after Baseline Monitoring has identified contaminants that exceed County adopted Water Quality Standards or Thresholds.
 - b) Before Baseline Monitoring is completed, the County may initiate Source Identification in some Watersheds, based on existing data that identifies Exceedences and using as a guide the Watershed ranking methodology set forth in the Adamus Report.
 - c) Types of Source Identification shall include in order of typical use:
 - (i) Increase the compilation and analysis of existing data;
 - (ii) Increase the number and changing the location of monitoring sites;
 - (iii) Increase the frequency and changing the timing of monitoring; and
 - (iv) When the above actions prove insufficient, utilize new monitoring methods such as DNA analysis and optical brighteners, tracing or other specialized methods.
5. Water Quality Standards, Thresholds and Trends.
- a) Water Quality Standards are specific measures for a monitoring parameter that, if exceeded, will require immediate action by the County to identify the source of the contaminant. Compliance Assessment will typically be the first step taken after an Exceedence is identified. Source Identification will usually be the second step.
 - b) Water Quality Thresholds are also specific for a monitoring parameter and are set at a more stringent level than a Standard. Exceedence of a Threshold can also result in Source Identification. Not all monitoring parameters will have adopted thresholds.
 - c) Water Quality Trends are established through monitoring a parameter over time. Typically, data are assessed to determine whether a trend exists in a particular Watershed after Baseline Monitoring in that Watershed has been completed. Not all monitoring parameters will have adopted trends. A worsening trend may serve as a basis for initiating Source Identification, while an improving trend may serve as a basis to reduce regulations.
 - d) The Water Quality Standards and Thresholds for perennial streams set forth in Table I shall be used to guide implementation of the Water Quality Monitoring Program.

TABLE I

Water Quality Parameter	Water Quality Standard	Water Quality Threshold	Water Quality Trend
Dissolved Oxygen	>8.0 mg/L	>9.5 mg/L	---
Fecal Coliform	<200 colonies/100 ml	<100 colonies/100 ml	---
Nitrate	<10 mg/L	< 5 mg/L	---
pH	6.5 to 8.5	6.7 to 8.3	---
Phosphorus	---	0.0350 mg/L (for lakes)	---
Temperature	< 18° C	< 17.5° C	---
Turbidity	< 10 NTU over background when background is 50 or less, or a 20% increase when background is >50	< 5 NTU over background when background is 50 or less, or a 10% increase when background is >50	---

- e) Additions and changes to Table I will be made by the Board of Commissioners based on the following criteria:
- (i) Values appropriate for lakes, wetlands and intermittent streams;
 - (ii) Adopted water quality standards for the State of Washington and/or as promulgated by the USEPA;
 - (iii) Values supported by peer-reviewed scientific literature;
 - (iv) Values for the Monitoring Parameter associated with water quality conditions in relatively unaltered contributing areas and Watersheds;
 - (v) Values for the Monitoring Parameter derived from the entire water quality data set for Island County; and
 - (vi) A multiyear trend indicating worsening conditions for the Monitoring Parameter, relative to trends in Reference Watersheds.

6. Adaptive Management. Baseline Monitoring and Source Identification provide information used by the County to assist in determining the effectiveness of the County's Critical Area regulations and BMPs applicable to Existing and Ongoing Agriculture. The adaptive actions that may be triggered could be to make County regulations and BMPs more stringent, less stringent or leave them unchanged. All three outcomes are possible. Adaptive Management actions to address Exceedences that are adversely affecting designated Critical Areas shall conform to the guiding principles set forth in Section L. 2 and shall follow the steps set forth below:
- a) Step 1 - Compliance Assessment/ Source Identification. Compliance Assessment is the first adaptive management action the County will initiate after a Water Quality Standard or Threshold has been exceeded. The purpose of the assessment is to determine whether there is compliance with applicable critical area regulations and/or BMPs are being used. When Compliance Assessment shows that required BMPs have been implemented and are in conformance with critical area requirements, then Source Identification will be initiated to determine the source or sources of the Exceedence.
 - b) Step 2 - Education. If the County determines that an Exceedence in a Water Quality Standard or Threshold is, at least in part, attributable to non-compliance with applicable critical area regulations or failure to implement BMPs, the County will initiate actions to secure voluntary compliance.
 - c) Step 3 - Enforcement. If reasonable efforts to achieve voluntary compliance are not successful, then the County will initiate enforcement actions under ICC 17.02.050 D and 17.03.260.
 - d) Step 4 - Site Specific Change in BMPs. If specifically authorized by ICC 17.02.050, the Director may require a property owner or owners to modify BMPs applicable to Existing and Ongoing Agriculture.
 - (i) This step may be taken when the County determines that specific site conditions on a specific property require a change in BMPs.
 - (ii) This Step shall be taken only when adopted Water Quality Standards are exceeded and the Exceedence is adversely affecting designated critical areas. Any action to initiate site or area specific modification of AG BMPs will be based on recommendations from Conservation Districts, NRCS and/or a certified farm planner.
 - (iii) This Step shall be limited to modifications of BMPs that have been required by this Chapter.
 - (iv) An order of the Director to modify BMPs may be appealed as a Type I decision to the Hearing Examiner by the affected party and, if appealed, the County shall have the burden of demonstrating that the

change(s) in BMP(s) is needed to address the Exceedence in adopted Water Quality Standards. Appeals will be governed by Chapter 16.19 ICC.

- e) Step 5 - Modification of Critical Area Regulations. This step shall be initiated when monitoring indicates that Water Quality Standards or Thresholds are being exceeded; the Exceedence is adversely affecting designated critical areas; and, a change in regulations that are applicable countywide is needed to address the Exceedence. Any modification of critical area regulations will be based on best available science.
7. Reporting. The County will produce annual reports and make them available to the public and State Agencies. These reports will include all Baseline Monitoring data, summary statistics, an assessment of the accuracy and completeness of the data, and a description of data collection issues, if any, identified during the reporting period as well as the following additional information:
- a) A description of all Compliance Assessments and Source Identification actions taken during the reporting period.
 - b) A description of educational outreach actions as well as enforcement actions taken during the reporting period.
 - c) A description of any actions taken to modify BMPs on a site or area specific basis.
 - d) A discussion of Watershed Monitoring priorities for the next reporting period.

K. Critical Area Mitigation

- 1. Mitigation shall be required to compensate for any approved Alteration of a Wetland or Fish and Wildlife Habitat Conservation Area or Buffer for these Critical Areas. Mitigation requirements shall be established after determining that the Alteration cannot be avoided or reduced as required by ICC 17.02.040.C.4.**
- 2. Unless clearly specified otherwise, all Mitigation required under this Chapter shall be based on an approved Mitigation Plan. Mitigation Plan requirements for Wetlands are set forth in ICC 17.02.060 and for Fish and Wildlife Habitat Conservation areas in ICC 17.02.070. All Mitigation shall be Monitored and a Contingency Plan shall be required for any approved Mitigation.**
- 3. Mitigation shall not be implemented until approved by the County. The applicant shall notify the Department when Mitigation has been completed and shall provide the Department reasonable access to the Mitigation to allow inspections during the Monitoring period.**

