



**ORDINANCE NO. 2007-24**

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, RELATING TO CRITICAL AREAS; ADOPTING FINDINGS AND CONCLUSIONS; AMENDING AND REPLACING CHAPTER 16.20 OF THE POULSBO MUNICIPAL CODE IN ORDER TO UPDATE AND REVISE THE CITY'S CRITICAL AREAS REGULATIONS; LIFTING AND REPEALING THE MORATORIUM ON THE ACCEPTANCE OF NEW APPLICATIONS FOR SUBDIVISIONS, SHORT SUBDIVISIONS, BINDING SITE PLANS, AND PLANNED UNIT DEVELOPMENTS ON LAND WHICH CONTAINS OR LIES WITHIN TWO HUNDRED FEET OF ANY STREAM, LAKE, OR WETLAND IMPOSED BY ORDINANCE 2006-20 AND EXTENDED BY ORDINANCE 2007-05; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

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WHEREAS, RCW 36.70A.060 requires that all cities planning under the Growth Management Act designate and protect critical areas within their jurisdiction, including wetlands, areas with critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas, and

WHEREAS, RCW 36.70A.172 requires that in designating and protecting critical areas, cities must include the best available science in developing policies and development regulations to protect the functions and values of critical areas, and

WHEREAS, the City of Poulsbo adopted its current critical areas regulations in 1994, and has been working on an update to those regulations since 2003, and

WHEREAS, as the result of extensive analysis of the best available science and the known critical areas in the City, a draft Critical Areas Ordinance and

draft amendments to the City's Comprehensive Plan were prepared by the Poulsbo Planning Department and released for public comment on May 26, 2004, and

WHEREAS, after extensive public participation and after review and recommendation by the Poulsbo Planning Commission, the Poulsbo City Council adopted the amendments to the Comprehensive Plan in December 2004, and

WHEREAS, the City has, since adoption of the Comprehensive Plan amendments, conducted numerous workshops, public hearings, stakeholder group meetings, Planning Commission meetings, City Council meetings, and other community outreach activities and has sought and received comments from other public agencies in order to arrive at a final draft of the critical areas regulations for adoption by the City Council, and

WHEREAS, in order to avoid potential environmental degradation, the City enacted Ordinance 2006-20 on September 13, 2006, imposing a moratorium on all new applications for subdivisions, short subdivisions, binding site plans, and planned unit developments on land which contains or lies within 200 feet of any stream, lake, or wetland, pending the adoption of updated critical areas regulations, and

WHEREAS, the Poulsbo City Council has determined to adopt the critical areas regulations in the form set forth in this ordinance, and

WHEREAS, with adoption of the critical areas regulations set forth in this ordinance, the moratorium on applications adopted by Ordinance 2006-20 and extended by Ordinance 2007-05 is no longer necessary and the Council has determined that the same should be lifted and repealed, now, therefore,

THE CITY COUNCIL OF THE CITY OF POULSBO, WASHINGTON,  
DO ORDAIN AS FOLLOWS:

**Section 1. Adoption of Findings.** In support of the critical areas regulations adopted in this ordinance, the Poulsbo City Council hereby adopts as its findings the analysis contained in that certain document entitled, "City of Poulsbo Critical Areas Ordinance Update - City Council Adoption Document," prepared by the City of Poulsbo Planning Department and dated May 2007. The Poulsbo City Council also adopts the rationale for corrections detailed in the Memorandum from the Poulsbo Planning Director to the Mayor and Council dated June 13, 2007 re: Critical Areas Ordinance (CAO) Summary of Final Revisions. The Poulsbo City Council also adopts the following additional findings:

1. Subsequent to preparation of the adoption document, the City received a letter from the Washington Department of Fish and Wildlife (WDFW) dated June 1, 2007. WDFW concurs with the City's standard buffer widths and agrees that those buffers fall within the range of Best Available Science.
2. With respect to Poulsbo Creek, WDFW supports the City's approach to the expansion of existing development, but has recommended that the City include additional mitigation measures, such as invasive plant removal, to preserve buffer functions. These measures were added to Section 16.20.315(F)(2) of the draft CAO considered by the City council at the June 20, 2007 public hearing, as detailed in the Planning Director's June 13, 2007 memo.
3. In the adoption document, the City's balancing of GMA goals as justification for the buffer widths adopted is discussed in various sections such as Section 3.3.2 and 3.3.6. In particular, section 3.3.2 discusses the impact that larger buffers would have on the City's land capacity analysis and the City's ability to meet population allocations and urban growth goals. Exhibit 18 from the City council's June 20, 2007 public hearing shows the effect of various buffer widths on the dwelling units and population that can be accommodated by the City and provides additional support for the analysis of the land capacity impacts and impacts of urban growth goals set forth in the adoption document.
4. At the June 20, 2007 public hearing, some members of the public were concerned about the changes in the draft CAO regulations that are detailed in the Planning

Director's June 13, 2007 memo. The concern was expressed that the public did not receive sufficient time prior to the public hearing to review the changes.

5. The City Council finds that all of the changes were within the scope of alternatives that have been available for public comment and review throughout the CAO adoption process. Moreover, as detailed in a July 6, 2007 declaration of the Deputy City Clerk, some of the materials were distributed with the Council packet for the June 20, 2007 continued hearing, some were posted on the City's website on June 15, 2007, and all were available for public review and comment and were covered at the June 20, 2007 hearing. The public had a meaningful opportunity to comment on the changes at the hearing and the Council has considered that comment.
6. Several exhibits were submitted during public testimony on June 20, 2007. Although the volume of the exhibits prevented the Council from reading all of the exhibits prior to the close of the public hearing and prior to deliberations, the Council has had those exhibits available for review since the close of the hearing and prior to the adoption of this ordinance on July 18, 2007. None of the exhibits cause the City Council to change the CAO provisions adopted in principle after the close of the hearing on June 20, 2007 and set forth in the attachment to this ordinance.

**Section 2. Amendment of and Replacement of Critical Areas**

**Regulations.** Chapter 16.20 of the Poulsbo Municipal Code is hereby amended and replaced to read as set forth on Exhibit A, attached to this ordinance and incorporated herein by this reference as if set forth in full.

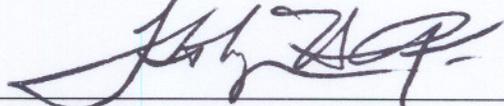
**Section 3. Moratorium Lifted and Repealed.** The moratorium on the acceptance of applications for subdivisions, short subdivisions, binding site plans, and planned unit developments on land which contains or lies within 200 feet of any stream, lake, or wetland, which was imposed by Ordinance 2006-20 and extended by Ordinance 2007-05, is hereby lifted, repealed, and of no further effect.

**Section 4. Severability.** If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent

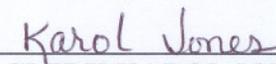
jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

**Section 5. Effective Date.** This ordinance shall take effect and be in full force five (5) days after publication of the attached summary, which is hereby approved.

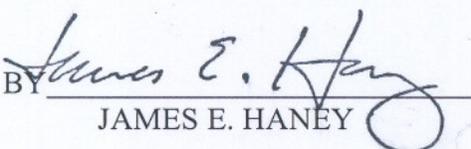
APPROVED:

  
\_\_\_\_\_  
MAYOR KATHRYN H. QUADE

ATTEST/AUTHENTICATED:

  
\_\_\_\_\_  
CITY CLERK KAROL JONES, CMC

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY   
\_\_\_\_\_  
JAMES E. HANEY

FILED WITH THE CITY CLERK: 7/12/2007  
PASSED BY THE CITY COUNCIL: 7/18/2007  
PUBLISHED: 7/25/2007  
EFFECTIVE DATE: 7/30/2007  
ORDINANCE NO. 2007-24

**SUMMARY OF ORDINANCE NO. 2007-24**

of the City of Poulsbo, Washington

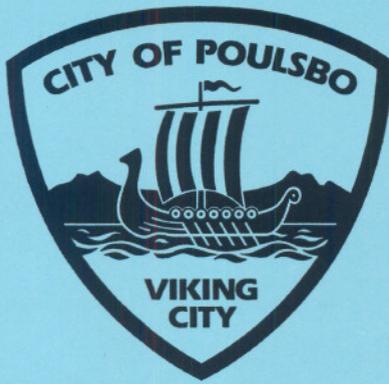
On the 18<sup>th</sup> day of July, 2007, the City Council of the City of Poulsbo, passed Ordinance No. 2007-24. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, RELATING TO CRITICAL AREAS; ADOPTING FINDINGS AND CONCLUSIONS; AMENDING AND REPLACING CHAPTER 16.20 OF THE POULSBO MUNICIPAL CODE IN ORDER TO UPDATE AND REVISE THE CITY'S CRITICAL AREAS REGULATIONS; LIFTING AND REPEALING THE MORATORIUM ON THE ACCEPTANCE OF NEW APPLICATIONS FOR SUBDIVISIONS, SHORT SUBDIVISIONS, BINDING SITE PLANS, AND PLANNED UNIT DEVELOPMENTS ON LAND WHICH CONTAINS OR LIES WITHIN TWO HUNDRED FEET OF ANY STREAM, LAKE, OR WETLAND IMPOSED BY ORDINANCE 2006-20 AND EXTENDED BY ORDINANCE 2007-05; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

The full text of this Ordinance will be mailed upon request.

DATED this 19<sup>th</sup> day of July, 2007.

Karol Jones  
CITY CLERK KAROL JONES, CMC



# Critical Areas

## Chapter 16.20

Adopted July 18, 2007  
Effective July 30, 2007

## Chapter 16.20 Critical Areas

<b>Sections: 100</b>	<b>General Provisions and Administration</b>
16.20.105	Purpose.
16.20.110	Identification of Critical Areas
16.20.115	Applicability
16.20.120	General Exemptions
16.20.125	Standards for Existing Development
16.20.130	Reasonable Use Exception
16.20.133	Public Agency and Utility Exception
16.20.135	Notice to Title
16.20.140	Appeals
16.20.145	Application Requirements
16.20.150	Enforcement
16.20.155	Definitions
<b>Section 200</b>	<b>Wetlands</b>
16.20.205	Purpose
16.20.210	Wetland Categories
16.20.215	Regulated and Non-Regulated Wetlands Classification
16.20.220	Application Requirements
16.20.225	Determination of Wetland Boundaries
16.20.230	Development Standards
16.20.235	Additional Development Standards
16.20.240	Wetland Mitigation Requirements
<b>Section 300</b>	<b>Fish and Wildlife Habitat Conservation Critical Areas</b>
16.20.305	Purpose
16.20.310	Fish and Wildlife Habitat Conservation Area Designations
16.20.315	Development Standards
16.20.320	Additional Development Standards
<b>Section 400</b>	<b>Geologically Hazardous Areas</b>
16.20.405	Purpose
16.20.410	Geologically Hazardous Area Categories
16.20.415	Development Standards
<b>Section 500</b>	<b>Critical Aquifer Recharge Areas</b>
16.20.505	Purpose
16.20.510	Critical Aquifer Recharge Area Categories
16.20.515	Development Standards
<b>Section 600</b>	<b>Frequently Flooded Areas</b>
16.20.605	Purpose
<b>Section 700</b>	<b>Special Reports</b>
16.20.705	Purpose
16.20.710	When Required
16.20.715	Responsibility For Completion
16.20.720	Qualifications of Professionals
16.20.721	Time Limitations
16.20.725	Wetland Reports
16.20.730	Habitat Management Plan
16.20.735	Geotechnical Report and Geological Report
16.20.740	Hydrogeological Report



## **SECTION 100: GENERAL PROVISIONS AND ADMINISTRATION**

### **16.20.105 PURPOSE**

It is the intent of the City of Poulsbo that the beneficial structure, value and functions [RCW 36.70A.172 (1) and WAC 365-195-825(2)(b)] of critical areas be preserved, and potential damage or public costs associated with the inappropriate use of such areas be minimized by reasonable regulation of uses within, adjacent or directly affecting such areas. Further, the purpose of this ordinance is to identify and protect critical areas as required by the Growth Management Act of 1990 (Title 36, Laws of 1990, as amended), which are wetlands, fish and wildlife habitat conservation areas, areas subject to frequent flooding, geologically hazardous areas, and critical aquifer recharge areas.

### **16.20.110 IDENTIFICATION OF CRITICAL AREAS**

The critical areas in the City of Poulsbo are hereby further divided into the following types:

- A. Wetland Critical Areas
- B. Fish and Wildlife Habitat Conservation Critical Areas
- C. Geologically Hazardous Areas
- D. Critical Aquifer Recharge Areas
- E. Frequently Flooded Areas

### **16.20.115 APPLICABILITY**

- A. The City of Poulsbo shall not grant any permit, license or other development approval to alter the condition of any land, water or vegetation, or to construct or alter any structure or improvement, nor shall any person alter the condition of any land, water or vegetation, or construct or alter any structure or improvement, for any development proposal regulated by this Chapter, except in compliance with the provisions of this Chapter. Failure to comply with the provisions of this Chapter shall be considered a violation and subject to enforcement procedures as provided for in this Chapter.

- B. Requirements for critical areas are in addition to, or to be combined with, requirements of other development regulations, including, but not limited to, the Poulsbo zoning ordinance, clearing and grading ordinance, subdivision ordinance and shoreline management plan. In case of conflict with other development regulations or other critical area requirements, the more restrictive provision or combinations of provisions shall apply. Further, any parts of Wetland or Non-wetland Fish and Wildlife Critical Areas also included in the 100 year flood plain by the City of Poulsbo Ordinance 87-20, Flood Prevention Damage Program, shall also be subject to the provisions of that ordinance.
- C. Uses and activities in critical areas or their buffers for which no permit or approval is required by any other city ordinance remain subject to the development standards and other requirements of this Section. While this Section does not require a review or approval process for such uses and activities, they remain subject to the Chapter.
- D. Any development proposal that includes a critical area or its buffer, or is within 300 feet of a critical area is subject to review under the provisions of this Chapter.
- E. The **location and extent of all mapped critical areas** shown on the City of Poulsbo Critical Area Maps are approximate and shall be used as a *general guide only for the assistance of property owners and city administrators. The type, extent and boundaries shall be determined in the field by a qualified specialist or specialists according to the requirements of this Chapter.* The Critical Area maps are adopted as part of this Chapter and are incorporated herein by this reference.
  - 1. The City of Poulsbo Critical Area Maps are titled:
    - a. Wetlands Critical Areas Map
    - b. Non-wetland Fish and Wildlife Habitat Map
      - i. Hydrology Water Type Map
      - ii. Riparian Management Area – South Fork Dogfish Creek
    - c. Aquifer Critical Areas Map
    - d. Geological Hazard Areas Map
  - 2. Critical Areas in the City of Poulsbo were located, classified and mapped based on one or more of the following information sources:

- a. National Wetlands Inventory, U.S. Fish and Wildlife Services, 1987-2003
  - b. Soil Survey of Kitsap County Area, Washington, U.S.D.A. Soil Conservation Services, in cooperation with Washington State Department of Natural Resources and WSU Agricultural Research Center, 1977
  - c. Coastal Zone Atlas, Volume Ten, Kitsap County, State of Washington Department of Ecology, 1979
  - d. The Department of Ecology's Washington State Wetland Rating System for Western Washington, 2<sup>nd</sup> Edition, 1993
  - e. Corps of Engineers Wetlands Delineation Manual, 1987
  - f. U.S. Department of Agriculture Soil Conservation Service, Erosion Hazard Soil Units, Kitsap County
  - g. Map: "Quaternary Geology and On-Site Sewage Feasibility, Kitsap County, Washington, in Quaternary Geology and Stratigraphy of Kitsap County, Washington", Jerald D. Deeter, 1979
  - h. Kitsap County Critical Area Maps developed pursuant to their Growth Management Act planning process
  - i. Draft Kitsap County Ground Water Management Plan, April 1991
  - j. Project specific wetland delineations as filed at the City of Poulsbo Planning Department
  - k. Washington State Department of Natural Resources Hydrology Water Types Map, July 2003
  - l. Poulsbo GIS map as Figure 1 in the Fishman Environmental Services Report "City of Poulsbo Report on Best Available Science and Recommended Protection Measures for Fish and Wildlife Habitat," April 2003
  - m. Washington State Department of Fish and Wildlife
  - n. Priority Habitats and Species List, Washington Department of Fish and Wildlife
3. In the event of a conflict between the mapped areas and the criteria or standards of this Chapter, this Chapter shall apply. In the event that a

boundary determination made by a qualified specialist finds that a critical area is not present on the property, the critical area designation shall be considered for removal from the map. In the event that a critical area which meets the criteria or standards for a critical area is found on a property not mapped as a critical area, the property shall be deemed to contain a critical area and shall be treated as if it had been included on the appropriate critical area map.

4. The Planning Director shall have the authority to issue revised critical area maps when new or revised information becomes available regarding the presence or absence of critical areas within the City or Urban Growth Boundary.

#### **16.20.120 GENERAL EXEMPTIONS**

The following activities are exempt from the requirements of this Chapter. All exempted activities shall use reasonable methods to avoid potential impacts to critical areas. To be exempt from this Chapter does not give permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's expense.

The following developments, activities, and associated uses shall be exempt from the provisions of the Chapter, provided that they are otherwise consistent with the provisions of other local, state, and federal laws and requirements:

- A. Emergency activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventative action in a timeframe too short to allow for compliance with the requirements of this Chapter.

Emergency actions that create an impact to a critical area or its buffer shall use reasonable methods to address the emergency; in addition, they must have the least possible impact to the critical area or its buffer. The person or agency undertaking such action shall notify the City of Poulsbo within one (1) working day following commencement of the emergency activity. Within thirty (30) days, the Director shall determine if the action taken was within the scope of the emergency actions allowed in this Subsection. If the Director determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then the enforcement provisions of Section 16.20.150 shall apply. Upon cessation of the emergency, restoration of the critical areas and buffers impacted by the emergency action shall be required in a timely manner. Upon

- abatement of the emergency situation any permit that would have been required to be obtained under Poulsbo Municipal Code shall be required.
- B. Existing and ongoing agricultural activities on lands containing critical areas. For the purpose of this Chapter, existing and ongoing means that the activity has been conducted within the past five years. Any expansion of agricultural activities shall conform to the provisions of this chapter.
  - C. Normal and routine maintenance and operation of existing retention/detention facilities, biofilters and other stormwater management facilities, irrigation and drainage ditches, farm ponds, fish ponds, manure lagoons and livestock water ponds, provided that such activities shall not involve expansions or alterations that would increase the impact on or expand such uses further into critical areas not currently being used for such activity.
  - D. Structural alterations to buildings, permitted under the underlying zoning district, that do not alter the structural footprint or introduce new adverse impacts to a critical area.
  - E. Normal and routine maintenance or repair of existing utility structures within a right-of-way or existing utility corridor or easements, including cutting, removal and/or mowing of vegetation above the ground that utilizes best management practices and does not expand the use or activity further into the critical area.
  - F. Installation, construction, replacement, operation or alteration in improved public road right-of-way of all electric facilities, lines, equipment or appurtenances; this does not include substations, water and sewer lines, all natural gas, cable communications and telephone facilities, lines, pipes, mains, equipment or appurtenances.
  - G. Forest Practices conducted pursuant to RCW 76.09, except Class IV (general conversions) and Conversion Option Harvest Plans (COHP).
  - H. Where a threat to human life or property is demonstrated, the Director may allow removal of danger or hazard trees within a critical area or its buffer, subject to the following criteria:
    - 1. Tree removal is the minimum necessary to balance protection of the critical area and its buffer with the protection of life and property;
    - 2. The critical area or its buffer shall be replanted as determined by the Director. The Director shall coordinate review with the Washington State Department of Fish and Wildlife as determined necessary to assure habitat protection. The Director may require the applicant to consult with a professional forester or a certified arborist prior to tree removal. Danger tree abatement may be achieved by felling or topping

- the tree. Habitat needs may require leaving the fallen tree in the riparian corridor or maintaining a high stump.
- I. The construction of permeable pedestrian trails which shall be unpaved when located in the buffer or critical area and elevated when located in wetlands, which are not intended for motorized use, and which are no wider than five (5) feet, unless additional width is necessary for safety along a precipice, steep hillside, or other hazardous area. All trail construction should avoid damaging significant trees and other habitat elements to the greatest degree possible. Trails proposed to be located in a landslide hazard area or its setback shall be constructed in a manner that does not increase the risk of landslide or erosion.
  - J. Normal and routine maintenance of existing structures, landscaping and gardens provided they comply with all other regulations in this Chapter. Expansions, alterations, or repair in excess of 50% of the market value of the improvement shall be reviewed under the provisions of 16.20.125 Standards for Existing Development.
  - K. Interrupted wetland and fish and wildlife habitat conservation area buffers.
    - 1. Where a legally established, pre-existing use of the buffer exists (such as a road or structure that extends into the regulated wetland buffer), those proposed activities that are within the wetland or stream buffer, but are separated from the critical area by an existing permanent substantial improvement, which serves to eliminate or greatly reduce the impact of the proposed activity upon the critical area are exempt provided that the detrimental impact to the critical area does not increase. However, if the impacts do increase, the Planning Director shall determine if additional buffer may be required along the impact area of the interruption. A substantial improvement may include, but is not limited to a paved area, dike, levee, or other permanent structure. An exemption request for an interrupted buffer may require a functional analysis report. In determining whether a functional analysis is necessary, the Planning Director shall consider the hydrologic and habitat connection potential and the extent and permanence of the interruption.
    - 2. Where a legally established, pre-existing structure or use is located within a regulated buffer area and where the regulated buffer is fully paved and does not conform to the interrupted buffer provision above, the buffer will end at the edge of pavement, adjacent to the critical area.

