CRITICAL AREAS CODE UPDATE

Chapter 18.08 GHMC

January 28, 2026

GIG HARBOR

THE MARITIME CITY

Chapter 18.08
CRITICAL AREAS

Sections:

18.08.010 Purpose.

The ordinance codified in this chapter is intended to promote the maintenance, enhancement and preservation of critical areas and environmentally sensitive natural systems by avoiding or minimizing adverse impacts from construction and development. This chapter implements the goals and objectives of the State Growth Management Act of 1990 through the development and implementation of policies and interim regulations to manage critical areas in the public's interest and welfare. It is not the intent of this chapter to deny a reasonable use of private property, but to assure that development on or near critical areas is accomplished in a manner that is sensitive to the environmental resources of the community. (Ord. 1036 § 5, 2006; Ord. 611 § 1, 1991).

18.08.020 Goal.

In implementing the purposes stated in GHMC 18.08.010, it is the intent of this chapter to accomplish the following:

A. Protect environmentally sensitive natural areas and the functions they perform by the careful and considerate regulation of development;

B. Minimize damage to life, limb and property due to landslides and erosion on steep or unstable slopes, seismic hazard areas and areas subject to subsidence;

C. Protect wetlands and their functions and values;

D. Protect and maintain stream flows and water quality within the streams;

E. Minimize or prevent siltation to the receiving waters of Gig Harbor Bay for the maintenance of marine water quality and the maintenance and preservation of marine fish and shellfish;

F. Preserve natural forms of flood control and stormwater storage from alterations to drainage or stream flow patterns;

G. Protect aquifer recharge areas from undesirable or harmful development;

H. Protect, maintain and enhance areas suitable for wildlife, including rare, threatened or endangered species;

I. Protect, maintain and enhance fish and wildlife habitat conservation areas within their natural geographic distribution so as to avoid the creation of subpopulations;

J. Implement the goals, policies and requirements of the Growth Management Act. (Ord. 1036 § 6, 2006; Ord. 611 § 1, 1991).

K. The result of a proposed regulated activity achieves no net loss of critical area functions.

18.08.030 Definitions.

For purposes of this chapter, the following definitions shall apply:

A.

"Alteration" means any activity which materially affects the existing condition of land or improvements.

"Applicant" means the person, party, firm, corporation, or other legal entity that proposes any activity. The applicant is either the owner of the land on which the proposed activity would be located, a contract vendee, a lessee of the land, the person who would actually control and direct the proposed activity, or the authorized agent of such a person.

"Aquifer" means a subsurface, saturated geologic formation which produces, or is capable of producing, a sufficient quantity of water to serve as a private or public water supply.

"Aquifer recharge areas" means those areas which serve as critical ground water recharge areas and which are highly vulnerable to contamination from intensive land uses within these areas.

B.

"Best management plan" means a plan or program developed by the local Soil Conservation District (USDA) which specifies best management practices for the control of animal wastes, stormwater runoff and erosion.

"Bluff" means a steeply rising, near vertical slope which abuts and rises from the Puget Sound shoreline. Bluffs occur in the east area of the city, fronting the Tacoma Narrows, and are further identified in the Coastal Zone Atlas, Volume 7, for Pierce County. The toe of the bluff is the beach and the top is typically a distinct line where the slope abruptly levels out. Where there is no distinct break in a slope, the top is the line of vegetation separating the unvegetated slope from the vegetated uplands, or, if the bluff is vegetated, that point where the bluff slope diminishes to 15 percent or less.

"Buffer" ~~means a natural area adjacent to hillsides or ravines which provides a margin of safety through protection of slope stability, attenuation of surface water flows and landslide, seismic and erosion hazards reasonably necessary to minimize risk to the public from loss of life, well-being or property damage from natural disaster~~ means a natural area that separates one type, category, or use of land from another. Buffers typically serve to provide a defined area between more intensive land uses and land this more sensitive. Buffers are typically referenced by the associated critical area such as wetland buffer, stream buffer, etc.

"Building setback line" means a distance, in feet, beyond which the footprint or foundation of a building or structure shall not extend.

C.

"City" means the city of Gig Harbor.

"Clearing" means the removal of timber, brush, grass, ground cover or other vegetative matter from a site which exposes the earth's surface of the site.

"Compensatory mitigation" means mitigation for wetland losses or impacts resulting from alteration of wetlands and/or their buffers. It includes, but is not limited to, creation, enhancement and restoration.

"Contaminant" means any chemical, physical, biological or radiological material that is not naturally occurring and is introduced into the environment by human action, accident or negligence.

"Creation" means the producing or forming of a wetland through artificial means from an upland (nonwetland) site.

"Critical areas" consist of those lands which are subject to natural hazards, contain important or significant natural resources or which have a high capability of supporting important natural resources. These include the following areas and ecosystems: wetlands; fish and wildlife habitat conservation areas; hillsides, ravine sidewalls and bluffs; landslide and erosion hazard areas; mudslide hazard, seismic hazard areas, and flood hazard areas.

D.

"Department" means the city planning department.

~~"Designated wetland" means those lands identified through the classification process established by this chapter.~~

"Development" means ~~alteration (see definition for alteration)~~ any man-made change to improve or unimproved a site. Development activities include, but are not limited to, construction of buildings or other structures, additions, reconstruction, paving, or any activities that results in vegetation clearing or alteration of existing site characteristics.

"Director" means the planning director or his/her designee.

"Ditches" are those artificial drainage features created in uplands through purposeful human action, such as irrigation and drainage ditches, grass-lined swales, and canals. Purposeful creation must be demonstrated through documentation, photographs, statements and/or other evidence. Ditches are excluded from regulation as streams under this section. Artificial drainage features with documented fish usage are regulated as streams. Drainage setbacks are required as per the city's surface water manual. (Ord. 1036 § 26, 2006).

"DRASTIC" means a model developed by the National Water Well Association and Environmental Protection Agency and which is used to measure aquifer susceptibility to contamination.

E.

"Earth/earth material" means naturally occurring rock, soil, stone, sediment, organic material, or combination thereof.

"Enhancement" means actions performed to improve the conditions of existing degraded wetlands and/or buffers so that the functions they provide are of a higher quality (e.g., increasing plant diversity, increasing wildlife habitat, installing environmentally compatible erosion controls, removing nonindigenous plant or animal species, removing fill material or garbage).

"Erosion" means the wearing away of the earth's surface as a result of the movement of wind, water, or ice.

"Erosion hazard areas" means those areas which are vulnerable to erosion due to natural characteristics including vegetative cover, soil texture, slope, gradient or which have been induced by human activity. Those areas which are rated severe or very severe for building site development on slopes or cut banks, in accordance with the United States Department of Agriculture Soil Conservation Service Soil Survey for Pierce County Area (February 1979), are included within this definition.

"Excavation" means the mechanical removal of earth material or fill.

"Existing and ongoing agricultural activities" means those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops and livestock, including but not limited to operation and maintenance of farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities, and normal operation, maintenance or repair of existing serviceable structures, facilities or improved areas. Activities which bring an area into agricultural use are not part of an ongoing activity. An operation ceases to be ongoing when the area on which it was conducted has been converted to a nonagricultural use or has lain idle both more than five years and so long that modifications to the hydrological regime are necessary to resume operations, unless the idle land is registered in a federal or state soils conservation program.

F.

"Fill/fill material" means a deposit of earth material, placed by human or mechanical (machine) means, and which is not defined by solid waste according to Chapter 70.95 RCW.

"Filling" means the act of placing fill material on any surface.

"Fish and wildlife habitat conservation areas" means those areas identified as being of critical importance in the maintenance and preservation of fish, wildlife and natural vegetation including waters of the state, and as further identified in GHMC 18.08.186.

"Flood hazard areas" means those areas within the city of Gig Harbor which are determined to be at risk of having a one percent or greater chance of experiencing a flood in any one year, with those areas defined and identified on the Federal Emergency Management Administration (FEMA) flood insurance rate maps for the city of Gig Harbor.

"Floodplain development permit" means the permit required by the city flood hazard construction ordinance.

G.

"Geologically hazardous areas" means those areas as designated in the city of Gig Harbor comprehensive plan as "landslide hazards," in the Washington Department of Ecology Coastal Zone Atlas, Volume 7, and "areas 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" (WAC 365-190-030(9)).

"Grading" means any excavating, filling, clearing, leveling, or contouring of the ground surface by human or mechanical means.

"Grading permit" means the permit required by the city grading and clearing ordinance.

H.

"Habitat management plan" means a report prepared by a qualified wildlife biologist.

"Hazardous substance" means any material that exhibits any of the characteristics or criteria of hazardous waste, inclusive of waste oil and petroleum products, and which further meets the definitions of "hazardous waste" pursuant to Chapter 173-303 WAC.

"Hillsides" means geologic features with slopes of 15 percent or greater. The ordinance codified in this chapter provides four classes of hillsides in order to differentiate between the levels of protection and the application of development standards.

I.

"In-kind mitigation" means to replace wetlands with substitute wetlands whose characteristics and functions and values are intended to replicate those destroyed or degraded by a regulated activity.

J. *Reserved.*

K. *Reserved.*

L.

"Landslide" means an abrupt downslope movement of soil, rock or ground surface material.

"Landslide hazard area" means those areas which are susceptible to risk of mass movement due to a combination of geologic, topographic and hydrologic factors.

M. "Mitigation" means to avoid, minimize, or compensate for adverse wetland impacts.

N. *Reserved.*

O. "Out-of-kind mitigation" means to replace wetlands with substitute wetlands whose characteristics do not closely approximate those destroyed or degraded by a regulated activity.

P.

"Permanent erosion control" means continuous on-site and off-site control measures that are needed to control conveyance or deposition of earth, turbidity or pollutants after development, construction, or restoration.

"Person" means an individual, firm, co-partnership, association or corporation.

Q.

"Qualified biologist" means a person with a minimum of a four-year degree in wildlife sciences, biology, environmental sciences, soil science, limnology or an equivalent academic background who also has at least two years of experience in stream restoration.

"Qualified wetland specialist" is a person with a minimum of a four-year degree in wildlife sciences, biology, environmental sciences, soil science, limnology or an equivalent academic background who also has experience in performing wetland delineations, analysis of wetland functions and values and project impacts, and wetland mitigation and restoration techniques. The person must be familiar with the Washington State Department of Ecology Wetland Identification and Delineation Manual (1997), which is consistent with the 1987 Federal Manual used by the U.S. Army Corps of Engineers, city grading and clearing regulations and the requirements of this chapter.

"Qualified wildlife biologist" means a person having, at a minimum, a bachelor's degree in wildlife biology, wildlife science, wildlife ecology, wildlife management or zoology, or a bachelor's degree in natural resource or environmental science plus 12 semester or 18 quarter hours on wildlife coursework and two years of professional experience.

R.

"Ravine sidewall" means a steep slope which abuts and rises from the valley floor of a stream and which was created by the normal erosive action of the stream. Ravine sidewalls are characterized by slopes predominantly in excess of 25 percent although portions may be less than 25 percent. The base of a ravine sidewall is the stream valley floor. The top of a ravine sidewall is a distinct line where the slope abruptly levels out. Where there is no distinct break in slope, the top shall be that point where the slope diminishes to 15 percent or less.

"Restoration" means the reestablishment of a viable wetland from a previously filled or degraded wetland site.

"Riparian management zone" means a designated area contiguous or adjacent to a stream that is required for the continued maintenance, function, and structural stability of the stream. Functions of a riparian management zone include shading, input of organic debris

and coarse sediments, uptake of nutrients, stabilization of banks, protection from intrusion, or maintenance of wildlife habitat.

S.

"Seismic hazard areas" means those areas which are susceptible to severe damage from earthquakes as a result of ground shaking, slope failure, settlement or soil liquefaction.

"Significant impact" means a meaningful change or recognizable effect to the ecological function and value of a critical area, which is noticeable or measurable, resulting in a loss of function and value.

"Single-family dwelling" means a building or structure, or portion thereof, which is designed for and used to provide a place of abode for human beings, including mobile homes, as defined in the city zoning code.

"Site" means any parcel or combination of contiguous parcels, or right-of-way or combination of contiguous rights-of-way under the applicant's ownership or control where the proposed project impacts a critical area(s).

"Slope" means an inclined earth surface, the inclination of which is expressed as the ratio (percentage) of vertical distance to horizontal distance by the following formula: V (vertical distance)/H (horizontal distance) x 100 = % slope.

"Species of local importance" means a species of animal which is of local concern due to their population status or their sensitivity to habitat manipulation. This term also includes game species.