4. Because it takes time to verify that Mitigation is achieving established goals, the area committed to Mitigation will generally be larger than the area that has been Altered. Mitigation ratios established by this Chapter provide general guidance. However, specific requirements shall be determined by the Planning Director on a case-by-case basis. Re-establishment and Rehabilitation are the preferred forms of Mitigation. These forms of Mitigation should be considered as well as Creation before Enhancement or Preservation is permitted.
5. If Mitigation is required under this Chapter to compensate for the Alteration of a Critical Area or Critical Area Buffer, an applicant shall Monitor the performance of any required Mitigation. If Monitoring identifies that the Mitigation is failing to achieve the goals established in an approved Mitigation Plan, the applicant shall implement the approved Contingency Plan. The Contingency Plan shall constitute new Mitigation and shall meet all requirements for Mitigation required by this Chapter.
6. Conveyance by deed or easement of a Critical Area, its Buffer and Mitigation sites to a land trust, similar conservation organization or governmental agency is encouraged when such conveyance will ensure the long-term Maintenance and protection of the Critical Area or Critical Area Buffer.
7. All Mitigation sites shall be managed to prevent degradation and ensure protection of Critical Area functions in perpetuity. Permanent protection shall be achieved through deed restriction, conservation easement or protective covenant.
8. When feasible and practical, Mitigation should be completed prior to commencing activities that will Alter a Critical Area or Critical Area Buffer. In all other cases, Mitigation shall be completed as quickly as possible following the Alteration. Construction of Mitigation projects shall be timed to minimize impacts to plants and animals. The Director may adjust timing requirements to allow grading, planting, and other activities to occur during the appropriate season(s).
9. Mitigation shall create an encumbrance only on a Lot or Lots owned by the proponent of the Mitigation. Mitigation may encumber or restrict the Use of an adjacent Lot only if the Owner of such Lot consents in writing to the encumbrance or restriction.

L. Critical Area Mitigation: Off-site

1. Generally, all Mitigation shall be on the property containing the affected Critical Area. However, on-site Mitigation is not always the most effective option. Preference shall be given to sites that provide highest ecological benefits and therefore off-site Mitigation or payment in lieu of Mitigation may be preferred over on-site Mitigation.

2. The Planning Director may approve off-site Mitigation if an applicant demonstrates that:
 - a) It is not practical and reasonable to Mitigate on-site; or
 - b) Improved or greater ecological benefits can be achieved by off-site Mitigation.
3. When off-site Mitigation for the Alteration of a Wetland is authorized, the Planning Director shall give first priority to locations within the same Contributing Area and second priority to locations within the same Watershed. Locations outside the Watershed may be considered only if the Planning Director determines that first and second priority locations are not reasonably available for off-site Mitigation
4. The Department may also develop a program for Wetlands and Streams to allow payment of a fee in lieu of providing on-site or off-site Mitigation. The fee program should be available for use when on-site or off-site Mitigation is not practical and reasonable. A fee in lieu of on-site or off-site Mitigation is also appropriate when greater ecological benefits can be achieved through the use of fees. The Mitigation fee program shall include:
 - a) The specific circumstances when payment of a Mitigation fee will be permitted;
 - b) The structure or method for calculating the amount of the Mitigation fee; and
 - c) The specific procedures for establishing locations and Wetland Categories or Types where or for which Mitigation fees may be used.
5. Mitigation Banks may also be established to allow off-site Mitigation to compensate for Alteration of a Wetland or Wetland Buffers. Specific standards and procedures for establishing a Wetland Mitigation Bank are set forth in ICC 17.02.060.J. Wetland Creation will only be authorized through a Wetland Bank.

M. Critical Area Protection

1. Markers and Signs

- a) Critical Areas and Critical Area Buffers shall be shown on all plats, short plats, site plans, or PRDs, together with any conservation easement(s) and appropriate covenants.
- b) Critical Area Buffers shall be measured horizontally and perpendicularly to the edge of the Critical Area on all sides.
- c) Prior to commencing construction for any authorized Development Proposal, temporary markers or signs shall be placed at the outer edge of

any required Critical Area Buffer.

2. Notice on Title. For all approved Development Proposals regulated under this Chapter, the Department shall record a notice with the Island County Auditor. Said notice shall describe the Type of Critical Area found on the property and/or whether any restrictions or conditions have been imposed by the Department. Notice shall also be recorded when a Rural Stewardship plan has been approved.
3. Unless otherwise noted expressly, all Development Proposals may be approved by the County only after the County has applied the Critical Area review criteria set forth in ICC 17.02.040.C.4.

N. Rural Stewardship Plan.

1. The goals of a Rural Stewardship Plan are to:
 - a) Establish a conceptual site plan for the future use of the Lot that improves the stewardship of land resources through voluntary actions;
 - b) Maintain and/or improve natural hydrologic systems and Critical Area Functions;
 - c) Avoid or reduce adverse impacts to Critical Areas and Critical Area Buffers consistent with ICC 17.02.040.C.4;
 - d) Maintain, Restore, Re-establish, Rehabilitate, Create, Enhance and Preserve Habitat and Critical Areas;
 - e) Establish Mitigation for any required Alteration of Critical Areas or Critical Area Buffers; and
 - f) Promote Rural Character and rural lifestyles.
2. Rural Stewardship Plans and amendments to adopted Plans may be approved by the Department for Lots one (1) acre and larger in size when the Plan includes any of the following:
 - a) Low Impact Development techniques to protect Critical Areas from adverse water quality impacts of existing and planned Uses;
 - b) Designation of Habitat based on a Habitat Management Plan;
 - c) Determination of Cleared Area;
 - d) Determination of Best Management Practices if Agricultural Uses are proposed; and
 - e) A site plan for the long term Use of the Lot that establishes Impervious Surfaces and Building footprints.

- 3. A Rural Stewardship Plan is not effective until approved by the Department. Before approval, the County may conduct a site inspection to verify that the Plan is reasonably likely to accomplish the goals for Rural Stewardship Plans.**
- 4. Once approved by the County, all Uses, Structures and activities conducted on the property shall be consistent with the Plan as approved. Any change in Uses, Structures or activities governed by the Plan that the approved Plan does not allow, must first be authorized by a Plan amendment approved by the Department.**
- 5. A Rural Stewardship Plan allows an Owner to be eligible for:**
 - a) A reduction in property tax through the County’s Public Benefit Rating System; or**
 - b) A reduction in the Land Use Intensity that would otherwise be assigned to the Uses and Structures included in the Plan; and**
 - c) An expedited approval process for all Uses and Structures included in the Plan that require County approval of a Development Proposal.**

O. Penalties Enforcement. Any violation of this Chapter shall be enforced by the Planning Director and shall be subject to the enforcement provisions of Chapter 17.03 ICC. Restoration shall be required for any unauthorized Alteration of a Critical Area or Critical Area Buffer pursuant to ICC 17.03.260.I.

....

17.02.050 Overlay Zones

A. **Wetlands (w).** ~~((Wetlands have been initially identified in Island County through the use of the National Wetlands Inventory Mapping System developed by the U. S. Fish and Wildlife Service. This process serves to notify both the property owner and the County of the existence of a Wetland. It does not classify the Wetland nor identify its boundaries.~~

~~In making any determination regarding a Wetland, the text of the ordinance is always controlling.))~~

The State Wetlands Identification and Delineation Manual (March 1997) as it may be amended, shall serve as the technical resource guides for all technical questions concerning Wetland delineation.