**16.20.125 STANDARDS FOR EXISTING DEVELOPMENT**

Existing development containing a critical area which was lawfully constructed approved or established prior to the effective date of this Chapter, but which does not conform to present regulations or standards may continue as follows:

- A. A legally established, existing structure that does not meet the dimensional standards of this Chapter may not be enlarged or altered in any manner unless such enlargement or alteration is in conformance with the following provisions. A critical areas permit, a Type 2 review, shall be required for any proposal which includes reconstruction or remodeling in excess of 50% of the market value.
- B. Routine Maintenance and repair of pre-existing legally established structures as authorized in Section 16.20.120 (J), Exemptions. Repair in excess of 50% of the market value of the structure shall be considered reconstruction. Normal repair and Maintenance does not require a critical area permit.
- C. A legally established structure that has been made non-conforming due to the adoption of this code may be remodeled up to 50% of the market value so long as all of the following provisions are met:
  - 1. the remodel shall not introduce any new, or expand existing, impacts to a critical area unless such impacts are fully mitigated as required for reconstruction below; and
  - 2. All other standards and requirements contained in the PMC are met.
- D. Residential structures, including multifamily, in a residential zoning district, destroyed by a catastrophe or fire, may be reconstructed up to the original size, placement and density. Structural repair must be initiated within two years of the catastrophe and all of the following provisions apply:
  - 1. the structure does not necessarily need to be rebuilt on the original footprint if it is determined that an alternative location on the lot will provide greater protection to the critical area; and
  - 2. Best Management Practices shall be employed to assure reconstruction does not negatively impact the critical area.
- E. Pre-existing legally established structures that have been made non-conforming due to the adoption of this code and that are located outside a flood hazard area and active landslide hazard area may be remodeled beyond 50% of the market value or reconstructed provided that such reconstruction and/or remodeling does not increase the footprint area nor extend beyond the existing ground coverage toward a critical area; and,

1. the reconstruction shall be appropriately mitigated to ensure the existing value and function of the critical area is not degraded, further historic impacts of the existing site development shall be mitigated as per subsection F below; and
  2. the reconstruction and/or enlargement meets all other standards and requirement contained in the PMC
- F. Where mitigation is required above, the applicant shall provide mitigations to reduce historic impacts on the critical area which may include requirements to enhance vegetative areas adjacent to the stream, retrofit existing impervious areas for minimum stormwater quality treatment. Where mitigation opportunities on site are limited or improvements off site can be shown to better enhance the critical area at a watershed scale, off site mitigations may be required.
- G. Additional provisions affecting expansions of existing development along Poulsbo Creek are located in PMC 16.20.315(F).

#### **16.20.130 REASONABLE USE EXCEPTION**

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

- A. A request for a critical area reasonable use exception shall be filed with the Director and shall be combined with the underlying development permit. The reasonable use exception request shall be considered a Type III application.
- B. The Review Authority, in granting a reasonable use exception, must determine that all of the following criteria are met:
  1. Application of this Chapter would deny all reasonable use of the property;
  2. There is no other reasonable use with less impact on the critical area;
  3. The proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site;
  4. Any alterations permitted to these critical areas shall be the minimum necessary to allow for reasonable use of the property;
  5. The inability to derive reasonable use of the property is not the result of actions by the applicant after the effective date of this Chapter;

6. Diminished value shall not be considered denial of all reasonable use; and
  7. The proposal will result in no net loss of critical area functions and values consistent with best available science.
- C. Any authorized alteration of a critical area, resource management area, or buffer under this section shall be subject to conditions established by the City and shall require mitigation under an approved special report pursuant to Section 700.

**16.20.133 PUBLIC AGENCY AND UTILITY EXCEPTION**

- A. A request for a critical area public agency and utility exception may be made if the application of this Chapter would prohibit a development proposal by a public agency or public utility. The public agency and utility exception shall be considered a Type III application.
- B. The Review Authority, in granting a public agency and utility exception, must determine that all of the following criteria are met:
1. There is no other practical alternative to the proposed development with less impact on the critical areas;
  2. The application of this Chapter would unreasonably restrict the ability to provide services to the public;
  3. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
  4. The proposal will result in no net loss of critical area functions and values consistent with the best available science; and
  5. The proposal is consistent with other applicable regulations and standards.
- C. Any authorized alteration of a critical area under this section may be subject to conditions established by the City and shall require mitigation under an approved special report pursuant to Section 700.

**16.20.135 NOTICE TO TITLE**

Project proponent(s) may be required to file a notice to title with the Kitsap County Auditor on all development proposals subject to this Chapter, and containing any

critical area or its buffer. After review of the development proposal, the Director will establish critical area development conditions in accordance with this Chapter. These standards will be identified on the approved notice to title. The proponent shall submit proof that the required notice has been filed before the Director will issue the underlying permit's Notice of Decision.

#### **16.20.140 APPEALS**

Appeals shall be as set forth in Poulsbo Municipal Code Chapter 19.01.060. Appeals shall be of the underlying development permit, in which the aspects of the appeal may apply to the provisions or requirements of this Chapter.

#### **16.20.145 APPLICATION REQUIREMENTS**

Application requirements and process shall be as set forth in Poulsbo Municipal Code Chapter 19.01. The type of permit process shall be that of the underlying development permit.

#### **16.20.150 ENFORCEMENT**

**Authorization:** The Director is authorized to enforce this chapter, and to designate City employees as authorized representatives of the City to investigate suspected violations of this Chapter, and to issue orders to correct violations and notices of infractions. In the event of a violation of this Chapter, the Director shall be authorized to require complete or partial restoration of the critical area including compensatory mitigation to rectify any net loss to the structure and function of the critical area.

**Right of Entry:** When it is necessary to make an inspection to enforce the provisions of this Chapter, or when the Director or his/her designee has reasonable cause to believe that a condition exists on property which is contrary to, or in violation of, this Chapter, the Director or his/her designee may enter the property to inspect.

**Stop Work Orders:** Whenever any work or activity is being done contrary to the provisions of this Chapter or conditions of an approved permit, the Director or his/her designee may order the work stopped by notice in writing, served on any persons engaged in doing or causing such work to be done, or by posting the property, and any such persons shall forthwith stop such work or activity until authorized by the Director or his/her designee to proceed.

**Penalties:** The violation of any provision of this Chapter shall constitute a civil and criminal infraction. Each violation shall constitute a separate infraction for each and every day or portion thereof during which the violation is committed, continued or permitted. Every person convicted by the municipal court of a violation of the criminal provisions, or the provisions of this Chapter, shall be punished by a fine of not more than five thousand dollars or imprisonment in the city jail for a period not to exceed one year, or both such fine and imprisonment.

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

**16.20.155**    **DEFINITIONS**

**Adjacent:** Any development that includes a critical area or its buffer or any development proposal within 300 feet of a critical area.

**Agricultural practices:** Activities related to vegetation and soil management, such as tilling of soil, control of weeds, control of plant diseases and insect pests, soil maintenance and fertilization as well as animal husbandry. Agricultural practices shall not include removing trees, diverting or impounding water, excavation, ditching, draining, culverting, filling, grading, and similar activities that introduce new adverse impacts to wetlands.

**Alteration:** A human-induced action, which changes the existing condition of a critical area. Alterations include but are not limited to grading; grubbing; dredging; channelizing; cutting, clearing, relocating or removing vegetation, except noxious weeds identified by the Washington Department of Ecology or the Kitsap County Cooperative Extension; applying herbicides or pesticides or any hazardous or toxic substance; discharging pollutants; grazing domestic animals; modifying for surface water management purposes; or any other human activity that changes the existing vegetation, hydrology, wildlife or wildlife habitat.

**Anadromous Fish:** Fish whose life cycle includes time spent in both fresh and salt water.

**Applicant:** The person, party, firm, corporation or legal entity, or agent thereof, that proposes a development of property in the City of Poulsbo.

**Aquaculture Practices:** The harvest, culture or farming of food fish, shellfish, or other aquatic plants and animals including fisheries enhancement and the mechanical harvesting of shellfish and hatchery culture.

**Aquifer:** A saturated body of rock, sand, gravel or other geologic material that is capable of storing, transmitting and yielding water to a well.

**Aquifer recharge:** The process by which water is added to an aquifer. It may occur naturally by the percolation (infiltration) of surface water, precipitation, or snowmelt from the ground surface to a depth where the earth materials are saturated with water. The aquifer recharge can be augmented by "artificial" means through the addition of surface water or by the injection of water into the underground environment.

**Aquifer Recharge Area:** Those areas overlying aquifer(s) where natural or artificial sources of water can move downward to an aquifer(s).

**Aquifer vulnerability:** The combined effect of hydrogeological susceptibility to contamination and the contamination loading potential as indicated by the type of activities occurring on a project area.

**Bank stabilization:** Lake, stream and open water shoreline modification including vegetation enhancement, used for the purpose of retarding erosion, protecting channels or shorelines, and retaining uplands.

**Bench (geologic):** A relatively flat and wide landform along a valley wall.

**Best Available Science:** Scientifically valid information in accordance with WAC 365-195-905, now or as amended hereafter, that is used to develop and implement critical areas policies or regulations.

**Best management practices:** Conservation practices or systems of practices and management measures that:

- A. Control soil loss and reduce water quality degradation caused by nutrients, pathogens, bacteria, toxic substances, pesticides, oil and grease, and sediment; and,
- B. Minimize adverse impacts to surface water and groundwater flow, circulation patterns, and to the chemical, physical, and biological characteristics of critical areas.

**Bog:** Bogs are a type of wetland typically composed of acidic, low nutrient soils and waters, high organic matter and that support plants specifically adapted to such conditions that are not commonly found elsewhere. Bogs may have an overstory of spruce and may be associated with open water.

**Buffer:** A non-clearing native vegetation area which is intended to protect the functions and values of critical areas.

**Candidate Species (state-listed):** Species under review by the Department of Fish and Wildlife for possible listing as endangered, threatened or sensitive. A species will be considered for State Candidate designation if sufficient scientific evidence suggests that its status may meet criteria defined for endangered, threatened, or sensitive in WAC 232-12-297. Currently listed State Threatened or State Sensitive Species may also be designated as a State Candidate Species if their status is in question. State Candidate Species will be managed by the Department of Fish and Wildlife, as needed, to ensure the long-term survival of populations in Washington. They are listed in WDW Policy 4802.

**Channel Migration Zone (CMZ):** As defined by WAC 173-26-020(6), as now or hereafter amended, means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

**Clearing:** The destruction, disturbance or removal of vegetation by physical, mechanical, chemical or other means.

**Compensation:** Replacement of project-induced critical area (e.g. wetland) losses of acreage or functions, and includes, but is not limited to, restoration, creation, or enhancement.

**Creation:** Actions performed to intentionally attempt to establish a critical area at a site where it did not formerly exist.

**Critical Area Buffer:** An area of protection around a critical area.

**Critical aquifer recharge areas:** Those land areas which contain hydrogeologic conditions which facilitate aquifer recharge and/or transmitting contaminants to an underlying aquifer.

**Critical areas:** Include the following areas and ecosystems: (a) wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) geologically hazardous areas; and (e) frequently flooded areas.

**Danger trees:** Any tree of any height, dead or alive, that presents a hazard to the public because of rot, root stem or limb damage, lean or any other observable condition created by natural process or man-made activity consistent with WAC 296-54.

**Detention facilities:** Stormwater facilities including all appurtenances associated with their designed functions, maintenance and security that are designed to store runoff while gradually releasing it at a pre-determined controlled rate.

**Development proposal site:** For purposes of this Chapter, the legal boundaries of the parcel or parcels of land on which an applicant has applied for authority from the City of Poulsbo to carry out a development proposal.

**Director:** "Director" shall mean the Director of the City of Poulsbo Planning Department or a duly authorized designee.

**Draining (related to wetland):** Any human activity that diverts or reduces wetland groundwater and/or surface water sources so that functions and values are lost or the area no longer meets the definition of a wetland.

**Easement or Critical Area protection easement:** Agreement conveyed through a deed, or shown on the face of a plat or site plan for the purpose of perpetual or long-term conservation.

**Endangered species (state listed):** A species native to the state of Washington that is seriously threatened with extirpation throughout all or a significant portion of its range within the state. Endangered species are legally designated in WAC 232-12-014.

**Enhancement:** Actions performed to improve the condition of existing degraded critical area (e.g. wetlands or streams) so that the functions they provide are of a higher quality, provided that this activity does not significantly degrade another existing function or value.

**Erosion:** The process whereby the land surface is worn away by the action of water, wind, ice or other geologic agents and by processes such as gravitational creep or events such as landslides. Natural or geologic erosion occurs as an ongoing process that acts on all land surfaces to some degree. Human activities such as removing vegetation, increasing stormwater runoff or decreasing slope stability often accelerate or aggravate natural erosion processes.

**Excavation:** Removal of earth material.

**Existing Use or Structure:** A use of land or structure which was lawfully established or built and which has been lawfully continued but which does not conform to the regulations of the zone in which it is located as established by the City of Poulsbo Zoning Ordinance, this Chapter, or amendments thereto.

**Existing and ongoing agriculture:** Includes those activities conducted on lands defined in RCW 84.34.020(2) or defined as agricultural practices in this Chapter, for example, the operation and maintenance of existing farm and stock ponds or drainage ditches, operation and maintenance of ditches, irrigation systems including irrigation laterals, canals, or irrigation drainage ditches, changes between agricultural activities, such as rotating crops or grasses used for grazing, and normal maintenance, repair, or operation of existing serviceable structures, facilities, or improved areas; provided, that alteration of the contour of wetlands or streams by leveling or filling other than that which results from normal cultivation, or draining of wetlands shall not be considered normal or necessary farming or ranching activities.

**Exotic:** Any species of plant or animal that is not indigenous (native) to an area.

**Extraordinary hardship:** This means that strict application of this Chapter and/or programs adopted to implement this Chapter by the regulatory authority would prevent all reasonable use of the parcel.

**Farm Pond:** An open-water habitat of less than five (5) acres and not contiguous with a stream, river, pond, lake or marine water created from a non-wetland site in connection with agricultural activities.

**Feeder Bluff:** An eroding and/or retreating shore bluff that is part of natural coastal processes yielding sediment to area beaches.

**Fen:** Wetlands which have the following characteristics: Peat soils 16 inches or more in depth, or any depth of organic soil over bedrock, and vegetation such as certain sedges, hardstem bulrush and cattails. Fens may have an overstory of spruce and may be associated with open water.

**Filling or fill:** A deposit of earth or other natural or man-made material placed by artificial means, including, but not limited to, soil materials, debris, or dredged sediments.

**Fish and Wildlife Habitat:** Those areas identified as being of critical importance to the maintenance of fish, wildlife, and plant species, including: areas within which endangered, threatened, and sensitive species have a primary association; habitats and species of local importance; commercial and recreational shellfish areas; kelp and eelgrass beds, forage fish spawning areas; naturally occurring ponds and their submerged aquatic beds that provide fish or wildlife habitat; waters of the State; lakes, ponds, streams or rivers planted with game fish by a government or tribal entity, or private organization; State natural area preserves and natural resources conservation areas.

**Fisheries Biologist:** A person with experience and formal training in the principles of fisheries management and with practical knowledge in fish population surveys, stream surveys and other related data analyses of fisheries resources. Qualifications of a fisheries biologist include but are not limited to:

- A. Certification by the American Fisheries Society;
- B. A Bachelor of Science degree in fisheries or the biological sciences from an accredited institution and two years of professional fisheries experience; or
- C. Five or more years of professional experience as a practicing fisheries biologist with a minimum three years professional field experience.

**Floodplain:** The floodway and the special flood hazard areas having the potential to flood once every 100 years, or having a 1% chance of being equaled or exceeded in any given year.

**Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**Forage Fish:** Includes anchovy, herring, sand lance and smelt.

**Forest practices:** As defined in WAC 222-16-010 (21), as amended, any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

- A. Road and trail construction,
- B. Harvesting, final and intermediate,
- C. Pre-commercial thinning,
- D. Reforestation,

- E. Fertilization,
- F. Prevention and suppression of diseases and insects,
- G. Salvage of trees, and
- H. Brush control.

Forest practices shall not include preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

Conversion Option Harvest Plan (COHP) means a plan for landowners who want to harvest their land but wish to maintain the option for conversion pursuant to WAC 222-20-050. Conversion to a use other than commercial timber operation shall mean a bona fide conversion to an active use which is incompatible with timber growing.

**Frequently Flooded Areas:** All lands, shorelands and waters which are identified as being within the 100-year floodplain (Floodway) as designated by the Federal Management Agency in Flood Insurance Rate and Boundary Maps.

**Functions, beneficial functions, or valuable functions:** The beneficial roles served by critical areas including, but not limited to, the following which are normally associated with wetlands: water quality protection and enhancement, 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 functions are not listed in order of priority.

**Geologic Hazard Areas:** Areas, as defined in WAC 365-190-030(8) and 365-190-080(4), that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to siting commercial, residential or industrial development consistent with public health or safety concerns. Development in geologic hazard areas may be permitted when an approved geotechnical or geological report indicates that the development can be engineered to pose no significant threat to public health or safety.

**Geologist:** A person who is licensed by Washington State and has a Bachelor of Science degree in geologic sciences or a related field from an accredited college or university and/or has a minimum of five years experience under the direction of a professional geologist.

**Geotechnical engineer:** A practicing geotechnical/civil engineer licensed and bonded as a professional Civil Engineer with the State of Washington, with

professional training and experience in geotechnical engineering, including at least four years professional experience in evaluating Geologically Hazardous areas.

**Geotechnical Report and Geological Report:** A study of potential site development impacts related to retention of natural vegetation, soil characteristics, geology, drainage, groundwater discharge, and engineering recommendations relating to slope and structural stability. The geotechnical report shall be prepared by or in conjunction with a licensed geotechnical engineer meeting the minimum qualifications of this Chapter. Geological Reports may contain the above information with the exception of engineering recommendations, and may be prepared by a geologist (see Section 700, Special Reports).

**Grading (construction):** Any excavating, filling or removing of the surface layer or any combination thereof.

**Grazed wet meadows:** Grazed wet meadows are wetlands whose vegetative cover has been greatly modified as a result of grazing, seeding, or cutting for hay. They are typically dominated by a pasture species (such as blue grass, orchard grass, fescue, clovers, reed canary grass, etc.) as well as non-native wetland species such as soft rush and buttercup. They are saturated or have standing water during the wet season and part of the growing season but are dry during the summer months. Grazed wet meadows have been (within the last 5 years) or are being used for livestock grazing, seeding, or cutting for hay.

**Groundwater:** Water in a saturated zone or stratum beneath the surface of land or water.

**Grubbing:** The removal of vegetative matter from underground, such as sod, stumps, roots, buried logs, or other debris, and shall include the incidental removal of topsoil to a depth not exceeding 12 inches.

**Habitat:** The specific area or environment in which a particular type of plant or animal lives. An organism's habitat provides all the basic requirements for life.

**Habitat Management Plan:** A report prepared by a professional wildlife biologist or fisheries biologist which discusses and evaluates critical fish and wildlife habitat functions and evaluates the measures necessary to maintain, enhance and improve habitat conservation on a proposed development site.

**Habitat of local importance:** A seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or areas of high vulnerability to alteration, such as cliffs, talus, and wetlands.

**Hazardous Substance(s):** Any liquid, solid, gas or sludge, including any materials, substance, product, commodity or waste, regardless of quantity, that exhibits any of the characteristics or criteria of hazardous waste; and including waste oil and petroleum products.

