

Chapter 24.08

CRITICAL AREAS AND CULTURAL RESOURCES

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Article I. General Provisions

24.08.010 Authorization and Purpose

- (a) This Chapter of the Grant County Code is established pursuant to RCW 36.70A.060 and RCW 36.70A.170.
- (b) The purpose of this is to define, identify and protect the following critical areas as required by the Growth Management Act of 1990 (Chapter 17, Laws of 1990).

24.08.020 Categorization of Critical Areas

- (a) Critical areas in Grant County are categorized as follows:
 - (1) Wetlands;
 - (2) Frequently Flooded Areas;
 - (3) Critical Aquifer Recharge Areas;
 - (4) Geologically Hazardous Areas; and
 - (5) Fish and Wildlife Habitat Conservation Areas;
 - (6) Cultural Resource Areas.

24.08.030 Applicability and Authorization Required

- (a) The provisions of this Chapter shall apply to those land use or development activities that:
 - (1) Are within the geographical limits of critical areas as set forth in this Chapter; and
 - (2) Require a development permit or review under any of the following Grant County Codes:
 - (A) GCC § 22.04 – Land Division;
 - (B) GCC § 23.04 – Zoning Districts;
 - (C) GCC § 24.04 – State Environmental Policy Act;
 - (D) GCC Title 14 – Buildings and Construction; and
 - (3) Is not an exempt land use or development activity delineated in GCC § 24.08.060.
- (b) No land use development or use application pursuant to the Grant County Codes identified in GCC § 24.08.030(b)(2) shall be accepted as counter complete pursuant to GCC § 25.04.150 until the applicant demonstrates to the satisfaction of the Administrative Official compliance with the provisions of this Chapter. For a building permit, submission of a complete critical areas checklist shall be considered counter complete.
- (c) No land use development permit or land use, division or development approval pursuant to the Grant County Codes identified in GCC § 24.08.030(a)(2) shall be granted for any activity regulated under this Chapter until the applicant demonstrates to the satisfaction of the Administrative Official compliance with the provisions of this Chapter.
- (d) Critical area review, pursuant to this Chapter, shall be conducted as part of the underlying permit or approval. For any activity altering or disturbing any critical areas and not subject to or requiring an underlying development permit or approval, such activity shall not proceed in the absence of approval of a critical areas alteration permit issued pursuant to this Chapter.

24.08.040 Relationship to Other Regulations

- (a) Areas characterized by a particular critical area may also be subject to other federal, state and local regulations. Compliance with this Code does not affect a person's obligation to comply in all respects with other regulatory requirements. In the event of any conflict between the requirements of this Code and any other Code or ordinance of Grant County, the regulation that provides the greater protection for the particular critical area shall apply.
- (b) Federal regulations include, but are not limited to:
 - (1) Clean Water Act, Section 404, 401
 - (2) Endangered Species Act
 - (3) Federal Water Pollution Control Act
 - (4) National Environmental Policy Act
 - (5) National Floodplain Insurance Program
- (c) State regulations include, but are not limited to:
 - (1) RCW 43.21C State Environmental Policy Act
 - (2) RCW 75.20 Hydraulic Project Approval
 - (3) RCW 77.12 Bald Eagle Protection Rules
 - (4) RCW 78.44 Surface Mining Act
 - (5) RCW 90.03 State Water Code
 - (6) RCW 90.48 State Water Pollution Control Act
 - (7) RCW 90.58 Shoreline Management Act
- (d) County regulations include, but are not limited to:
 - (1) GCC § 24.16 Flood Damage Prevention
 - (2) GCC § 24.04 SEPA
 - (3) GCC § 23.12 Development Standards
 - (4) GCC § 24.12 Grant County Shoreline Master Program
 - (5) Grant County Solid Waste Permits
 - (6) Grant County On-Site Sewage Disposal Permits

24.08.050 Jurisdictional Substitution and Coordination

- (a) Jurisdictional Substitution: In cases where other agencies possess jurisdictional control over critical areas and it is determined by the Administrative Official that the permit conditions satisfy the requirements of this Chapter, those requirements may substitute for the requirements of this Chapter. Such requirements shall be a condition of critical area approval and be enforceable by the County. The County shall notify the applicant in writing when any such substitution is made. The County shall also notify the public through a Notice of Decision as provided in GCC § 25.04 and shall provide opportunity for written comment by the Washington State Department of Ecology and/or the Washington Department of Fish and Wildlife as to whether the substitution provides required protection of critical areas.
- (b) Jurisdictional Coordination: In addition to the provisions established in this Chapter, the County shall coordinate its own programs with those of other public and private organizations to enhance management of Critical Areas in Grant County. A partial list of public and private programs providing additional protection to critical areas includes:
 - (1) Local plans or programs include, but are not limited to:

- (A) Watershed Management Plans (WRIA 41 – Lower Crab, WRIA 42 – Grand Coulee, WRIA 43 – Upper Crab-Wilson)
 - (B) GCC §24.16 Flood Damage Prevention
 - (C) GCC § 24.04 SEPA
 - (D) GCC § 23.12 Development Standards
 - (E) GCC § 24.12 Grant County Shoreline Management Master Program
 - (F) Grant County Solid Waste Permits
 - (G) Grant County On-Site Sewage Disposal Permits
 - (H) Grant County Open Space Taxation Program
- (2) State and federal programs include, but are not limited to:
- (A) Washington State Hydraulic Project Permits (HPA)
 - (B) Washington State Pesticide Applicator License Requirements
 - (C) Washington State Waste Discharge Permits
 - (D) Washington State Water Quality Certification Requirements (401)
 - (E) Federal Corps 404 Permits and Section 10 Permits
 - (F) Tribal Environmental Policy Act (TEPA) requirements.