Wetlands, Deep Water Habitats and their Buffers shall be regulated in Island County pursuant to the regulations contained ~~((herein))~~ **in this Chapter**. An applicant should be aware that Section 404 of the Federal Clean Water Act and other federal and state statutes may also apply. **If a Development Proposal requires approval under Section 404 and also approval under this Chapter, compliance with conditions established under Section 404 shall also constitute compliance with this Chapter.**

~~(1. Permitted Uses.~~

- ~~a) Uses permitted in the underlying zone are allowed in a wetland, deep water habitat, or surrounding buffers subject to the requirements of this Chapter; and~~
- ~~b) All wetlands/deep water habitats regulated by this Chapter may be used in an emergency situation to provide water to meet fire flow requirements without permission from Island County.~~

~~2. Conditional Uses.~~

- ~~a) Uses conditionally permitted in the underlying zone are allowed in a wetland, deep water habitat, or surrounding buffers subject to the requirements of this Chapter;~~
- ~~b) Alteration of Category A wetlands/deep water habitats or their buffers.
Unless otherwise provided in ICC 17.02.040.F, alteration of a Category A wetland, deep water habitat, or their buffers may be allowed only upon Approval of an alteration when it is determined that:

 - ~~(i) Substantial public benefit will accrue through the alteration; and~~
 - ~~(ii) The public benefit accruing substantially outweighs the public loss occurring through the alteration of the wetland; and~~
 - ~~(iii) There is no reasonable alternative to making the alteration; and~~
 - ~~(iv) All conditions for modifying a Category B wetland can be met.~~~~
- ~~c) Alteration of Category B wetlands/deep water habitats or their buffers.
Unless otherwise provided in ICC 17.02.040.F alteration of a Category B wetland, deep water habitat or their buffers may be allowed only upon Approval of an alteration when it is determined that:

 - ~~(i) The alteration is solely to provide access to a deep water habitat or to expand an existing water dependent use and does not act to degrade the functions of the wetland; or the degradation can be fully mitigated; or~~
 - ~~(ii) Alteration will preserve, improve or protect the functions; and~~
 - ~~(iii) Alteration will comply with the Land Use Standards ICC 17.02.060; and~~
 - ~~(iv) Use of the parcel will comply with all applicable terms and conditions of this Chapter and with other pertinent requirements of the Island County Code; and~~
 - ~~(v) The applicant irrevocably commits to restoration should alteration, in fact, not preserve, improve or protect the functions.~~~~

- d) ~~While it is not the intent of this Chapter to regulate Category C wetlands or Category C deep water habitats (ponds), should any alteration have an adverse impact on a regulated wetland, such alteration is prohibited in the absence of a valid authorization to make the resulting alteration to the regulated wetland.~~
- e) ~~Mitigation may be required as a condition to the approval of any alteration.)~~)
3. ~~Designation Criteria – Wetlands. Wetlands shall be designated Category A, Category B or Category C according to the criteria in subsections a), b), and c) below. As used in this section, the term “regulated wetlands” shall refer to Category A and Category B wetlands.~~
- a) ~~Category A: A wetland is assigned the Category A rating if it is not a Category C wetland, and it meets the following criteria:~~
- ~~(i) Presence of a protected species or an outstanding habitat for a protected species; or~~
 - ~~(ii) The wetland is an estuarine wetland; or~~
 - ~~(iii) Predominance of native wetland species over non-native wetland species; and~~
 - ~~(1) The wetland is one fourth (1/4th) of an acre or greater in size; or~~
 - ~~(2) The wetland is one eighth (1/8th) of an acre or greater in size and located in the Rural (R) Zone.~~
- b) ~~Category B: A wetland is assigned the Category B rating if it meets the following criterion:~~
- ~~(i) The wetland does not meet the criteria for Category A or Category C; and~~
 - ~~(ii) The wetland is one (1) acre or greater in size; or~~
 - ~~(iii) The wetland is one fourth (1/4th) acre or greater in size and located in the Rural (R) Zone;~~
 - ~~(iv) Any Category B wetland that is enhanced through an authorized alteration or mitigation process so that it meets the Category A designation criteria shall continue to be designated as a Category B wetland.~~
- c) ~~Category C: A wetland and/or deep water habitat (pond) may be designated as Category C by the Planning Director on a positive showing through documentation, photographs, statements and/or other evidence, that it was created through human actions that were carried out purposefully to create the wetland or deep water habitat where no wetland before existed. Wetlands created for mitigation purposes will not be considered as Category C.~~
- d) ~~For purposes of establishing buffers pursuant to 17.02.050.A., a single wetland shall be classified into more than one (1) category if distinct areas exist in the wetland which clearly meet the designation criteria of separate categories.~~

4. ~~Setbacks.~~

- a) ~~The following buffers shall be established adjacent to all wetlands:~~
 - (i) ~~Category A Wetlands. Not less than one hundred (100) feet.~~
 - (ii) ~~Category B Wetlands. Not less than twenty five (25) feet, provided the buffer shall be not less than fifty (50) feet for lots or parcels located in the Rural (R) Zone.~~
- b) ~~Minimum Setback: Any use permitted in the underlying zone shall preserve the above stated undisturbed buffer unless the Island County Planning Director determines the proposed use would preserve, improve or protect the wildlife habitat, natural drainage and/or other valuable functions of the wetland or deep water habitat and would be consistent with 17.02.060 and the purposes of this Chapter, whereupon such buffer width may be modified. This determination may be made upon review of a study completed by a biologist, plant ecologist or similarly qualified professional. The study shall be prepared at the applicant's cost. Provided that the Planning Director may also administratively authorize a modification of up to fifty percent (50%) of the buffer width to provide a reasonable buildable area for a single-family residence or accessory building on a lot legally established prior to the effective date of this Chapter.~~
- c) ~~Increased Setback: The width of the wetland buffer may be increased over the required minimum under the following condition:~~
 - (i) ~~When the wetland is especially sensitive, a wider buffer of native vegetation should be provided.~~
- d) ~~General Provisions: The following general provisions shall apply to wetlands or their buffers:~~
 - (i) ~~The buffer width shall be measured perpendicular at any point to the wetland edge.~~
 - (ii) ~~No new lot shall be created that is wholly comprised of wetlands or that would require alteration of a regulated wetland or its buffer to provide a buildable area unless a conservation easement encompassing the lot is established and recorded.~~
 - (iii) ~~In the case of existing lots which encroach into the required buffer, clearing, grading and placement of structures shall respect the required buffer if possible.~~
 - (iv) ~~The wetland edge within the boundaries of the applicant's property shall be shown on all plats, short plats, site plans or PRDs, together with any conservation easement(s) and appropriate covenants. The applicant shall be responsible for such delineation. Such delineation may be based on findings by the Planning staff or, if the applicant disagrees with such~~

findings, on the results of a study by a biologist, plant ecologist or similarly qualified professional which have been certified through the appeal process specified in Chapter 16.19.

~~(v) Development within the buffer shall be limited to passive recreation such as trails or scientific uses and fences or other barriers necessary to protect habitat, unless otherwise approved or exempted under the provisions of 17.02.050.A.4.a).~~

~~(vi) Conveyance of wetlands identified as part of project review to a land trust, the Audubon Society, the Nature Conservancy, the Trust for Public Land or similar organization or governmental agency is encouraged when such conveyance will ensure the long-term protection of the wetlands.~~

~~5. Environmentally Sensitive Areas: Wetlands are hereby declared to be “environmentally sensitive areas” pursuant to WAC 197-11-748 and 197-11-900.~~

....

~~D. Penalties and Enforcement.~~

~~Any violation of 17.02.040 and 17.02.050 shall be enforced by the Planning Director and shall be subject to the enforcement provisions of Chapter 17.03 ICC. The County recognizes that Existing and On-going Agricultural Activities may have to be modified to comply with the County’s Critical Area regulations. The goal of the County is to achieve prompt compliance through the voluntary actions of property owners. Enforcement actions needed to secure compliance shall be proportionate to the impact the Existing and On-going Agricultural Activities have on Critical Areas.~~

~~1. Six months after the effective date of Ordinance C 150-05, all property owners who are conducting Agriculture shall complete and return to the County a questionnaire that establishes when the farming activity was commenced; the location, scope and extent of the farming activity; and whether the farming activity is classified as Low, Medium or High Intensity. Property owners who fail to meet this deadline will be required to comply with the requirements of this Chapter applicable to new uses.~~

~~2. After the effective date of Ordinance C 150-05:~~

~~a) If applicable, a farmer or property owner shall:~~

- ~~(i) Within eighteen (18) months prepare or have prepared a Custom Plan; and~~
- ~~(ii) Within three (3) years implement all actions required by a Custom Plan or;~~
- ~~(iii) Within two (2) years implement BMPs described in a Standard Plan; and~~

~~b) Conservation Districts that receive financial support from the County shall be required to report to the County on the approval and implementation of Custom Plans prepared by the Districts. The County shall make these status reports~~

available to the public periodically on a schedule that coincides with the compliance deadlines established by this section.