**Hydric Soils:** Soils which are wet long enough to periodically produce anaerobic conditions, thereby influencing the growth of plants.

**Hydrologist or Hydrogeologist:** A person who has a Bachelor of Science degree in geologic sciences with an emphasis in hydrogeology from an accredited college or university and has a minimum of three years experience in groundwater investigations, modeling and remediation.

**Infiltration rate:** A general description of how quickly or slowly water travels through a particular soil type.

**Investigation:** Work necessary for land use application submittals such as surveys, soil logs, percolation tests or other related activities.

**Landslide hazard area:** Areas potentially subject to risk of mass movement due to a combination of geologic, topographic and hydrologic factors.

**Liquefaction:** A process in which a water-saturated soil, upon shaking, suddenly loses strength and behaves as a fluid.

**Lot:** A single parcel of land, legally severed from a larger parcel, which is described and delineated in a long or short plat or which is described in a real estate conveyance.

**Low Impact Development:** Low impact development is a stormwater management and land development strategy applied at the parcel and/or subdivision scale that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely mimic predevelopment hydrologic functions.

**Mitigation:** Avoiding, minimizing or compensating for adverse critical area impacts. Mitigation includes the following specific categories:

Mitigation, compensatory: replacing project-induced critical area losses or impacts, including, but not limited to, restoration, creation or enhancement;

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

Mitigation, enhancement: mitigation performed to improve the condition of existing degraded critical areas (e.g. wetland) so that the functions they provide are of a higher quality.

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

**Native Vegetation:** Vegetation indigenous to the Puget Sound Coastal lowlands.

**Natural Environment:** A natural environment is an area having a unique asset or feature considered valuable for its natural or original condition which is relatively intolerant of intensive human use.

**Natural Systems:** Physical features or phenomena of nature sensitive, in varying degrees, to man's disruptive activity.

**Existing use or structure:** A use of land or structure which was lawfully established or built and which has been lawfully continued but which does not conform to the regulations established by this Chapter or amendments thereto.

**Normal maintenance:** Includes those usual acts to prevent a decline, lapse or cessation from a lawfully established condition. Normal maintenance includes removing debris from, and cutting or manual removal of vegetation in, crossing and bridge areas. Normal maintenance does *not* include the use of fertilizer or pesticide application in wetlands, fish and wildlife habitat conservation areas, or their buffer areas or resource management areas. Maintenance does *not* include re-digging existing drainage ditches in order to drain land in or adjacent to a regulated wetland or its buffer.

**Normal repair:** Means to restore a development to a state comparable to its original conditions within a reasonable period after decay or partial destruction except where repair involves total replacement which is not common practice or causes substantial adverse effects to the critical area.

**Open space:** Land used for outdoor recreation, critical area or resource land protection, amenity, safety or buffer, including structures incidental to these open space uses, but excluding buffers, setbacks, etc. required by this Chapter and land occupied by dwellings or impervious surfaces not related to the open space uses.

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

**Out-of-kind compensation:** Means to replace a critical area (e.g. wetland) with a substitute critical area (e.g. wetland) whose characteristics do not closely approximate those destroyed or degraded by a regulated activity. It does not refer to replacement "out-of-category," such as replacement of wetland loss with new stream segments.

**Permeability:** The capacity of an aquifer or confining bed to transmit water.

**Permit:** Any substantial development, variance, conditional use permit, or revision authorized under RCW 90.58 or City of Poulsbo Municipal Code requirements.

**Pond:** Is a naturally existing or artificially created body of standing water less than 20 acres in size and not defined as "Shorelines of the State" by RCW 90.58 (Shoreline Management Act).

**Practicable alternative:** An alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and having less impact to critical areas. It may include an area not owned by the applicant which could reasonably have been or be obtained, utilized, expanded, or managed in order to fulfill the basic purpose of the proposed activity.

**Priority habitat:** Habitat type or elements with unique or significant value to one or more species as classified by the state Department of Fish and Wildlife. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element.

**Priority species:** Priority species include species requiring protective measures and/or management to ensure their persistence at genetically viable population levels. Priority species include state-listed or state proposed endangered, threatened, or sensitive species and candidate species.

**Public access:** Physical or visual admittance of the critical area environment.

**Public facilities:** Facilities which are owned, operated and maintained by a public agency.

**Public project of significant importance:** A project funded by a public agency, department or jurisdiction which is found to be in the best interests of the citizens of the City of Poulsbo and is so declared by the City of Poulsbo City Council in a resolution.

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

**Public utility:** A business or service, either governmental or having appropriate approval from the State, which is engaged in regularly supplying the public with

some commodity or service which is of public consequence and need such as electricity, gas, sewer and/or wastewater, water, transportation or communications.

**Ravine:** A V-shaped landform generally having little to no floodplain and normally containing steep slopes and is deeper than 10 vertical feet as measured from the centerline of the ravine to the top of the slope. Ravines are created by the wearing action of streams.

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

**Reasonable alternative:** An activity that could feasibly attain or approximate a proposal's objectives, but at a lower environmental cost or decreased level of environmental degradation.

**Reasonable use:** A property is deprived of all reasonable use when the owner can realize no reasonable return on the property or make any productive use of the property. Reasonable return does not mean a reduction in value of the land, or a lack of a profit on the purchase and sale of the property, but rather, where there can be no beneficial use of the property; and which is attributable to the implementation of this Chapter.

**Reasonable use exception:** The process by which the City determines allowable use of a property which cannot conform to the requirements of this Chapter.

**Regulated use or activity:** Any development proposal which includes or directly affects a critical area or its buffer or is occurring within 200 feet of a critical area.

**Residential Development:** The construction or exterior alteration of one or more buildings, structures or portions thereof which are designed for or used to provide a place of abode for human beings. Residential development includes one- and two-family detached structures, multi-family structures, condominiums, townhouses, mobile home parks, and other similar group housing, together with accessory uses and structures common to residential uses. Residential development does not include hotels, motels, bed and breakfasts, or any other type of overnight or transient housing or camping facilities.

**Resource Management Area (RMA):** an area that contains a natural resource (fish and wildlife habitat) and the contiguous area that most directly influences the functions and values of the natural resource. RMA are designated by City of Poulsbo map or description in this Chapter; descriptions in the Chapter take precedence over map boundaries.

**Restoration:** The return of a critical area to a state in which its functions and values approach its unaltered state as closely as possible.

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

**Riparian Area:** An area that includes the land which supports riparian vegetation and may include some upland, depending on site conditions. These generally occur adjacent to water bodies where specific measures are needed to protect fish and wildlife habitat.

**Road or Street:** Any vehicular right-of-way which: (a) is an existing state, county or municipal roadway or (b) is a publicly owned easement or (c) is shown upon a plat or short plat approved pursuant to City of Poulsbo Code or (d) is a private access greater than 50 feet in length serving more than one property through right of use or easement. The road or street shall include all land within the boundaries of the road right-of-way which is improved.

**Salmonid:** A member of the fish family salmonidae. This family includes Chinook, Coho, chum, sockeye and pink salmon; rainbow, steelhead and cutthroat trout; brown trout; Brook and Dolly Varden char, kokanee, and whitefish.

**Sensitive species (state listed):** A species, native to the state of Washington, that is vulnerable or declining and is likely to become endangered or threatened in a significant portion of its range within the state without cooperative management or the removal of threats. Sensitive species are legally designated in WAC-232-12-011.

**Shorelines:** All of the water areas of the state, including reservoirs, and their associated wetlands, together with the lands underlying them; except (i) shorelines of state-wide significance; (ii) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

**Shorelines of State-Wide Significance:** Those areas designated under RCW 90.58.030(e) (see City of Poulsbo Shoreline Management Master Program).

**Single family dwelling:** A building or structure which is intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes by one family and including accessory structures and improvements.

**Slope, measurement:** A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten feet of vertical relief.

**Special flood hazard areas:** The area adjoining the floodway which is subject to a one percent or greater chance of flooding in any year, as determined by engineering studies acceptable to the City of Poulsbo. The Coastal High Hazard Areas are included within special flood hazard areas.

**Species of Concern:** Are species classified as endangered, threatened, sensitive, candidate, or monitored by the Washington Department of Fish and Wildlife.

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

**Susceptibility (groundwater):** The potential an aquifer has for groundwater contamination, based on factors which include but are not limited to depth of aquifer, soil permeability, topography, hydraulic gradient and conductivity, and precipitation.

**Swale:** A shallow drainage conveyance with relatively gentle side slopes, generally with flow depths less than 1 foot.

**Threatened species (state listed):** A species, native to the state of Washington, that is likely to become endangered in the foreseeable future throughout a significant portion of its range within the state without cooperative management or the removal of threats. Threatened species are legally designated in WAC 232-12-011.

**Toe of slope:** A distinct topographic break in slope. Where no distinct break exists, this point shall be the lower most limit of the landslide hazard area as defined and classified in Section 400 of this Chapter.

**Top of slope:** A distinct topographic break in slope. Where no distinct break in slope exists this point shall be the uppermost limit of the landslide hazard area as defined and classified in Section 400 of this Chapter.

**Unavoidable and necessary impacts:** Are those impacts to critical areas that remain after an applicant proposing to alter such an area has demonstrated that no practicable alternative exists for the proposed project.

**Utilities:** Services which produce or carry electric power, gas, sewage, water, communications, oil, etc.

**Utility corridor or easement:** Public right-of-way or other dedicated utility easements on which one or more utility lines are located. Utilities include electric, gas, sewer, and water lines.

**Vegetation:** Any and all living plant species growing at, below, or above the soil surface.

**Water-Dependent Use:** A use or portion of a use which requires direct contact with the water and cannot exist at a non-water location due to the intrinsic nature of its operations. Examples of water-dependent uses may include ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities, and sewer outfalls.

**Water-Related Use:** A use or a portion of a use which is not intrinsically dependent on a waterfront location but whose operation cannot occur economically without a waterfront location. Examples of water-related uses may include warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker, and log storage.

**Wetlands:** Wetlands are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include, but are not limited to wetlands, marshes, bogs, ponds, including their submerged aquatic beds and similar areas. Wetlands do not include those artificial wetlands intentionally created from non wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, stormwater 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 non wetland areas to mitigate the conversion of wetlands.

**Wetlands, Isolated:** Wetlands which 1) are outside of, and not contiguous to, any 100-year flood plain of a lake, river, or stream; and 2) have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water or other wetland.

**Wetlands, Mosaic:** Groups of isolated wetlands, any of which may be smaller than any of the regulated categories, but which in aggregate may be as valuable as any of the regulated categories.

**Wetland Report:** A wetland delineation characterization and analysis of potential impacts to wetlands utilizing the most recent edition of the Department of Ecology Washington State Wetland Rating System for Western Washington consistent with applicable provisions of this Chapter.

**Wetlands of Regional Significance:** Those regulated wetlands determined by the Director, or otherwise determined, to have characteristics of exceptional resource value which should be afforded the highest levels of protection.

**Wetlands Specialist:** A person with experience and formal training in wetland issues and with practical knowledge in wetland delineations, classifications, functional assessments and mitigation plans. Qualifications of a wetlands specialist include but are not limited to:

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

**Wetlands of Statewide Significance:** Those regulated wetlands recommended by the Washington State Department of Ecology and determined by the Department to have characteristics of exceptional resource value which should be afforded the highest levels of protection.

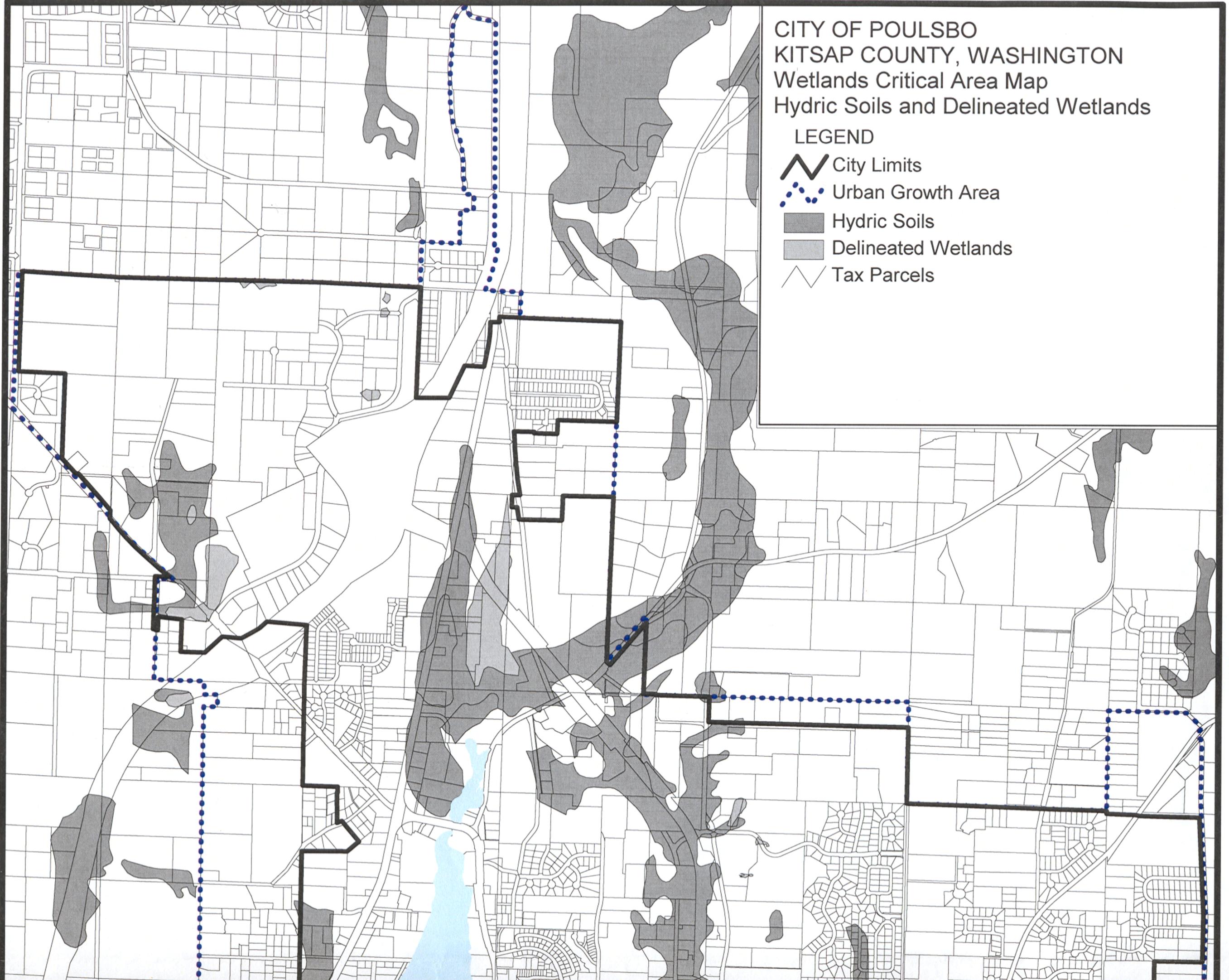
**Wildlife Biologist:** A person with experience and formal training in the principles of wildlife management and with practical knowledge in the habits, distribution and environmental management of wildlife. Qualifications of a wildlife biologist include but are not limited to:

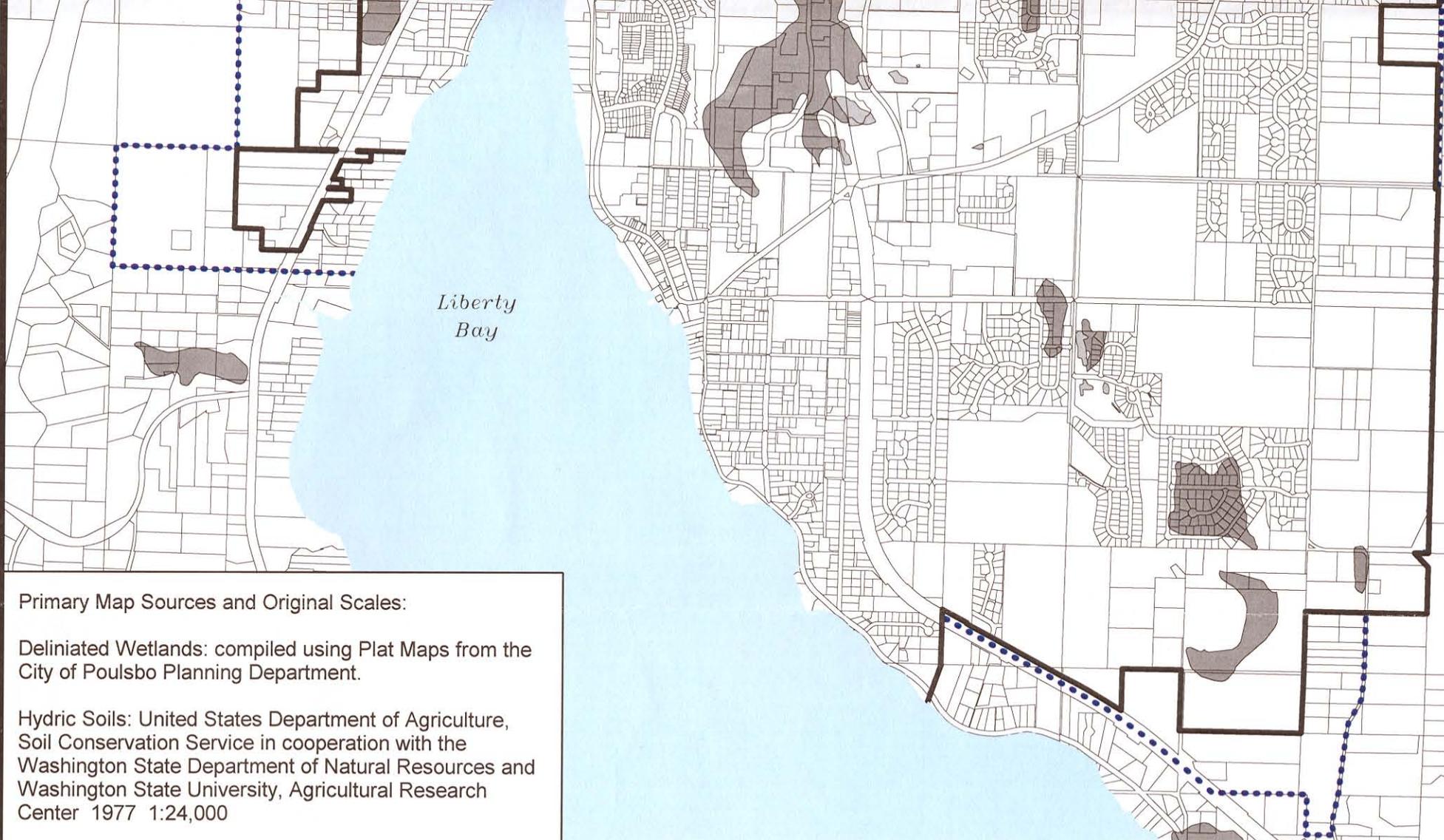
- A. Certification as a Professional Wildlife Biologist through the Wildlife Society;
- B. Bachelor of Science or Bachelor of Arts degree in wildlife management, wildlife biology, ecology, zoology, or a related field, from an accredited institution and two years of field experience; or,
- C. Five or more years of experience as a practicing wildlife biologist with a minimum of three years of practical field experience.

CITY OF POULSBO  
KITSAP COUNTY, WASHINGTON  
Wetlands Critical Area Map  
Hydric Soils and Delineated Wetlands

LEGEND

-  City Limits
-  Urban Growth Area
-  Hydric Soils
-  Delineated Wetlands
-  Tax Parcels





Liberty  
Bay

**Primary Map Sources and Original Scales:**

Deliniated Wetlands: compiled using Plat Maps from the City of Poulsbo Planning Department.

Hydric Soils: United States Department of Agriculture, Soil Conservation Service in cooperation with the Washington State Department of Natural Resources and Washington State University, Agricultural Research Center 1977 1:24,000

Kitsap County Assessor's Tax Maps 1:12,000 (Kitsap County I.T., G.I.S. Division)

\* Note: Saltwater wetlands are not represented on this map: however, they are of concern within the Shoreline Management Act.



City of Poulsbo Planning Department July 18, 2007

This map series is intended for general critical area planning. These maps are schematic representations of physical features, infrastructure and land ownership boundaries. The map information was derived from available public records and existing map sources, not from field surveys. Studies may be necessary with project review to verify information.