24.08.060 General Exemptions

- (a) The following developments, land-use activities and associated uses shall be exempt from the provisions of this Chapter provided that they are otherwise consistent with the applicable provisions of other Grant County ordinances:
- (1) Emergency Actions. An emergency action is an action required to mitigate an unanticipated and imminent threat to the public health or safety or to the environment within a period of time too short to allow full compliance with this Chapter. The following criteria shall exist to qualify any action under an emergency provision:
 - (A) There must be an immediate threat to life, public or private property, or an immediate threat of serious environmental degradation arising from a natural condition, or non-natural accident or incident;
 - (B) The emergency response shall be confined to the action necessary to protect life or property from damage;
 - (C) The scope of the emergency response must be limited to the work necessary to relieve the immediate threat; and
 - (D) The emergency response applies only to the period of time in which the actual emergency exists.
 - (2) Once the emergency is abated or dissipated as deemed by jurisdictional authorities, compliance with the requirements of this chapter is required.
 - (3) Emergency actions shall use reasonable methods that minimize the impact to critical areas and their buffers. Persons who take emergency action shall notify the Administrative Official within one (1) working day following commencement of the emergency activity. Following such notification, the Administrative Official shall determine if the action taken was within the scope and definition of emergency actions as defined above. If the Administrative Official determines that the action taken or any part of the action taken was beyond the scope and definition of allowed emergency actions, then the enforcement provisions of GCC § 25.16 shall apply;
 - (4) Agricultural Operations. Existing and ongoing agricultural operations as defined in GCC § 25.02 including related development and activities that are conducted on lands designated as Agricultural by the Grant County Comprehensive Plan which do not result in expansion into a critical area or its buffer or do not result in an increase in impact to a critical area. Existing and ongoing agricultural activities, however, shall comply with agricultural best management

practices contained within any conservation plan between the property owner and the Department of Ecology pursuant to Chapter 89.08 RCW. Existing and ongoing agricultural activities that result in significant adverse impacts to a critical area or its buffer shall not be exempt from the provisions of this Chapter. New development and/or expansion of existing operations shall comply with the provisions of this Chapter;

- (5) Operation, Maintenance, and Repair of Columbia Basin Project-related Facilities. Activities conducted by or on behalf of the U.S. Department of the Interior, Bureau of Reclamation related to operation, maintenance, and repair of facilities;
- (6) Activity Adjacent to Artificial Watercourses. Activity adjacent to artificial watercourses which are constructed and actively maintained for irrigation and drainage; provided, that any activity shall comply with RCW 75.20.100 and RCW 75.20.103 by securing written approval from the Washington State Department of Fish and Wildlife; and provided further, that the activity must also comply with all applicable drainage, erosion and sedimentation control requirements for water quality. The operator shall notify the Administrative Official in writing regarding the location and nature of anticipated activities a minimum of 21 days prior to commencing any such activity. Such notification shall be a condition for allowance of this activity as an exemption from the provisions of this Chapter;
- (7) Maintenance, Repair and Operation. Normal and routine maintenance, repair and operation of existing structures, utilities, sewage disposal systems, water systems, drainage facilities, ponds, flood control facilities, electric and communications facilities, and public and private roads and driveways associated with pre-existing residential or commercial use. However, any person engaging in or providing any maintenance or repair activities shall use reasonable methods with the least amount of potential impact to critical areas. Any impacted critical area or its buffer shall be restored after the completion of maintenance/repair activities to the maximum extent practicable;
- (8) Modifications of Buildings. Modification of: (1) an existing single-family residence that does not change the use from residential, does not expand the building footprint, or increase septic effluent and (2) an existing building having other than single-family use which does not expand the building footprint, alter the use, or increase septic effluent. A person granted an exemption under this subsection for a particular building cannot receive another exemption under this subsection for the same building unless ten (10) years have elapsed from the date of granting of the previous exemption;
- (9) Replacement of Manufactured Homes. Replacement of a manufactured home, as defined in GCC § 25.02, that does not increase the number of bedrooms or exacerbate nonconformity with critical area setbacks or buffers required under this Chapter. A person granted an exemption under this subsection for a particular building cannot receive another exemption under this subsection for the same building unless ten (10) years have elapsed from the date of granting of the previous exemption;
- (10) Site Investigations. Site investigation work necessary for land use applications such as surveys, soil and mineral resource explorations, percolation tests, archaeological explorations authorized and approved by all jurisdictional agencies, and other related activities. However, critical area impacts shall be minimized and disturbed areas shall be immediately restored to the maximum extent practicable;
- (11) Landscape Maintenance. Maintenance activities such as mowing, normal pruning, and gardening accessory to single family residential use, provided that such maintenance activities are limited to existing landscaping improvements and do not expand into critical areas or associated buffers, do not expose soils, do not alter topography, do not destroy or clear native vegetation, and do not diminish water quality or quantity. This allowance shall not be construed as applying to agricultural activities undertaken outside lands designated as Agricultural;