3. ~~In addition to the remedies provided for in Chapter 17.03 ICC, a farmer or property owner who continues to fail to prepare a Custom Plan; or fails to maintain BMPs described in a Standard Farm management Plan or a Record of Decision shall be required to comply with all the Critical Area regulations of Chapter 17.02.ICC~~
4. ~~When monitoring, required by this Chapter, shows an exceedence in adopted water quality standards that is damaging Critical Areas and is attributable to Existing and On-going Agricultural Activities, the Planning Director shall promptly order that the specific activities identified as contributing to the exceedence in water quality standards be modified or terminated.~~

~~F. Airport and Aircraft Safety (as) (Reserved)~~

~~G. Water Resources (wr) (Reserved)~~

~~H. Critical Drainage (ed) (Reserved)~~

~~I. Historic (h) (Reserved)~~

17.02.060 Wetlands

A. Wetland Mapping

1. The Department shall maintain and update Maps that depict the location and Type of all known Wetlands in Island County. These Maps will be available at the offices of the Department and used as a guide to identify and locate Wetlands. The Planning Director shall propose and the Board of Commissioners shall adopt an administrative procedure for the update of Wetland Maps.
2. The term Wetland is defined in ICC 17.02.030 as well as the specific Types of Wetlands that are listed as Category A, B and C Wetlands. Most of these Wetland Types have been mapped by the County and these Maps shall serve as a guide for determining the general location of Wetlands. However, for all Wetlands, the written definition established in the CAO shall control and Wetlands shall be regulated based on site-specific conditions and not the Department's Wetland Maps.
3. At any time, an Owner can provide the Department information prepared by a Wetland Professional to correct or clarify the County's Wetland Maps for property he or she owns. When the Planning Director finds that a Map is in error, a correction shall be approved as a Type I decision pursuant to Chapter 16.19 ICC.

B. Wetland Reports.

- 1. A Wetland Report shall be prepared for all Development Proposals that the County determines may Alter a Wetland or Wetland Buffer and are not treated as an Exception or are not Exempt. If requested by an applicant for a Single Family Dwelling and/or Accessory Structure, the County shall complete a site evaluation to determine the Type and location of the Wetland as well as establish the Mitigation Plan for any proposed Alteration that is required for the Development Proposal. Otherwise a Wetland Report shall be prepared by a Wetland Professional.**
- 2. Unless the Planning Director establishes the scope and content of a Wetland Report, the Report shall at a minimum include:**
 - a) A brief detailed description of the Development Proposal;**
 - b) A description of assumptions and methodologies used to complete the analysis and appropriate documentation of all fieldwork;**
 - c) A description of the Wetland Type, its specific location and the Buffer that is appropriate for the Wetland;**
 - d) If an Alteration is proposed for the Wetland or Wetland Buffer, the Wetland Report shall describe actions that have been considered to avoid or reduce any Alteration; and**
 - e) If an Alteration is proposed, a Wetland Mitigation Plan.**

C. Land Use Intensity. The appropriate Buffer for a Wetland will, in part, be determined based on the intensity of a Development Proposal. Land Use Intensity shall be judged by the Department on a case-by-case basis for Development Proposals that contain or are affected by a Wetland or Wetland Buffer. Generally, the Department's intensity determination shall be based on all of the guidelines set forth below.

- 1. Uses and Structures will be classified in the highest classification for which they qualify. For example a low intensity Use or Structure under subsection 2 may receive a higher intensity classification due to Cleared Area. In turn, a Use or Structure that is classified as high intensity under subsection 2 may ultimately be classified in a lower intensity category because of Cleared Area or pursuant to Subsection 4. Land Use Intensity determinations shall be reviewed under the review process applicable for the Development Proposal.**

2. Land Use Intensity shall first be determined based on Use or type of Structure using the following guidelines:

- a) **All new Uses and Structures located on Lots less than one (1) acre in size shall typically be classified as high intensity;**
- b) **All new Agricultural Uses shall be classified high, medium or low intensity as defined in ICC 17.02.030. All new Agriculture Structures shall be classified in the same manner as Non-Residential Structures;**
- c) **All new Non-Residential Uses and Structures located on Lots between one (1) acre and four and one half (4.5) acres in size shall typically be classified as high intensity and medium intensity when located on Lots larger than four and one half (4.5) acres;**
- d) **All new Residential Uses and Structures located on Lots between one (1) and four and one half (4.5) acres in size shall typically be classified as medium intensity; and**
- e) **All new Residential Uses and Structures located on Lots over four and one-half (4.5) acres in size shall typically be classified as low intensity.**

3. Second, intensity will be determined based on Cleared Area:

<u>Lot Size/ Intensity</u>	<u>Cleared Area</u>		
	<u>High</u>	<u>Medium</u>	<u>Low</u>
<u>Lot Size greater than 1</u>	<u>Exceeds 50%</u>	<u>Less than 50%</u>	<u>Less than 10%</u>
<u>Lot Size exceeds 4.5 acres</u>	<u>Exceeds 35%</u>	<u>Less than 35%</u>	<u>Less than 25%</u>

4. Any new Use or Structure classified as medium or high intensity may be classified in a lower intensity classification by the Department if the Use or Structure is modified to reduce potential adverse impacts to a Wetland. Measures to modify intensity may include:

- a) **For water quality, the Development Proposal incorporates integrated management practices set forth in the January 2005, *Technical Guidance Manual for Low Impact Development*;**
- b) **For Habitat, the Development Proposal incorporates recommendations contained in a Habitat Management Plan prepared by a Wetland Professional; and**
- c) **For water quality and Habitat, a Standard or Custom Farm Management Plan or a Rural Stewardship Plan is prepared for the Lot.**

5. When a Development Proposal contains more than one Use and the Uses are of differing Land Use Intensity, the Development Proposal shall be classified in the intensity classification that provides the greatest protection to the Critical Area.

D. Wetland Classification System. Wetlands shall be classified based on the Type of the Wetland and will be regulated based on the Wetland Type.

1. Wetlands that are less than 1,000 square feet (approximately equal to a circle with a radius of 17.5 feet) in surface area are not regulated by this Chapter unless:

- a) The Wetland is considered a Mosaic Wetland; or**
- b) The Wetland is known to contain either a Protected Species or a Species of Local Importance; or**
- c) The Wetland is a Poned Wetland.**

2. Buffers shall be required for all Category A Wetlands 1,000 square feet or larger in surface area. Buffers shall be required for Category B and C Wetlands that are less than 5,000 square feet in surface area and for Category D Wetlands less than 10,000 square feet in surface area when:

- a) The Wetland is regulated under this Chapter; and**
- b) The Wetland received a Habitat Rating System score of 21 or greater.**

<u>WETLAND CATEGORY</u>	<u>WETLAND TYPE</u>
<u>A</u>	<ul style="list-style-type: none"> • <u>Bogs</u> • <u>Coastal Lagoon Wetlands</u> • <u>Delta Estuary Wetland</u> • <u>Mature Forested Wetlands</u>
<u>B</u>	<ul style="list-style-type: none"> • <u>Large Non-Estuarine Poned Wetlands</u> • <u>Anadromous Fish Stream Wetlands</u> • <u>Wetland Associated with a Bog or Coastal Lagoon or Delta Estuary</u>
<u>C</u>	<ul style="list-style-type: none"> • <u>Other Estuarine Wetlands</u> • <u>Resident Salmonid Stream Wetlands</u> • <u>Native Plant Wetlands</u>
<u>D</u>	<ul style="list-style-type: none"> • <u>All Wetlands not otherwise classified</u>

E. Wetland Buffers. Habitat and water quality are specific Wetland Functions used to establish a Wetland Buffer. Wetland water quality Buffers shall be established based on the Wetland's sensitivity to disturbance and the Land Use Intensity proposed by a Development Proposal. Habitat Buffers shall be established using a Habitat Rating System and Land Use Intensity. The Habitat Rating System shall allow a property owner and/or a Wetlands Professional to evaluate the character and relative quality of Habitat located on his/her property for Wetland Dependent Species. Water quality and Habitat Buffers are set forth in Tables 1 and 2 below. For any Wetland, the larger of the applicable water quality or Habitat Buffer shall be required, unless the Development Proposal is treated as an Exception or is an Exempt activity, or the Buffer is modified pursuant to ICC 17.02.060.F.