## SECTION 200: WETLANDS

### 16.20.205 PURPOSE

This section applies to all regulated uses within, or adjacent to, areas designated as wetlands, as categorized in Section 215 below. Under the conditions of this Section, the City may deny development proposals that would irreparably impact regulated wetlands. The intent of this Section is to:

- A. Achieve no net loss of wetland acreage, functions and values. Mitigation measures, as conditions of permits, must have a reasonable expectation of success;
- B. Plan wetland uses and activities in a manner that allows property holders to benefit from wetland property ownership wherever allowable under the conditions of this Section and Ordinance; and
- C. Preserve natural flood control, stormwater storage and drainage or stream flow patterns.

### 16.20.210 WETLAND CATEGORIES

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

The City of Poulsbo uses the Department of Ecology's Washington State Wetland Rating System for Western Washington, 2004, or as amended hereafter to categorize wetlands for the purposes of establishing wetland buffer widths, wetland uses and replacement ratios for wetlands. This system consists of four wetland categories generally designated as follows:

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**16.20.215 REGULATED AND NON-REGULATED WETLANDS**  
**CLASSIFICATION**

**A. Regulated Wetlands:**

1. **Category I Wetlands:** Category I wetlands are those that 1) represent unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of function. Category I wetlands include estuarine wetlands larger than one acre, bogs, mature and old-growth wetlands over one acre, wetlands in coastal lagoons and wetlands that perform many functions very well as demonstrated by a score of over 70 points using the DOE rating system.
2. **Category II Wetlands:** Category II wetlands are difficult, though not impossible, to replace, and provide a high level of function. Category II wetlands include estuarine wetlands smaller than one acre or disturbed and larger than one acre and wetlands that perform functions well as demonstrated by a score of 51-69 using the DOE rating system.
3. **Category III Wetlands:** Category III wetlands are wetlands with a moderate level of function as demonstrated by a score of 30-50 points using the DOE rating system.
4. **Category IV Wetlands:** Category IV wetlands have the lowest level of function as demonstrated by a score of less than 30 points on the DOE rating system and are often heavily disturbed.
5. **Wetlands intentionally created from non-wetland areas to mitigate conversion of other wetlands.**

**B. Non-Regulated Wetlands:**

1. **Created Wetlands.** Wetlands created intentionally from a non-wetland site that were not required to be constructed as mitigation for adverse wetland impacts. These may include, but are not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment ponds, farm ponds not contiguous, as defined in this Ordinance, and landscape amenities.
2. **Recent Road Construction Related Wetlands.** Wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. The applicant shall bear the burden of proving that the wetland meets these criteria.

**16.20.220 APPLICATION REQUIREMENTS**

Application Procedures for New Development. Any new development containing a regulated wetland or its buffer, or proposed within the largest potential wetland buffer width, shall provide the special reports listed below, as required by the department, prior to any development authorization by the department.

- A. Wetland delineation report (16.20);
- B. Wetland mitigation report (16.20); and,
- C. Erosion and sedimentation control measures as required by Poulsbo Municipal Code Construction and Development Standards contained in Chapter 12.02.

The Director may require additional reports or information to further identify potential impacts to any part of the environment.

**16.20.225 DETERMINATION OF WETLAND BOUNDARIES**

- A. The applicant shall be responsible for hiring a certified wetlands specialist to determine the wetland boundary through a field survey. This specialist shall stake or flag the wetland boundary. For all new development, and as required by the Director, this line shall be surveyed by a professional land surveyor licensed in the State of Washington or recorded using a differential global positioning system. In the event that a global positioning system is used, wetland boundary information shall be provided to the City in an electronic data format acceptable to the City. The regulated wetland boundary and regulated buffer shall be identified on all grading, landscaping, site, utility or other development plans submitted in support of the project.
- B. Where the applicant has provided a delineation of a wetland boundary, the Director may verify the wetland boundary at the cost of the applicant, and may require that adjustments to the boundary be made by a wetland specialist.

**16.20.230 DEVELOPMENT STANDARDS**

For the purpose of this Ordinance, a regulated wetland and its buffer is a critical area.

- A. **Buffers:** Buffers shall remain as undisturbed natural vegetation areas except where the buffer can be enhanced to improve its functional values.

Any buffer enhancement and/or limited view clearing activity must be reviewed and approved by the Director. No refuse shall be placed in the buffer.

- B. **Buffer Widths:** All regulated wetlands shall be surrounded by a buffer as follows:

**Table 1: Wetland Development Standards**

Wetland Category and Characteristics	Buffer Width Standard	Other Development Standards
<b>Category I</b>		See subsections E, F, G and H below relating to buffer reduction, averaging, decreased buffer provisions and increased buffer provisions.
Natural Heritage Wetlands	250 feet	
Bog	250 feet	
Estuarine	200 feet	
Coastal Lagoon	200 feet	
Habitat Score from 29 to 36 points	300 feet	
Habitat Score from 20 to 28 points	150 feet	
Category I wetlands not meeting any of the criteria above with a habitat score less than 20 points	100 feet	
<b>Category II</b>		
Estuarine	150 feet	
Habitat Score from 29 to 36 points	300 feet	
Habitat Score from 20 to 28 points	150 feet	
Category II wetlands not meeting any of the criteria above with a habitat score less than 20 points	100 feet	
<b>Category III</b>		
Habitat Score from 20 to 28 points	150 feet	
Category III wetlands not meeting any of the criteria above with a habitat score less than 20 points	80 feet	
<b>Category IV</b>	50 feet	
<b>Small Isolated Wetlands</b>		
Wetlands less than or equal to 1000 square feet provided that the wetland is not associated with a riparian corridor or is not part of a wetland mosaic, or does not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife.	No required buffer, except as needed to protect wetland functions.  Wetland may be impacted provided that mitigation is provided to assure no net loss of critical area function. Wetland delineation and mitigation reports required. Mitigation may be provided on or off site, provided mitigation must occur within the same watershed.	

- D. **Buffer Measurement:** All buffers shall be measured on a horizontal plane from the regulated wetland edge as marked in the field by the wetland specialist.
- E. **Special Conditions for Reduction in Buffer Width:** Buffers for Category IV wetlands and Category I, II, or III wetlands that score less than 20 points for habitat may be reduced by 25% if all of the determined

mitigation measures or alternate mitigation measures, as applicable and as approved by the Director, are applied to address the types of disturbances listed in Table 2:

**Table 2: Examples of measures to minimize impacts to wetlands from different types of activities.**

Examples of Disturbances	Activities and Uses that Cause Disturbances	Examples of Measures to Minimize Impacts
Lights	Parking lots, warehouses, commercial, manufacturing, residential	Direct lights away from wetland
Noise	Manufacturing, commercial, residential	Locate activity that generates noise away from wetland
Toxic runoff*	Parking lots, roads, manufacturing, commercial, residential areas, landscaping	Route all new untreated runoff away from wetland while ensuring wetland is not dewatered.  Establish covenants limiting use of pesticides within 150 feet of wetland.  Apply integrated pest management.
Stormwater runoff	Parking lots, roads, manufacturing, residential areas, commercial, landscaping	Retrofit stormwater detention and treatment for roads and existing adjacent development.  Prevent channelized flow from lawns that directly enter the buffer.
Change in water regime	Impermeable surfaces, lawns, clearing and grading	Infiltrate or treat, detain and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human Disturbance	Residential areas	Use privacy fencing; plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion; place wetland and its buffer in a separate tract
Dust	Clearing and grading	Use best management practices to control dust
*These examples are not necessarily adequate for minimizing toxic runoff if threatened or endangered species are present.		

F. **Buffer Width Averaging:** Buffer widths for Category I, II, and III wetlands may be modified by the Director for a development proposal by averaging buffer widths. The Director may allow wetland buffer averaging where all of the following can be demonstrated through a wetland report:

1. That the wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;
  2. All of the mitigation measures included in Table 2 are applied. Alternate mitigation measures, as approved by the Director, may be applied to address the types of disturbances described in Table 2;
  3. That the total area contained within the buffer after averaging is not less than that contained within the buffer prior to averaging;
  4. The buffer width has not been reduced by more than 25% of the required buffer width at any point; and
  5. Width averaging will not reduce the functions and values of the wetland.
- G. **Decreasing Buffer Widths:** The Director may decrease the buffer widths for Category I, II, and III wetlands where all of the following can be demonstrated through a wetland report:
1. Wetland buffer width averaging as set forth in this chapter is unfeasible. Decreasing wetland buffer widths cannot be used in conjunction with wetland buffer averaging;
  2. All of the mitigation measures included in Table 2 are applied. Alternate mitigation measures, as approved by the Director, may be applied to address the types of disturbances described in Table 2;
  3. The project application includes, as applicable, a wetland report or habitat management plan using native vegetation and other mitigations as appropriate for the proposed project which substantiates that an enhanced buffer will improve the functional attributes of the buffer to provide additional protection for functions and values. The following actions shall be considered in combination with a buffer reduction:
    - a. Infiltration of stormwater where soils permit;
    - b. Retention of existing native or equivalent vegetation or revegetation on other portions of the site in order to off set habitat loss from buffer reduction; and
    - c. Fencing and signage of the buffer edge.
  4. Under no circumstances shall required buffer widths be reduced by more than 25%.

- H. **Increasing Buffer Widths:** The Director may increase buffer zone widths for a development project on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values. This determination shall be made only when the Director demonstrates any one of the following through appropriate documentation:
1. The wetland site has known locations of endangered or threatened species for which a habitat management plan indicates a larger buffer is necessary to protect habitat values for such species;
  2. The adjacent land is susceptible to severe erosion and erosion control measures alone will not effectively prevent adverse wetland impacts; and
  3. The adjacent land on the development proposal site has minimal vegetative cover or slopes greater than 30%.
- I. **Building or Impervious Surface Setback Lines:** A building or impervious surface setback line of 15 feet is required from the edge of any wetland buffer. Minor structural or impervious surface intrusions into the areas of the setback such as fire escapes, open-uncovered porches, landing places, outside walkways, outside stairways and patios may be permitted if the department determines that such intrusions will not adversely impact the wetland. The setback shall be identified on a site plan.
- J. **Signs and Fencing of Wetlands:** This section applies to those wetlands and their buffers that are within 300 feet of regulated development activities:
1. Wetland buffers shall be temporarily fenced or otherwise suitably marked, as required by the Director, between the area where the construction activity occurs and the buffer. Fences shall be made of a durable protective barrier and shall be highly visible. Silt fences and plastic construction fences may be used to prevent encroachment on wetlands or their buffers by construction. Temporary fencing shall be removed after the site work has been completed and the site is fully stabilized per City approval.
  2. The Director may require that permanent signs and/or fencing be placed on the common boundary between a wetland buffer and the adjacent land. Such signs will identify the wetland buffer. The Director may approve an alternative method of wetland and buffer identification if it provides adequate protection to the wetland and buffer.

### 16.20.235 ADDITIONAL DEVELOPMENT STANDARDS

In addition to meeting the Development Standards above, the regulated uses identified below shall also comply with the standards of this section and other applicable state, federal and local ordinances.

- A. **Docks:** Construction of a dock, pier, moorage, float or launch facility may be permitted subject to criteria in the City of Poulsbo Shoreline Master Program, and where no existing buffer or wetland vegetation would be significantly altered.
- B. **Forest Practice, Class IV General, and Conversion Option Harvest Plans (COHPs):** All timber harvesting and associated development activity, such as construction of roads, shall comply with the provisions of this Ordinance, including the maintenance of buffers around regulated wetlands.
- C. **Agricultural Restrictions:** In all development proposals which would permit introduction of agricultural uses, damage to Category I, II and III regulated wetlands shall be avoided. These restrictions shall not apply to those regulated wetlands defined as grazed wet meadows, regardless of their classification only where grazing has occurred within the last five (5) years. Wetlands shall be protected by installation of fencing located not closer than the outer buffer edge.
- D. **Road/Street Repair and Construction:** Public road or street repair, maintenance, expansion or construction may be allowed in wetlands or wetland buffers subject to the following development standards:
  - 1. No other reasonable or practicable alternative exists and the road or street crossing serves multiple properties wherever possible;
  - 2. Publicly owned or maintained road or street crossings provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc;
  - 3. The road or street repair and construction are the minimum necessary to provide safe roads and streets; and
  - 4. Mitigation shall be performed in accordance with specific project mitigation plan requirements.
- E. **Surface Water Management:** Surface water discharges from stormwater facilities or structures may be allowed in wetland buffers when they are in accordance with the City's Stormwater Management Ordinance. The discharge shall not significantly increase or decrease the rate of flow and/or hydro-period, nor decrease the water quality of the

wetland. Pre-treatment of surface water discharge through biofiltration or other best management practices (BMPs) shall be required.

- F. **Low Impact Development (LID)** . LID activities, may be allowed within the buffer of Category III or IV wetlands only, provided that:
1. No other location is feasible; and
  2. The location of such facilities will not degrade the functions or values of the wetland.
- G. **Trails and Trail-Related Facilities:** Construction of public trails and trail-related facilities, such as benches and viewing platforms, may be allowed in wetlands or wetland buffers pursuant to the following guidelines:
1. Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed areas.
  2. Trails and related facilities shall be planned to minimize removal of trees, soil disturbance and existing hydrological characteristics, shrubs, snags and important wildlife habitat.
  3. Viewing platforms and benches, and access to them, shall be designed and located to minimize disturbances of wildlife habitat and/or critical characteristics of the affected wetland.
  4. Trails and related facilities shall generally be located outside required buffers. Where trails are permitted within buffers, they should be located on the outer portion of the buffer and as far as possible from the wetland edge, except where wetland crossings or viewing areas have been approved.
  5. Trails shall generally be limited to pedestrian use unless other more intensive uses, such as bike or horse trails have been specifically allowed and mitigation has been provided. Trail width shall not exceed five feet unless there is a demonstrated need, subject to review and approval by the Director. Trails shall be constructed with pervious materials unless otherwise approved by the Director.
- H. **Utilities in Wetland or Wetland Buffers:**
1. The utility development authorized in Section 16.20.120 shall be allowed, subject to best management practices in wetlands and wetland buffers.
  2. Construction of new utilities outside the road right-of-way or existing utility corridors or easements may be permitted in wetlands or wetland

buffers, only when no reasonable alternative location is available and the utility corridor or easement meets the requirements for installation, replacement or vegetation and maintenance outlined below, and as required in the filing and approval of applicable permits and Special Reports (Section 700) required by this Chapter.

3. Sanitary Sewer or On-Site Sewage Utility: Construction of sanitary sewer lines or on-site sewage systems may be permitted in regulated wetland buffers only when: 1) the applicant demonstrates it is necessary to meet state and/or local health code minimum design standards (not requiring a variance for either horizontal setback or vertical separation), and/or 2) There are no other practicable or reasonable alternatives available and construction meets the requirements of this section. Joint use of the sanitary sewer utility easement by other utilities may be allowed.
4. New utility corridors or easements shall not be allowed when the regulated wetland or buffer has known locations of federal or state listed endangered, threatened or sensitive species, heron rookeries or nesting sites of raptors which are listed as state candidate or state monitor, except in those circumstances where an approved Habitat Management Plan indicates that the utility corridor or easement will not significantly impact the wetland or wetland buffer.
5. New utility corridor or easement construction and maintenance shall protect the regulated wetland and buffer environment by utilizing the following methods:
  - a. New utility corridors or easements shall be aligned when possible to avoid cutting trees greater than 12 inches in diameter at breast height (four and one-half feet), measured on the uphill side.
  - b. New utility corridors or easements shall be revegetated with appropriate native vegetation at pre-construction densities or greater, immediately upon completion of construction, or as soon thereafter as possible, if due to seasonal growing constraints. The utility shall ensure that such vegetation survives.
  - c. Any additional utility corridor or easement access for maintenance shall be provided as much as possible at specific points, rather than by parallel roads. If parallel roads are necessary, they shall be of a minimum width but no greater than 15 feet; and shall be contiguous to the location of the utility corridor on the side away from the wetland. Mitigation will be required for any additional access through restoration of vegetation in disturbed areas.
  - d. The Director may require other additional mitigation measures.

6. Utility corridor maintenance shall include the following measures to protect the regulated wetland and buffer environment:
  - a. Where feasible, painting of utility equipment such as power towers shall not be sprayed or sandblasted, nor should lead-based paints be used.
  - b. No pesticides, herbicides or fertilizers may be used in wetland areas or their buffers except those approved by the EPA and the Department of Ecology. Where approved, herbicides must be applied by a licensed applicator in accordance with the safe application practices on the label.

#### **16.20.240 WETLAND MITIGATION REQUIREMENTS**

- A. **Mitigation.** All regulated development activities proposed to impact wetlands or buffers shall be mitigated according to this title subject to the following order:
  1. Avoiding the impact altogether by not taking a certain action or parts of an action;
  2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
  3. Using one of the following mitigation types, listed in order of preference:
    - a. Rectifying the impact by reestablishing, rehabilitating, or restoring the affected environment;
    - b. Compensating for the impact by replacing or providing substitute resources or environments; or
    - c. Compensating for the impact by improving the environmental processes that support wetland systems and functions.
  4. Monitoring the impact and compensation and taking appropriate corrective measures; or
  5. Combining any of the above measures to mitigate for individual actions.
- B. **Mitigation for Regulated Activities in Wetland Buffers.** A specific mitigation plan is required and the requirements are provided in

16.20.725. Approval of the mitigation plan shall be signified by a notarized memorandum of agreement signed by the applicant and Department Director or designee, and recorded with the Kitsap County Auditor. The agreement shall refer to all requirements for the mitigation project.

C. **Mitigation for Regulated Activities in Wetlands.** Compensatory mitigation shall be required for regulated activities that result in the loss of wetland acreage. A specific mitigation plan is required and the requirements are provided in 16.20.725.

1. A compensatory mitigation plan shall be completed. The applicant shall submit a detailed mitigation plan for compensatory mitigation to the department.
2. The detailed mitigation plan shall be prepared, signed, and dated by the wetland specialist to indicate that the plan is in accordance with specifications as determined by the wetland specialist. A signed original mitigation plan shall be submitted to the department.
3. Approval of the detailed mitigation plan shall be signified by a notarized memorandum of agreement signed by the applicant and department director or designee, and recorded with the Kitsap County Auditor. The agreement shall refer to all requirements for the mitigation project.
4. The mitigation project shall be completed according to a schedule agreed upon between the department and the applicant as included in the wetland mitigation plan.
5. Wetland mitigation shall occur according to the approved wetland mitigation plan and shall be consistent with provisions of this chapter and title.
6. A wetland specialist shall be on-site during construction and plant installation phases of all mitigation projects.
7. On completion of construction for the wetland mitigation project, the wetland specialist shall submit an as-built report to the department for review and approval.

D. **Wetland Replacement Ratios.**

1. The ratios presented here are based on the type of compensatory mitigation proposed (restoration, establishment, or enhancement). These types of compensatory mitigation are defined as follows:
  - a. Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded wetland. For the

purpose of tracking net gains in wetland acres, restoration is divided into:

- i. **Re-Establishment:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Activities could include removing fill material, plugging ditches, or breaking drain tiles. Re-establishment results in a gain in wetland acres.
  - ii. **Rehabilitation:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions of a degraded wetland. Activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres.
- b. **Establishment (Creation):** The manipulation of the physical, chemical, or biological characteristics present to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species. Establishment results in a gain in wetland acres.
  - c. **Enhancement:** The manipulation of the physical, chemical, or biological characteristics of a wetland site to heighten, intensify or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention or wildlife habitat. Activities typically consist of planting vegetation, controlling non-native or invasive species, modifying site elevations or the proportion of open water to influence hydroperiods, or some combination of these. Enhancement results in a change in some wetland functions and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres.
2. The following ratios appearing below in Table 3 "Wetland Mitigation Replacement Ratios," as well as consideration of the factors listed in this section, shall be used to determine the appropriate amounts of restored, established, or enhanced wetland that will be required to replace impacted wetlands. The first number specifies the amount of wetland area requiring restoration, establishment, or enhancement and the second number specifies the amount of wetland area altered.