- (12) Enhancement Activities. Fish, wildlife, wetland and/or riparian enhancement activities not required as mitigation provided that the project is approved by the U.S. Department of Fish and Wildlife, the Washington State Department of Fish and Wildlife and the Washington State Department of Ecology;
 - (13) Navigation Aids and Boundary Markers. Construction or modification of navigational aids and channels markers;
 - (14) Noxious Weed Control; and
 - (15) Passive Activities. Passive recreational activities and uses, sport fishing, hunting, scientific and educational activities, or similar minimal impact, activities.
- (b) Although exempt from the provisions of this Code, those activities delineated in GCC § 24.08.060, above, may not be exempt from other federal, state and local regulations regarding critical areas. Additionally, exempted activities shall use reasonable methods to avoid impacts to critical areas or their buffers. An exemption does not give permission to degrade a critical area or ignore risk from natural hazards. Any temporary damage to, or alteration of a critical area or buffer, shall be restored, rehabilitated, or replaced to prior condition or better at the responsible party's expense. Revegetation shall occur during the wet season, but no later than 180 days after the damage or alteration of the critical area or buffer occurred. All other restoration or rehabilitation shall be completed within 60 days of the damage or alteration, unless otherwise approved by the Administrative Official.

24.08.070 General Review Procedures

- (a) Critical areas review shall be classified and processed in the manner delineated in GCC § 25.04 for the underlying development permit or approval being sought. Critical areas alteration permits issued pursuant to this Chapter and not subject to an underlying permit or approval shall be classified as a Type II permit, and shall be processed in the manner delineated in GCC § 25.04.
- (b) A critical areas determination, using best available science, by the Administrative Official under this Chapter shall be in addition to, and not a substitute for, any other development permit or authorization required by the GCC. A critical areas determination shall not be interpreted as an approval of any other permit or authorization required of a development, construction or use.
- (c) Pre-Application Review. Applications for certain project permits shall not be accepted by the Administrative Official unless the applicant has scheduled and attended a pre-application conference, as specified in GCC § 25.04.130. Pre-application review is not intended to provide an exhaustive review of all the potential issues that a given application could raise. Pre-application review does not prevent the County from applying all relevant laws to the applicant. In addition to the purposes listed in GCC § 25.04.130(b), the review is intended to establish:
 - (1) The critical areas involved or potentially impacted;
 - (2) The degree to which a proposed development may impact a designated critical area; and
 - (3) If there is a need for a preliminary site assessment or technical assistance conference to better define the critical area issues.
- (d) Technical Assistance Conference. If requested by the applicant or required by the Administrative Official, the Administrative Official will arrange and conduct a meeting of representatives of Grant County Departments and Resource Agency Personnel having technical expertise, interest, or jurisdiction in the proposed development. The technical assistance conference may also involve a preliminary site assessment, if it is determined that identification of or resolution of issues related to the proposed development may be achieved through an on-site review. The purpose of the technical assistance conference will be to:

- (1) Confirm and define the requirements of any other applicable local, state or federal regulations;
- (2) Clarify any identified procedural or regulatory conflicts and define alternative courses of action available to the applicant in addressing project requirements;
- (3) Provide the applicant with guidance, available data and information that will assist in complying with the provisions of this title, other chapters of the GCC and other applicable regulations;
- (4) Provide the applicant with guidance concerning project modifications or site enhancements that would minimize impacts to the critical area;
- (5) Provide the applicant with alternatives for securing data, information, or assistance necessary to the project; and
- (6) Determine whether a special assessment or study is necessary.

(e) The procedure for critical areas review shall be as follows:

- (1) **Determination of Applicability:** Based on the documents submitted by the applicant, the Administrative Official shall first determine if the proposed activity conforms to any of the exemptions to this Chapter as delineated in GCC § 24.08.060. If the Administrative Official determines that the proposed activity meets any of the listed exemptions, no further critical areas review is required pursuant to this Chapter, except as necessary for the Administrative Official to ensure that the proposed activity is undertaken as described in the application and as shown on the site plan. The Administrative Official shall note this determination in the application file.
- (2) **Critical Areas Checklist:** If the Administrative Official determines that the proposed activity does not meet any of the listed exemptions, or any best management practices and/or restoration requirements associated therewith, the applicant shall complete a critical areas checklist on forms provided by the Department.
- (3) **Preliminary Assessment:** The Department will review the critical areas checklist together with resource information and maps identified in the relevant sections of this Chapter, and may conduct a site reconnaissance to determine whether critical areas or their required buffers are affected by the proposed activity. The applicant shall be responsible for providing the Department with sufficient and accurate information regarding the proposed activity and site conditions and shall allow and facilitate on-site observation by the Department in connection with this review. Restriction of access shall be grounds for denial of critical areas alteration permit and/or underlying permit or approval.
- (4) **Preliminary Determination:** Based on the preliminary assessment, the Administrative Official shall make one of the following determinations:
 - (A) **Determination that Critical Areas are Not Associated:** If the Administrative Official determines that critical area indicators are not present within 300 feet of the proposed development activity that is the subject of a proposed development application, no further critical areas review is required pursuant to this Chapter, except as necessary for the Administrative Official to ensure that the proposed activity is undertaken as described in the application and as shown on the site plan. The Administrative Official shall note this determination in the application file. This determination shall not constitute approval of any use or activity, nor its compliance with the requirements of this Chapter, outside the scope of that stated in the application. Any proposed change in use or scope of activity from that contained in the application shall be subject to further review under this Chapter. The applicant shall acknowledge in writing that this determination by the Administrative Official regarding the apparent absence of critical area indicators and the likelihood that critical areas will not be affected is not intended as an expert certification regarding the presence or absence of critical areas and that the critical areas review process is

subject to possible reopening if new information is received as described in GCC § 24.08.080(5), below. If the applicant wants greater assurance of the accuracy of any such critical area indicators determination, the applicant may hire a qualified critical areas expert to provide such assurances; or