1. Water Quality Buffers are established in Table 1 as follows:

<u>TABLE 1</u>						
	<u>Wetland Sensitivity</u>		<u>Wetland Category</u>			
<u>Land Use Intensity</u>	<u>Wetland Outlet</u>	<u>Small Contributing Area</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
<u>Low</u>	<u>Yes</u>	<u>No</u>	<u>40</u>	<u>35</u>	<u>30</u>	<u>20</u>
		<u>Yes</u>	<u>50</u>	<u>40</u>	<u>35</u>	<u>25</u>
	<u>No</u>	<u>No</u>	<u>75</u>	<u>50</u>	<u>40</u>	<u>30</u>
		<u>Yes</u>	<u>100</u>	<u>75</u>	<u>50</u>	<u>35</u>
<u>Moderate</u>	<u>Yes</u>	<u>No</u>	<u>75</u>	<u>65</u>	<u>55</u>	<u>30</u>
		<u>Yes</u>	<u>90</u>	<u>75</u>	<u>65</u>	<u>40</u>
	<u>No</u>	<u>No</u>	<u>105</u>	<u>90</u>	<u>75</u>	<u>50</u>
		<u>Yes</u>	<u>125</u>	<u>105</u>	<u>90</u>	<u>60</u>
<u>High</u>	<u>Yes</u>	<u>No</u>	<u>125</u>	<u>110</u>	<u>90</u>	<u>40</u>
		<u>Yes</u>	<u>150</u>	<u>125</u>	<u>110</u>	<u>50</u>
	<u>No</u>	<u>No</u>	<u>175</u>	<u>150</u>	<u>125</u>	<u>60</u>
		<u>Yes</u>	<u>200</u>	<u>175</u>	<u>150</u>	<u>70</u>

2. Water quality Buffers established in Table 1 shall apply only to a Wetland's Contributing Area. For the non-Contributing Area of a Wetland, the Buffer shall be determined by the Habitat Rating System.

- 3. For Development Proposals with a Contributing Area that is sloped between the Development Proposal and the Wetland, the water quality Buffer established in Table 1 shall be increased between the Wetland Edge and the Development Proposal using the following multipliers:**

<u>Slope Gradient</u>	<u>Highly Erodible Soils</u>		
	<u>10-29%</u>	<u>30-50%</u>	<u>>50%</u>
<u>5-14%</u>	<u>+ 10%</u>	<u>+ 20%</u>	<u>+30%</u>
<u>15-40%</u>	<u>+ 20%</u>	<u>+ 30%</u>	<u>+40%</u>
<u>>40%</u>	<u>+50%</u>		

- 4. Habitat Buffers shall be determined based on the score achieved through the County’s Habitat Rating System. Habitat Buffers are established in Table 2 as follows:**

<u>TABLE 2</u>			
<u>Land Use Intensity</u>	<u>Habitat Functions Score</u>		
	<u>Score = 32 or higher</u>	<u>Score = 21 to 31</u>	<u>Score < 21</u>
<u>Low</u>	<u>150</u>	<u>75</u>	<u>Use Table 1 above</u>
<u>Moderate</u>	<u>225</u>	<u>110</u>	
<u>High</u>	<u>300</u>	<u>150</u>	

- 5. Except for Mitigation Banks, no Buffers shall be required for voluntary Wetland and Wetland Buffer Restoration.**
- 6. For Wetlands regulated by this Chapter, Mitigation shall be required for the approved Alteration of any Wetland or Wetland Buffer and pursuant to ICC 17.03.260, Restoration shall be required for any unauthorized Alteration of a Wetland or Wetland Buffer.**
- 7. Permissible Maintenance activities for Wetland Buffers shall be specified in the approval conditions for a Development Proposal. Otherwise Buffers shall remain undisturbed or, if Re-established, Rehabilitated, Created or Enhanced, in the condition established after completion of the approved activity.**

F. Wetland Buffer Modification. After applying the Critical Area review criteria set forth in ICC 17.02.040.C.4, the Planning Director shall have the authority to modify Wetland Buffers on a case-by-case basis as follows:

- 1. In lieu of a Buffer reduction, Buffer Averaging may be approved when:**

- a) The total area contained in a Buffer after averaging is not less than that which would be contained within the Buffer if Buffer averaging was not permitted; and
 - b) Buffer averaging does not reduce Wetland Functions;
 - c) The minimum Buffer for a Category A or B Wetland shall not be less than seventy-five (75) percent of the required Buffer or thirty-five (35) feet, whichever is greater; and
 - d) The minimum Buffer for a Category C or D Wetland shall not be less than fifty (50) percent of the required Buffer, or twenty (20) feet, whichever is greater.
2. A Wetland Buffer may be increased when the increase is needed to protect Wetland Functions. For example, a Buffer may need to be larger to compensate for a lack of Buffer vegetation and Buffer Re-establishment, Rehabilitation, Creation or Enhancement is not practical and reasonable.
3. In lieu of Buffer averaging, a Wetland Buffer may be reduced when:
- a) A legally established road crosses a Wetland Buffer and the portion of the Buffer located on the side of the road opposite the Wetland does not protect Wetland Functions; or
 - b) An assessment prepared by the County or Wetland Professional documents that a reduction in the Wetland Buffer will not modify Wetland Functions; or
 - c) A Rural Stewardship Plan or Custom Farm Plan is approved.

G. Wetland Mitigation Standards:

1. Wetland Alterations. No Alteration of a Category A Wetland is permitted unless the activity or Use is treated as an Exception or qualifies for an Exemption. Compensatory Mitigation for all other Wetland Alterations shall be through projects that Re-establish, Rehabilitate, Create, Enhance or Preserve equal or improved Wetland Functions. Compensation for Wetland Alterations shall occur in the following order of preference:
- a) Re-establishing Wetlands on sites that were formerly Wetlands. These sites commonly exist on Soils classified as hydric by the NRCS;
 - b) Rehabilitating Wetlands by repairing or restoring natural and/or historic Wetland Functions;
 - c) Creating or establishing Wetlands on upland sites such as those consisting primarily of non-native, invasive plant species or to expand on existing Wetland;

- d) Enhancing degraded Wetlands;**
 - e) Providing a fee established by the County in lieu of on-site or off Mitigation; or**
 - f) Preserving, protecting or maintaining Category A, B or C Wetlands that are under imminent threat of significant and undesirable ecological change. Provided that, Preservation shall only be allowed on sites in the Altered Wetland's Watershed; and when the Planning Director determines that the overall Mitigation Plan replaces the Wetland Functions lost due to the Development Proposal with improved Wetland Functions.**
- 2. Buffer Alteration. Compensatory Mitigation for any Wetland Buffer Alteration shall be determined by the Planning Director on a case-by-case basis. Buffer Mitigation may include any action that can achieve equal or improved protection for the Wetland Functions. Mitigation preferences are the same as for Wetland Mitigation.**
- 3. Mitigation by Re-establishing, Rehabilitating, Creating, Enhancing or Preserving Wetlands or Wetland Buffers is encouraged to be completed in advance of a Development Proposal and must be based on a Mitigation Plan approved by the Department.**