**Table 3: Wetland Mitigation Replacement Ratios**

Wetland Category	Re-establishment or Creation	Rehabilitation	1:1 Re-establishment or Creation (R/C) and Enhancement (E)	Enhancement only
All Category IV	1.5:1	3:1	1:1 R/C and 2:1 E	6:1
All Category III	2:1	4:1	1:1 R/C and 2:1 E	8:1
Category II Estuarine	Case-by-case	4:1 rehabilitation of an estuarine wetland	Case-by-case	Case-by-case
All other Category II	3:1	8:1	1:1 R/C and 4:1 E	12:1
Category I Forested	6:1	12:1	1:1 R/C and 10:1 E	24:1
Category I other	4:1	8:1	1:1 R/C and 6:1 E	16:1
Category I Natural Heritage site	Prohibited	6:1 rehabilitation of a Natural Heritage site	Not Considered Possible	Case-by-case
Category I Bog	Prohibited	6:1 rehabilitation of a bog	Not Considered Possible	Case-by-case
Category I Estuarine	Prohibited	6:1 rehabilitation of an estuarine wetland	Case-by-case	Case-by-case

3. The director may increase or decrease the ratios based on one or more of the following:
  - a. Replacement ratios may be increased under the following circumstances:
    - i. Uncertainty exists as to the probable success of the proposed restoration or creation;
    - ii. A significant period of time will elapse between impact and establishment of wetland functions at the mitigation site;
    - iii. Proposed compensation will result in a lower category wetland or reduced functions relative to the wetland being impacted; or

- iv. The impact was an unauthorized impact.
- b. Replacement ratios may be decreased under the following circumstances:
  - i. Documentation by the applicant provides more certainty that the proposed compensation actions will be successful. For example, demonstrated prior success with similar compensation actions as those proposed, and/or extensive hydrologic data to support the proposed water regime;
  - ii. Documentation by the applicant demonstrates that the proposed compensation actions will provide functions and values that are significantly greater than the wetland being impacted; or
  - iii. The proposed mitigation actions are conducted in advance of the impact and are shown to be successful.

**E. Off-Site Compensatory Mitigation.**

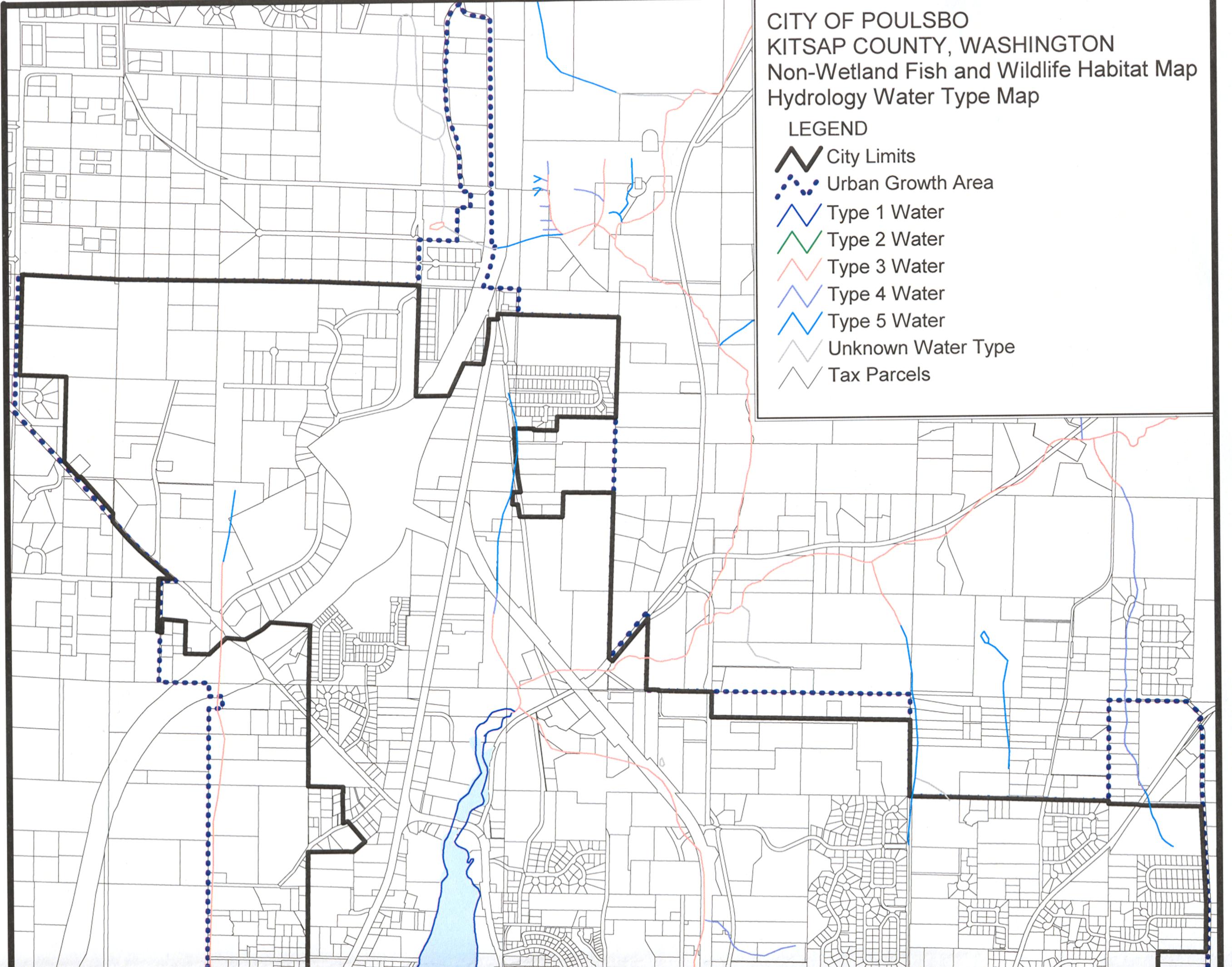
- 1. Consideration for determining whether off-site mitigation is preferable includes, but is not limited to:
  - a. On-site conditions do not favor successful establishment of the required vegetation type, or lack the proper soil conditions, or hydrology;
  - b. On-site compensation would result in an aquatic habitat that is isolated from other natural habitats or severely impaired by the effects of the adjacent development;
  - c. Off-site location is crucial to one or more species that is threatened, endangered, or otherwise of concern, and the on-site location is not;
  - d. Off-site location is crucial to larger ecosystem functions, such as providing corridors between habitats, and the on-site location is not; and
  - e. Off-site compensation has a greater likelihood of success or will provide greater functional benefits.

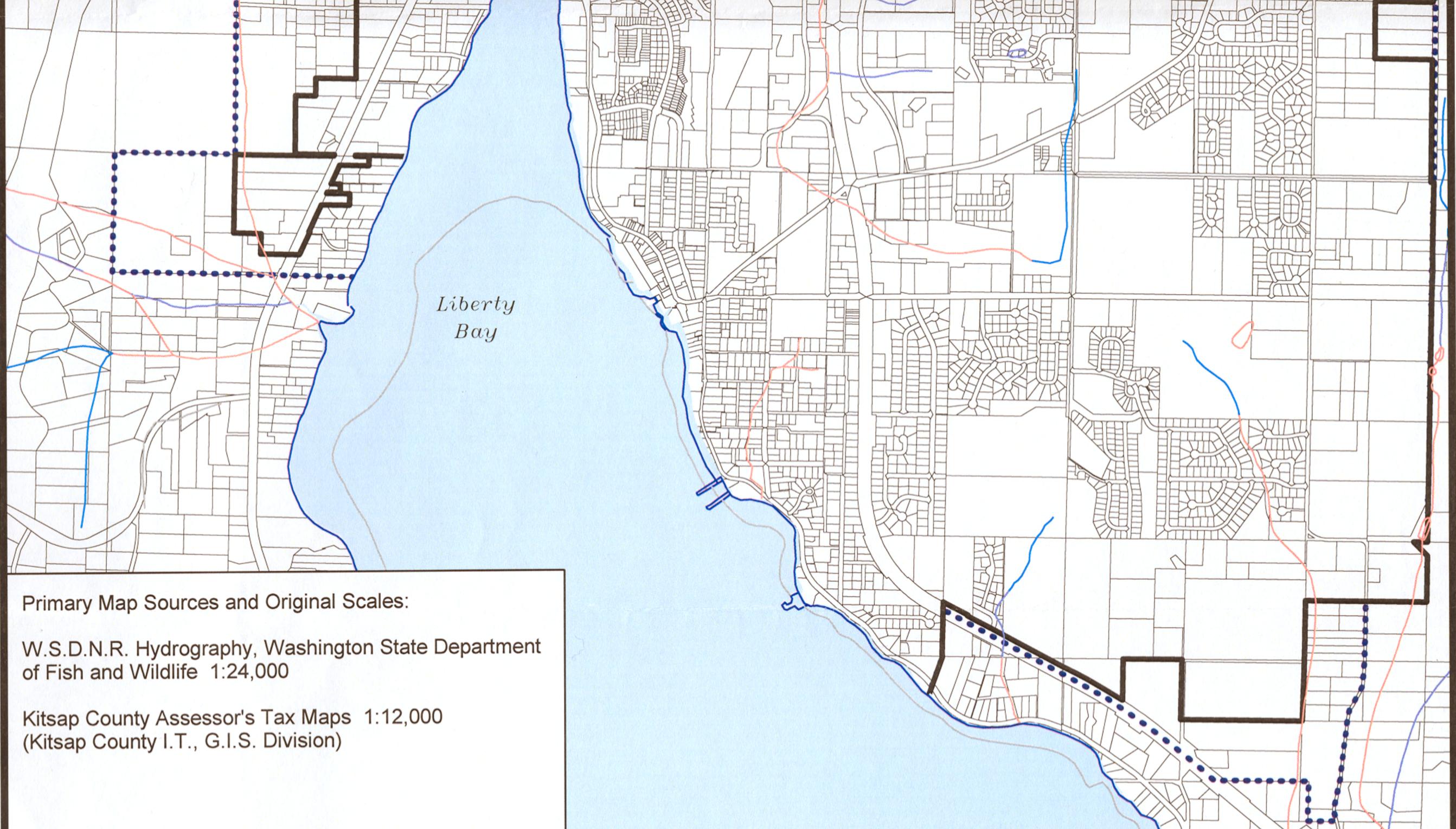
2. When determining whether off-site mitigation is preferable, the value of the site-specific wetland functions at the project site, such as flood control, nutrient retention, sediment filtering, and rare or unique habitats or species, should be fully considered.
  3. When conditions do not favor on-site compensation, off-site compensatory mitigation should be located as close to the impact site as possible, at least within the same watershed, while still replacing lost functions.
- F. **Monitoring Requirements.** The City of Poulsbo shall require monitoring reports on an annual basis for a minimum of five years and up to ten years, or until the director determines that the mitigation project has achieved success. The wetlands mitigation plan shall provide specific criteria for monitoring the mitigation project. Criteria shall be project-specific and use best available science to aid the director in evaluating whether or not the project has achieved success.

CITY OF POULSBO  
KITSAP COUNTY, WASHINGTON  
Non-Wetland Fish and Wildlife Habitat Map  
Hydrology Water Type Map

LEGEND

-  City Limits
-  Urban Growth Area
-  Type 1 Water
-  Type 2 Water
-  Type 3 Water
-  Type 4 Water
-  Type 5 Water
-  Unknown Water Type
-  Tax Parcels





Liberty Bay

Primary Map Sources and Original Scales:

W.S.D.N.R. Hydrography, Washington State Department of Fish and Wildlife 1:24,000

Kitsap County Assessor's Tax Maps 1:12,000 (Kitsap County I.T., G.I.S. Division)



City of Poulsbo Planning Department July 18, 2007

This map series is intended for general critical area planning. These maps are schematic representations of physical features, infrastructure and land ownership boundaries. The map information was derived from available public records and existing map sources, not from field surveys. Studies may be necessary with project review to verify information.

**SECTION 300: FISH AND WILDLIFE HABITAT CONSERVATION  
CRITICAL AREAS**

**16.20.305 PURPOSE**

This section applies to all uses and activities regulated under this Chapter within or adjacent to areas designated as Fish and Wildlife Habitat Conservation Areas or Resource Management Areas, as categorized in Section 310 below. The purpose of this Chapter is to:

- A. Preserve existing ecological functions of fish and wildlife habitat conservation areas normally associated with stream, nearshore, riparian areas (freshwater and marine), wetland and upland wildlife habitat;
- B. Preserve natural flood control, stormwater storage and drainage or stream flow patterns;
- C. Control siltation, protect nutrient reserves and main stream flows and stream quality; and
- D. Prevent turbidity and pollution of streams.

**16.20.310 FISH AND WILDLIFE HABITAT CONSERVATION AREA  
DESIGNATIONS**

The following designations shall be used in classifying Fish and Wildlife Habitat Conservation Areas:

- A. **South Fork of Dogfish Creek Stream/Riparian Corridor Conservation Areas.** The following reaches of stream channel and riparian area of the South Fork of Dogfish Creek:
  - 1. Headwater: between the northernmost extent of the drainage north of NE Lincoln and Wilderness Park;
  - 2. Canyon: between the east end of Wilderness Park and SR 305;
  - 3. Urban/Commercial: between SR 305 (culvert south of NE Lincoln Road) and culvert north of NE Liberty Road;
  - 4. Lower Forested: between SR 305 culvert north of NE Liberty Road and the confluence with Dogfish Creek mainstem, north of Bond Road; and
  - 5. Tidewater/Estuarine: Dogfish Creek between the junction of South Fork and Liberty Bay, including commercial and recreational shellfish areas, marine riparian areas, tidewater/estuarine habitats (herring, sand lance, and smelt spawning areas, kelp, and eelgrass), and juvenile salmonid rearing and feeding areas.

- B. **Streams:** All streams which meet the criteria for Type 1, 2, 3, 4 and 5 waters as set forth in WAC 222-16-031 of the DNR Water Typing System.
- C. **Saltwater Shorelines, and Lakes 20 Acres and Greater in Surface Area:** Those saltwater shorelines and lakes defined as Shorelines of the State in the Shoreline Management Act of 1971 and the City of Poulsbo Shoreline Master Program, as now or hereafter amended. Shorelines include: Type 1 waters as set forth in WAC 222-16-030, (DNR Water Typing System) as now or hereafter amended; commercial and recreational shellfish areas; riparian areas (freshwater and marine), shoreline feeder bluffs, kelp and eelgrass beds; and herring, sand lance, and smelt spawning areas, and juvenile salmonid migratory corridors.
- D. **Lakes less than 20 Acres in Surface Area:** Those lakes which meet the criteria for Type 2, 3, 4, and 5 waters as set forth in WAC 222-16-030, as now or hereafter amended. This includes lakes and ponds less than twenty (20) acres in surface area and their submerged aquatic beds, and lakes and ponds planted with game fish by a governmental or tribal authority.
- E. **Wildlife Habitat Conservation Areas:**
1. **Class 1 Wildlife Habitat Conservation Areas:**
    - a. Habitats recognized by Federal or State agencies for Federal and/or State listed endangered, threatened and sensitive species which presence is documented in maps or data bases available to City of Poulsbo;
    - b. Areas targeted for preservation by the federal, state and/or local government which provide fish and wildlife habitat benefits, such as important waterfowl areas identified by the U.S. Fish and Wildlife Service; and
    - c. Areas that contain habitats and species of local importance.
  2. **Class 2 Wildlife Habitat Conservation Areas:**
    - a. Habitats for state listed candidate and monitored species which presence is documented in maps or data bases available to City of Poulsbo; and
    - b. Habitats which include attributes such as comparatively high wildlife density; high wildlife species richness; significant wildlife breeding habitat, seasonal ranges or movement corridors of limited availability and/or high vulnerability. These habitats may include caves, cliffs, islands, meadows, old-growth/mature forest, snag-rich areas, talus slopes, and urban natural open space.
- F. **Areas of Rare Plant Species and High Quality Ecosystems:** Areas of rare plant species and high quality ecosystems as identified by the

Washington State Department of Natural Resources through the Natural Heritage Program.

**16.20.315 DEVELOPMENT STANDARDS**

The following development standards shall apply to Fish and Wildlife Habitat Conservation Areas:

**A. Buffers, Resource Management Areas (RMA) and Setbacks:**

1. Buffers or Resource Management Areas, and Setbacks shall be maintained along all identified Habitat Conservation Areas. Distances shall be measured from the ordinary high water mark (OHWM) or from the top of the bank where the OHWM cannot be identified. Two systems of Riparian buffers or RMA dimensions are specified below, Standard Riparian Buffers and Stream Reach Specific RMA based on characteristics and ecological functions of specific stream reaches.
  - a. Standard Riparian Buffers shall be utilized for all streams for which there are no Reach Specific Riparian RMA.
  - b. The use of the Stream Reach Specific RMA is subject to reach specific protection measures. The letters listed after the RMA width correspond to the required protections listed at the end of Table 4.
2. Buffers and RMA shall be retained in at least the quality of their existing condition; or they may be enhanced by planting indigenous vegetation as approved by the Director. Refuse shall not be placed in the buffer or RMA.
3. Alteration of Buffers or RMA may be allowed for water dependent and water related activities subject to section 16.20.315(B)(3) below, and for development authorized by Section 100 of this Chapter.
4. The Buffers or RMA shall include streamside wetlands and/or functional floodplains which provide overflow storage for stormwaters, provide groundwater recharge or discharge functions, or provide seasonal shelter and food for fish. In braided channels, the OHWM or Top of Bank shall be defined so as to include the entire stream feature.
5. Where such features occur on the site, refer to Sections 200 Wetlands and 400 Geologically Hazardous Areas for additional development standards. In cases of differing standards, the more restrictive buffer or setback shall apply.
6. If applicable, the required buffers or RMA may meet specific yard setback requirements of the zoning ordinance.
7. Minor structural or impervious surface intrusions into the areas of the setback may be permitted if the Director determines that such intrusions will not adversely impact the stream or riparian corridor. The Director may require submittal of a special report that provides

evidence that a proposed intrusion will not adversely impact the stream or riparian corridor.

8. **New development or Redevelopment. Standard Buffers and Resource Management Areas and setbacks for Fish and Wildlife Habitat Conservation Areas shall be required as per the following table and text:**

A. Buffers, Resource Management Areas (RMA) and Setbacks	
1. Buffers or Resource Management Areas and Setbacks shall be maintained along all identified Habitat Conservation Areas. Distances shall be measured from the ordinary high water mark (OHWM) or from the top of the bank where the OHWM cannot be identified. Two systems of Riparian buffers or RMA dimensions are specified below: Standard Riparian Buffers and Stream Reach Specific RMA based on characteristics and ecological function of specific stream reaches.	a. Standard Riparian Buffers shall be utilized for all streams for which there is no Reach Specific Riparian RMA.
b. The use of the Stream Reach Specific RMA is subject to reach specific protection measures. The rates listed after the RMA width correspond to the required protection listed at the end of Table 4.	
2. Buffers and RMA shall be retained in at least the quality of their existing condition; or they may be enhanced by planting indigenous vegetation as approved by the Director. Retention shall not be placed in the buffer or RMA.	
3. Allocation of buffers or RMA may be allowed for water dependent and water related activities subject to section 18.20.310(D)(2) below, and for development authorized by Section 190 of this Chapter.	
4. The Buffer or RMA shall include streamside wetlands and/or functional floodplains which provide overflow storage for stormwater, provide groundwater recharge or discharge functions, or provide seasonal storage and food for fish. In graded channels, the OHWM or Top of Bank shall be defined so as to include the entire stream feature.	
5. Where such features occur on the site, refer to Sections 300 Wetlands and 400 Geologically Hazardous Areas for additional development standards. In cases of differing standards, the more restrictive buffer or setback shall apply.	
6. If applicable, the proposed buffer or RMA may meet specific yard setback requirements of the zoning ordinance.	
7. Minor structural or intrusive outside intrusions into the area of the setback may be permitted if the Director determines that such intrusion will not adversely impact the stream or riparian corridor. The Director may require such that of a special report that provides	

**Table 4: Fish and Wildlife Habitat Conservation Area  
Development Standards**

<b>Standard Buffers and Setback Requirements</b>		
<b>Freshwater Streams</b>		
<b>Stream Water Type</b>	<b>Buffer Width (feet, each side of stream)</b>	<b>Setback from RMA</b>
2	200	25
3	150	25
4	100	25
5	75	25
<b>Saltwater Shorelines and Lakes</b>		
<b>Shoreline Environment</b>	<b>Buffer Width (feet above ordinary high water mark)</b>	<b>Setback from RMA</b>
Urban, Semi-Rural, Conservancy, and lakes	100	25
<b>Stream Reach Specific Resource Management Area and Setback Requirements</b>		
Additional protections are required for development subject to the following RMA Requirements. Letters listed after the RMA width in parentheses indicate which protections are applicable to the particular stream reach. Protections are listed below.		
<b>Stream Reach</b>	<b>Resource Management Area (feet, each side of stream)</b>	<b>Setback from RMA</b>
<b>South Fork Dogfish Creek</b> RMA determined by stream reach as follows:		
Tidewater/Estuary	100 (a, b)	25
Lower Forested	75, or top of adjacent slope, whichever is greater (a, b, c, d)	25
Urban/Commercial	50 for new development and redevelopment; extent of existing constraints for existing development (b, e)	25

City of Poulsbo  
Critical Area Ordinance

Canyon	Park boundary or top of slope, whichever is closest to stream, otherwise 100 ft or top of steep slope, whichever is greater (a, b, f, g)	25
Headwater	50 (b, h, i)	25
<b>Additional Protections Required for Properties within 300 feet of the South Fork of Dogfish Creek:</b>		
<p>(a) Maintain a 50 foot no-cut area on both sides of stream, measured from outer edge of riparian area. Edge of riparian area shall be determined in the field by a qualified Biologist where there is existing forest.</p> <p>(b) Maximum stormwater treatment required for new construction; retrofit existing impervious areas with minimum storm water treatment when expansions or alterations trigger a major site plan amendment.</p> <p>(c) Maintain vegetation on hill slopes adjacent to stream.</p> <p>(d) Retain curb along SR 305 to direct stormwater runoff, and provide stormwater treatment facilities prior to runoff entering creek.</p> <p>(e) Pruning of riparian vegetation is prohibited. Removal of invasive species and replanting of existing buffer areas with native riparian vegetation may be required at the time of major site plan amendments or redevelopment.</p> <p>(f) No tree cutting (except for removal of danger trees in accordance with PMC 16.20.120(H)) on canyon side slopes and bottom in Wilderness Park.</p> <p>(g) No tree cutting (except for removal of danger trees in accordance with PMC 16.20.120(H)) or land clearing along both sides of stream between Wilderness Park and SR 305.</p> <p>(h) Retain forested wetland at downstream side of Lincoln Road.</p> <p>(i) Require on-site infiltration of stormwater, where soils are appropriate, for new construction; establish downspout disconnection program for existing development.</p>		
<b>Wildlife Habitat Conservation Areas</b>		
Class 1	RMA widths and setbacks will be determined through mandatory Habitat Plan.	
Class 2	Site specific conditions will determine the need for preparation of a Habitat Plan for RMA widths and setbacks.	
<b>Areas of Rare Plant Species and High Quality Ecosystems</b>		
RMA widths and setbacks will be determined through mandatory Habitat Plan.		