- (B) Determination that Critical Areas Are Associated: If the Administrative Official determines that critical area indicators are present within 300 feet of the proposed development activity that is the subject of a proposed development application, then the Administrative Official shall note this determination in the application file. The Administrative Official shall notify the applicant of such determination, and the applicant shall complete a critical areas assessment pursuant to the requirements of this Chapter.
- (5) Reopening of Review Process: If at any time following the Administrative Official's determination that critical areas are not associated with the proposed activity and prior to completion of project review under GCC § 25.04, including any appeals, the Administrative Official receives new evidence that critical areas may be associated with the proposed activity, the Administrative Official shall reopen the critical areas review process and shall require completion of a critical areas assessment and mitigation pursuant to this Chapter. Once project review is complete pursuant to GCC § 25.04, including any appeals, then the Administrative Official's determination that critical areas are not associated with the proposed activity shall be final, unless appealed pursuant to GCC 25.04 Article X. However, the Administrative Official shall not be prevented from reopening the critical areas review process if the Department relied on misinformation, provided by the applicant in the permit application or critical areas checklist.
- (6) Critical Areas Assessment: The requirements of a critical areas assessment are dependent upon the particular critical area of interest. The applicant shall conduct, or cause to have conducted, a technical assessment and prepare a Critical Areas Assessment Report pursuant to GCC § 24.08.090 and as delineated in the relevant sections of this Chapter. The Critical Area Assessment report shall have three components: (a) a site analysis, (b) an impact analysis, and (c) proposed mitigation measures.
- (7) Waiver of Wetland Site Assessment Requirements: In circumstances where the Administrative Official has identified the presence of wetland indicators within 300 feet of the proposed development activity that is the subject of a proposed development application, the Administrative Official may consider waiving the site assessment requirements of GCC § 24.08.230 upon receiving a written request from the applicant. Such a waiver shall only be granted under the following conditions:
 - (A) The wetland in question has been preliminarily identified by County technical staff as a Class IV wetland;
 - (B) The proposed development application is for a single-family residence, subdivision or short subdivision on an existing lot of record if field investigation by County staff indicates the following:
 - (i) Sufficient information exists for staff to estimate the boundaries of a wetland without a delineation; and
 - (ii) The Administrative Official determines that the single-family residence and all accessory structures and uses, or building envelopes and building setback lines in the case of subdivisions and short subdivisions, as proposed will not impact the critical area and will not impact a buffer twice the standard width required pursuant to this GCC § 24.08.250 from the estimated wetland boundary;

- (C) The Administrative Official determines that the project or activity as proposed will not impact the wetland and will not impact a buffer twice the standard width required pursuant to this Chapter;
 - (D) The Administrative Official determines that such a waiver will not reduce the long-term protection of the identified critical area;
 - (E) Prior to any such waiver, the Administrative Official shall either convene a site visit by a Technical Interdisciplinary Team or provide opportunity for review and comment by members of a Technical Interdisciplinary Team; and
 - (F) The Administrative Official may consider all comments received from the Technical Interdisciplinary Team prior to waiving the site assessment requirements of this Chapter and shall include these comments in the record along with the basis and rationale for any such decision.
 - (G) For any project or activity for which the site assessment requirement has been waived, no further critical area review shall be required, except as necessary for the Administrative Official to ensure that the proposed activity is undertaken as described in the application and as shown on the site plan. The Administrative Official shall note this waiver in the application file.
- (8) Critical Areas Determination: Based on the findings of the Critical Area Assessment Report and other available relevant information, the Administrative Official shall make a determination regarding critical areas on the proposed activity. A determination to approve a proposed activity may include stipulation of binding conditions and required mitigation, monitoring, maintenance or other conditions of approval pursuant to this Chapter. If the Administrative Official determines that there are no conditions under which the proposed activity could be approved, then the Administrative Official shall deny the proposal.
 - (9) Request for Variance: If, as a result of the critical areas determination, the applicant believes that he or she is eligible for a variance from one or more of the requirements of this Chapter, or one or more of the stipulations or conditions of the critical areas determination, then the applicant may request a variance as described in GCC §24.08.100.
 - (10) Application for Reasonable Use Exception: If, as a result of the critical areas determination, the applicant believes that the requirements of this Chapter, including any request for a variance from the requirements of this Chapter, still leave the applicant with no reasonable economically viable use of his or her property, then the applicant may apply for a reasonable use exception pursuant to GCC §24.08.100.
- (f) Any decision of the Administrative Official or other Decision Maker in the administration of this Chapter may be appealed according to the provisions of GCC § 25.04 Article X.
 - (g) For proposed development subject to environmental review pursuant to GCC § 24.04 and Chapter 197-11 WAC (SEPA Rules), information demonstrating compliance with the standards of this Chapter shall be submitted in connection with environmental documents. Any environmental determination shall include a review of this material to determine whether the requirements of this Chapter have been met.
 - (h) For proposed development exempt from or not subject to environmental review pursuant to GCC § 24.04 and Chapter 197-11 WAC (SEPA Rules), information demonstrating compliance with the standards of this Chapter shall be submitted in connection with permit or approval application documents.