H. Wetland Mitigation Ratios

- 1. Compensatory Mitigation for Wetland Alterations shall be based on the Wetland Category, the type of Mitigation activity proposed and the magnitude of the Alteration. Mitigation shall be determined according to the ratios provided in the table below.**

Wetland Category	Standard Mitigation Ratio*		
	Re-establishment or Creation	Rehabilitation	Enhancement
A**	6:1	10:1	20:1
B	3:1	6:1	12:1
C	2:1	4:1	8:1
D	1:1	2:1	4:1

* Ratio is the Mitigation area: area of Alteration

** Alteration of a Category A Wetland is allowed only for Development Proposals that qualify for an Exception or Exemption

- 2. Mitigation ratios for Wetland Preservation shall be determined by the Planning Director on a case-by-case basis. Generally, the Mitigation ratio for Preservation will be greater than 20:1 because Preservation is the last priority Mitigation option. However, Preservation of a higher Category Wetland would allow the Mitigation Ratio to be reduced. A lower ratio may also be allowed when Preservation is combined with other types of Mitigation.**
- 3. Unless the activity is voluntary, a Wetland that is Re-established, Rehabilitated, Created, Enhanced, or Preserved shall have an adequate Buffer to ensure its protection. The Buffer shall be based on the Category of the Re-established, Rehabilitated, Created, Enhanced or Preserved Wetland.**
- 4. The Planning Director shall have the authority to reduce the Wetland Mitigation ratios by up to forty percent (40%):**
- a) **When meeting the required ratios would adversely affect other natural and valuable characteristics of an otherwise appropriate and suitable Mitigation site; or**
 - b) **When the Mitigation has been completed in advance of the proposed Alteration and has successfully established equal or improved Wetland Functions; or**

- c) The applicant demonstrates that:
 - (i) the proposed Mitigation has a very high likelihood of success; and
 - (ii) the proposed Mitigation will provide Wetland Functions that will be significantly greater than the Functions of the Wetland being Altered;
or
 - d) When the proposed Mitigation involves replacing Non-Native Species with Native Species or Habitat for Wetland Dependent Species is being Re-established, Rehabilitated, Created or Enhanced.
5. Mitigation ratios for Wetland Buffer Alterations shall be determined by the Planning Director on a case-by-case basis. Generally, the Mitigation ratio shall be at a 1:1 ratio but shall be established based on the nature and extent of the Buffer intrusion and the Wetland Type.
6. The Planning Director shall also determine, on a case-by-case basis, Mitigation ratios for temporary Alterations of Wetlands or Wetland Buffers or the conversion of a Wetland from one Wetland Type to another. Generally, these ratios will be 1/4 (Temporary Alteration) to 1/2 (Conversion to another Wetland Type) of the ratios for permanent Alterations.
- I. Wetland Mitigation Plan. Unless a fee in-lieu of Mitigation is allowed, Wetland Mitigation shall be based on a specific plan. If requested by an applicant, the County shall prepare the Mitigation Plan for a Single Family Dwelling or Accessory Structure including Development Proposals reviewed under ICC 17.02.040.D.1. Otherwise, the Mitigation Plan shall be prepared by a Wetland Professional. Typically, a Wetland Mitigation Plan shall include the following:
- 1. The plan shall be based on applicable portions of the Washington State Department of Ecology's *Guidelines for Developing Freshwater Wetland Mitigation Plans and Proposals*, 2004 or other appropriate guidance document that is consistent with Best Available Science.
 - 2. Typically, if a Wetland Report is prepared, and an Alteration is proposed, then the Mitigation Plan shall be included with the Wetland Report. The Plan shall contain sufficient information to demonstrate that the proposed activities are logistically feasible, constructible, ecologically sustainable, and likely to succeed. Unless the Planning Director establishes the scope and content of a Mitigation Plan, the Plan shall include:
 - a) A detailed description of the proposed Mitigation and the rationale for the selection of the Mitigation site. If off-site Mitigation is proposed, an explanation of why on-site mitigation is not practical and reasonable;

- b) An assessment of Existing site conditions for the Mitigation site including Vegetation type, Structure and composition; topography, hydrology and soil conditions; Existing Wetland Functions if any; and for off-site Mitigation, an estimate of future conditions of the site should Mitigation not occur;
 - c) A grading and planting plan showing proposed post-construction topography hydrologic patterns, spacing and distribution of plants, species, actions to provide or improve Habitat, size and type of proposed plant stock, irrigation and other information that is relevant to the proposed Mitigation;
 - d) A management plan that includes Mitigation goals, benchmarks and review criteria; site treatment measures for the maintenance of the Mitigation; and legal documents to be recorded after approval of the Plan;
 - e) A Monitoring Plan that specifies the standards and time period that will be used to Monitor whether the Mitigation is successful; and
 - f) A Contingency Plan that establishes the actions that will be taken should Monitoring identify that the Mitigation is not achieving the established benchmarks.
3. All Mitigation projects shall be Monitored for a time period necessary to establish that Mitigation goals and benchmarks have been met. The Monitoring time period shall be established based on the type, complexity and uncertainty of the proposed Mitigation. The Planning Director shall have the authority to extend the Monitoring period for up to ten (10) years.
4. Reports shall be submitted at a frequency established by the Planning Director for the Monitoring time period to document the achievement of Mitigation goals and benchmarks and recommended actions relating to the Mitigation.
- J. Wetland Mitigation Banks. The County may approve Mitigation in advance of Development Proposals through an approved Mitigation Bank. Mitigation Banks may be approved by the County when:**
- 1. Re-establishment, Rehabilitation, Enhancement, Protection or Creation of a Wetland or system of Wetlands significantly enhances the ability of the County to maintain healthy, functioning ecosystems;
 - 2. The organizational, fiscal and professional capability of the proponent is demonstrated;
 - 3. The feasibility of a long term management plan is demonstrated;
 - 4. The clear potential for success is demonstrated; and

5. The bank is certified under Chapter 173-700 WAC.

6. Once approved by the County, credits from a Wetland Mitigation Bank may be used to Mitigate the Alteration of a Wetland within the service area established for the Bank when use of the Bank for Mitigation is determined by the Planning Director to be appropriate for the approved Wetland or Wetland Buffer Alteration.