"Stockpiling" means the placement of material with the intent to remove at a later time.

~~"Stream buffer zone" means a designated area contiguous or adjacent to a stream that is required for the continued maintenance, function, and structural stability of the stream. Functions of a buffer include shading, input of organic debris and coarse sediments, uptake of nutrients, stabilization of banks, protection from intrusion, or maintenance of wildlife habitat.~~

"Streams" means those areas where surface waters produce a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses, unless they are used by salmonids or are used to convey streams naturally occurring prior to construction in such watercourses. For the purpose of this definition, 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.

"Structure" means anything that is constructed in or on the ground or over water, including any edifice or any piece of work artificially built up or composed of parts and joined together. Structures do not include such features as paved or gravel areas, sidewalks, or like amenities.

"Substrate" means the soil, sediment, decomposing organic matter or combination of those located on the bottom surface of the wetland.

T. *Reserved.*

U. "Utility line" means pipe, conduit, cable or other similar facility by which services are conveyed to the public or individual recipients. Such services shall include, but are not limited to, water supply, electric power, gas and communications.

V. *Reserved.*

W.

"Wetland" or "wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, retention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street or highway.

Wetlands include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

"Wetland buffer zone" means a designated area contiguous or adjacent to a wetland that is required for the continued maintenance, function, and structural stability of the wetland. Functions of a buffer include shading, input of organic debris and coarse sediments, uptake of nutrients, stabilization of banks, protection from intrusion, or maintenance of wildlife habitat. For further information on permitted uses, see GHMC 18.08.020.

"Wetland class" means the U.S. Fish and Wildlife Service wetland classification scheme using a hierarchy of systems, subsystems, classes and subclasses to describe wetland types (refer to USFWS, December 1979, Classification of Wetlands and Deepwater Habitats of the United States for a complete explanation of the wetland classification scheme). Eleven class names are used to describe wetland and deepwater habitat types. These include: forested wetland, scrub-shrub wetland, emergent wetland, moss-lichen wetland, unconsolidated shore, aquatic bed, unconsolidated bottom, rock bottom, rocky shore, streambed, and reef.

X. *Reserved.*

Y. *Reserved.*

Z. *Reserved.* (Ord. 1322 § 5, 2015; Ord. 1245 § 31, 2012; Ord. 1036 § 7, 2006; Ord. 726 § 1, 1996; Ord. 611 § 1, 1991).

18.08.032 Best available science.

A. The Growth Management Act requires jurisdictions to include the best available science when designating and protecting critical areas. The Growth Management Act also requires the implementation of conservation or protection measures necessary to preserve or enhance anadromous fish and their habitat (WAC 365-195-900 through 365-195-925). Anadromous fish are those that spawn and rear in freshwater and mature in the marine environment, including salmon and char (bull trout).

B. Best available science shall be used in developing policies and development regulations to protect the functions and values of critical areas. Critical area reports and decisions to alter

critical areas shall rely on the best available science to protect the functions and values of critical areas and ensure no net loss. The best available science is that scientific information applicable to the critical area prepared by local, state or federal natural resource agencies, a qualified scientific professional or team of qualified scientific professionals that is consistent with criteria established in WAC 365-195-900 through 365-195-925. (Ord. 1036 § 8, 2006).

18.08.034 Applicability.

A. *Critical Area Review.* All development in critical areas and their buffers, whether on public or private property, shall comply with the requirements of this chapter. The director or his/her designee shall utilize the procedures and rules established in the city of Gig Harbor environmental policy ordinance, Chapter 18.04 GHMC, Environmental Review (SEPA), and the applicable provisions of GHMC Titles 16, 17 and 19 to implement the provisions of this chapter. Critical area review shall be required for all development and any of the following permits:

1. Building permit for any construction;
2. Grading as provided for in Chapter 14.40 GHMC;
3. Any shoreline management permit or exemption as authorized under Chapter 90.58 RCW;
4. Site plan review as provided for in Chapter 17.96 GHMC;
5. Subdivision, short subdivision or planned unit development;
6. Zoning variance or conditional use permit;
7. Land clearing as provided for in Chapter 17.94 GHMC.

B. *Special Studies Required.* When an applicant submits an application for any development proposal, the application shall indicate whether any critical area is located on the site. The director or designee shall visit the site, and in conjunction with the review of the information provided by the applicant and any other suitable information, shall make a determination as to whether or not sufficient information is available to evaluate the proposal. If it is determined

that the information presented is not sufficient to adequately evaluate a proposal, the director shall notify the applicant that additional studies as specified herein shall be provided.

C. *Appeals.* A decision of the director to approve, conditionally approve or deny a permit, or any official interpretation in the administration of this chapter may be appealed in accordance with the procedures established under GHMC Title 19. (Ord. 1245 § 32, 2012; Ord. 1036 § 9, 2006).

18.08.038 Wetlands – Designation and mapping.

A. Pursuant to WAC 197-11-908, the city designates wetlands as critical areas defined in this chapter.

B. The approximate location and extent of critical areas are shown on the city's critical area map. These maps are to be used as a guide and may be updated as new critical areas are identified. They are a reference and do not provide final critical area designations. Mapping sources include:

1. Areas designated on the National Wetland Inventory maps;

2. Areas which have been designated as wetlands on the Pierce County wetland atlas. (Ord. 1036 § 10, 2006).

18.08.040 Wetlands – ~~Classification guidelines/~~Identification and ratings.

A. *General.* All ~~W~~wetland delineations shall utilize the currently approved federal delineation manual and applicable regional supplements. Wetland rating and classification shall be established based upon the completion of a delineation report prepared by a qualified wetland specialist to determine boundary, size, function and value. Guidelines for preparing a wetland delineation report are defined in GHMC 18.08.090 ~~and the Department of Ecology currently approved federal manual and applicable regional supplements~~.

B. *Wetland Ratings.* Wetlands shall be rated according to the most recent version of the Washington State Department of Ecology's Wetland Rating System for Western Washington.

This document contains the definitions and methods for determining if the criteria below are met.

1. *Wetland Rating Categories.*

a. *Category I.* Category I wetlands are those wetlands of exceptional resource value based on their functional value and diversity. Category I wetlands are:

i. Undisturbed estuarine wetlands larger than one acre;

ii. Wetlands designated by Washington Natural Heritage Program as high quality;

iii. Bogs;

iv. Mature and old-growth forested wetlands larger than one acre;

v. Wetlands in coastal lagoons;

vi. Wetlands that perform high functions (wetlands scoring 23 to 27 points on the Ecology wetland rating form).

b. *Category II.* Category II wetlands are those wetlands of significant resource value based on their functional value and diversity. Category II wetlands are:

i. Estuarine wetlands smaller than one acre or disturbed estuarine wetlands larger than one acre; or

ii. Wetlands scoring 20 to 22 points on the Ecology wetland rating form.

c. *Category III.* Category III wetlands are those wetlands of important resource value based on their functional value and diversity. Category III wetlands are wetlands with a moderate to low level of functions (wetlands scoring 16 to 19 points on the wetland rating form).

d. *Category IV.* Category IV wetlands are those wetlands with the lowest level of functions scoring nine to 15 points on the Ecology wetland rating form. ~~Hydrologically isolated Category IV wetlands less than 1,000 square feet are exempt as per GHMC 18.08.202(H).~~ (Ord. 1322 § 6, 2015; Ord. 1245 § 33, 2012; Ord. 1036 § 11, 2006; Ord. 726 § 2, 1996; Ord. 628 § 1, 1992; Ord. 611 § 1, 1991).

18.08.050 Wetlands – Regulated activities.

A. Unless specifically exempted by GHMC 18.08.202, the following activities in a wetland and/or its associated buffer shall be regulated pursuant to the requirements of this chapter. The regulated activities are as follows:

1. Removing, excavating, disturbing or dredging soil, sand, gravel, minerals, organic matter or materials of any kind;

2. Dumping, discharging or filling with any material;

3. Draining, flooding or disturbing the water level or water table;

4. Constructing, reconstructing, demolishing or altering the size of any structure or infrastructure, except repair of an existing structure or infrastructure, where the existing square footage or foundation footprint is not altered;

5. Destroying or altering vegetation through clearing, harvesting, cutting, intentional burning, shading or planting vegetation that would alter the character of a wetland;

6. Activities from construction or development that result in significant, adverse changes in water temperature, physical or chemical characteristics of wetland water sources, including quantity and pollutants.

B. Activities listed in subsection (A) of this section which do not result in alteration in a wetland and/or its associated buffer may require fencing along the outside perimeter of the buffer or erosion control measures. (Ord. 1036 § 12, 2006; Ord. 611 § 1, 1991).

18.08.060 Exemptions.

Repealed by Ord. 1036.

18.08.070 Wetlands – Permitting process.

A. *Overview.* Inquiries regarding conduct of a regulated activity in a wetland can be made to the department. The department shall utilize the National Wetlands Inventory (NWI) maps and the Pierce County wetland atlas to establish general location of wetland sites. If the maps indicate the presence of a wetland, a wetland delineation report shall be filed, unless the department determines that a wetland is not on or within the site. This determination may be based on information provided by the applicant and from other sources. If the map does not indicate the presence of a wetland or wetland buffer zone within the site, but there are other indications that a wetland may be present, the department shall determine whether a wetland analysis report is required.

B. *Permit Requirements.* No separate application or permit is required to conduct regulated activities within a wetland or its associated buffer. Review of regulated activities within a wetland and buffers is subject to the permit processing procedure for the required permit type as defined under GHMC Title 19. The department shall utilize existing environmental review procedures, the city SEPA ordinance, Chapter 18.04 GHMC, to assess impacts to wetlands and impose required mitigation. Department review of proposed alterations to wetlands and buffer areas and a wetland mitigation plan may be required prior to issuance of a SEPA determination by the city's responsible official.

C. Prior to submittal of a wetland delineation report, recommendation on wetland category, proposed alterations to wetlands and buffer areas, or wetland mitigation plan, the applicant may request a preapplication conference in accordance with the procedures established in GHMC 19.02.001.

D. *Request for Official Determination.* A request for an official determination of whether a proposed use or activity at a site is subject to this chapter must be in writing and made to the planning department. The request can be accompanied by a SEPA environmental checklist. The request shall contain plans, data and other information in sufficient detail to allow for

determination, including a wetland delineation report. The applicant shall be responsible for providing plans and the wetland delineation report to the department.

E. A wetland analysis report shall be submitted to the department for review of a proposal for activity which lies within a wetland, or within 300 feet of a wetland. The purpose of the wetland analysis report is to determine the extent and function of wetlands to be impacted by the proposal.

F. *Preliminary Site Inspection.* Prior to conducting a wetland analysis report, the applicant may request that the department conduct a preliminary site inspection to determine if a wetland may be present on the proposal site. Upon receipt of the appropriate fee, the department shall make a site inspection. If the department determines that a wetland is not on the site, this shall be indicated to the applicant in writing, and a wetland analysis report shall not be required.

G. Prior to submittal of the wetland analysis report or the development of a lot which has a classified wetland, boundaries of wetlands shall be staked and flagged in the field by a qualified wetland specialist and surveyed by a licensed professional surveyor registered in the state. Field flagging shall be distinguishable from other survey flagging on the site.

H. If alteration of a wetland or buffer is proposed, a wetland mitigation plan shall be submitted pursuant to requirements of this chapter, subsequent to staff review of the wetland analysis report. In no event will a wetland mitigation plan be required prior to a determination of whether a designated wetland is present on a site. (Ord. 1322 § 7, 2015; Ord. 1036 § 14, 2006; Ord. 726 § 3, 1996; Ord. 628 § 1, 1992; Ord. 611 § 1, 1991).

18.08.080 Wetlands – Administration.

A. *Filing Fees.* A wetland regulatory processing fee in an amount established under the city's development fee ordinance, GHMC Title 3, shall be paid at the time of a request for official determination of whether a proposed use or activity at a site is subject to this chapter. The fee shall be paid prior to administrative review, including environmental review. It shall include all costs of administrative and environmental review, including the preliminary site inspection, and review and approval of a wetland analysis report. It shall be in addition to any other fees for

environmental assessment and environmental impact review, provided by the city environmental policy ordinance, Chapter 18.04 GHMC.

B. *Notice and Title.*

1. *Notice.* Upon submission of a complete application for a wetland development approval, notice shall be provided in accordance with the city zoning code for site plan review for notification of property owners within 300 feet of the subject property.