- B. Changes to Standard Buffers:**
- 1. Provisions for decreasing the Standard Buffers to a RMA recommended through a Habitat Management Plan:**
    - a. The Director may decrease the standard buffer or setback to a RMA as recommended by a Habitat Management Plan after consultation with the Washington State Department of Fish and Wildlife and the Suquamish Tribe, and determines that conditions are sufficient to protect the affected habitat. A Habitat Management Plan shall be required. The Director may reduce the RMA width by up to 25%, but the RMA width shall not be less than 50 feet;
    - b. RMA reductions may be made following adoption of a detailed stream report that documents the existing functions and values of the stream including stream reaches downstream from the subject property. Detailed stream reports shall be reviewed as a Type IV permit and shall require a public hearing before council. Such reports shall incorporate Best Available Science for the particular stream. Accepted reports shall be adopted by resolution. Projects proposing to utilize a RMA authorized under this provision shall comply with all of the following standards:
      - i. The reduction from the standard buffer to the recommended RMA contained in an adopted detailed stream report shall be supported by a Habitat Management Plan and shall be consistent with the recommended protections in the adopted report; and
      - ii. Reductions under this provision shall not reduce RMA below 50 feet or below the recommended RMA in the detailed stream study accepted by the City.
  - 2. Provisions for increasing Standard Buffers or RMA:** The Director may increase the buffer or RMA width whenever a specific development proposal has known locations of endangered or threatened species for which a Habitat Management Plan indicates a larger RMA is necessary to protect habitat values for such species, or is located within a landslide or erosion hazard area.
  - 3. Conditional Alterations:** The Director may alter the standard buffer, RMA and setback for water dependent structures and utilities when no other reasonable or practical alternative exists and the development is consistent with the City Shoreline Master Program. Any alteration of a buffer or RMA shall be the least necessary and shall require a Habitat Management Plan which identifies and adequately protects any affected fish and wildlife conservation area.
- C. Streams in Ravines:** For streams in ravines with ravine sides 10 feet or greater in height, the minimum RMA width shall be the minimum required

or a width which extends 25 feet beyond the top of the slope, whichever is greater.

**D. Wildlife Habitat Conservation Areas:**

1. **Class 1 Wildlife Habitat Conservation Areas:** All development permits on sites with known locations of Class 1 Wildlife Habitat Conservation Areas or sites within 200 feet to known locations of Class 1 Wildlife Habitat Conservation Areas, shall submit a Habitat Management Plan as specified in Section 700 (Special Reports), for approval. In the case of bald eagles, an approved Bald Eagle Management Plan by the Washington State Department of Fish and Wildlife, meeting the requirements and guidelines of the bald eagle protection rules (WAC 232-12-292), as now or hereafter amended shall satisfy the requirements for a Habitat Management Plan. The Habitat Management Plan shall consider measures to retain and protect the wildlife habitat and shall consider effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of natural vegetation.

2. **Class 2 Wildlife Habitat Conservation Areas:** All major new development within Class 2 Wildlife Habitat Conservation Areas may require the submittal of a Habitat Management Plan. The Plan shall consider measures to retain and protect the wildlife habitat and shall consider effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of natural vegetation. The requirement for a Habitat Management Plan shall be determined during the development project review.

**E. Signs and Fencing of RMAs:** As a project condition of approval, the Director or Review Authority may require the Fish and Wildlife Habitat Conservation Area RMA be permanently fenced, signed or an acceptable alternative, to further protect the conservation area. Timing, location and type of installation shall be identified in the condition of approval.

**F. Provisions for Expansions of Existing Development along Poulsbo Creek:** Existing development adjacent to Poulsbo Creek which was lawfully constructed, approved or established prior to the effective date of this Chapter, but which does not conform to present regulations or standards may be expanded as follows:

1. A nonconforming single-family residence or mobile home may be enlarged up to 50 percent of its existing size as long as:
  - a. The new construction extends away from the critical area and related buffer or RMA and setback, is located over an existing impervious area, or is a second/third story addition located over the existing structure and;

- b. The reconstruction and/or enlargement shall be appropriately mitigated to ensure the existing value and function of the critical area is not degraded;
  - c. mitigation and enhancement is required as per subsection 2 below;
  - d. the structure(s) are located outside of a flood hazard area and active landslide hazard area; and
  - e. the reconstruction and/or enlargement meets all other dimensional standards and requirements contained in the PMC.
2. Requirements for mitigation and enhancement will be determined based on historic site impacts to the critical area, and the scope of proposed alterations. Possible mitigation and enhancement may include, but shall not be limited to: prohibiting or limiting pruning of riparian vegetation; invasive plant removal and re-establishment of native trees and shrubs within existing buffer areas; instream habitat improvements such as spawning gravel or large woody debris; requiring minimum stormwater treatment for new construction, and retrofitting existing impervious areas with minimum stormwater treatment where feasible. In certain instances off-site mitigation and/or enhancement may also be required to benefit the watershed.
  3. Proposals that proposed to utilize these requirements shall require a Critical Area Permit, a Type 2 review.

#### **16.20.320 ADDITIONAL DEVELOPMENT STANDARDS**

- A. **Stream Crossings:** Any private or public road expansion or construction which is allowed and must cross streams classified within this Chapter, shall comply with the following minimum development standards:
  1. Bridges or bottomless culverts shall be required for all streams which support salmonids, unless a Habitat Management Plan is submitted which demonstrates that other alternatives would not result in significant impacts to the Fish and Wildlife Habitat Conservation area and as determined appropriate through the Hydraulics Permit Approval process administered by the Washington State Department of Fish and Wildlife.
  2. Crossings shall not occur in salmonid spawning areas unless no other feasible crossing site exists. For new development proposals, if existing crossing are determined to adversely impact salmon spawning or passage areas, new or upgraded crossings shall be located as determined necessary through coordination with the Department of Fish and Wildlife.
  3. Bridge piers or abutments shall not be placed in either the floodway or between the ordinary, high water marks unless no other feasible alternative placement exists;

4. Crossing shall not diminish flood carrying capacity;
  5. Crossings shall serve multiple properties whenever possible;
  6. Where there is no reasonable alternative to providing a conventional culvert, the culvert shall be the minimum length necessary to accommodate the permitted activity.
- B. **Stream Relocations:** Stream relocations for the purpose of flood protection and/or fisheries restoration shall only be permitted when adhering to the following minimum performance standards and when consistent with Washington State Department of Fish and Wildlife Hydraulic Project Approval:
1. The channel, bank and RMA areas should be replanted with native vegetation that replicates a natural, undisturbed riparian condition; and
  2. For those shorelands and waters prone to flooding, a professional engineer licensed in the State of Washington shall provide information demonstrating that the equivalent base flood storage volume and function will be maintained.
  3. Relocated stream channels shall be designed to meet or exceed the functions and values of the stream to be relocated.
- C. **Pesticides, Fertilizers and Herbicides:** No pesticides, herbicides or fertilizers may be used in Fish and Wildlife Habitat Conservation Areas or their RMAs, except those approved by the EPA and approved under a DOE Water Quality Modification Permit for use in Fish and Wildlife Habitat Conservation Area environments. Where approved, herbicides must be applied by a licensed applicator in accordance with the safe application practices on the label.
- D. **Land Divisions and Land Use Permits:** All proposed divisions of land and land use applications which include Fish and Wildlife Habitat Conservation Areas shall comply with the following:
1. The land division approvals shall be conditioned so that all required buffers are dedicated as open space tracts, an easement or covenant encumbering the buffer. Such dedication, easement or covenant shall be recorded together with the land division and represented on the final plat, short plat or binding site plan.
- E. **Agricultural Restrictions:** In all development proposals which would permit introduction of agriculture to Fish and Wildlife Habitat Conservation Areas, damage to the area shall be avoided by installation of fencing located not closer than the outer buffer edge.
- F. **Poulsbo Shoreline Master Program:** All development along the Saltwater Shoreline and lakes defined as shorelines of the state, shall be consistent with the City of Poulsbo Shoreline Master Program, as now or hereafter amended.

- G. **Trails and Trail-Related Facilities:** Construction of public and private trails and trail-related facilities, such as benches, interpretative centers, and viewing platforms, may be allowed in Fish and Wildlife Habitat Conservation Areas or their RMAs pursuant to the following standards:
1. Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or other such previously disturbed areas;
  2. Trails and related facilities shall be planned to minimize removal of trees, shrubs, snags and important wildlife habitat;
  3. Viewing platforms, interpretive centers, benches and access to them, shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected conservation area;
  4. Trails and related facilities shall generally be located outside required buffers. Where trails are permitted within buffers they should be located on the outer portion of the buffer and as far as possible from the stream edge, except where stream crossings or viewing areas have been approved;
  5. Trails shall generally be limited to pedestrian use unless other more intensive uses, such as bike or horse trails have been specifically allowed and mitigation has been provided. Trail width shall not exceed five feet unless there is a demonstrated need, subject to review and approval by the Planning Director. Trails shall be constructed with pervious materials unless otherwise approved by the Planning Director.
- H. **Utilities:** Placement of utilities within designated Fish and Wildlife Habitat Conservation Areas and buffers may be allowed pursuant to the following standards:
1. The utility development authorized in Section 120 shall be allowed, subject to best management practices in fish and wildlife habitat conservation areas and buffers.
  2. Construction of new utilities outside the road right-of-way or existing utility corridors or easements may be permitted in fish and wildlife habitat conservation areas or their buffers, only when no reasonable alternative location is available and the utility corridor or easement meets the requirements for installation, replacement or vegetation and maintenance outlined below, and as required in the filing and approval of applicable permits and Special Reports (Section 700) required by this Chapter.
  3. **Sewer or On-Site Sewage Utility:** Construction of sewer lines or on-site sewage systems may be permitted in fish and wildlife habitat conservation areas or their buffers when the applicant demonstrates it is necessary to meet state and/or local health code requirements, there are no other practicable alternatives available, and the construction

- meets the requirements of this section. Joint use of the sewer utility corridor by other utilities may be allowed.
4. New utility corridors or easements shall not be allowed in fish and wildlife habitat conservation areas with known locations of federal or state listed endangered, threatened or sensitive species, heron rookeries or nesting sites of raptors which are listed as state candidate or state monitor, except in those circumstances where an approved Habitat Management Plan indicates that the utility corridor or easement will not significantly impact the fish and wildlife habitat conservation area or buffers.
  5. New utility corridor or easement construction and maintenance shall protect the environment of fish and wildlife habitat conservation areas and their buffers.
    - a. New utility corridors or easements shall be aligned when possible to avoid cutting trees greater than 12 inches in diameter at breast height (four and one-half feet), measured on the uphill side.
    - b. New utility corridors or easements shall be revegetated with appropriate native vegetation at pre-construction densities or greater, immediately upon completion of construction, or as soon thereafter as possible, if due to seasonal growing constraints. The utility shall ensure that such vegetation survives;
    - c. Any additional utility corridor or easement access for maintenance shall be provided as much as possible at specific points, rather than by parallel roads. If parallel roads are necessary, they shall be of a minimum width but no greater than 15 feet; and shall be contiguous to the location of the utility corridor on the side away from the wetland. Mitigation will be required for any additional access through restoration of vegetation in disturbed areas.
    - d. The Director may require other additional mitigation measures.
  6. Utility corridor maintenance shall include the following measures to protect the regulated fish and wildlife habitat conservation area and buffer environment:
    - a. Where feasible, painting of utility equipment such as power towers shall not be sprayed or sandblasted, nor should lead-based paints be used.
    - b. No pesticides, herbicides or fertilizers may be used in fish and wildlife habitat conservation areas or their buffers except those approved by the EPA and the Department of Ecology. Where approved, herbicides must be applied by a licensed applicator in accordance with the safe application practices on the label.
  - I. **Bank Stabilization:** A stream channel and bank, bluff and shore may be stabilized when naturally occurring earth movement threatens existing

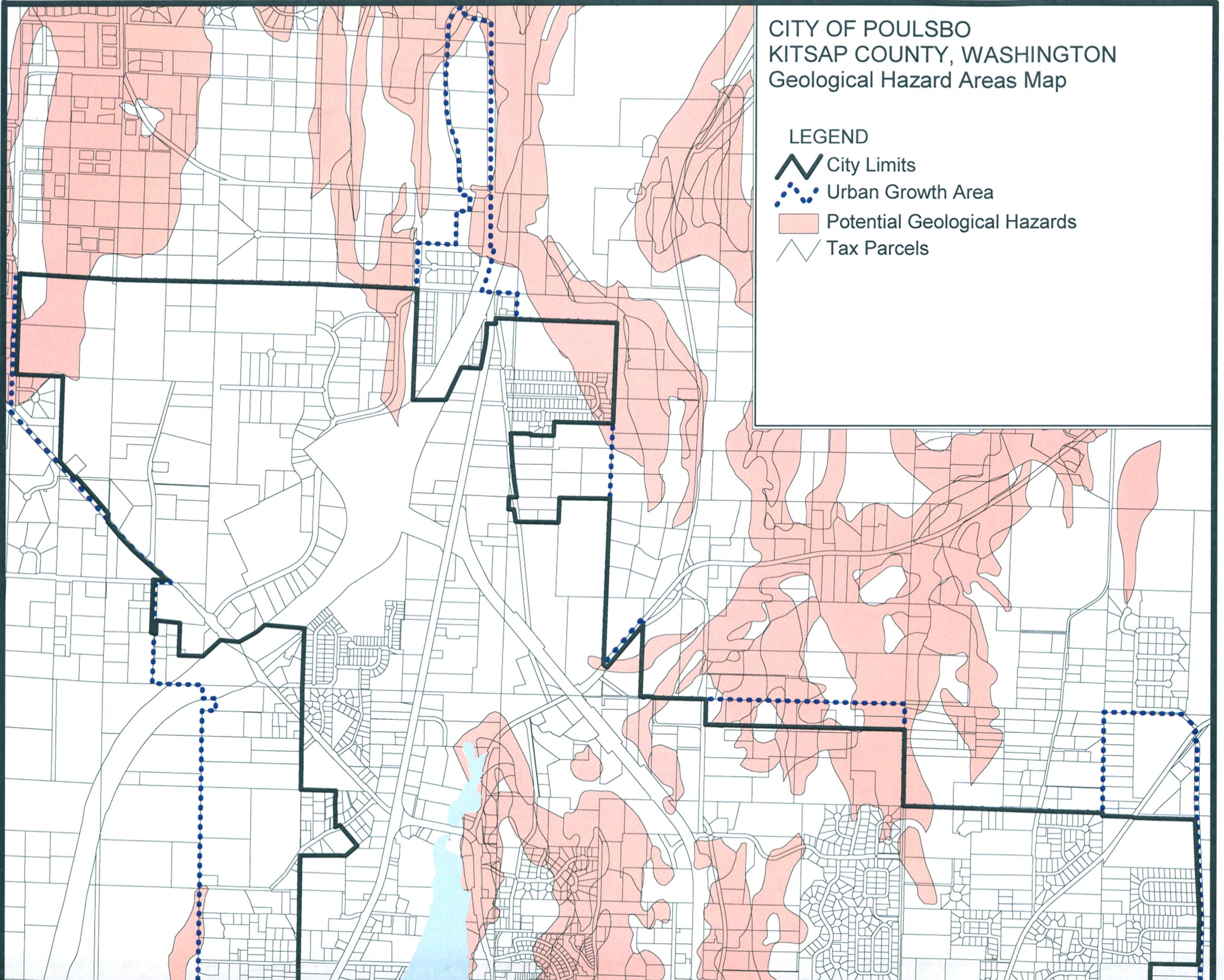
structures (defined as requiring a Building Permit pursuant to the International Building Code) public improvements, unique natural resources, public health, safety or welfare, or is the only feasible access to property; and in case of streams, when such stabilization results in maintenance of Fish and Wildlife Habitat, flood control and improvement of water quality. Bluff, bank and shoreline stabilization shall also be subject to the standards of the City Shoreline Master Program, and any floodplain ordinance adopted by the City.

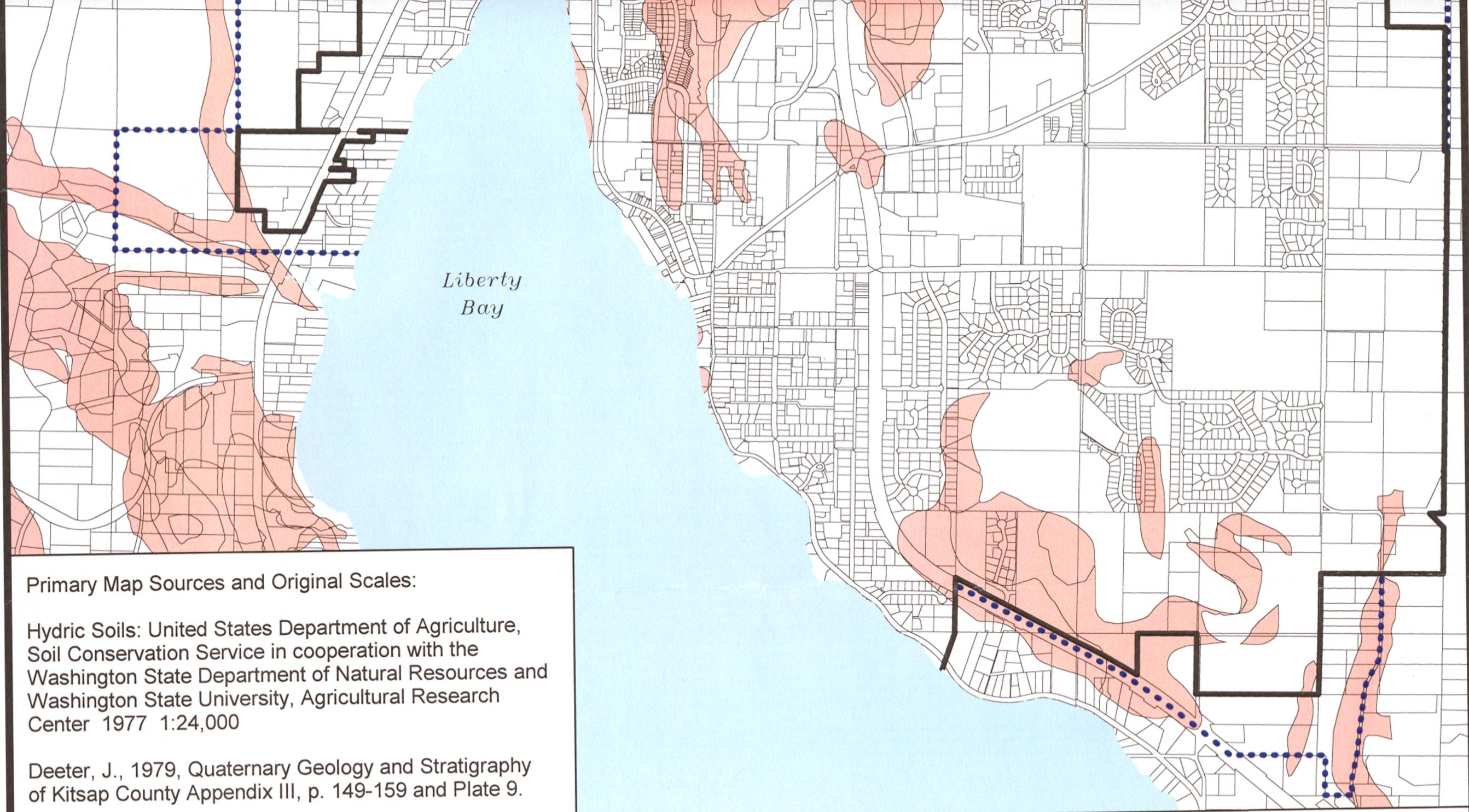
When bank stabilization is determined to be necessary, bioengineering or other non-structural methods should be the first option for protection. The Director may require that bank stabilization be designed by a professional engineer licensed in the State of Washington with demonstrated expertise in hydraulic actions of shorelines. Bank stabilization projects may also require Hydraulic Project Approval from the Washington Department of Fish and Wildlife.