- (i) Activities in and around critical areas often require review and permitting by state and federal agencies. The requirements of this Chapter are additional to any and all state and federal review, approval, and/or permit responsibilities.

24.08.080 Resource Information and Maps

- (a) Critical areas are designated on a series of data maps maintained by the Department. These maps contain graphic representation of critical areas based on the best available science data obtained by the Department from a variety of sources considered reliable. Specific sources of data are identified in the relevant sections of this Chapter. The maps may be supplemented with inventories, raw data, and interpretations made by professionals having expertise in the delineation, classification, function and value of one or more critical area.
- (b) The maps are for information and illustrative purposes, and are intended to alert a person to the potential presence of critical areas that may affect the ability to obtain regulatory approval to develop and/or use the subject parcel. The maps are intended as a general guide to the location and extent of critical areas. They do not definitively indicate that critical areas do or do not exist on or near a subject parcel; rather, they denote the presence of indicators that suggest a critical area may be present on or near the subject parcel. They are intended to advise Grant County, applicants and other participants in the development permit process that a critical area may exist and that further study, review and consideration may be necessary. In all cases, actual presence or absence of the critical area shall be determined using best available science and shall prevail.
- (c) The maps and supplemental resource information shall be used by the Department in conducting a Preliminary Assessment pursuant to GCC § 24.08.070(b)(3). The maps will be used in conjunction with the Grant County Assessor's land based parcel mapping by the Administrative Official in making a Preliminary Determination pursuant to GCC § 24.08.070(b)(4) of whether a critical area designation is present on or near the subject parcel. The determination by the Administrative Official that (1) a parcel of land or part of a parcel of land that is the subject of a proposed development application is within the boundaries of one or more critical areas as delineated on the critical area maps, or (2) that one or more critical areas as delineated on the critical area maps is within any buffer or setback distance specified in this Chapter from a parcel of land or part of a parcel of land that is the subject of a proposed development application, shall be sufficient evidence to require the Administrative Official to direct an applicant to conduct a Critical Areas Assessment pursuant to GCC § 24.08.070(b)(6). Such determination by the Administrative Official may be appealed according to the provisions of GCC § 25.04 Article X.
- (d) In addition to those maps and references identified in the relevant sections of this Chapter, the following maps and documents may be used:
 - (1) Critical area maps included in Comprehensive Plans of cities and towns of Grant County;
 - (2) U.S.G.S. Topographic Quadrangle Maps;
 - (3) Aerial photos; and
 - (4) Soil Survey of Grant County, Washington by the United States Department of Agriculture, Soil Conservation Service.
- (e) Recognizing the necessity for accurate geographic information, the Department shall annually update the maps based on inventories conducted by Qualified Critical Areas Professionals, regulatory agencies and other reliable sources of data.

24.08.090 Critical Areas Assessments – General Requirements

- (a) The determination by the Administrative Official that one or more critical areas as delineated on the critical area maps are present within 300 feet of the proposed development activity that is the subject of a proposed development application shall be sufficient evidence to require the Administrative Official to direct an applicant to conduct a Critical Areas Assessment pursuant to GCC § 24.08.070(b)(6).
- (b) The Administrative Official shall notify the applicant of such determination, and the applicant shall complete a Critical Areas Assessment pursuant to the requirements of this Chapter. The notice shall identify the type of critical area identified and shall cite the requirements for Critical Areas Assessment(s) pursuant to this Chapter. The Critical Areas Assessment shall be limited to those types of critical areas determined by the Administrative Official to be present as indicated on the critical areas maps. For example, if a Preliminary Determination indicates only the presence of wetlands on or near the proposed development, then the Critical Areas Assessment need only address wetlands. However, nothing in this subsection shall waive an applicant's responsibility to protect any and all critical areas that may be present in accordance with this Chapter. In the event of multiple designations, each critical area shall be addressed independently and collectively for the purpose of determining development and use limitations and/or appropriate mitigating measures.
- (c) While the data maps shall be used as a guide to the location and extent of critical areas, the exact location, extent, functions and values shall be determined by the applicant based on field investigations and evaluations performed by a Qualified Critical Areas Professional as defined in GCC § 25.02 pursuant to the requirements of this Chapter.
- (d) Submission of a complete Critical Area Assessment Report(s) required under this Chapter shall be a prerequisite to determination that a development application is counter complete pursuant to GCC § 25.04.150.

24.08.100 Variances

- (a) Variance requests shall be classified and processed as a Type III procedure as delineated in GCC § 25.04.070. The burden of proof shall be on the person requesting the variance to bring forth evidence in support of the variance.
- (b) The Decision Maker, as defined in GCC § 25.04.080, may grant a critical areas variance as provided in GCC § 25.08.060.
- (c) In reviewing the variance application, the Decision Maker shall consider testimony provided at any public hearing and recommendations provided by interested and affected agencies and jurisdictions, including the Washington Departments of Ecology, Fish and Wildlife, and Natural Resources, and affected Indian tribes, and any Technical Interdisciplinary Team participating in critical areas review for the proposed development.
- (d) Variances to the dimensional setbacks, including buffers, of this Chapter may be granted by the Decision Maker following the preparation of a Critical Areas Assessment Report by a Qualified Critical Areas Professional where a conclusion of the report supports a modification of the dimensional requirements. Such a conclusion must also include all necessary mitigation. In granting a dimensional variance, the Decision Maker must find that granting of a zoning variance by itself will not provide sufficient relief to avoid the need for a variance to the dimensional setbacks under this

Chapter, and that a Critical Areas Assessment Report and mitigation plan demonstrate that the proposed development provides for the least impact on critical areas while providing reasonable use of the property, and full mitigation of project impacts.