2. *Notice of Title.* The owner of any property with field-verified presence of wetland or wetland buffer on which a development proposal is submitted shall file for record with the Pierce County auditor a notice approved by the department in a form substantially as set forth below. Such notice shall provide notice in the public record of the presence of a wetland or wetland buffer, the application of this chapter to the property, and that limitations on actions in or affecting such wetlands and their buffers may exist. The notice shall be notarized and shall be recorded prior to approval of any development proposal for such site. The notice shall run with the land and shall be in the following form:

WETLAND AND/OR WETLAND BUFFER NOTICE

Legal Description:

_____

_____

_____

Present Owner:_____

NOTICE: This property contains wetlands or their buffers as defined by City of Gig Harbor Ordinance. Restrictions on use or alteration of the wetlands or their buffers may exist due to natural conditions of the property and resulting regulations.

_____ _____

Date Signature Owner

C. *Other Laws and Regulations.* No approval granted pursuant to this chapter shall remove an obligation to comply with the applicable provisions of any other federal, state or local law or regulation.

D. *Atlas.* As part of its review, the department shall include the appropriately designated wetland in the Pierce County wetlands atlas or in the city wetland atlas, as may be adopted. (Ord. 1036 § 15, 2006; Ord. 611 § 1, 1991).

18.08.090 Wetlands – Analysis report requirements.

A. A wetland analysis report shall be prepared by a qualified wetland specialist and submitted to the department as part of the SEPA review process established by the city of Gig Harbor environmental policy ordinance, Chapter 18.04 GHMC. ~~A wetlands analysis report is not required for those wetlands mapped and classified per the city of Gig Harbor wetlands map.~~ A wetlands analysis report is required with all annexation petitions and land use applications ~~for properties which do not have wetlands mapped and classified per the city of Gig Harbor wetlands map~~.

B. The wetland analysis report shall be ~~prepared in accordance with the methods outlined in the Ecology Publication No. 10-06-002 Wetlands and CAO Updates – Guidance for Small Cities (Western Washington) or, if updated, a more recent version and~~ submitted to the department for review for any proposals that are within 300 feet of a wetland and shall include, but not be limited to, the following:

1. Vicinity map;

2. A site map containing the following:

   a. Surveyed wetland boundaries based upon delineation by a qualified wetland specialist;

   b. Property lines, existing physical features of the site including buildings, fences, and other structures, etc.;

   c. Locations of all test pits, numbered to correspond with flagging and field data sheets;

d. The department may require an aerial underlay displaying the site boundaries and wetland delineation or any other type of supporting details.

3. A delineation report which includes the following:

a. A summary of the general site conditions including topography, acreage, vegetation, existing development, etc.;

b. Methodology for the wetland delineation;

c. A summary of the wetland rating(s), including supporting rationale;

d. A summary of the required wetland buffer(s), consistent with GHMC 18.08.100;

4. A summary of the proposed activities and potential impacts to the wetland(s).

C. Within 30 days of receipt of the wetland analysis report and other information, the department shall determine the appropriate wetland category, buffering requirement, and required mitigation. The report shall be accorded substantial weight and the department shall approve the report's findings and approvals, unless specific, written reasons are provided which justify not doing so. Once accepted, the report shall control future decision-making related to designated wetlands unless new information is found demonstrating the report is in error. (Ord. 1245 § 34, 2012; Ord. 1036 § 16, 2006; Ord. 628 § 1, 1992; Ord. 611 § 1, 1991).

18.08.100 Wetlands – Buffer areas.

A. Following the department's determination of the category for a wetland associated with a proposal, the department shall determine appropriate buffer widths. Wetland buffer zones shall be evaluated for all development proposals and activities adjacent to wetlands to determine their need to protect the integrity, functions and values of the wetland. Wetland buffer widths are determined by the category of wetland, the intensity of impacts of a land use ~~and the functions or special characteristics of the wetland that need to be protected as determined by the rating system~~. All wetland buffer zones are measured perpendicular from the wetland boundary as surveyed in the field. Except as otherwise permitted by this chapter, wetland buffers shall consist of a relatively intact native vegetation community adequate to protect the wetland functions and values at the time of proposed activity. If the vegetation is

inadequate then the buffer width shall be planted to ~~maintain the buffer width~~provide the necessary protection and maintain buffer width.

B. *Impact of Land Use.* Different uses of land can result in a high, moderate or low level of impact to adjacent wetlands. Types of land use are categorized into impact levels as shown on the following table:

Level of Impact from Land Use	Types of Land Uses Based on Common Use Categories
High	Residential uses (greater than one unit per acre); schools; churches; public facilities, public/private services and government administrative uses (excluding parks, rights-of-way and utilities); lodging uses; personal, professional, product and automotive services; health care services; commercial and sales uses; animal clinics and kennels; marine-related uses; industrial uses; restaurant uses; museum, club and recreation hall uses; high-intensity parks, outdoor and indoor recreation (golf courses, ballfields, tennis clubs, swimming pools, etc.); conversion to high-intensity agriculture (dairies, nurseries, greenhouses, growing and harvesting crops requiring annual tilling and raising and maintaining animals, etc.); hobby farms.
Moderate	Residential uses (less than one unit per acre); moderate-intensity parks and outdoor recreation (parks with biking, jogging, etc.); conversion to moderate-intensity agriculture (orchards, hay fields, etc.) and paved trails; building of logging roads; utility corridor or right-of-way shared by several utilities and including access/maintenance road.
Low	Forestry (cutting of trees only); low-intensity parks and open space (hiking, bird-watching, preservation of natural resources, etc.) and unpaved trails; utility corridor without a maintenance road and little or no vegetation management.

C. If a wetland meets more than one of the wetland characteristics listed in the tables in subsection D, E, F or G of this section, the buffer width required to protect the wetland is the widest buffer width.

D. *Category I Wetlands.* The following buffer widths for Category I wetlands are required:

Wetland Characteristics	Buffer Widths by Impact of Land Use	Other Protection Measures Required

~~Natural Heritage Wetlands~~Wetlands of High Conservation Value	~~Low~~ All land uses – 250~~125~~ feet	No additional surface discharges to wetland or its tributaries
	~~Moderate – 190 feet~~	No septic systems within 300 feet of wetland
	~~High – 250 feet~~	Restore degraded parts of buffer
Bogs	All land uses~~Low~~ – 250~~125~~ feet	No additional surface discharges to wetland or its tributaries
	~~Moderate – 190 feet~~	Restore degraded parts of buffer
	~~High – 250 feet~~	
Forested	Low – 100 feet	If forested wetland scores high for habitat, need to maintain connections to other habitat areas
	Moderate – 150 feet	
	High – 300 feet~~Buffer width to be based on score for habitat functions or water quality functions~~	Restore degraded parts of buffer
Estuarine and wetlands in coastal lagoons	All land uses – 200 feet	None required
	~~Low – 100 feet~~	
	~~Moderate – 150 feet~~	
	~~High – 200 feet~~	
~~Wetlands in coastal lagoons~~	~~Low – 100 feet~~	~~None required~~
	~~Moderate – 150 feet~~	
	~~High – 200 feet~~	
~~High level of function for habitat (score for habitat 8 – 9 points)~~	~~Low – 150 feet~~	~~Maintain connections to other habitat areas~~
	~~Moderate – 225 feet~~	~~Restore degraded parts of buffer~~
	~~High – 300 feet~~	
~~Moderate level of function for habitat (score for habitat 5 – 7~~	~~Low – 75 feet~~	~~None required~~

~~points)~~	~~Moderate – 110 feet~~ ~~High – 150 feet~~	
~~High level of function for water quality improvement (8 – 9 points) and low for habitat (3 – 4 points)~~	~~Low – 50 feet~~ ~~Moderate – 75 feet~~ ~~High – 100 feet~~	~~No additional surface discharges of untreated runoff~~
Not meeting any of the above characteristics	Low – 150 feet Moderate – 225~~75~~ feet High – 300~~100~~ feet	N/A

E. *Category II Wetlands.* The following buffer widths for Category II wetlands are required:

Wetland Characteristics	Buffer Widths by Impact of Land Use	Other Protection Measures Required
~~High level of function for habitat (score for habitat 8 – 9 points)~~	~~Low – 150 feet~~ ~~Moderate – 225 feet~~ ~~High – 300 feet~~	~~Maintain connections to other habitat areas~~
~~Moderate level of function for habitat (score for habitat 5 – 7 points)~~	~~Low – 75 feet~~ ~~Moderate – 110 feet~~ ~~High – 150 feet~~	~~None required~~
~~High level of function for water quality improvement and low for habitat (score for water quality 8 – 9 points; habitat 3 – 4 points)~~	~~Low – 50 feet~~ ~~Moderate – 75 feet~~ ~~High – 100 feet~~	~~No additional surface discharges of untreated runoff~~
Estuarine and wetlands in coastal lagoons~~Estuarine~~	All land uses – 150 feet ~~Low – 75 feet~~ ~~Moderate – 110 feet~~ ~~High – 150 feet~~	None required

~~Interdunal~~	~~Low – 75 feet~~ ~~Moderate – 110 feet~~ ~~High – 150 feet~~	~~None required~~
Not meeting above characteristics	Low – 100~~50~~ feet Moderate –~~-~~150~~75~~ feet High – 225~~100~~ feet	None required

F. *Category III Wetlands.* The following buffer widths for Category III wetlands are required:

Wetland Characteristics	Buffer Widths by Impact of Land Use	Other Protection Measures Required
Score for all three basic functions is 16 – 19 points ~~Moderate to high level of function for habitat (score for habitat 5 – 9 points)~~	Low – 75 feet Moderate – 110 feet High – 150 feet	None required
~~Not meeting above characteristic~~	~~Low – 40 feet~~ ~~Moderate – 60 feet~~ ~~High – 80 feet~~	~~None required~~

G. *Category IV Wetlands.* The following buffer widths for Category IV wetlands are required:

Wetland Characteristics	Buffer Widths by Impact of Land Use	Other Protection Measures Required
Score for all three basic functions is 9 – 15 points	Low – 25 feet Moderate – 40 feet High – 50 feet	None required

H. A 15-foot building setback is required from the edge of a wetland buffer.

I. Where a legally established substantial development or developed roadway transects a wetland buffer, the director may approve a modification of the minimum required buffer width to the edge of the substantial development or developed roadway ~~if the part of the buffer on the other side of the road does not provide any buffer functions to protect the wetland in question~~.

~~J. Where a legally established bulkhead transects a wetland buffer, the director may approve a modification of the minimum required buffer width as long as the biologic, hydrologic and water quality functions of the wetland are protected. This modification would be evaluated on a case-by-case basis and rely upon a sensitive areas study provided by a qualified biologist where it can be demonstrated that an equal or greater protection of the wetland would occur. Measures may include bioengineering of shoreline protection, revegetation with native species, or other shoreline or buffer enhancement measures. (Ord. 1322 § 8, 2015; Ord. 1036 § 17, 2006; Ord. 726 § 4, 1996; Ord. 628 § 1, 1992; Ord. 611 § 1, 1991).~~

18.08.110 Wetlands – Alteration of buffers.

Alteration of a buffer may occur in two ways: (1) quantitative alteration, in which the boundaries of the designated buffer area are adjusted, so that the actual area within the buffer is altered; and (2) qualitative alteration, in which permitted activities within the buffer area alter its character. In determining appropriate buffer alterations, quantitative and qualitative alterations are generally reviewed concurrently.

A. *Wetland Buffer Reductions.* Buffer width reductions shall be considered on a case-by-case basis to take varying values of individual portions of a given wetland into consideration. Buffers shall not be reduced where the buffer has been degraded as a result of a documented code violation. Reductions may be allowed where the applicant demonstrates to the department that the wetland contains variations in sensitivity due to existing physical characteristics and that reducing the buffer width would not adversely affect the wetland functions and values.

1. *Maximum Buffer Reductions.* The buffer widths required for uses of land with "high" impacts to wetlands can be reduced to those required for "moderate" impacts under the conditions below:

a. For wetlands that score moderate or high for habitat (~~five~~ six points or more for the habitat functions), the width of the buffer can be reduced if both of the following conditions are met:

i. A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other priority habitats as defined by the Washington State Department of Fish and Wildlife. Priority habitats include, but may not be limited to, wetlands, riparian zones, aspen stands, cliffs, prairies, caves, stands of Oregon white oak, old-growth forests, estuaries, marine/estuarine shorelines, eelgrass meadows, talus slopes and urban natural open space. The corridor must be protected for the entire distance between the wetland and the priority habitat via some legal protection such as a conservation easement; and

ii. Measures to minimize the impacts of different land uses on wetlands are applied, as summarized in the following table:

Examples of Disturbance	Activities That Cause Disturbances	Examples of Measures to Minimize Impacts
Lights	Parking lots, warehouses, manufacturing, residential	Direct lights away from wetland.
Noise	Manufacturing, residential	Locate activity that generates noise away from wetland.
Toxic runoff[1]	Parking lots, roads, manufacturing, residential areas, application of agricultural pesticides, landscaping	Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered.
		Establish covenants limiting use of pesticides within 150 ft. of wetland.