CITY OF POULSBO  
KITSAP COUNTY, WASHINGTON  
Geological Hazard Areas Map

LEGEND

-  City Limits
-  Urban Growth Area
-  Potential Geological Hazards
-  Tax Parcels



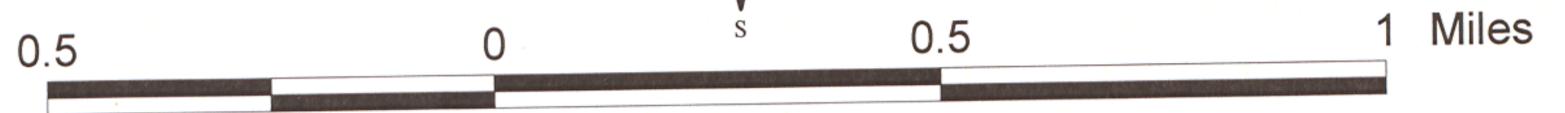


**Primary Map Sources and Original Scales:**

Hydric Soils: United States Department of Agriculture, Soil Conservation Service in cooperation with the Washington State Department of Natural Resources and Washington State University, Agricultural Research Center 1977 1:24,000

Deeter, J., 1979, Quaternary Geology and Stratigraphy of Kitsap County Appendix III, p. 149-159 and Plate 9.

Kitsap County Assessor's Tax Maps 1:12,000 (Kitsap County I.T., G.I.S. Division)



City of Poulsbo Planning Department July 18, 2007

This map series is intended for general critical area planning. These maps are schematic representations of physical features, infrastructure and land ownership boundaries. The map information was derived from available public records and existing map sources, not from field surveys. Studies may be necessary with project review to verify information.

## SECTION 400: GEOLOGICALLY HAZARDOUS AREAS

### 16.20.405 PURPOSE

This section applies to all regulated uses included in this Chapter within 300 feet of areas designated as geologically hazardous areas, as categorized in Section 410 below. The intent of this section is to:

- A. Provide standards to protect human life and property from potential risks;
- B. Control erosion, siltation, and water quality; and
- C. Provide controls to minimize shoreline erosion caused by human activity.

### 16.20.410 GEOLOGICALLY HAZARDOUS AREA CATEGORIES

- A. **Classification:** The following categories shall be used in classifying geologically hazardous areas:
  1. **Geologically Hazardous Areas:**
    - a. Areas with slopes greater than 30 percent and mapped by the Coastal Zone Atlas or Quaternary Geology and Stratigraphy of Kitsap County as Unstable (U), Unstable Old Land Slides (UOS) or Unstable Recent Slides (URS).
    - b. Areas with slopes greater than 30 percent in grade and deemed by a qualified geologist or geotechnical engineer to meet the criteria of U, UOS, or URS.
  2. **Areas of Geologic Concern:**
    - a. Areas designated U, UOS, or URS in the Coastal Zone Atlas or Quaternary Geology and Stratigraphy of Kitsap County, with slopes less than 30 percent; or areas found by a qualified geologist to meet the criteria for U, URS, and UOS with slopes less than 30 percent; or
    - b. Slopes identified as Intermediate (I) in the Coastal Zone Atlas or Quaternary Geology and Stratigraphy of Kitsap County, or areas found by a qualified geologist to meet the criteria of I; or

- c. Slopes 15 percent or greater, not classified as I, U, UOS, or URS, with soils classified by the Natural Resources Conservation Service as “highly erodable” or “potentially highly erodable”; or
  - d. Slopes of 15 percent or greater with springs or groundwater seepage not identified above; or
  - e. Seismic Areas subject to liquefaction from earthquakes (Seismic Hazard Areas) such as hydric soils as identified by the Natural Resource Conservation Service, and areas that have been filled to make a site more suitable. Seismic areas may include former wetlands which have been covered with fill; or
  - f. Areas mapped as “severe” in all development limitations based on mapped soil units of the USDA Soil Conservation Service. These designations are listed in Table 10 of Soil Survey of Kitsap County Area, Washington.
- B. **Site Specific Determination:** Geological and Geotechnical Report Provisions: A Geotechnical or Geologic report shall be required for development proposals located within geologically hazardous areas and areas of geologic concern. The requirements for special reports are contained in Section 700 of this Chapter.

#### 16.20.415 DEVELOPMENT STANDARDS

- A. **Approval:** The Director will review all submittals for clearing, grading and building on property containing geologically hazardous areas. The Director will consider any proposed mitigation measures included in a geotechnical report, if submitted. In cases where a special report indicates a significant risk to public health, safety or welfare, the City shall deny or require revision of the application.
- B. **City Engineer Requirements:** The City Engineer, in conjunction with a clearing, grading or building permit application in geologically hazardous areas, may require, but not limited to, construction plans, details and specifications for clearing, grading, erosion and sedimentation control and stormwater drainage, and detailed hydrological, geotechnical, soils and drainage reports and analyses.
- C. **Minimum Native Vegetative Buffer Required:** A standard native vegetation buffer of 25 feet shall be established from the top, toe, and all edges of Geologically Hazardous Areas and Areas of Geologic Concern, unless otherwise specified through a geological report or site-specific determination.
- D. **Buffer and Building Setback Modifications:** The minimum native vegetative buffer and/or building setback requirement may be decreased if

a geotechnical report demonstrates that a lesser distance, and the design and engineering, will adequately protect the proposed development and stabilize the potential hazard.

Should the report indicate a greater buffer and/or building setback than required by this Section, the greater buffer and/or building setback shall be required.

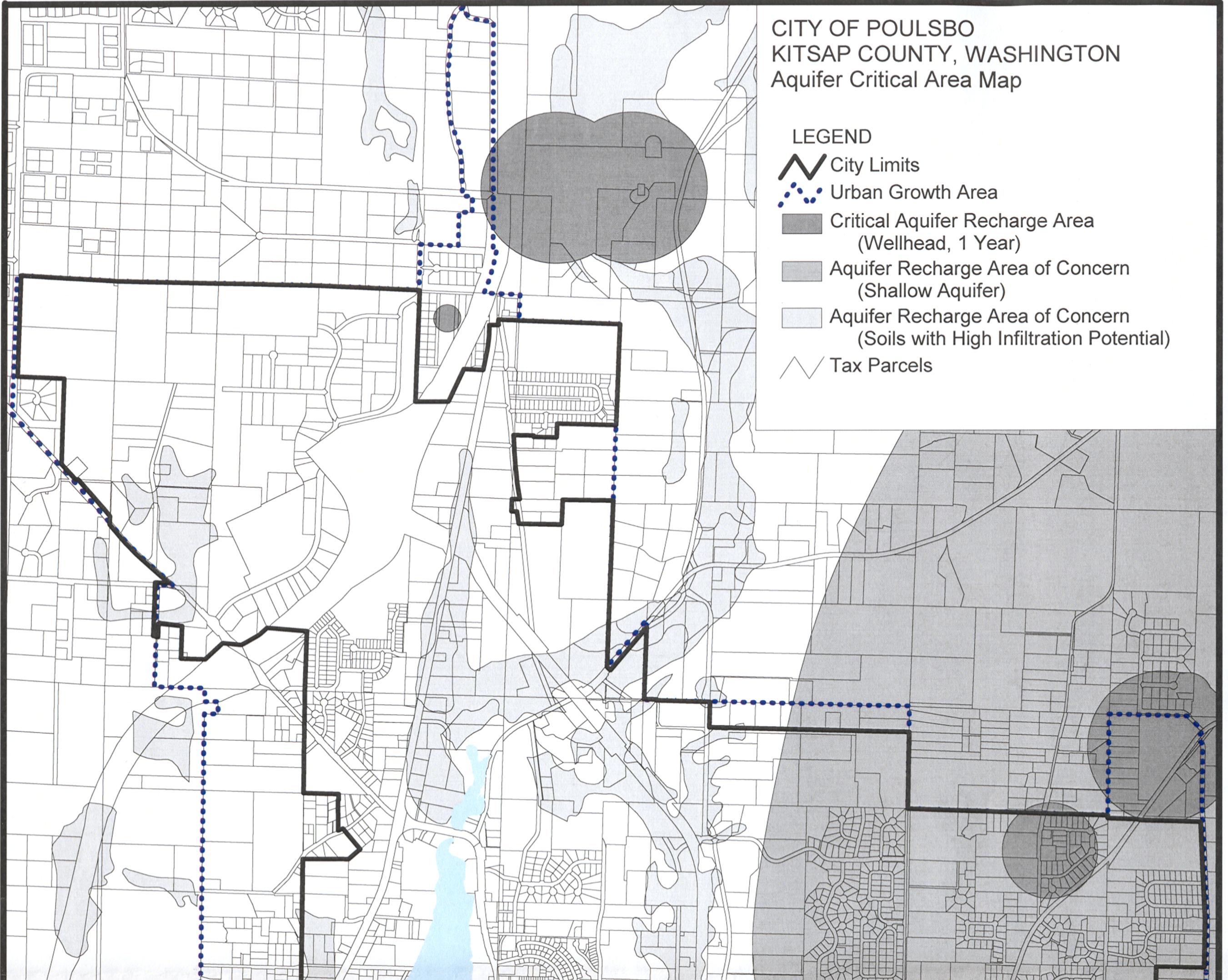
- E. **Time Limitations:** For new or re-development, clearing and grading may be limited by the City Engineer, to the period between May 1 and October 1, unless the applicant provides an erosion and sedimentation control plan prepared by a professional engineer licensed in the State of Washington that specifically identifies methods of erosion control for wet weather conditions.
- F. **Field Marking Requirements:** For new or re-development, the proposed clearing for the project and all critical area buffers, may be required to be marked in the field for inspection and approval by the City prior to beginning work. Field marking shall remain in place until construction is completed and final approval is granted by the City. The requirement for field marking will be identified as a condition of approval for the underlying development permit.
- G. **Vegetation:** The Director may require enhancement of buffer vegetation to increase protection of the hazard area. Minor pruning of buffer vegetation and tree limbs may be allowed for enhancement of views, provided such activity is approved by the Director.
- H. **Roads and Utilities:**
1. Only the clearing necessary to install temporary erosion control measures will be allowed prior to clearing for roads and utilities construction;
  2. Clearing for roads and utilities shall be the minimum necessary and shall remain within marked construction limits;
  3. Clearing for overhead power lines shall be the minimum necessary for construction and will provide the required minimum clearances of the serving utility; and
  4. Where existing logging roads occur in geologically hazardous areas or areas of geologic concern, a geological or geotechnical report may be required prior to use as a temporary haul road or permanent access road under a Conversion or COHP Forest Practices Application.
- I. **Seismic Hazard Areas Standards:** Applications for new or re-development within seismic hazard areas may be required to provide a

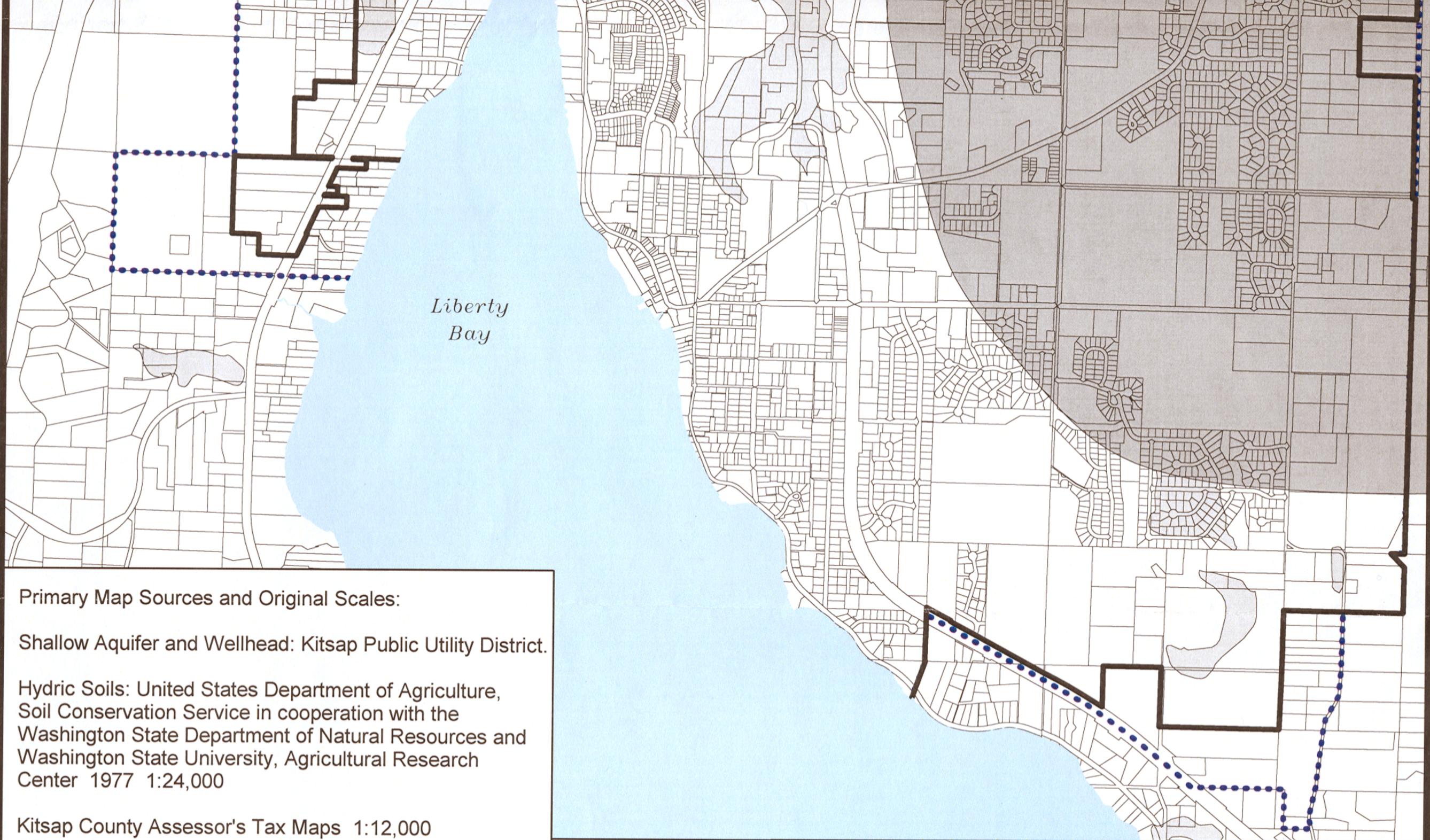
geotechnical report, addressing any fill or grading that has occurred on the subject parcel. Any fill placed for such development shall have documented construction monitoring as required by the International Building Code.

CITY OF POULSBO  
KITSAP COUNTY, WASHINGTON  
Aquifer Critical Area Map

LEGEND

-  City Limits
-  Urban Growth Area
-  Critical Aquifer Recharge Area (Wellhead, 1 Year)
-  Aquifer Recharge Area of Concern (Shallow Aquifer)
-  Aquifer Recharge Area of Concern (Soils with High Infiltration Potential)
-  Tax Parcels





Liberty Bay

**Primary Map Sources and Original Scales:**

Shallow Aquifer and Wellhead: Kitsap Public Utility District.

Hydric Soils: United States Department of Agriculture, Soil Conservation Service in cooperation with the Washington State Department of Natural Resources and Washington State University, Agricultural Research Center 1977 1:24,000

Kitsap County Assessor's Tax Maps 1:12,000  
(Kitsap County I.T., G.I.S. Division)



City of Poulsbo Planning Department

July 18, 2007

This map series is intended for general critical area planning. These maps are schematic representations of physical features, infrastructure and land ownership boundaries. The map information was derived from available public records and existing map sources, not from field surveys. Studies may be necessary with project review to verify information.

## SECTION 500: CRITICAL AQUIFER RECHARGE AREAS

### 16.20.505 PURPOSE

The intent of this Section is to provide water quality protection associated with aquifer recharge areas through the regulation of land use activities that pose a potential contaminant threat or could increase the vulnerability of the aquifer.

### 16.20.510 CRITICAL AQUIFER RECHARGE AREA CATEGORIES

A Critical Aquifer Recharge Area is a geographic area which provides the recharge to an aquifer(s) which is a current or potential potable water source and, due to its geological properties, is susceptible to the introduction of pollutants, or because of special circumstances, has been designated a Critical Aquifer Recharge Area in accordance with WAC 365-190-080. Critical Aquifer Recharge Areas under this Chapter may be established based on general criteria or specifically designated due to special circumstances.

- A. **Critical Aquifer Recharge Areas:** The following general criterion is established to designate Critical Aquifer Recharge Areas:

Wellhead Protection Zones around Group A Water System supply wells:

1. Areas inside the one-year time of travel zone for Group A Water System wells, calculated in accordance with the Washington State Wellhead Protection Program.
2. Five year time of travel zones in Wellhead Protection Areas are included as Critical Aquifer Recharge Area under the following condition: The five year time of travel zone is included when the well draws its water from an aquifer that is at or above sea level and is overlain by permeable soils listed below, without an underlying protective impermeable layer.

- B. **Aquifer Recharge Areas of Concern:** Aquifer Recharge Areas of Concern are those areas which provide recharge to current or potential potable water supplies and are vulnerable to contamination, and meet any one of the following criteria:

1. **Highly Permeable Soils:** Soils that have relatively high permeability and high infiltration potential may provide for groundwater recharge, but also may enhance transfer of contaminants from the surface to ground water. For these reasons, the locations where surface soils are highly permeable are considered Aquifer Recharge Areas of Concern.

The general location and characteristics of soils is identified in the Soil Survey of Kitsap County. The following soil types are considered to have relatively high permeability and are Aquifer Recharge Areas of Concern:

<u>Soil Type</u>	<u>Soil Map Units</u>
Grove	11, 12, 13
Indianola	18, 19, 20, 21
Neilton	34, 35, 36
Norma	37, 38
Poulsbo/Ragner	41, 42, 43, 44, 45, 46, 47

- 2. Areas above Shallow Principal Aquifers:** Surface areas above shallow, principal aquifers which are not separated from the underlying aquifers by an impermeable layer that provides adequate protections to preclude the proposed land use from contaminating the shallow aquifer(s) below, are considered Aquifer Recharge Areas of Concern.
- 3. Areas with high concentration of Group B Water System Well and private domestic wells:** Locations with well concentrations of 36 map units or more within a one-mile radius of the proposed land use are considered Aquifer Recharge Areas of Concern.

#### **16.20.515 DEVELOPMENT STANDARDS**

##### **A. Critical Aquifer Recharge Areas.**

1. Land uses identified in Table 5 shall require a hydrogeological report (See Section 700, Special Reports) that includes a detailed risk-benefit analysis that considers credible, worst-case scenarios. The hydrogeological report shall evaluate potential impacts of a proposed land use or activity on both groundwater and surface water quality. Uses listed in Table 5 may only be permitted where the applicant can demonstrate that the proposed activity will not cause contaminants to enter the aquifer and that the proposed activity will not adversely affect the recharging of ground water.

##### **B. Aquifer Recharge Areas of Concern.**

1. Applicants proposing operations that pose a potential threat to groundwater as listed in Table 5 in aquifer recharge areas of concern

may be required to submit a hydrogeological report (See Section 700, Special Reports). The scope of the report shall be based on site-specific conditions.