17.02.~~((060))~~ 070 Alteration of ~~((Wetlands,))~~ Deepwater Habitats, Fish and Wildlife Habitat Conservation Areas and Their Surrounding Buffers

A General standards: These standards shall apply to all applications for an Alteration pursuant to ICC 17.02.040.F of a regulated ~~((Wetland))~~ Deepwater Habitat, or Fish and Wildlife Habitat Conservation Areas or their Buffers, unless modified by the Planning Director upon a determination that the anticipated Alteration will preserve, improve and/or protect the wildlife habitat, natural drainage and/or other natural functions of the ~~((Wetland,))~~ Deepwater Habitat or Fish and Wildlife Habitat Conservation Areas and will be consistent with the purposes of this Chapter without strict application of said standards. This determination may be made upon review of a study completed by a biologist, plant ecologist or similarly qualified professional. The study shall be prepared at the applicant's cost. ~~((As used in this section, wetlands shall refer to Category A and Category B wetlands.))~~

1. Water quantity and quality. Uses permitted adjacent to ~~((wetlands and))~~ Deepwater Habitats shall control stormwater runoff and protect the natural movement of water according to the following provisions:

~~((a) General provisions))~~

~~((i))~~**a** All surface water directed into ~~((wetlands and))~~ Deepwater Habitats shall be passed through a vegetated detention pond or other stormwater management system incorporating a grass-lined swale approved by the Island County Engineer in order to remove sediments;

~~((ii))~~**b** The best available treatment practices shall be used to remove toxic wastes, petrochemicals or other pollutants from stormwater before it enters any ~~((wetland or))~~ Deepwater Habitat;

~~((iii))~~**c** The velocity of stormwater runoff entering a ~~((Wetland or))~~ Deepwater Habitat shall be limited to pre-development levels;

~~((iv))~~**d** Where possible, natural water level fluctuations in ~~((wetlands or))~~ Deepwater Habitats shall be minimized during spring breeding season (April through June);

~~((v) Category A and Category B wetlands shall not be modified to function as stormwater retention/detention sites.)~~

- b) ~~Category A wetlands. In wetlands rated Category A with no natural point of inflow (i.e., stream), any surface water directed towards the wetland as a result of an approved drainage plan shall filter through the water table or a drain field to avoid erosion and excess nutrient inflow.)~~
2. Human access. The following ~~((provisions))~~ shall apply to controlling human access and encouraging appropriate use ~~((in wetlands))~~:
- ~~((a))~~ No motorized vehicles shall be allowed within ~~((a wetland,))~~ a Fish and Wildlife Habitat Conservation Area or its Buffer, except when ~~((allowed through Use Approval or as provided in section 17.02.050.A.4 and/or as the wetland or buffer may be traversed by a public or private roadway which existed on or before December 31, 1984 and))~~ the Fish and Wildlife Habitat Conservation Area may be traversed by a public or private roadway which existed on or before October 1, 1998;
- ~~((b))~~ ~~Any trails within a wetland shall be constructed with minimum disruption to habitat.)~~
- ~~((3.))~~ ~~Corridors. Where possible, wetlands should be connected to Streams, to other wetlands or to undeveloped areas such as forest or Puget Sound by undisturbed corridors.)~~
- B. Alteration Approval standards. Alteration of ~~((a wetland,))~~ a Deepwater Habitat, Fish and Wildlife Habitat Conservation Area or their Buffers may be permitted only by Alteration Approval unless otherwise authorized in this Chapter. If such development is permitted, the following development standards shall apply:
1. If Alteration in fact will not preserve, improve or protect the functions of the ~~((wetland,))~~ Deepwater Habitat, Fish and Wildlife Habitat Conservation Area or their Buffers, then a determination shall be made that Mitigation or Restoration is feasible, and that the Mitigation or Restoration requirements of ICC 17.02.~~((060))~~ **040** and/or 17.03.260 pertaining to a plan, Monitoring and a bond or other security can be met; if such determination cannot be made, no Alteration shall be authorized.
2. When Mitigation is required as a condition of approval of ~~((a wetland))~~ Fish and Wildlife Habitat Conservation Areas Alteration, the following requirements shall apply:
- a) An ecological assessment of the ~~((wetlands or))~~ Fish and Wildlife Habitat Conservation Areas to be lost or adversely Altered shall be made, at the expense of the applicant, to determine the gross area of loss and the functions, habitat, and types, sizes and quantities of vegetation lost.
- b) A Mitigation Plan shall be prepared by the applicant and approved by the Planning Director. ~~((, and in the event the construction of a new wetland is included as a part of that plan, the earth moving, hydrology and vegetation~~

~~planting requirements of the plan will be completed prior to the commencement of the proposed Alteration))~~ The Planning Director may call on state or other agencies to provide technical support in evaluating the plan. The Mitigation Plan shall include but not be limited to, the following:

- (i) Statements of goals. Such statements shall include a discussion of the functions and values lost and those planned for replacement;
 - (ii) Methods. Information discussing “what, where, when and how,” i.e., acreage of Mitigation(~~(,wetland)~~) or other habitat types to be constructed/restored, location, dates for beginning and completing the project, methods of construction and maintenance requirements shall be included.
 - (iii) Standards of success. A qualitative and, to the extent possible, a quantitative description of what will be considered a successful, functioning (~~(wetland or)~~) Fish and Wildlife Habitat Conservation Area shall be provided.
- c) Monitoring. Same as requirements set forth in 17.03.270.I.2.
 - d) Contingency Plan. A plan which complies with the requirements of 17.03.270.I.1 may be required by the Planning Director to outline restorative measures to be taken should the Mitigation fail or only partially succeed.
 - e) Bonding. A performance bond or other security in an amount to enable the County to carry out the Mitigation Plan should the applicant fail to do so shall be required.
3. The project should be located or designed to avoid habitats including wintering, breeding, rearing, feeding and nesting habitats and migration routes;
 4. Native vegetation to replace lost Habitat for a particular species shall be planted;
 5. Artificial resting, hiding and breeding sites to replace losses shall be constructed;
 6. Aquatic substrate may be Altered to produce an increase in fish (~~(,waterfowl, and shorebird organisms)~~) **or wildlife** to replace losses;
 7. Dredge and/or fill of a (~~(wetland,)~~) a Deepwater Habitat, Stream, or their Buffers shall not be permitted unless:
 - a) The benefits of the proposed use outweigh the **adverse** impacts associated with the proposed use or the proposed use is water-dependent; and,
 - b) Mitigation areas will be provided which have greater value as a (~~(wetland,)~~) Stream, or Habitat than the area lost; and,
 - c) The amount dredged or filled is the minimum necessary to accomplish the proposed use; and,

- d) Dredging is not solely for the purpose of obtaining fill; and,
 - e) Leachate from polluted dredge spoil will be treated and will not enter surface waters; and,
 - f) The project is timed to avoid interference with fish and wildlife migrations, rearing, spawning or nesting.
8. Habitat replacement should provide an insurance factor to take into account the risk of Mitigation and the loss of fish and wildlife until the Mitigation site becomes productive;
 9. Cumulative **adverse** impacts of the proposed development shall be considered. Thus development shall not be considered a precedent allowing further development; and,
 10. Where possible, development should be located in the Buffer rather than the ~~((wetland or))~~ Fish and Wildlife Habitat Conservation Areas.

17.02.~~((070))080~~ Severability

If any provision or provisions of this Chapter or its/their application to any person or circumstances is held invalid, the remainder of this Chapter or the application of the provision or provisions to other persons or circumstances shall not be affected.

17.02.090 Effective Date

These amendments to Chapter 17.02 ICC shall go into effect ninety (90) days after enactment or, if challenged by administrative or judicial appeal, then the effective date for these amendments shall be ninety (90) days after they have been found compliant with Chapter 36.70A RCW.