Examples of Disturbance	Activities That Cause Disturbances	Examples of Measures to Minimize Impacts
		Apply integrated pest management.
Stormwater runoff	Parking lots, roads, manufacturing, residential areas, commercial, landscaping	Retrofit storm water detention and treatment for roads and existing adjacent development.
		Prevent channelized flow from lawns that directly enters the buffer.
Change in water regime	Impermeable surfaces, lawns, tilling	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	Tilled fields	Use best management practices to control dust.
This is not a complete list of mitigation measures. Additional mitigation measures that minimize impacts may be proposed.		

1 These examples are not necessarily adequate for minimizing toxic runoff if threatened or endangered species are present at the site.

b. For wetlands that score less than ~~five~~ six points for habitat functions, the width of the buffer can be reduced if measures to minimize the impacts of different uses of land are applied, as summarized in the table in subsection (A)(1)(a) of this section.

2. *Decision Criteria.* Prior to approval, a buffer reduction proposal shall meet all of the decisional criteria listed below. The buffer modification will be approved in a degraded wetland buffer only if:

a. It will provide an overall improvement in water quality protection for the wetland; and

b. It will not adversely affect fish or wildlife species and will provide an overall enhancement to fish and wildlife habitat; and

c. It will provide a net improvement in drainage and/or storm water detention capabilities; and

d. All exposed areas are stabilized with native vegetation, as appropriate; and

e. It will not lead to unstable earth conditions or create an erosion hazard; and

f. It will not be materially detrimental to any other property or the city as a whole.

3. *Buffer Enhancement Plan.* As part of the buffer reduction request, the applicant shall submit a buffer enhancement plan prepared by a qualified wetland specialist. The report shall assess the habitat, water quality, storm water detention, ground water recharge, shoreline protection, and erosion protection functions of the buffer; assess the effects of the proposed modification on those functions; and address the six criteria listed in this subsection. The buffer enhancement plan shall also provide the following:

a. A map locating the specific area of enhancement;

b. A planting plan that uses native plant species indigenous to this region including groundcover, shrubs, and trees;

c. Provisions for monitoring and maintenance consistent with GHMC 18.08.180~~over the monitoring period;~~.

d. A contingency plan, consistent with GHMC 18.08.180.

B. *Wetland Buffer Width Averaging.* Buffer width averaging shall be considered on a case-by-case basis when the proposed averaging is in accordance with an approved wetland mitigation plan and the best available science. Buffer averaging shall not be used in conjunction with the provisions for buffer reductions in this section. Averaging of buffer widths may only be allowed where a qualified wetland specialist demonstrates that:

1. It will not reduce wetland functions or values;

2. 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;

3. The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower-functioning or less sensitive portion;

4. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

5. The buffer width is not reduced, at any single point, to less than 75 percent of the standard buffer width.

C. *Wetland Buffer Increases.* The department may require increased buffer widths in accordance with the recommendations of a qualified wetland specialist and the best available science on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on site-specific characteristics. This determination shall be reasonably related to protection of the functions and values of the regulated wetland. Such determination shall demonstrate that:

1. A larger buffer is necessary to maintain viable populations of existing species; or

2. The wetland is used by species listed by the federal government or the state as endangered, threatened, sensitive or as documented priority species or habitats, or essential or outstanding potential sites such as heron rookeries or raptor nesting areas; or

3. The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impact; or

4. The adjacent land has minimum vegetative cover or slopes greater than 30 percent.

D. *Alteration of Character of Buffer (Qualitative Alteration).*

1. Qualitative alteration of buffer for Categories II, III and IV wetlands shall be allowed when it is demonstrated that modification of the existing character of the buffer would not reduce the functions and values of the wetland; and

2. That the alteration does not include structures associated with the modification~~development~~ unless identified in GHMC 18.08.120(A)(2) and (3), i.e., wells and associated access; and

3. No net loss of wetland acreage due to the alteration occurs. (Ord. 1322 § 9, 2015; Ord. 1036 § 18, 2006; Ord. 611 § 1, 1991).

18.08.120 Wetlands – Permitted uses in buffer areas.

The following activities are permitted within the wetland buffer; provided, that any impacts are mitigated through the requirements of this chapter:

A. Wells and necessary appurtenances associated with single-family dwellings, including a pump and appropriately sized pump house, including a storage tank, may be allowed on each site in a wetland buffer if all the following conditions are met:

1. The well is either an individual well (serving only one residence) or a Class B well (a maximum of 15 connections including necessary storage tanks);

2. For Category I and II wetlands, the minimum distance from the well and appurtenances to the wetland edge is not less than 75 percent of the buffer widths established in GHMC 18.08.100. A decrease in the required buffer width through buffer reduction or buffer width averaging or other means does not indicate a corresponding decreased distance is allowed from the wetland edge to the well and appurtenances;

3. Access to the well and pump house shall be allowed.

B. Pervious trails and associated viewing platforms; provided~~, that in the case of Category I wetlands,~~ the minimum distance from the wetland edge is not less than 75 percent of the ~~Category I~~ buffer width established in GHMC 18.08.100, and located to avoid removal of significant or mature trees. Where trails are permitted, they shall be limited to be no more than five feet in width and designed for pedestrian use only. A decrease in the required buffer width through buffer width averaging or other means does not indicate a corresponding decreased distance from ~~a Category I~~the wetland edge for trails and viewing platforms.

C. The placement of underground utility lines, on-site septic drainfields meeting the requirements of the Pierce County health code, and grass-lined swales and detention/retention facilities for water treated by biofiltration or other processes prior to discharge, provided the minimum distance from the wetland edge is not less than 75 percent of the buffer widths established in GHMC 18.08.100.

D. Placement of access roads and utilities across Category II, III and IV wetland buffers, if the department determines that there is no reasonable alternative location for providing access and/or utilities to a site and mitigation is provided as designated in this chapter. (Ord. 1036 § 19, 2006; Ord. 611 § 1, 1991).

18.08.130 Alteration of wetlands.

Repealed by Ord. 1036.

18.08.140 Wetlands – Alteration of wetlands and sequence of mitigation actions.

A. Alteration of Category I wetlands is prohibited.

B. Alteration of Category II, III and IV wetlands may be allowed when all adverse impacts to wetland functions and values can be shown to be fully mitigated. Criteria to be considered by the applicant or the property owner are:

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

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. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

4. Compensating for the impact by replacing or providing substitute resources or environments.

C. Mitigation may include a combination of the above measures and may occur concurrently, unless a phased schedule is agreed. (Ord. 1036 § 21, 2006; Ord. 726 § 5, 1996; Ord. 611 § 1, 1991).

18.08.150 Wetlands – Mitigation plan submittal requirements.

Following submittal of any proposed alterations to wetland and buffer areas, the applicant shall submit to the department a wetland mitigation plan substantially in the following form:

A. *Conceptual Phase.* A conceptual wetland mitigation plan shall be submitted to the department. In cases in which environmental review is required, a threshold determination may not be made prior to department review of the conceptual wetland mitigation plan. The conceptual wetland mitigation plan shall include:

1. General goals of the wetland mitigation plan, including an overall goal of no net loss of wetland function and acreage, and to strive for a net resource gain in wetlands over present conditions;

2. A review of literature or experience to date in restoring or creating the type of wetland proposed;

3. Approximate site topography following construction;

4. Location of proposed wetland compensation area;

5. General hydrologic patterns on the site following construction;

6. Nature of compensation, including wetland types (in-kind and out-of-kind), general plant selection and justification, approximate project sequencing and schedule, and approximate size of the new wetland buffer;

7. A conceptual maintenance plan;

8. Conceptual monitoring and contingency plan.

B. *Detailed Phase.* Following approval of the conceptual wetland mitigation plan by the department, a detailed wetland mitigation plan shall be submitted to the department. The

detailed wetland mitigation plan shall contain, at a minimum, the following components, and shall be consistent with the standards in GHMC 18.08.160 and 18.08.180:

1. Text and map of the existing condition of the proposed compensation area, including:

   a. Existing vegetation community analysis;

   b. Hydrological analysis, including topography, of existing surface and significant subsurface flows into and out of the area in question;

   c. Soils analysis providing both Soil Conservation Service mapping and data provided by on-site verified determinations;

   d. Detailed description of flora and fauna existing on the site;

   e. Description of existing site conditions in relation to historic conditions for those sites which have been recently altered or degraded;

2. Text and map of the proposed alterations to the compensation area, including:

   a. Relationship of the project to the watershed and existing water bodies;

   b. Topography of site using one-foot contour intervals;

   c. Water level data, including depth and duration of seasonally high water table;

   d. Water flow patterns;

   e. Grading, filling and excavation, including a description of imported soils;

   f. Irrigation requirements, if any;

   g. Water pollution mitigation measures during construction;

   h. Aerial coverage of planted areas to open water areas (if any open water is to be present);

   i. Appropriate buffers.

The wetland mitigation plan shall include 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 or anticipated final outcome. The wetland mitigation plan shall provide for elevations which are appropriate for the desired habitat type(s) and which provide sufficient tidal prism and circulation data;

3. As part of the wetland mitigation plan, a landscaping plan shall be designed by a registered landscape architect or contractor working with a qualified wetland specialist, describing what will be planted where and when. The landscape plan shall include the following:

a. Soils and substrate characteristics;

b. Specification of substrate stockpiling techniques;

c. Planting instructions, including species, stock type and size, density or spacing of plants, and water and nutrient requirement;

d. Specification of where plant materials will be procured. Documentation shall be provided which guarantees plant materials are to be procured from licensed regional nurseries, or from wetlands on-site which are part of the wetland mitigation plan;

4. A schedule shall be provided showing dates for beginning and completing the mitigation project, including a sequence of construction activities;

5. A monitoring and maintenance plan, consistent with GHMC 18.08.180. The plan shall include all the following:

a. Specification of procedures for monitoring and site maintenance;

b. A schedule for submitting monitoring reports to the department;

6. A contingency plan, consistent with GHMC 18.08.180;

7. A detailed budget for implementation of the wetland mitigation plan, including monitoring, maintenance and contingency phases;

8. A guarantee that the work will be performed as planned and approved, consistent with GHMC 18.08.180;

9. The wetland mitigation plan shall be signed by the qualified wetland specialist to indicate that the plan is according to specifications determined by the qualified wetland specialist. A signed original wetland mitigation plan shall be submitted to the department.

C. Following the approval of the detailed wetland mitigation plan by the department, the plan shall be signed and notarized by the applicant and director, and recorded with the Pierce County auditor.

D. Approval of the detailed wetland mitigation plan shall occur prior to the issuance of building permits or other development permits. No development activity shall occur on the site prior to approval. Required mitigation may also be required prior to issuance of permits or prior to commencing development activity. Timing of required mitigation shall be determined on a case-by-case basis. (Ord. 1245 § 35, 2012; Ord. 1036 § 22, 2006; Ord. 611 § 1, 1991).

18.08.160 Wetlands – Criteria for compensatory mitigation/location and timing of compensatory mitigation.

A. The applicant shall develop a wetland mitigation plan that provides for construction, maintenance, monitoring and contingencies of the replacement wetland. In addition, the applicant and landowner shall meet the following criteria:

1. The restored, created, or enhanced wetland shall be as persistent as the wetland it replaces;

2. The applicant shall demonstrate sufficient capability to carry out the compensation project;

3. The compensation area shall be provided with permanent protection and management to avoid further development or degradation and to provide for the long-term persistence of the compensation area as designed.

B. In cases in which it is determined that compensatory mitigation is appropriate, the following shall apply:

1. Compensatory mitigation shall be provided on-site, except where on-site mitigation is not scientifically feasible or practical due to physical features of the site. The burden of proof shall be on the applicant to demonstrate that mitigation cannot be provided on-site.

2. When compensatory mitigation cannot be provided on-site, mitigation shall be provided in the immediate vicinity of and within the same watershed as the permitted activity.