- (e) In granting any variance, the Decision Maker shall find that the variance is the minimum variance that will make possible the reasonable use of land, building or structure and allows the minimum impact to critical areas necessary to allow such reasonable use.
- (f) In granting any variance, the Decision Maker shall prescribe such conditions and safeguards as are necessary to secure protection of critical areas from adverse impacts and to ensure that impacts to critical areas and their buffers are mitigated.

24.08.110 Reasonable Use Exception

- (a) If the application of this Chapter would result in denial of reasonable and economically viable use of a property, and if such reasonable and economically viable use of the property cannot be obtained by consideration of a variance pursuant to GCC § 24.08.100 to one or more individual requirements of this Chapter, then a landowner may seek a reasonable use exception from the standards of this Chapter. Reasonable use exceptions shall only apply to legal lots of record established prior to the effective date of this Chapter. Reasonable use exceptions are intended as a "last resort" when no plan for mitigation and/or variance can meet the requirements of this Chapter and allow the applicant a reasonable economically viable use of his or her property. Requests for reasonable use exception shall be classified and processed as delineated in GCC § 25.04.080 and .090, and shall only be granted under the following conditions:
 - (1) The application of this Chapter would deny all reasonable and economically viable or beneficial uses of the property so that there is no reasonable and economically viable or beneficial use with a lesser impact on the critical area than that proposed; and
 - (2) The proposed development does not pose a reasonable threat to the public health, ~~and~~ safety, and welfare on or off the site for which the reasonable use exception is sought; and
 - (3) Any proposed modification to a critical area will be the minimum necessary to allow reasonable and economically viable and beneficial use of the property; and
 - (4) [The inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant after the effective date of this chapter](#)
 - (5) The applicant has requested and been denied a variance under the provisions of GCC § 24.08.100; and
 - (6) The Decision Maker may issue, as part of the findings in any decision made under this Subsection, conditions of approval, including modifications to the size and placement of structures and facilities to minimize impacts to critical areas and associated buffers. As part of the findings, the Decision Maker may also specify mitigation requirements that ensure that all impacts are mitigated to the maximum extent feasible.
- (b) In reviewing a request for reasonable use exception, the Decision Maker shall consider testimony provided at any public hearing and recommendations provided by interested and affected agencies and jurisdictions, including the Washington Departments of Ecology, Fish and Wildlife, and Natural Resources, and affected Indian tribes, and any Technical Interdisciplinary Team participating in critical areas review for the proposed development.
- (c) Decisions issued on requests for reasonable use exceptions may be appealed according to the provisions of GCC § 25.04 Article X.

24.08.130 Penalties and Enforcement

- (a) A person who violates the provisions of this Chapter or who fails to comply with any of its requirements shall be subject to the procedures and sanctions set forth in GCC § 25.16.

Article II. General Mitigation Requirements

24.08.150 General Mitigation Standards

- (a) All proposed alterations to critical areas or associated buffers shall require mitigation sufficient to provide for and maintain the functions and values of the critical area or to prevent risk from a critical area hazard and shall give adequate consideration to the reasonable economically viable use of the property. Mitigation of one critical area impact should not result in unmitigated impacts to another critical area. Mitigation may include, but is not limited to: buffers, setbacks, limits on clearing and grading, best management practices for erosion control and maintenance of water quality, or other conditions appropriate to avoid or mitigate identified adverse impacts. Subject to the reasonable use exception provisions of GCC § 24.08.110, any proposed critical area alteration that cannot adequately mitigate its impacts to a critical area shall be denied. Any approval of mitigation to compensate for impacts on a critical area or its buffer shall be supported by the best available science.

24.08.160 Mitigation

- (a) Mitigation Sequencing. Includes avoiding, minimizing or compensating for adverse impacts to regulated critical areas or their buffers, unless part of a restoration plan for significantly degraded wetland or stream buffer. The preferred sequence of mitigation is defined below:
 - (1) Avoid the impact altogether by not taking a certain action or parts of an action. Where impact on critical areas or their buffers will not be avoided, the applicant shall demonstrate that the impact meets the applicable mitigation requirements for granting an administratively approved alteration;
 - (2) Minimize the 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) Rectify the impact by repairing, rehabilitating or restoring the affected environment to the conditions existing at the time of the initiation of the project or activity;
 - (4) Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action; and
 - (5) Compensate for the impact by replacing, enhancing, or providing substitute resources or environments.
 - (6) Monitoring the impact and taking appropriate corrective measures.
- (b) Mitigation timing. Mitigation shall be completed immediately following disturbances and prior to use or occupancy of the activity or development, or when seasonally appropriate. Construction of mitigation projects shall be timed to reduce impacts on existing fisheries, wildlife, and water quality.
- (c) General mitigation requirements. This section provides general mitigation requirements applicable to alteration of critical areas. Additional specific mitigation requirements are found under the sections for the particular type of critical area.