2. The need for additional information will be determined by the department, the health district and the affected water purveyor. Based on the results of the report, controls, mitigation, and/or other requirements will be established as a prerequisite for the development proposal being approved.

**C. Notification and Review.**

1. Affected water purveyors, tribes and the Kitsap County Health District will be notified and invited to comment during the preliminary phases of the city's review process on the proposed land use and potential impacts. The purveyor may recommend appropriate mitigation to reduce potential impacts. The department will consider these recommendations to develop appropriate permit conditions.
2. The department will also notify the health district and affected water purveyors through the environmental review process, when those development activities listed in Table 5 are proposed outside the areas designated critical aquifer recharge areas.

**D. Stormwater.**

1. Stormwater infiltration shall be required where soils permit.
2. Low impact development Best Management Practices (BMP) are required for smaller developments exempted from requirements to construct stormwater facilities.

**E. Uses Requiring County, State or Federal Approval:** Applicants shall provide the department with documentation of compliance with County, State and/or Federal regulations associated with uses listed in Table 5.

**Table 5: Operations with Potential Threat to Groundwater**

<b>Above and below ground storage tanks</b>
Hazardous and industrial waste treatment
Hazardous and industrial waste storage
Hazardous material storage
<b>Animal Feed Lots</b>
<b>Commercial Operations</b>
Gas stations/service stations/truck terminals
Petroleum distributors/storage
Auto body repairs shops/rust proofers
Auto chemical supply storers/retailers
Truck, automobile and combustion engine repair shops

City of Poulsbo  
Critical Areas Ordinance

<p>Dry cleaners Photo processors Auto washers (if not on sewer) Laundromats (if not on sewer) Beauty salons (if not on sewer) Research or chemical testing laboratories which handle significant quantities of hazardous materials Food processors/meat packers/slaughter houses Airport maintenance/fueling operation areas Junk and salvage yards Storing or processing manure, feed or other agriculture by products by commercially permitted businesses Large scale storage or use of pesticides, insecticides, herbicides, or fertilizer by commercial or agricultural operations</p>
<p><b>Deep injection wells</b> Waste-water disposal wells Oil and gas activity disposal wells Mineral extraction disposal wells</p>
<p><b>Industrial operations</b> Furniture strippers/painters/finishers Concrete/asphalt/tar/coal/ companies Industrial manufacturers: chemicals, pesticides/herbicides, paper, leather products, textiles, rubber, plastic/fiberglass, silicone/glass, pharmaceuticals, electrical equipment Metal platers/heat treaters/smelters/annealers/descalers Wood preservatives Chemical reclamation facilities Boat Refinishers</p>
<p><b>Land application</b> Waste-water application (spray irrigation) Waste-water byproduct (sludge) application Petroleum refining waste application Hazardous waste applications</p>
<p><b>Landfills</b> Industrial hazardous and non-hazardous landfill Municipal sanitary landfill</p>
<p><b>Material transfer operations</b> Hazardous and industrial waste transfers Hazardous materials transfer</p>
<p><b>Materials stockpiles</b></p>
<p><b>Mining and mine drainage</b></p>
<p><b>On-site septic system</b> Of greater than 14,500 gpd capacity without pre-treatment</p>
<p><b>Pipelines</b> Hazardous and industrial waste transfer Hazardous material transfer</p>
<p><b>Radioactive disposal sites</b></p>
<p><b>Sand and gravel mining operations</b></p>

**SECTION 600: FREQUENTLY FLOODED AREAS**

**16.20.605 PURPOSE**

The purpose of this Section is to protect the public health, safety and welfare from harm caused by flooding. It is also the intent to prevent damage and/or loss to both public and private property. Pursuant to this purpose, the City uses Floodplain Management regulations contained in PMC Section 15.24, adopted by reference, which designates special flood hazard areas and establishes requirements for these areas.



## SECTION 700: SPECIAL REPORTS

### 16.20.705 PURPOSE

The following Special Reports may be required to provide environmental information and to present proposed strategies for maintaining, protecting and/or mitigating critical areas:

- A. Wetland Report/Wetland Mitigation Plan
- B. Habitat Management Plan
- C. Geotechnical Report/Geological Report
- D. Hydrogeological Report

### 16.20.710 WHEN REQUIRED

Special Reports shall be submitted by the applicant and approved by the Director when required by this Chapter for the protection of a critical area. Refer to specific critical protection standards for when Special Reports are required. The City shall retain a consulting specialist(s) who shall review all special studies for critical areas, and ensure their compliance with this chapter.

### 16.20.715 RESPONSIBILITY FOR COMPLETION

The applicant shall reimburse the City for the costs incurred in the preparation of Special Reports or tests and for the costs incurred by the City to engage technical consultants or staff for review and interpretation of data and findings submitted by or on behalf of the applicant.

### 16.20.720 QUALIFICATIONS OF PROFESSIONALS

Any Special Report as described below prepared by a professional (as described in Section 100), shall include his or her resume, or other list of qualifications, to aid the Director in assessing these qualifications.

**16.20.721 TIME LIMITATIONS**

Special reports submitted in accordance with this section shall be valid for a period of three years from the date of issue unless a longer or shorter period is specified by the City at the time the original report is prepared.

**16.20.725 WETLAND REPORTS**

- A. **Wetland Delineation Report:** A wetland delineation report shall include, but not necessarily be limited to, the following:
1. Vicinity map;
  2. When available, a copy of a National Wetland Inventory Map (U.S. Fish and Wildlife Service);
  3. A site map setting forth all of the following:
    - a. Surveyed wetland boundaries based upon a delineation by a wetlands specialist or wetland boundaries recorded using a differential global positioning system, based upon a delineation by a wetlands specialist. In the event that a global positioning system is used, wetland boundary information shall be provided to the City in an electronic data format acceptable to the City;
    - b. Site boundary property lines and roads;
    - c. Internal property lines, right-of-ways, easements, etc;
    - d. Existing physical conditions of the site, including buildings, fences and other structures, roads, parking lots, utilities, water bodies, etc;
    - e. Contours at the smallest readily available intervals;
    - f. Hydrologic mapping showing patterns of surface water movement and known subsurface water movement, into, through, and out of the site area;
    - g. Location of all test holes and vegetation sample sites, number to correspond with flagging in the field and field data sheets; and
    - h. An aerial photograph with overlays displaying the site boundaries and wetland delineation may be required.

4. A report which includes the following:
  - a. Location information (legal description, parcel number and address);
  - b. Delineation report. The wetland boundaries on the site established by the delineation shall be staked and flagged in the field. If the wetland extends outside the site, the delineation report shall discuss all wetland areas within 150 feet of the site, but need only delineate those wetland boundaries within the site;
  - c. General site conditions including topography, acreage, and surface areas of all wetlands identified and water bodies within one-quarter mile of the subject wetland(s);
  - d. Hydrological analysis, including topography, of existing surface and known significant sub-surface flows into and out of the subject wetland(s); and
  - e. Analysis of functional values of existing wetlands, including vegetation, fauna, and hydrologic conditions.
5. A summary of proposed activity and potential impacts to the wetland(s).
6. Recommended wetland category, including rationale for the recommendation.
7. Recommended buffer boundaries, including rationale for boundary locations.
8. Site plan of proposed activity, including location of all parcels, tracts, easements, roads, structures, and other modifications to the existing site. The location of all wetlands and buffers shall be identified on the site plan.

B. **Wetland Mitigation Report:** Whenever the Director has determined that losses of regulated wetlands are necessary and unavoidable, or a review of a regulated wetland or its buffer is proposed, or a Reasonable Use Exception is applied, a mitigation plan shall be prepared in the following order of preference:

1. **Avoiding** the impact altogether by not taking a certain action or parts of actions. This may be accomplished by selecting a reasonable alternative that does not involve wetlands or wetland impacts; applying

reasonable mitigation measures, such as drainage and erosion control, alternative site planning, and/or using best available technology.

2. **Minimizing** impacts by limiting the degree of magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts. This may be accomplished by selecting a reasonable alternative that avoids most wetland impacts, applying reasonable mitigation measures, such as drainage and erosion control, alternative site planning, and/or using best available technology.
3. **Rectifying** the impact by repairing, rehabilitating, or restoring the affected environment. This may be done by re-establishing wetland and wetland buffer characteristics on a site which have been lost by alterations or activities. Rectifying shall be accomplished in accordance with the requirements below and has been approved by the Director.
4. **Compensating** for the impact by replacing, enhancing, or providing substitute resources or environments. This may be done by intentionally creating wetlands and wetland buffers at another location where none currently exist, improving existing wetlands and wetland buffers at another location, or otherwise providing a substitute wetland resource at another location as compensation for any unavoidable adverse wetland impacts. Compensating shall be accomplished in accordance with a mitigation plan, which has been prepared in accordance with the requirements outlined below, and has been approved by the Director.
5. The overall goal of any mitigation plan shall be **no net loss** of regulated wetland functions and acreage.
6. Those persons proposing **wetland compensatory projects** shall show that the compensation project is associated with an activity or development otherwise permitted and that the restored, created, or enhanced wetland will be as persistent as the wetland it replaces by accomplishing the following:
  - a. Demonstrate sufficient scientific expertise, supervisory capability, and financial resources to carry out the project;
  - b. Demonstrate the capability for monitoring the site and for making corrections during this period, if the project fails to meet projected goals; and
  - c. Protect and manage or provide for the protection and management of the compensation area to avoid further development or degradation.

7. **Wetland Mitigation Plans** shall be implemented by the project applicant, and include the following components:
- a. **Baseline Information:** A written assessment and accompanying maps of the impact wetland shall be produced by the applicant or applicant's consultant and shall include, at a minimum: Existing wetland acreage; vegetative, faunal and hydrologic characteristics; soil and substrate conditions; and topographic elevations.
  - b. If the **compensation site is off-site** from the impacted wetland site, baseline information about it, in addition to the above information about the impacted wetland, shall be provided by the applicant and shall include those items listed above in 7.a. and: the relationship of the compensation site within the watershed and to existing water bodies; existing and proposed existing compensation site conditions; buffers; and ownership.
  - c. **Environmental goals and objectives:** The report shall identify goals and objectives and include:
    - i. The purposes of the compensation measures including a description of site selection criteria, identification of compensation goals, identification of target evaluation species and resource functions, dates for beginning and completion of compensation measures, and a complete description of structure and functional relationships sought in the new wetland. The goals and objectives shall be related to the functions of the original wetland or, if out-of-kind, the type of wetland to be emulated; and
    - ii. A review of the available literature and/or experience to date in restoring or creating the type of wetland proposed shall be provided. An analysis of the likelihood of success of the compensation project at duplicating the original wetland shall be provided based on the experiences of comparable projects, if any. An analysis of the likelihood of persistence of the created or restored wetland shall be provided based on such factors as: Surface and groundwater supply and flow patterns; dynamics of the wetland ecosystem; sediment or pollutant influx and/or erosion; periodic flooding and drought; etc., presence of invasive flora and fauna; potential human or animal disturbance; and previous comparable projects, if any.
  - d. **Performance standards.** Specific criteria shall be provided for evaluating whether or not the goals and objectives of the mitigation plan are being achieved at various stages in the project and for beginning remedial action or contingency measures. Such criteria

may include water quality standards, survival rates of planted vegetation, species abundance and diversity targets, habitat diversity indices, or other ecological, geological or hydrological criteria.

e. **Detailed construction plans.** Written specifications and descriptions of compensation techniques shall be provided including the proposed construction sequence, grading and excavation details, erosion, sediment and stormwater recharge control features needed for wetland construction and long-term survival; a planting plan specifying plant species, quantities, locations, size, spacing and density; the source of plant materials, propagules, or seeds; water and nutrient requirements for planting; where appropriate, measures to protect plants from predation; specification of substrate stockpiling techniques and plating instructions; descriptions of water control structures and water-level maintenance practices needed to achieve the necessary hydrocycle/hydroperiod characteristics; etc. These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques of anticipated final outcome. The plan shall provide for elevations which are appropriate for the desired habitat type(s) and which provide sufficient tidal prism and circulation data.

f. **Monitoring Program.** A program outlining the approach for monitoring construction of the compensation project and for assessing a completed project shall be provided. Monitoring must include sufficient information to adequately assess the progress of a project. Monitoring may include, but is not limited to: 1) establishing vegetation plots to track changes in plant species composition and density over time; 2) using photo stations to evaluate vegetation community response; 3) sampling surface and subsurface waters to determine pollutant loading and changes from the natural variability of background conditions (ph, nutrients, heavy metals); 4) measuring base flow rates and storm water runoff to model and evaluate water quantity predictions by a licensed engineer in the State of Washington, where required; 5) measuring sedimentation rates, if applicable; and 6) sampling fish and wildlife populations to determine habitat utilization, species abundance and diversity. A protocol shall be included outlining how the monitoring data will be evaluated by agencies that are tracking the progress of the compensation project. A monitoring report shall be submitted annually, and at a minimum, document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period

necessary to establish that performance standards have been met, but not for a period of less than three years.

- g. **Contingency plan.** Identification of potential courses of action, and any corrective measures to be taken when monitoring or evaluating, indicates project performance standards are not being met.
- h. **Performance conditions.** Any compensation project prepared pursuant to this section and approved by the Department shall become part of the application for the permit.
- i. **Performance bonds and demonstration of competence.** A demonstration of financial resources, administrative, supervisory, and technical competence and specific expertise of sufficient standing to successfully execute the compensation project shall be provided. A compensation project manager shall be named, and the qualifications of each team member involved in preparing the mitigation plan and implementing and supervising the project shall be provided, including educational background and areas of expertise, training and experience with comparable projects. In addition, bonds ensuring fulfillment of the compensation project, monitoring program, and any contingency measure shall be posted in the amount of one hundred fifty (150) percent of the expected cost of compensation and shall be effective for a period of no less than three years and no greater than ten years after completion of the mitigation plan.
- j. **Waiver.** The Department may waive portions of this report if, in his or her opinion, there is adequate information available on the site to determine its impacts and appropriate measures.
- k. **List of qualified consultants.** The Department shall establish a list of qualified consultants to prepare mitigation plans.

#### **16.20.730 HABITAT MANAGEMENT PLAN**

- A. This report shall identify how the development impacts from the proposed project will be mitigated. The Washington Department of Fish and Wildlife Priority Habitat and Species Management Recommendations, dated May 1991, or bald eagle protection rules outlined in WAC 232-12-292, as now or hereafter amended, may serve as guidance for this report. The recommendation in Washington Department of Fish and Wildlife, Priority Habitat and Species Management Recommendations, dated May 1991, shall not serve as mandatory standards or policy of this Ordinance, until such time as the Department of Fish and Wildlife holds public hearings on

the recommendations and the State Wildlife Commission endorses the recommendations following the public hearings. The recommendations in the Washington Department of Fish and Wildlife (WDFW) Aquatic Habitat Guidelines may serve as guidance for habitat management plans created to regulate the design, construction, and operation of projects that affect fish and wildlife conservation areas.

- B. The Habitat Management Plan shall contain a map prepared at an easily readable scale, showing:
1. The location of the proposed development site;
  2. The relationship of the site to surrounding topographic, water features, and cultural features;
  3. Proposed building locations and arrangements; and
  4. A legend which includes a complete legal description, acreage of the parcel, scale, north areas, and date of map revision.
- C. The Habitat Management Plan shall also contain a report which describes:
1. The nature and intensity of the proposed development;
  2. An analysis of the effect of the proposed development, activity or land use change upon the wildlife species and habitat identified for protection; and
  3. A plan which identifies how the applicant proposes to mitigate any adverse impacts to wildlife habitats created by the proposed development.
- D. Possible mitigation measures to be included in the report, or required by the Department, could include, but are not limited to:
1. Establishment of buffer zones;
  2. Preservation of critically important plants and trees;
  3. Limitation of access to habitat areas;
  4. Seasonal restriction of construction activities; and,
  5. Establishing phased development requirements and/or a timetable for periodic review of the plan.
- E. This plan shall be prepared by a person who has been educated in this field and has professional experience as a fish or wildlife biologist.

**16.20.735 GEOTECHNICAL REPORT AND GEOLOGICAL REPORT**

- A. A *geotechnical report* shall include a description of the site geology, conclusions and recommendations regarding the effect of geologic conditions of the proposed development, opinions and recommendations of the adequacy of the site to be developed, the effects of groundwater interception and infiltration, seepage, potential slip plans, and changes in soil bearing strength, and the impacts of the proposed development and appropriate mitigating measures. A geotechnical report may contain information obtained with subsurface investigative measures such as test pit digging, soil boring, water well installation or Dutch Cone Penetrometer investigations. Reports containing engineering design recommendations; i.e. recommendations for foundations (loading, sizing, depth, or settlement estimates), pile or pier design, retaining structures, or recommendations for construction on slopes steeper than 30%, must be prepared by, or in conjunction with, a licensed geotechnical engineer as defined below.

Informational Requirements:

1. A description of the geologic setting of the region, based upon readily available data, including:
  - a. Site location and topography;
  - b. Soils and geologic units underlying the site; and
  - c. The location and characteristics of springs within one thousand (1000) feet of the site.
2. A discussion and evaluation of the potential impact of the proposal upon existing geological hazards
3. Recommendations on appropriate protection mechanisms, if necessary, to minimize the risk of erosion or landslide.

A *geological report* shall include the above, with the exception of engineering design recommendations, and need not make use of subsurface investigative measures. As the report will not include engineering recommendations, a geological report may be prepared by a geologist or engineering geologist as defined below.

- B. A *Geotechnical report* shall be prepared by a geotechnical engineer (a civil engineer licensed by the State of Washington who is knowledgeable in regional geologic conditions and who has at least four years professional experience in landslide and/or seismic hazard evaluation). *Geological reports* may be prepared by a geologist, engineering geologist

or geotechnical engineer knowledgeable in regional geologic conditions and having at least four years professional experience in site evaluation and development studies, and landslide and/or seismic hazard evaluation.

- C. Report recommendations for siting structures in high risk areas shall be based on existing site conditions rather than measures that have not been successfully approved, designed or constructed (e.g., slope recontouring, slope retaining walls, vegetation improvements, bulkheads, etc.). Shoreline bulkheads and retaining walls may only be utilized as an engineering solution where it can be demonstrated that an existing residential structure cannot be safely maintained without such measures, and that the resulting retaining wall is the minimum necessary to provide a stable building area for the structure.

#### **16.20.740 HYDROGEOLOGICAL REPORT**

A hydrogeological report shall be required for certain proposed operations based on a consultation with the appropriate local and State agencies. The report shall address the impact the proposed land use will have on both the quality and quantity of the water transmitted to the Aquifer. The report shall also address the types of pesticides and herbicides and fertilizers that can safely be used for the care of landscaping proposed by the applicant.

- A. The report shall be submitted to the reviewing authority and address, at a minimum, the following criteria:
1. Surficial soil type and geologic setting;
  2. Location and identification of wells within 1000 feet of the site;
  3. Location and identification of surface water bodies and springs within 1000 feet of the site with recharge potential;
  4. Description of underlying aquifers and aquitards, including water level, gradients and flow direction;
  5. Available surface water and groundwater quality data;
  6. Effects of the proposed development on water quality;
  7. Sampling schedules required to assure water quality;
  8. Discussion of the effects of the proposed development on the groundwater resource;

9. Recommendations on appropriate BMP's (Best Management Practices) or mitigation to assure no significant degradation of groundwater quality; and,
  10. Other information as required by the Bremerton-Kitsap County Health District.
- B. The hydrogeologic report shall be prepared by a professional geologist/hydrologist or by a soil scientist with a strong background in geology as demonstrated by course work from an accredited college or university and/or has a minimum of five years experience.
  - C. Applications for development or operations with underground storage of petroleum products will be processed using the appropriate procedure as specified in existing City of Pulsbo Ordinances.
  - D. Analysis for a specific parcel(s), using the criteria outlined below, will be employed to determine if the soils present require a Recharge Area Designation. Data collection will include, at a minimum: six soil logs to a depth of 10 feet (or to a depth of 4 feet below the lowest proposed excavation point whichever is greater) for each acre in the parcel(s) being evaluated. At least one well which is 200 feet or greater in depth with an adequate drilling report must be available within one mile. The associated data shall be analyzed and included in the hydrogeologic report to determine the presence of highly permeable soils with the Recharge Area Designation.
  - E. For development proposals within Aquifer Recharge Areas of Concern, the hydrogeological report may be based on quarter-quarter section bases locations where the number of wells within a half mile radius is 36 or more, and are designated Aquifer Recharge Areas. To facilitate computer analysis, the evaluation may be done on a quarter-quarter basis using the quarter-quarter section in which a parcel of interest is located and all the surrounding quarter-quarter sections, in place of the half mile circle.