3. Compensatory mitigation shall duplicate the overall functions and values of the wetland to be replaced and shall include at least 50 percent in-kind compensation mitigation unless it can be demonstrated by the applicant that the overall wetland values of the mitigation area and adjacent or connecting wetlands can be enhanced by a higher percentage of out-of-kind mitigation.

4. Only when it is determined by the department that subsections (B)(1), (2) and (3) of this section are inappropriate and/or impractical shall off-site, compensatory mitigation be considered.

5. Mitigation projects shall be completed concurrent with other activities on the site, unless a phased schedule is agreed upon between the department and the applicant. Refer to GHMC 18.08.170 for guidelines on determining wetland acreage replacement ratios.
(Ord. 1036 § 23, 2006; Ord. 611 § 1, 1991).

18.08.170 Wetlands – Replacement criteria.

A. Where wetlands are altered, the applicant shall meet the minimum requirements of this section.

B. When it is proposed to alter or eliminate a wetland and the department is considering the alteration or elimination, the applicant shall be required to replace or enhance the functions and values of the affected wetland. The wetland values will be based on an approved evaluation procedure. The recommended ratios for replacement/compensation are as established in the following table:

~~Wetland Type~~	~~Replacement Ratio~~

~~Category I~~	~~6 to 1 (for unauthorized wetland impact only)~~
~~Category II~~	~~3 to 1~~
~~Category III~~	~~2 to 1~~
~~Category IV~~	~~1.5 to 1~~

Table 4 – Wetland Replacement Ratios

Category and Type of Impact Wetland	**Restoration or Creation**	**Rehabilitation**	**Enhancement Only**
Category I: Estuarine	4:1	8:1	Case-by-case
Category I: Mature forested	6:1	12:1	24:1
Category I: (All others)	4:1	8:1	16:1
Category II: Estuarine	3:1	8:1	Case-by-case
Category II (All others)	3:1	6:1	12:1
Category III	2:1	4:1	8:1
Category IV	1.5:1	3:1	6:1

C. Ratios provided are for proposed projects with on-site, in-kind replacement which occurs prior to development of the site. Replacement ratio for unauthorized wetland impact requires replacement at a ratio two times that listed for the wetland categorical type. The increased ratio is based on the uncertainty of probable success of proposed replacement, projected losses of

wetland functions and values, or significant period of time between elimination and replacement of wetland. Such required increases in replacement ratios will be made by the department after review of all pertinent data relating to the proposed or committed alteration.

D. The department will allow the ratios to be decreased if the applicant provides findings of special studies coordinated with agencies with expertise which demonstrate to the satisfaction of the department that no net loss of wetland function or value is attained under the decreased ratio.

E. The replacement ratio may be decreased to a ratio of 1:1, if the following criteria are met:

1. The applicant shows to the satisfaction of the department that a replacement ratio of greater than 1:1 is either not feasible on-site, would be likely to result in substantial degradation of other natural features or results in an increase of wetland function and values; and

2. The applicant submits to the department a wetland mitigation plan according to the requirements of GHMC 18.08.150 and 18.08.160 which shows to the satisfaction of the department that a net increase in wetland functions and values will result from the mitigation; and

3. The mitigation is completed and monitored by the department for one year after completion of the mitigation. After one year the department shall make a determination of whether or not the mitigation has been successful.

a. If the department is satisfied that the mitigation will successfully meet the anticipated final outcome of the wetland mitigation plan, development permits may be issued and development activity on the site may begin.

b. If the department is not satisfied that the mitigation will successfully meet the anticipated final outcome of the wetland mitigation plan, development permits shall not be issued and development activity on the site shall not begin. Modifications to the wetland mitigation plan and further monitoring may be required until the department is satisfied that the mitigation will be successful.

F. In-kind compensation shall be provided except where the applicant can demonstrate to the satisfaction of the department that:

1. The wetland system is already significantly degraded and out-of-kind replacement will result in a wetland with greater functional value; or

2. Scientific problems such as exotic vegetation and changes in watershed hydrology make implementation of in-kind compensation impossible; or

3. Out-of-kind replacement will best meet identified regional goals (e.g., replacement of historically diminished wetland types); or

4. Where out-of-kind replacement is accepted, greater acreage replacement ratios may be required to compensate for lost functions and values.

G. Site-specific quantifiable criteria shall be provided for evaluating whether or not the goals and objectives for the proposed compensation are being met. Such criteria include but are not limited to water quality standards, survival rates for planted vegetation, habitat diversity indices, species abundance or use patterns, hydrological standards including depths and durations of water patterns. Detailed performance standards for mitigation planning shall include the following criteria:

1. Use only plants indigenous to Pierce County (not introduced or foreign species);

2. Use plants appropriate to the depth of water at which they will be planted;

3. Use plants available from local sources;

4. Use plant species high in food and cover value for fish and wildlife;

5. Plant mostly perennial species;

6. Avoid committing significant areas of site to species that have questionable potential for successful establishment;

7. Plant selection must be approved by a qualified wetland specialist;

8. Water depth is not to exceed six and one-half feet (two meters);

9. The grade or slope that water flows through the wetland is not to exceed six percent;

10. Slopes within the wetland basin and the buffer zone should not be steeper than 3:1 (horizontal to vertical);

11. The substrate should consist of a minimum of one foot, in depth, of clean (uncontaminated with chemicals, or solid/hazardous wastes) inorganic/organic materials;

12. Planting densities and placement of plants shall be determined by a qualified wetland specialist and shown on the design plans;

13. The wetland (excluding the buffer area) should not contain more than 60 percent open water as measured at the seasonal high water mark;

14. The planting plan must be approved by a qualified wetland specialist;

15. Stockpiling shall be confined to upland areas and contract specifications should limit stockpile durations to less than four weeks;

16. Planting instructions shall describe proper placement, diversity, and spacing of seeds, tubers, bulbs, rhizomes, sprigs, plugs, and transplanted stock;

17. Apply controlled release fertilizer at the time of planting and afterward only as plant conditions warrant (determined during the monitoring process), and only to the extent that the release would be conducted in an environmentally sound manner;

18. Install an irrigation system, if necessary, for initial establishment period;

19. Construction specifications and methods shall be approved by a qualified wetland specialist and the department;

20. All mitigation shall be consistent with requirements of Chapter 15.04 GHMC and city storm drainage comprehensive plan;

21. As appropriate, and if impacts to natural wetland functions and values can be fully mitigated, capacity of the wetland to store surface water should be equal to or greater than surface water storage capacity prior to the proposed activity;

22. As appropriate, and if impacts to natural wetland functions and values can be fully mitigated, ability of the wetland to intercept surface water runoff on the site should be equal to or greater than such ability prior to the proposed activity;

23. As appropriate, and if impacts to natural wetland functions and values can be fully mitigated, the ability of the wetland to perform stormwater detention functions should be equal to or greater than such functions prior to the proposed activity.

H. Wetland mitigation shall occur according to the approved wetland mitigation plan, and shall be consistent with all provisions of this regulation.

I. On completion of construction required to mitigate for impacts to wetlands, the wetland mitigation project shall be signed off by an approved qualified wetland specialist and the city's environmental official. Signature will indicate that the construction has been completed as planned. (Ord. 1036 § 24, 2006; Ord. 726 § 6, 1996; Ord. 611 § 1, 1991).

J. Wetland buffer mitigation ratios shall be a minimum of a 1:1 ratio.

18.08.180 Wetlands – Monitoring program and contingency plan.

A. ~~If the wetland mitigation plan includes compensatory mitigation, a~~A monitoring program shall be implemented to determine the success of the compensatory mitigation project.

B. Specific criteria shall be provided for evaluating the mitigation proposal relative to the goals and objectives of 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.

C. A contingency plan shall be established for compensation in the event that the mitigation project is inadequate or fails.

D. Requirements of the monitoring program and contingency plan are as follows:

1. During monitoring, use scientific procedures for establishing the success or failure of the project;

2. For vegetation determinations, permanent sampling points shall be established;

3. Vegetative success equals 80 percent per year survival of planted trees and shrubs and 80 percent per year cover of desirable understory or emergent species;

4. Submit monitoring reports of the current status of the mitigation project to the department. The reports are to be prepared by a qualified wetland specialist and shall include monitoring information on wildlife, vegetation, water quality, water flow, stormwater storage and conveyance, and existing or potential degradation, and shall be produced on the following schedule:

a. At time of construction;

b. Thirty days after planting;

c. Early in the growing season of the first year;

d. End of the growing season of first year;

e. Twice the second year;

f. Annually;

5. Monitor a minimum of ~~three~~ five and up to 10 growing seasons, depending on the complexity of the wetland system. The time period will be determined and specified in writing prior to the implementation of the site plan;

6. If necessary, correct for failures in the mitigation project;

7. Replace dead or undesirable vegetation with appropriate plantings;

8. Repair damages caused by erosion, settling, or other geomorphological processes;

9. Redesign mitigation project (if necessary) and implement the new design;

10. Correction procedures shall be approved by a qualified wetland specialist and the city's environmental official. (Ord. 1036 § 25, 2006; Ord. 611 § 1, 1991).

18.08.182 Streams – Designation and rating of streams.

~~A. Streams are waterbodies with a defined bed and banks and demonstrable flow of water as defined in this chapter. Streams are designated as environmentally critical areas.~~

~~B. *Stream Classification.* Streams shall be designated Type 1, Type 2, Type 3, and Type 4 according to the criteria in this subsection.~~

~~1. Type 1 streams are those streams identified as "shorelines of the state" under Chapter 90.58 RCW.~~

~~2. Type 2 streams are those streams which are:~~

~~a. Natural streams that have perennial (year-round) flow and are used by salmonid fish; or~~

~~b. Natural streams that have intermittent flow and are used by salmonid fish.~~

~~3. Type 3 streams are those streams which are:~~

~~a. Natural streams that have perennial flow and are used by fish other than salmonids; or~~

~~b. Natural streams that have intermittent flow and are used by fish other than salmonids.~~

~~4. Type 4 streams are those natural streams with perennial or intermittent flow that are not used by fish.~~

~~C. *Ditches.* Ditches are artificial drainage features created in uplands through purposeful human action, such as irrigation and drainage ditches, grass-lined swales, and canals. Purposeful creation must be demonstrated through documentation, photographs, statements and/or other evidence. Ditches are excluded from regulation as streams under this section. Artificial drainage features with documented fish usage are regulated as streams. Drainage setbacks are required as per the city's surface water manual. (Ord. 1036 § 26, 2006).~~

~~18.08.183 Streams – Critical areas report.~~

~~A. A stream analysis report shall be prepared by a qualified biologist and submitted to the department as part of the SEPA review process established by the city of Gig Harbor environmental policy ordinance, Chapter 18.04 GHMC.~~

~~B. The stream analysis report shall be prepared in accordance with the methods provided by the Washington State Department of Fish and Wildlife or Pierce County planning and land services or other acceptable scientific method and submitted to the department for review for any proposals that are within 200 feet of a stream.~~

~~C. Within 30 days of receipt of the stream analysis report and other information, the department shall determine the appropriate stream category, buffering requirement, and required mitigation. The report shall be accorded substantial weight and the department shall approve the report's findings and approvals, unless specific, written reasons are provided which justify not doing so. Once accepted, the report shall control future decision-making related to designated streams unless new information is found demonstrating the report is in error. (Ord. 1036 § 27, 2006).~~

18.08.184 Streams – Performance standards – General.

~~A. *Establishment of Stream Buffers.* The establishment of buffer areas shall be required for all development proposals and activities in or adjacent to streams. The purpose of the buffer shall be to protect the integrity, function, and value of the stream. Buffers shall be protected during construction by placement of a temporary barricade, on-site notice for construction crews of the presence of the stream, and implementation of appropriate erosion and sedimentation controls. Native vegetation removal or disturbance is not allowed in established buffers.~~

~~Required buffer widths shall reflect the sensitivity of the stream or the risks associated with development and, in those circumstances permitted by these regulations, the type and intensity of human activity and site design proposed to be conducted on or near the sensitive area. Buffers or setbacks shall be measured as follows.~~

~~B. *Stream Buffers.*~~

~~1. The following buffers are established for streams:~~

~~**Stream Type**~~	~~**Buffer Width (Feet)**~~
~~Type 1~~	~~200~~
~~Type 2~~	~~100~~
~~Type 3~~	~~50~~
~~Type 4~~	~~25~~

~~2. *Measurement of Stream Buffers.* Stream buffers shall be measured perpendicularly from the ordinary high water mark.~~

~~3. *Increased Stream Buffer Widths.* The director shall require increased buffer widths in accordance with the recommendations of a qualified biologist and the best available science on a case-by-case basis when a larger buffer is necessary to protect stream functions and values based on site-specific characteristics. This determination shall be based on one or more of the following criteria:~~

~~a. A larger buffer is needed to protect other critical areas;~~

b. The buffer or adjacent uplands has a slope greater than 30 percent or is susceptible to erosion and standard erosion-control measures will not prevent adverse impacts to the wetland.