- (d) Restoration/rehabilitation is required when the critical area or its buffers will be temporarily altered during the construction of an approved development proposal. At a minimum, all impacted areas shall be restored to their previous condition pursuant to an approved mitigation plan.
- (e) Compensation. The goal of compensation is to offset loss of critical area and/or buffer functions on a development site. Compensation includes replacement or enhancement of the critical area or its buffer depending on the scope of the approved alteration and what is needed to maintain or improve the critical area and/or buffer functions.
- (1) The buffer for a created, restored, or enhanced critical area proposed as compensation for approved alterations shall be the same as the buffer required for the existing critical area. For the purposes of restoration, creation, or enhancement, buffers shall be fully vegetated and shall not include lawns, walkways, driveways, and other mowed or paved areas.
 - (2) On-Site and In-Kind. Except as noted below or otherwise approved, all critical area impacts shall be compensated for through restoration or creation of replacement areas that are in-kind, on-site, and of similar or better critical area category. The preferred mitigation for impacts on Class IV wetlands shall be off-site and in-kind. Mitigation shall be timed prior to or concurrent with the approved alteration and shall have a high probability of success.
 - (3) Off-Site and In-Kind. The Administrative Official may consider and approve off-site compensation where the applicant demonstrates that greater biological and hydrological functions and values will be achieved. The preferred location for off-site mitigation is areas within or adjoining designated fish and wildlife habitat corridors. The compensation may include restoration, creation, or enhancement of critical areas. The compensation ratios specified under the “on-site” compensation section for each critical area shall apply for off-site compensation as well. The Shoreline Administrative Official may request contractual linkage to the off-site parcel to ensure its availability and landowner willingness.
 - (4) Increased Replacement Ratios. The Administrative Official may increase the ratios under the following circumstances:
 - (A) Uncertainty exists as to the probable success of the proposed restoration or creation due to an unproven methodology or proponent; or
 - (B) A significant period will elapse between impact and replication of critical area functions; or
 - (C) The impact was unauthorized.
 - (5) Decreased Replacement Ratios. The Administrative Official may decrease the ratios required in the “on-site” ratios specified under the compensation section of each critical area when all the following criteria are met:
 - (A) A minimum replacement ratio of 1:1 will be maintained;
 - (B) Documentation by a qualified professional demonstrates that the proposed mitigation actions have a very high rate of success;
 - (C) Documentation by a qualified professional demonstrates that the proposed mitigation actions will provide functions and values that are significantly greater than the critical area being impacted; and
 - (D) The proposed mitigation actions are conducted in advance of the impact and have been shown to be successful.
- (f) Critical Area Enhancement as Mitigation.
- (1) Impacts on wetland and stream functions may be mitigated by enhancement of existing significantly degraded areas. Applicants proposing to use enhancement must produce a Critical Areas Assessment that identifies how enhancement will increase the functions of the degraded resource and how this increase will adequately mitigate for the loss of critical area and its

function at the impact site. An enhancement proposal must also show whether existing critical area functions will be reduced by the enhancement actions.

(g) Monitoring.

- (1) The county requires long-term monitoring of development proposals, unless otherwise accepted where alteration of critical areas or their buffers are approved. Such monitoring shall be an element of the required mitigation plan and shall document and track impacts of development on the functions and values of critical areas, and the success and failure of mitigation requirements. Monitoring may include, but is not limited to:
 - (A) Establishing vegetation transects or plots to track changes in plant species composition over time;
 - (B) Using aerial or other photography to evaluate vegetation community response;
 - (C) Sampling surface and ground waters to determine pollutant loading;
 - (D) Measuring base flow rates and stormwater runoff to model and evaluate water quantity predictions;
 - (E) Measuring sedimentation rates;
 - (F) Sampling fish and wildlife populations to determine habitat utilization, species abundance, and diversity; and
 - (G) Sampling of water temperatures for wetlands and streams.
- (2) The county may require that a qualified professional, at the direction of the county and at the applicant's expense, monitor the development proposal site during construction and for a sufficient period of time after construction to ensure satisfactory mitigation of impacts on the critical area. The qualified professional shall monitor per the provisions outlined in the approved mitigation plan based on the conditions or restrictions imposed by the county and such administrative rules as the planning official shall prescribe.
- (3) Performance Bond. Prior to issuance of any permit or approval that authorizes site disturbance, the Administrative Official may require performance security as specified in Section 24.08.180, Mitigation Security.

(h) Contingencies/adaptive management. When monitoring reveals a significant deviation from predicted impacts or a failure of mitigation measures, the applicant shall be responsible for appropriate corrective action. Contingency plans developed as part of the original mitigation plan shall apply, but may be modified to address a specific deviation or failure. Contingency plan measures shall be subject to the monitoring requirement to the same extent as the original mitigation measures.

- (i) All proposed mitigation shall be included in the Critical Area Assessment. Proposed mitigation shall include:
- (1) A description of specific proposed mitigation, including a delineation of critical areas lost and critical areas gained;
 - (2) An analysis of avoidance, minimization, reduction, and compensation of impacts to protect ecological functions;
 - (3) An analysis of how the proposed mitigation will maintain the critical area function and values;
 - (4) A statement of any ongoing monitoring and/or inspection measures and schedule that may be required, including specification of method and frequency of submittal of reports on results to County;
 - (5) A statement of any required critical area expertise necessary to install, monitor, or inspect the proposed mitigation; and
 - (6) A listing of any other security required to ensure performance and/or maintenance of the proposed mitigation.

- (j) The Administrative Official shall make the final determination regarding required mitigation. Required mitigation shall be included in an approved mitigation plan.