PROTECTED SPECIES

	Common Name	Classification
Fauna:		
<u>Eumetopias jubatus</u>	northern sea lion	threatened
<u>Haliaeetus leucocephalus</u>	bald eagle	threatened
((<u>Pandion haliaetus</u>)) <u>Falco peregrinus</u>	peregrine falcon	endangered
<u>Eschrichtius glaucus</u>	gray whale	sensitive
<u>Brachyramphus marmoratus marmoratus</u>	marbled murrelet	threatened
Flora:		
<u>Agroseris elata</u>	tall agroseris	sensitive
((<u>Aster eurtus</u>)) <u>Seriocarpus rigidus</u>	white-top aster	sensitive
<u>Castilleja levisecta</u>	golden indian paintbrush	endangered
<u>Circuta bulbifera</u>	bulb bearing water hemlock	sensitive
<u>Fritillaria camschatcensis</u>	black lily	sensitive
<u>Meconella oregana</u>	white meconella	
((<u>Puccinella</u>)) <u>Puccinellia nutkaensis</u>	Alaska alkaligrass	sensitive

((NON-NATIVE WETLAND SPECIES

<u>Iris pseudocorus repens</u>	Yellow Iris
<u>Juncus effusus</u>	Soft Rush
<u>Myriophyllum spicatum</u>	Eurasian Millfoil
<u>Ranunculus repens</u>	Creeping Buttercup
<u>Phalaris arundinacea</u>	Reed Canarygrass

SPECIES OF LOCAL IMPORTANCE

	<u>Common Name</u>	<u>Protected Habitat</u>
Fauna:		
<u>Ardea herodias</u>	great blue heron	nests
<u>Gavia immer</u>	common loon	nests
<u>Pandion haliaetus</u>	osprey	nests
<u>Dryocopus pileatus</u>	pileated woodpecker	nests
<u>Cygnus buccinator</u>	trumpeter swan	

HABITATS OF LOCAL IMPORTANCE

Bos Lake	Newman Road Lakes	Penn Cove
Crockett Lake	Cultus Bay Flats	Hastie Lake
Deer Lagoon	Whidbey Island Game Farm	Useless Bay

Exhibit C

Chapter 16.19

Land Use Review Process

EXHIBIT C

Chapter 16.19 Land Use Review Process

16.19.040 Application/Decision Types, Permit Classifications, and Urban Growth Area/Joint Planning Area Procedures

- A. Application Types. Applications and decisions for review pursuant to this Chapter shall be categorized as a Type I, II, or III decision as set forth in Table A.

TABLE A

APPLICATION/DECISION TYPES				
	I	II	III	IV
Type of Decision	Ministerial	Administrative	Quasi-Judicial	Legislative
Pre-Application Conference	Optional	Optional	Required	N/A
Final Decision or Recommendation	Planning Director or Public Works Director	Planning Director or Public Works Director	Hearing Examiner	Planning Commission or Hearing Examiner
Notice of Application	No	Yes	Yes	N/A
Open Record Predecision Hearing	No	No	Yes	N/A
Open Record Appeal Hearing	Yes*	Yes	No	No
Closed Record Appeal	No	No	Yes	No
Judicial Appeal	Yes	Yes	Yes	Yes

*Only appeals by the Applicant permitte

....

B. Permit Classifications: Land Use decisions shall be categorized by Application type as set forth in Table B.

TABLE B
Permit Classifications

CODE CHAPTER	I	II	III	IV
Chapters 11.02, 11.03 and 11.04	Administrative Determinations			
Chapter 14.01A	Building Permits not categorically exempt from SEPA review			
Chapter 16.06	Administrative Determinations Boundary Line Adjustments Final Subdivision and Short Subdivision Decisions	Preliminary Short Subdivision Decisions Alterations, Withdrawal or Vacation of a Short Subdivision	Preliminary Subdivision Decisions Alterations, Withdrawal or Vacation of a Subdivision	
Chapter 16.14C	SEPA Categorical Exemptions	SEPA Threshold Determinations		
Chapter 16.15	Administrative Determinations	Administrative Conditional Uses (see 16.15 and 17.03)	Quasi-Judicial Conditional Uses (see 16.15 and 17.03)	
Chapter 16.17	Administrative Determinations	PRDs of 4 or less units	PRDs of 5 or more units	

CODE CHAPTER	I	II	III	IV
Chapter 17.02	<p>((Permitted Use/Reasonable Use Determinations)) Adaptive Mgt Orders <u>Single Family Exceptions</u> <u>Wetland Map Corrections</u> <u>Rural Stewardship Plans</u> <u>Voluntary Restoration Plans</u></p>	<p>((Permitted Use/Reasonable Use Determinations)) <u>Reasonable Use Exceptions</u></p>	<p>Alterations of (Wetlands), Deepwater Habitat or FWHCA ((Permitted Use/Reasonable Use Determinations)) <u>Base Density Exceptions</u> <u>Compliance Restoration Plans</u></p>	<p>Designation of Habitats or Species of Local Importance</p>
Chapter 17.03	<p>Animal Management Plan RA, and RF Rezones Temporary Use Approvals Permitted Uses Farm (BMP) Management Plan</p>	<p>Zoning Code Interpretations Zoning Variances Zoning Setback Reductions Certificates of Zoning Compliance Administrative Conditional Uses Enforcement Orders</p>	<p>Quasi-Judicial Conditional Uses CA, RA and RF Rezones Revocations of Permits and Approvals</p>	<p>Special Review District Approvals Zoning Code Amendments Farm/EDU Management Plan Approvals CA/RA/RF Verifications</p>
Chapter 17.05	<p>Shoreline Exemptions Administrative Determinations</p>	<p>Shoreline Substantial Development Permits Shoreline CUP and Variances</p>	<p>Shoreline Permit Approvals for Quasi-Judicial Uses</p>	<p>Shoreline Master Program Amendments</p>

....

Exhibit D

Chapter 16.06

Land Divisions & Dedications

EXHIBIT D

**Chapter 16.06
Land Divisions and Dedications**

....

16.06.030 Applicability

Every division of land for the purpose of development, lease, sale, gift, transfer of Ownership, or other conveyance and every adjustment of property lines shall proceed in compliance with this Chapter. Use or development of all lots shall comply with all County development regulations including Lots created following procedures that are exempt from the requirements of this Chapter. The Subdivision and Short Subdivision provisions of this Chapter shall not apply to:

....

- F. Testamentary Divisions. Any division made by testamentary provision or the laws of descent. ~~((Any development on Lots created by this means must comply with all applicable development regulations;))~~

....

16.06.060 Application Requirements

- A. Short Subdivision and Subdivisions. All Applications for preliminary approval of Short Subdivisions and Subdivisions shall include:

....

- 10. A legible map that shall include or show the requirements listed below. Where location of a feature or Structure is required, a site specific survey by a registered land surveyor is encouraged but not required:

....

- k) Approximate location of the natural features of the site, including but not limited to:
 - (i) Ravines and slopes greater than thirty-five percent (35%) with tops and toe of slope identified;
 - (ii) ~~((If known,))~~ Critical Areas and their buffers on site or ~~((within one hundred (100) feet of the boundaries of))~~ off-site when they may affect the proposal; and
 - (iii) Shorelines and approximate line of ordinary high water mark;

**Chapter 16.15
Site Plan Review**

....

16.15.040 Application Requirements

Except as provided in section 16.15.050, each application for Site Plan Review shall include the following information:

....

B. A legible map that shall include or show the requirements listed below. Where location of a feature or Structure is required, a site specific survey by a registered land surveyor is encouraged but not required:

....

11. Approximate location, to scale appropriate map, of the natural features of the site, including but not limited to:

- a) Ravines and slopes greater than thirty-five percent (35%) with tops and toe of slope identified;
- b) Critical areas and their buffers on site or ~~((within one hundred (100) feet of the boundaries of))~~ **off-site when they may affect** the proposal; and
- c) Shorelines and approximate line of ordinary high water mark;

....

**Chapter 16.17
Planned Residential Development**

....

16.17.040 Application Requirements

Except as provided in ICC 16.17.050, each application for approval of a Planned Residential Development shall include the following information:

....

B. A legible map that shall include or show the requirements listed below. Where location of a feature or Structure is required, a site specific survey by a registered land surveyor is encouraged but not required:

....

11. Approximate location and dimensions to appropriate map scale of the natural features of the site, including but not limited to:
 - a) Ravines and slopes greater than thirty-five percent (35%) with tops and toe of slope identified;
 - b) Critical areas and their Buffers on site or ((~~within one hundred (100) feet of the boundaries of~~) **off-site when they may affect** the proposal; and
 - c) Shorelines and approximate line of ordinary high water mark.