4. *Buffer Conditions Shall Be Maintained.* Except as otherwise specified or allowed in accordance with this title, stream buffers shall be retained in an undisturbed condition.

5. *Degraded Buffers Shall Be Enhanced.* Stream buffers vegetated with non-native species or otherwise degraded shall be enhanced with native plants, habitat features or other enhancements.

6. *Buffer Uses.* The following uses may be permitted within a stream buffer in accordance with the review procedures of this chapter, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent stream:

a. *Conservation and Restoration Activities.* Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife;

b. *Passive Recreation.* Passive recreation facilities designed in accordance with an approved critical area report, including:

i. Walkways and trails; provided, that those pathways that are generally parallel to the perimeter of the stream shall be located in the outer 25 percent of the buffer area;

ii. Wildlife viewing structures; and

iii. Fishing access areas;

c. *Stormwater Management Facilities.* Grass-lined swales and dispersal trenches may be located in the outer 25 percent of the buffer area. All other surface water management facilities are not allowed within the buffer area.

~~7. *Building Setback.* A 15-foot building setback is required from the edge of the stream buffer.~~

~~C. *Stream Crossings.* Stream crossings may be allowed and may encroach on the otherwise required stream buffer if:~~

~~1. All crossings use bridges or other construction techniques which do not disturb the stream bed or bank, except that bottomless culverts or other appropriate methods demonstrated to provide fisheries protection may be used for Type 2 or Type 3 streams if the applicant demonstrates that such methods and their implementation will pose no harm to the stream or inhibit migration of fish;~~

~~2. All crossings are constructed during the summer low flow and are timed to avoid stream disturbance during periods when use is critical to salmonids;~~

~~3. Crossings do not occur over salmonid spawning areas unless the city determines that no other possible crossing site exists;~~

~~4. Bridge piers or abutments are not placed within the FEMA floodway or the ordinary high water mark;~~

~~5. Crossings do not diminish the flood-carrying capacity of the stream;~~

~~6. Underground utility crossings are laterally drilled and located at a depth of four feet below the maximum depth of scour for the base flood predicted by a civil engineer licensed by the state of Washington. Temporary bore pits to perform such crossings may be permitted within the stream buffer established in this title; and~~

~~7. Crossings are minimized and serve multiple purposes and properties whenever possible.~~

~~D. *Stream Relocations.*~~

~~1. Stream relocations may be allowed only for:~~

~~a. All stream types as part of a public project for which a public agency and utility exception is granted pursuant to this title; or~~

~~b. Type 3 or 4 streams for the purpose of enhancing resources in the stream if:~~

~~i. Appropriate floodplain protection measures are used; and~~

~~ii. The location occurs on the site, except that relocation off the site may be allowed if the applicant demonstrates that any on-site relocation is impracticable, the applicant provides all necessary easements and waivers from affected property owners and the off-site location is in the same drainage sub-basin as the original stream.~~

~~2. For any relocation allowed by this section, the applicant shall demonstrate, based on information provided by a civil engineer and a qualified biologist, that:~~

~~a. The equivalent base flood storage volume and function will be maintained;~~

~~b. There will be no adverse impact to local ground water;~~

~~c. There will be no increase in velocity;~~

~~d. There will be no interbasin transfer of water;~~

~~e. There will be no increase in the sediment load;~~

~~f. Requirements set out in the mitigation plan are met;~~

~~g. The relocation conforms to other applicable laws; and~~

~~h. All work will be carried out under the direct supervision of a qualified biologist.~~

~~E. *Stream Enhancement.* Stream enhancement not associated with any other development proposal may be allowed if accomplished according to a plan for its design, implementation, maintenance and monitoring prepared by a civil engineer and a qualified biologist and carried out under the direction of a qualified biologist.~~

~~F. *Minor Stream Restoration.* A minor stream restoration project for fish habitat enhancement may be allowed if:~~

~~1. The project results in an increase in stream function and values;~~

~~2. The restoration is sponsored by a public agency with a mandate to do such work;~~

~~3. The restoration is not associated with mitigation of a specific development proposal;~~

~~4. The restoration is limited to removal and enhancement of riparian vegetation, placement of rock weirs, log controls, spawning gravel and other specific salmonid habitat improvements;~~

~~5. The restoration only involves the use of hand labor and light equipment; or the use of helicopters and cranes which deliver supplies to the project site; provided, that they have no contact with sensitive areas or their buffers; and~~

~~6. The restoration is performed under the direction of a qualified biologist. (Ord. 1036 § 28, 2006).~~

18.08.185 Streams – Mitigation requirements.

~~A. *Stream Mitigation.* Mitigation of adverse impacts to riparian habitat areas shall result in equivalent functions and values on a per function basis, be located as near the alteration as feasible, and be located in the same subdrainage basin as the habitat impacted.~~

~~B. *Alternative Mitigation for Stream Areas.* The performance standards set forth in this subsection may be modified at the city's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected subdrainage basin as a result of alternative mitigation measures. (Ord. 1036 § 29, 2006).~~

18.08.186 F~~Critical f~~ish and wildlife habitat conservation areas.

F~~Critical f~~ish and wildlife habitat conservation areas are those areas identified as being of critical importance in the maintenance and preservation of fish, wildlife and natural vegetation. Areas which are identified or classified as fish and wildlife habitat conservation areas subject to this section shall be subject to the requirements of this section.

A. *General.* ~~Critical~~ fish and wildlife habitat conservation areas are identified as follows:

1. Areas with which federal or state endangered, threatened and sensitive species of fish, wildlife and plants have a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term;

2. Habitats and species of local importance, including:

a. Areas with which state-listed monitor or candidate species or federally listed candidate species have a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term;

b. Special habitat areas which are infrequent in occurrence in the city of Gig Harbor and which provide specific habitats as follows:

i. Old-growth forests;

ii. Snag-rich areas;

~~iii. Category 2 wetland areas;~~

iii~~v~~. Significant stands of trees which provide roosting areas for endangered, threatened, rare or species of concern as identified by the Washington State Department of Fish and Wildlife;

3. Commercial and public recreational shellfish areas;

4. Kelp and eelgrass beds;

5. Herring and smelt spawning areas;

6. Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat;

7. Lakes, ponds and streams planted with fish by a governmental agency, and agency-sponsored group or tribal entity;

8. All streams which meet the criteria as set forth in DNR water rating system as defined in WAC 222-16-030 and 222-16-031;

8. State natural area preserves and natural resource conservation areas.

B. *Classification.* The following documents are used as guidance to identify fish and wildlife habitat conservation areas ~~Critical fish and wildlife habitat areas are identified in the following documents~~:

1. Puget Sound Environmental Atlas (Puget Sound Water Quality Authority);

2. Coastal Zone Atlas of Washington, Volume IV, Pierce County (Washington State Department of Ecology);

3. Commercial and Recreational Shellfish Areas in Puget Sound (Washington State Department of Health);

4. The Department of Natural Resources stream typing maps and natural heritage database;

5. The Washington State Department of Fish and Wildlife priority habitats and species program, the nongame database, and the Washington rivers information system.

C. *Regulation.*

1. *Habitat Assessment.* For all regulated activity proposed on a site which contains or is within 300 feet of fish and wildlife habitat conservation area~~critical fish and wildlife habitat~~, a habitat assessment shall be prepared by a qualified wildlife biologist. The habitat assessment shall include, at a minimum, the following:

a. An analysis and discussion of species or habitats known or suspected to be located within 300 feet of the site;

b. A site plan which clearly delineates the critical fish and wildlife habitats found on or within 300 feet of the site.

2. *Habitat Assessment Review.* A habitat assessment shall be forwarded for review and comment to agencies with expertise or jurisdiction on the proposal, including, but not limited to:

a. Washington State Department of Fish and Wildlife;

b. Washington State Department of Natural Resources;

c. United States Fish and Wildlife Service.

Comments received by the requested review agencies within 45 days of the submittal of the assessment shall be considered by the department. If it is determined, based upon the comments received, that critical fish and wildlife habitat does not occur on or within 300 feet of the site, the development may proceed without any additional requirements under this section. If it is determined that a fish and wildlife habitat conservation area ~~critical fish and wildlife habitat~~ is on or within 300 feet of the site, a habitat management plan shall be prepared.

3. *Habitat Management Plan.* Habitat management plans required under this section shall be prepared in coordination with the Washington State Department of Fish and Wildlife by a qualified wildlife biologist. A habitat management plan shall contain, at a minimum, the following:

a. Analysis and discussion on the project's effects on fish and wildlife habitat conservation areas~~critical fish and wildlife habitat~~;

b. An assessment and discussion on special management recommendations which have been developed for species or habitat located on the site by any federal or state agency;

c. Proposed mitigation measures which could minimize or avoid impacts;

d. An analysis demonstrating that the project's effects on fish and wildlife habitat conservation~~s~~ areas and proposed mitigation measures will achieve no net loss of ecological functions and values.

e~~d~~. Assessment and evaluation of the effectiveness of mitigation measures proposed;

f~~e~~. Assessment and evaluation of ongoing management practices which will protect fish and wildlife habitat conservation areas ~~critical fish and wildlife habitat~~ after development of the project site, including proposed monitoring and maintenance programs;

g~~f~~. Assessment of project impact or effect on water quality in Crescent or Donkey (north) Creeks, and any proposed methods or practices to avoid degradation of water quality. Upon a review of the habitat management plan by appropriate federal and state agencies, comments received by the agencies within 45 days of the submittal of the proposed plan shall be considered by the city and, if mitigation is recommended, may be incorporated into conditions of project approval, as appropriate. If it is determined, based upon the comments received, that a project or proposal will result in the extirpation or isolation of a critical fish or wildlife species, including critical plant communities, the project or proposal may be denied.

D. *Stream Development Standards*.

1. *Riparian Management Zones.* The establishment of a riparian management zone shall be required for all development proposals and activities in or adjacent to streams. The purpose of the riparian management zone shall be to protect the integrity, function, and value of the stream. Riparian management zones shall be protected during construction by placement of a temporary barricade, on-site notice for construction crews of the presence of the stream, and implementation of appropriate erosion and sedimentation controls. Native vegetation removal or disturbance is not allowed in established riparian management zones.

Rriparian management zone widths shall reflect the sensitivity of the stream or the risks associated with development and, in those circumstances permitted by these regulations, the type and intensity of human activity and site design proposed to be conducted on or near the sensitive area. Riparian management zone or setbacks shall be measured as follows.

a. The following riparian management zones are established for streams:

Stream Type	Riparian Management Zone Width (Feet)
Type S	200
Type F	150
Type Np	100
Type Ns	100

b. *Measurement of Stream Riparian Management Zone.* Riparian management zone shall be measured perpendicularly from the ordinary high water mark.

c. *Increased Stream Buffer Widths.* The director shall require increased riparian management zone widths in accordance with the recommendations of a qualified biologist and the best available science on a case-by-case basis when a larger riparian management zone is necessary to protect stream functions and values based on site-specific characteristics. This determination shall be based on one or more of the following criteria:

i. A larger riparian management zone is needed to protect other critical areas;

ii. The riparian management zone or adjacent uplands has a slope greater than 30 percent or is susceptible to erosion and standard erosion-control measures will not prevent adverse impacts to the wetland.

d. *Riparian Management Zone Conditions Shall Be Maintained.* Except as otherwise specified or allowed in accordance with this title, the riparian management zone shall be retained in an undisturbed condition.

e. *Degraded Riparian Management Zone Shall Be Enhanced.* Riparian management zones vegetated with non-native species or otherwise degraded shall be enhanced with native plants, habitat features or other enhancements.

f. *Riparian Management Zone Interruptions*. Where a legally established substantial development or developed roadway transects a riparian management zone, the director may approve a modification of the minimum required riparian management zone width to the edge of the substantial development or developed roadway.

g. *Riparian Management Zone Uses.* The following uses may be permitted within a riparian management zone in accordance with the review procedures of this chapter, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the riparian management zone and adjacent stream:

i. *Conservation and Restoration Activities.* Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife;

ii. *Passive Recreation.* Passive recreation facilities designed in accordance with an approved critical area report, including:

a. Walkways and trails; provided, that those pathways that are generally parallel to the perimeter of the stream shall be located in the outer 25 percent of the riparian management zone;

b. Wildlife viewing structures; and

c. Fishing access areas;

iii. *Stormwater Management Facilities.* Grass-lined swales and dispersal trenches may be located in the outer 25 percent of the riparian management zone. All other surface water management facilities are not allowed within the riparian management zone.

h. *Building Setback.* A 15-foot building setback is required from the edge of the riparian management zone.

i. *Stream Crossings.* Stream crossings may be allowed and may encroach on the otherwise required riparian management zone if:

i. All crossings use bridges or other construction techniques which do not disturb the stream bed or bank, except that bottomless culverts or other appropriate methods demonstrated to provide fisheries protection may be used for Type F streams if the applicant demonstrates that such methods and their implementation will pose no harm to the stream or inhibit migration of fish;

ii. All crossings are constructed during the summer low flow and are timed to avoid stream disturbance during periods when use is critical to salmonids;

iii. Crossings do not occur over salmonid spawning areas unless the city determines that no other possible crossing site exists;

iv. Bridge piers or abutments are not placed within the FEMA floodway or the ordinary high water mark;

v. Crossings do not diminish the flood-carrying capacity of the stream;

vi. Underground utility crossings are laterally drilled and located at a depth of four feet below the maximum depth of scour for the base flood predicted by a civil engineer licensed by the state of Washington. Temporary bore pits to perform such crossings may be permitted within the stream buffer established in this title; and

vii. Crossings are minimized and serve multiple purposes and properties whenever possible.

j. *Stream Relocations.* Stream relocations may be allowed only for:

i. All stream types as part of a public project for which a public agency and utility exception is granted pursuant to this title; or

ii. Type F streams for the purpose of enhancing resources in the stream if:

a. Appropriate floodplain protection measures are used; and

b. The location occurs on the site, except that relocation off the site may be allowed if the applicant demonstrates that any on-site relocation is impracticable, the applicant provides all necessary easements and waivers from affected property owners and the off-site location is in the same drainage sub-basin as the original stream.

iii. For any relocation allowed by this section, the applicant shall demonstrate, based on information provided by a civil engineer and a qualified biologist, that:

a. The equivalent base flood storage volume and function will be maintained;

b. There will be no adverse impact to local ground water;

c. There will be no increase in velocity;

d. There will be no inter-basin transfer of water;

e. There will be no increase in the sediment load;

f. Requirements set out in the mitigation plan are met;

g. The relocation conforms to other applicable laws; and

h. All work will be carried out under the direct supervision of a qualified biologist.

k. *Stream Enhancement.* Stream enhancement not associated with any other development proposal may be allowed if accomplished according to a plan for its design, implementation, maintenance and monitoring prepared by a civil engineer and a qualified biologist and carried out under the direction of a qualified biologist.

l. *Minor Stream Restoration.* A minor stream restoration project for fish habitat enhancement may be allowed if:

i. The project results in an increase in stream function and values;

ii. The restoration is sponsored by a public agency with a mandate to do such work;

iii. The restoration is not associated with mitigation of a specific development proposal;

iv. The restoration is limited to removal and enhancement of riparian vegetation, placement of rock weirs, log controls, spawning gravel and other specific salmonid habitat improvements;

v. The restoration only involves the use of hand labor and light equipment; or the use of helicopters and cranes which deliver supplies to the project site; provided, that they have no contact with the stream or riparian management zone; and

vi. The restoration is performed under the direction of a qualified biologist. (Ord. 1036 § 28, 2006).

m. *Stream Mitigation.* Mitigation of adverse impacts to riparian habitat areas shall result in equivalent functions and values on a per function basis, be located as near the alteration as feasible, and be located in the same subdrainage basin as the habitat impacted.

n. *Alternative Mitigation for Stream Areas.* The performance standards set forth in this subsection may be modified at the city's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected subdrainage basin as a result of alternative mitigation measures. (Ord. 1036 § 29, 2006).

E~~D~~. *Non-Stream Buffer Requirements.* If it is determined, based upon a review of the comments received on the habitat management plan, that a buffer would serve to mitigate impacts to a fish and wildlife habitat conservation area~~critical fish or wildlife habitat~~, an undisturbed buffer shall be required on the development site. The width of the buffer shall be based upon a recommendation of at least one of the appropriate review agencies but, in no case, shall exceed 150 feet, nor be less than 25 feet.

~~E. *Buffer Reduction.* A buffer required under this section may be reduced or eliminated if the local conservation district has approved a best management plan (BMP) for the site which would provide protection to a critical fish or wildlife habitat.~~

F. *Specific Habitats – Anadromous Fish.*

1. All activities, uses, and alterations proposed to be located in water bodies used by anadromous fish or in areas that affect such water bodies shall give special consideration to the preservation and enhancement of anadromous fish habitat, including, but not limited to, adhering to the following standards:

a. Activities shall be timed to occur only during the allowable work window as designated by the Washington State Department of Fish and Wildlife for the applicable species;

b. An alternative alignment or location for the activity is not feasible;

c. The activity is designed so that it will not degrade the functions or values of the fish habitat or other critical areas; and

d. Any impacts to the functions or values of the habitat conservation area are mitigated in accordance with an approved critical area report.

2. Structures that prevent the migration of salmonids shall not be allowed in the portion of water bodies currently or historically used by anadromous fish. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and shall prevent fry and juveniles migrating downstream from being trapped or harmed.

3. Fills, when authorized by the city of Gig Harbor's shoreline management master program, SEPA review or clearing and grading, shall not adversely impact anadromous fish or their habitat or shall mitigate any unavoidable impacts, and shall only be allowed for a water-dependent use. (Ord. 1036 § 30, 2006).

18.08.188 Aquifer recharge areas.

Aquifer recharge areas are particularly susceptible to contamination and degradation from land use activities. Areas which have a high potential for ground water resource degradation are identified as aquifer recharge areas under this section and shall be subject to the requirements herein.

A. *Designation/Classification.* For the purposes of this section, the following criteria are used to designate aquifer recharge areas;

1. The boundaries of any aquifer recharge areas within the city shall consist of the two highest DRASTIC zones which are rated 180 and above on the DRASTIC index range. Any site located within these boundaries is included in the aquifer recharge area.

2. Any site locations identified on Pierce County's Aquifer Recharge Area Map.

B. *Regulation.*

1. *Hydrogeologic Assessment Required.* The following land uses shall require a hydrogeologic assessment of the proposed site if the site is located within an aquifer recharge area:

   a. Hazardous substance processing and handling;

   b. Hazardous waste treatment and storage facility;

   c. Wastewater treatment plant sludge disposal categorized as S-3, S-4 and S-5;

   d. Solid waste disposal facility.

2. *Hydrogeologic Assessment Minimum Requirements.* A hydrogeologic assessment shall be submitted by a firm, agent or individual with experience in hydrogeologic assessments and shall contain, at a minimum, and consider the following parameters:

   a. Documentable information sources;

   b. Geologic data pertinent to well logs or borings used to identify information;

   c. Ambient ground water quality;

   d. Ground water elevation;

e. Depth to perched water table, including mapped location;

f. Recharge potential of facility site, respective to permeability and transmissivity;

g. Ground water flow vector and gradient;

h. Currently available data on wells and any springs located within 1,000 feet of the facility site;

i. Surface water location and recharge potential;

j. Water supply source for the facility;

k. Analysis and discussion of the effects of the proposed project on the ground water resource;

l. Proposed sampling schedules;

m. Any additional information that may be required or requested by the Pierce County environmental health department.

3. Proposed use shall adhere to Ecology's current stormwater manual for protecting water quality.

43. *Review of Hydrogeologic Assessment.* A hydrogeologic assessment prepared under this section shall be submitted to the Pierce County department of environmental health for review and comment. Comments received by the department of health within 60 days of submittal of the assessment shall be considered by the city in the approval, conditional approval or denial of a project.

54. *Findings for Consideration of Approval.* A hydrogeologic assessment must clearly demonstrate that the proposed use does not present a threat of contamination to the aquifer system, or provides a conclusive demonstration that application of new or improved technology will result in no greater threat to the ground water resource than the current undeveloped condition of the site. Successful demonstration of these findings warrants approval under this section. (Ord. 1036 § 31, 2006).

18.08.190 Hillsides, ravine sidewalls and bluffs.

A. *Disturbance Limitations.* If a hillside, ravine sidewall or bluff is located on or adjacent to a development site, all activities on the site shall be in compliance with the following requirements:

1. *Ravine Sidewalls and Bluffs.*

a. *Buffers.* An undisturbed buffer of natural vegetation equal to the height of the ravine sidewall or bluff shall be established and maintained from the top, toe and sides of all ravine sidewalls and bluffs. All buffers shall be measured on a horizontal plane.

b. *Buffer Delineation.* The edge of a buffer shall be clearly staked, flagged and fenced prior to any site clearing or construction. Markers shall be clearly visible and weather-resistant. Site clearing shall not commence until such time that the project proponent or authorized agent for the project proponent has submitted written notice to the city that the buffer requirements of this section have been met. Field marking of the buffer shall remain in place until all phases of construction have been complete and an occupancy permit has been issued by the city.

c. *Buffer Reduction.* A buffer may be reduced upon verification by a qualified professional and supporting environmental information to the satisfaction of the city that the proposed construction method will:

i. Not adversely impact the stability of ravine sidewalls;

ii. Not increase erosion and mass movement potential of ravine sidewalls;

iii. Use construction techniques which minimize disruption of existing topography and vegetation;

iv. *Includes measures to overcome any geological, soils and hydrologic constraints of the site.* The buffer may be reduced to no less than the minimum rear yard setback established in the respective zoning district, pursuant to GHMC Title 17.

d. *Building Setback Lines.* A building setback line of 10 feet is required from the edge of any buffer of a ravine sidewall or bluff.

2. *Hillsides of 15 Percent Slope and Greater – Studies Required.* Developments on hillsides shall comply with the following requirements:

a. *Site Analysis Reports Required.* The following chart sets forth the level of site analysis report required to be developed based upon the range of the slope of the site and adjacent properties:

Slope of Site and/or Adjacent Properties	Length of Slope (Feet)	Parameters of Report (See Key)	Report Prepared By
0% to 15%	No limit	Report not required	
15% to 25%	> 50	1, 2, 3	Building contractor or other technical consultant
25% to 40%	> 35	1, 2, 3, 4	Registered civil engineer
40% +	> 20	1, 2, 3, 4	Registered engineer or geotechnical engineer

Report Key Contents:

1 Recommended maximum site ground disturbance.

2 Estimate of storm drainage (gpm) for preconstruction, during construction and postconstruction.

3 Recommended methods to minimize erosion and storm water runoff from site during construction and postconstruction.

4 Seismic stability of site, preconstruction, during construction and postconstruction.

b. *Development Location.* Structures and improvements shall be located to preserve the most sensitive portion of the site, its natural land forms and vegetation.

c. *Landscaping.* The disturbed areas of a development site not used for buildings and other developments shall be landscaped according to the landscape standards of the zoning code (Chapter 17.78 GHMC).

d. Project construction shall be required to implement all recommended requirements of the report referenced in subsection (A)(2)(a) of this section, and any additional requirements as determined by city staff. In addition, should adjacent properties be adversely impacted by the implementation or construction, additional mitigation measures necessary to minimize or eliminate these impacts shall be implemented by the applicant. (Ord. 1036 § 32, 2006).

18.08.192 Landslide and erosion hazard areas.

Areas which are identified as landslide or erosion hazard areas shall be subject to the requirements established in this section.

A. *Regulation.* Applications for regulated activities proposed within designated landslide and erosion hazard areas shall be accompanied by a geotechnical report prepared by a geologist or geotechnical engineer licensed as a civil engineer with the state. If it is satisfactorily demonstrated to the director that a landslide or erosion hazard potential does not exist on the site, the requirements of this section may be waived.

B. *Geotechnical Report Requirements.* A geotechnical report required under this section shall include, at a minimum, the following information:

1. Topographic data at a minimum scale of 1:240 (1 inch equals 20 feet). Slope ranges shall be clearly delineated in increments of 15 percent to 25 percent, 25 percent to 40 percent and greater than 40 percent;

2. Subsurface data, including boring logs and exploratory methods, soil and rock stratigraphy, ground water levels and any seasonal variations of ground water levels;

3. Site history, including description of prior grading and clearing, soil instability or slope failure.

If a geotechnical report has been prepared and accepted by the director within the previous two years for a specific site and the proposed land use development and site conditions have not changed, the report may be utilized without the requirement for a new report.

C. *Development Standards.* Upon submission of a satisfactory geotechnical report or assessment, site development may be authorized by the director subject to the following:

1. Buffers shall comply with the requirements of GHMC 18.08.190(A);

2. Approved erosion control measures are in place prior to, or simultaneous with, site clearing or excavation;

3. Such other conditions as deemed appropriate by the administrator to ensure compliance with the provisions of this chapter. (Ord. 1245 § 36, 2012; Ord. 1036 § 33, 2006).

18.08.193 Mudslide hazard.

The director shall require review of each permit application to determine whether the proposed site and improvements will be reasonably safe from mudslide hazards; a further review must be made by persons qualified in geology and soils engineering; and the proposed new construction, substantial improvement, or grading must be adequately protected against mudslide damage and not aggravate the existing hazard. (Ord. 1245 § 37, 2012).

18.08.194 Seismic hazard areas.

Designated seismic hazard areas shall be subject to the requirements of this section. At a minimum, seismic hazard areas shall include areas of alluvial and recessional outwash surficial geologic units as identified in "Water Resources and Geology of the Kitsap Peninsula and Certain Adjacent Lands, Water Supply Bulletin Number 18, Plate One," U.S. Department of the Interior, Geological Survey, Water Resources Division, and any lot, tract, site or parcel which has been modified by imported or excavated earthen fill material.

A. *Regulation.* Applications for regulated activities proposed within designated seismic hazard areas shall be accompanied by a geotechnical report prepared by a geologist or geotechnical engineer licensed as a civil engineer with the state. If it is satisfactorily demonstrated that a seismic hazard potential does not exist on the site, the requirements of this section may be waived.

B. *Geotechnical Report Requirements.* The required report shall evaluate the existing site conditions, including geologic, hydrologic and site capability to accommodate the proposed activity. At a minimum, the following shall be included:

1. Analysis of subsurface conditions;

2. Delineation of the site subject to seismic hazards;

3. Analysis of mitigation measures which may be employed to reduce or eliminate seismic risks, including an evaluation of the effectiveness of mitigation measures.

If a proposal is required to submit a seismic risk analysis pursuant to any requirements of the most recently adopted edition of the International Building Code by the city of Gig Harbor, the report requirements of this section may be waived by the department. (Ord. 1036 § 34, 2006).

18.08.196 Flood hazard areas.

Areas which are prone to flooding and which are identified in the Federal Emergency Management Administration ~~flood insurance rate maps for the city of Gig Harbor (September 2, 1981)~~current flood insurance rate maps shall be subject to the requirements of this section.

A. *Regulation.* All development within flood hazard areas shall be subject to the requirements of the city of Gig Harbor flood hazard construction standards (Chapter 18.10 GHMC). (Ord. 1245 § 38, 2012; Ord. 1036 § 35, 2006).

18.08.200 Maintenance of existing structures and developments.

Structures and developments lawfully existing prior to the adoption of this section shall be allowed to be maintained and repaired without any additional review procedures under this title; provided, that the maintenance or repair activity itself remains consistent with the provisions of this chapter and does not increase its nonconformity of such structures or development. Additionally, such construction activity shall not prove harmful to adjacent properties. Maintenance consists of usual actions necessary to prevent a decline, lapse or cessation from a lawfully established condition. Repair consists of the restoration of a

development comparable to its original condition within two years of sustaining damage or partial destruction. Maintenance and repair shall include damage incurred as a result of accident, fire or the elements. Total replacement of a structure or development which is not common practice does not constitute repair. In addition to the requirements of this section, the requirements of Chapter 17.68 GHMC, Nonconformities, shall apply. (Ord. 1036 § 37, 2006).

18.08.202 Exemptions from development standards.

Certain activities and uses may be of such impact and character or of such dependency to the maintenance and welfare of a lawfully permitted use that the requirements of this title shall not apply and may be waived at the discretion of the department. Notwithstanding the requirements of GHMC Title 17, the following uses and activities are exempt from the requirements of this chapter:

A. Emergency actions which must be undertaken immediately or for which there is insufficient time for full compliance with this chapter where necessary to:

1. Prevent an imminent threat to public health or safety; or
2. Prevent an imminent danger to public or private property; or
3. Prevent an imminent threat of serious environmental degradation.

The department shall determine on a case-by-case basis emergency action which satisfies the general requirements of this subsection. In the event a person determines that the need to take emergency action is so urgent that there is insufficient time for review by the department, such emergency action may be taken immediately. The person undertaking such action shall notify the department within one working day of the commencement of the emergency activity. Following such notification the department shall determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the department determines that the action taken or part of the action taken is beyond the scope of allowed emergency action, enforcement action according to the provisions of this chapter is warranted;

B. Public and private pedestrian trails which consist of a pervious surface not exceeding four feet in width;

C. Science research and educational facilities, including archaeological sites and attendant excavation, which do not require the construction of permanent structures or roads for vehicle access;

D. Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities;

E. The placement of signs consistent with Chapter 17.80 GHMC;

F. Existing and ongoing agricultural activities, as defined in this chapter;

G. Forestry practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practice regulations;

H. Buffer a~~A~~ctivities affecting a hydrologically isolated Category IV wetland, if the functional wetland size is less than 1,000 square feet, except that such activities shall comply with the city flood hazard construction code and the city storm drainage management plan;

I. Maintenance, operation and reconstruction of existing roads, streets, utility lines and associated structures; provided, that reconstruction of any such facilities does not extend outside the scope of any designated easement or right-of-way;

J. Activities on improved roads, rights-of-way, easements, or existing driveways;

K. Normal maintenance and reconstruction of structures; provided, that reconstruction may not extend the existing ground coverage;

L. Activities having minimum adverse impacts on wetlands, such as passive recreational uses, sport fishing or hunting, scientific or educational activities. (Ord. 1036 § 38, 2006).

18.08.204 Variances from the minimum requirements.

A. Variance applications shall be considered by the city according to variance procedures described in Chapter 17.66 GHMC and shall be processed as a Type III application under the permit processing procedures of GHMC Title 19. The required showings for a variance shall be

according to this section. The burden is upon the applicant in meeting the required showings for the granting of a variance.

B. The examiner shall have the authority to grant a variance from the provisions of this chapter, when, in the opinion of the examiner, the conditions as set forth in this section have been found to exist. In such cases a variance may be granted which is in harmony with the general purpose and intent of this chapter.

1. *Required Showings for a Variance.* Before any variance may be granted, it shall be shown:

   a. That there are special circumstances applicable to the subject property or the intended use such as shape, topography, location or surroundings that do not apply generally to other properties and which support the granting of a variance from the minimum requirements; and

   b. That such variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated property but which, because of the ordinance codified in this chapter, is denied to the property in question; and

   c. That the granting of such variance will not be materially detrimental to the public welfare.

2. *Granting a Variance.* When granting a variance, the examiner shall determine that the circumstances do exist as required by this section, and attach specific conditions to the variance which will serve to accomplish the standards, criteria and policies established by this chapter.

C. To apply for a variance, the applicant shall submit to the city a complete variance application. Such application shall include a site plan, pertinent information, a cover letter addressing the required showings for a variance and required fees. (Ord. 1036 § 39, 2006).

18.08.206 Reasonable use exceptions.

If the application of this chapter would preclude all reasonable use of a site, development may be permitted, consistent with the general purposes and intent of this chapter. Applications for a

reasonable use permit shall be processed in accordance with the procedures established under GHMC Title 19 for a Type III project permit application.

A. *Information Required.* An application for a reasonable use exception shall be in writing to the department director and shall include the following information:

1. A description and map of the area of the site which is within a critical resource area or within the setbacks or buffers as required under this title;

2. The area of the site which is regulated under the respective setbacks (minimum yards) and maximum impermeable surface and hard surface coverage of the zoning code (GHMC Title 17);

3. An analysis of the impact that the amount of development proposed would have on the critical area as defined under this title;

4. An analysis of whether any other reasonable use with less impact on the critical area and buffer area, as required, is possible;

5. A design of the project as proposed as a reasonable use so that the development will have the least practicable impact on the critical area;

6. A description and analysis of the modification requested of the minimum requirements of this title to accommodate the proposed development;

7. Such other information as may be required by the department which is reasonable and necessary to evaluate the reasonable use respective to the proposed development.

B. *Findings for Approval of Reasonable Use Exception.* If an applicant successfully demonstrates that the requirements of this title would deny all reasonable use of a site, development may be permitted. The hearing examiner shall make written findings as follows:

1. There is no feasible alternative to the proposed development which has less impact on the critical area;

2. The proposed development does not present a threat to the public health, safety or welfare;

3. Any modification of the requirements of this title shall be the minimum necessary to allow for the reasonable use of the property;

4. The inability of the applicant to derive a reasonable use of the property is not the result of actions by the applicant which resulted in the creation of the undevelopable condition after the effective date of the ordinance codified in this title;

5. The proposal mitigates the impacts to the critical area to the maximum extent practicable, while maintaining the reasonable use of the site;

6. That all other provisions of this chapter apply excepting that which is the minimum necessary to allow for the reasonable use of the site or property. The hearing examiner may impose any reasonable conditions on the granting of the reasonable use exception, consistent with the minimum requirements of this chapter.

C. *Notification of Decision.* Notice of the decision shall be provided as set forth in GHMC 19.02.007.

D. *Appeal.* The decision on a reasonable use exception may be appealed in accordance with the procedures established under GHMC Title 19.

E. *Limits of Applying Reasonable Use Exception.* A reasonable use exception shall only be considered in those situations where a reasonable use would be prohibited under this title. An applicant who seeks an exception from the minimum requirements of this title shall request a variance under the provisions of this title.

F. *Duration of Approval and Expiration.* The duration of reasonable use exception approval and permit expiration shall be governed by GHMC 19.02.008. (Ord. 1347 § 76, 2016; Ord. 1197 § 84, 2010; Ord. 1036 § 40, 2006).

18.08.208 Performance bonding.

As part of any mitigation plan, the city shall require the applicant to post a performance bond or other security in a form and amount deemed acceptable by the city to insure mitigation is fully functional.

A. A performance bond shall be in the amount of 125 percent of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater.

B. The bond shall be in the form of a surety bond, performance bond, assignment of savings account, or an irrevocable letter of credit guaranteed by an acceptable financial institution with terms and conditions acceptable to the city attorney.

C. Bonds or other security authorized by this section shall remain in effect until the city determines, in writing, that the standards bonded for have been met. Bonds or other security shall be held by the city for a minimum of five years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.

D. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.

E. Public development proposals shall be relieved from having to comply with the bonding requirements of this section.

F. Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default, and the city may demand payment of any financial guarantees or require other action authorized by the city code or any other law.

G. Any funds recovered pursuant to this section shall be used to complete the required mitigation. (Ord. 1036 § 41, 2006).

18.08.210 Suspension and revocation.

In addition to other penalties provided elsewhere, the department may suspend or revoke an approval if it finds that the applicant has not complied with any or all of the conditions or limitations set forth in the approval, has exceeded the scope of work set forth in the approval,

or has failed to undertake the project in the manner set forth in the approved application. (Ord. 611 § 1, 1991).

18.08.220 Enforcement.

The administrator shall investigate any potential violation the administrator reasonably believes has occurred involving critical areas governed by this chapter. If the administrator determines that a violation has occurred, the administrator shall use the enforcement process found in Chapter 2.60 GHMC. (Ord. 1226 § 13, 2011; Ord. 1036 § 43, 2006).

18.08.230 Designated wetlands.

Repealed by Ord. 1036.

18.08.240 Nonconforming uses.

An established use of existing structure that was lawfully permitted prior to adoption of this chapter, may continue subject to the following:

A. Nonconforming uses shall not be expanded or changed in any way that increases their nonconformity. However, an existing use may be changed to a less intensive use provided all other zoning and land use regulations are met;

B. Existing structures shall not be expanded or altered in any manner which will increase the nonconformity;

C. Activities or uses which are discontinued for 12 consecutive months shall be allowed to resume only if they are in compliance with this chapter; and

D. Nonconforming uses or structures destroyed by an act of God may be replaced or resumed. (Ord. 611 § 1, 1991).

18.08.250 Severability.

Repealed by Ord. 726. **18.08.260 Chapter and ordinance updates.**

Repealed by Ord. 1036. **The Gig Harbor Municipal Code is current through Ordinance 1544, passed May 12, 2025.**

Disclaimer: The city clerk's office has the official version of the Gig Harbor Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

City Website: www.cityofgigharbor.net

Hosted by General Code.