24.08.170 Buffers

- (a) As described in more detail in each relevant section, buffers have in some cases been determined to be necessary and appropriate to protect critical areas and their functions or to prevent risk from a critical area hazard. In those sections of this Chapter where specific buffers are identified, those buffers are deemed "required" or "standard" buffers. If a project or activity does not propose any alteration of those buffers or of the associated critical area, then no additional mitigation will be required to protect the critical area.
- (b) If, however, based on unique features of the particular critical area or its buffer or of the proposed development, the Administrative Official determines that additional buffers and/or mitigation measures beyond these standard buffers are necessary to adequately protect the function of the critical area or to prevent risk of a hazard from the critical area, the Administrative Official may impose such additional mitigation requirements, provided the Administrative Official can demonstrate, based on best available science, why that additional mitigation or buffering is required to adequately protect the critical area function or to prevent hazard from a critical area.
- (c) If portions of a parcel that contain a proposed development activity have not had their critical areas and associated buffers delineated because they were outside the project or area affected by the project, pursuant to GCC § 24.08.070, then further critical area assessments may be required in the future prior to any change in use or development activity for that portion of the site.
- (d) Further, if the applicant seeks a variance to reduce these buffers or to alter the critical area or its required buffer, then the applicant shall demonstrate, based on best available science, why such buffer and/or critical area modification, together with such alternative mitigation proposed in the critical areas assessment, is sufficient to provide equal or better protection of the critical area function. If necessary, variances shall provide for long-term buffer protection. Variances requests shall be reviewed pursuant to GCC § 24.08.100.
- (e) The critical areas assessments and the conditions of approval shall provide for long-term buffer protection. Regarding land division, critical areas and their associated buffers may be placed in separate tracts to be owned by all lot owners in common, by a homeowners' association, or some other separate legal entity such as a land trust. However, critical areas and/or buffers identified and defined in this Chapter do not require any provisions for public access, and appropriate restrictions may be included in the easement or title documents. Critical areas and/or buffers identified are, however subject to periodic inspection by the Administrative Official, upon prior notification to the landowner, to ensure long-term protection.

24.08.180 Mitigation Security

- (a) The Administrative Official shall have the discretion to withhold issuance of a development permit or approval until required mitigation has been completed. Alternatively, the Administrative Official may require a refundable cash payment that will ensure compliance with the approved mitigation plan if there will be activity (e.g. monitoring or maintenance) or construction to take place after the issuance of the County's permit or other approval. The amount of the cash payment shall not exceed 150 percent of the estimated cost of the uncompleted actions or construction as determined by the

Administrative Official. When the Administrative Official determines that the mitigation plan has been successfully completed, the cash payment shall be refunded to the applicant. If the mitigation plan is not successfully completed, the County shall be entitled to keep all or part of the cash payment to the extent necessary to rectify the deficiencies regarding the completion of the mitigation plan.

24.08.190 Protection of Designated Critical Areas

- (a) Identification and Recording of Critical Areas: Approval of development projects and other land use activities that require a Critical Areas Assessment pursuant to GCC § 24.08.090, shall be subject to the identification and designation of all critical areas and their buffers identified in the assessment process. Each critical area shall be clearly defined and labeled to show calculated area, and type and/or class of critical area within each lot. The Administrative Official shall require of the applicant that such designated critical areas be recorded on the final plat map or site plan clearly showing the locations of critical areas, existing vegetation, and buffers.
- (b) Construction Marking: During construction, clearly visible, temporary marking such as flagging and staking, shall be installed and maintained along the outer limits of the proposed site disturbance outside of the critical area. Such field markings may be field-approved by the Administrative Official prior to the commencement of permitted activities. Markings shall be maintained throughout the duration of any construction activities.
- (c) Mitigation Signing and Fencing: The Administrative Official may require permanent signing and/or fencing where it is determined a necessary component of a mitigation plan. The intent of this subsection is to provide clear and sufficient notice, identification, and protection of critical areas on-site where damage to a critical area or buffer by humans or livestock is probable due to the proximity of the adjacent activity.
- (d) Sign, Marker and Fence Maintenance: It shall be the responsibility of the landowner to maintain, including replacement of, the markers, signs, and fences required under this Chapter in working order throughout the duration of the development project or land use activity. Removal of required markers, signs, and fences without written approval of the Administrative Official shall be considered a violation of this Chapter.

Article III. Wetlands

24.08.200 Identification and Designation

- (a) Wetlands shall be identified and designated based on the definitions, methods and standards set forth in the currently approved Federal Wetland Delineation Manual and supplements.

24.08.210 Maps and References

- (a) In addition to the Critical Areas Checklist prepared by the applicant and any site reconnaissance conducted by the Department, the Administrative Official shall use the following maps and references to assist in making a Preliminary Determination pursuant to GCC § 24.08.070:
 - (1) Wetlands mapped under the National Wetland Inventory by the U.S. Department of Interior; Fish and Wildlife Service;
 - (2) Washington State Department of Fish and Wildlife Priority Habitat and Species (PHS) maps;

- (3) Maps and reference documents in the Grant County SMP Inventory, Characterization and Analysis report, as applicable
- (4) Approved Federal Wetlands Delineation Manual and applicable regional supplements;
 - (A) U.S. Army Corps of Engineers. 2008. Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0), ed. J. S. Wakeley, R. W. Lichvar, and C. V. Noble. ERDC/EL TR-08-28. Vicksburg, MS: U.S. Army Engineer Research and Development Center.
- (5) Washington State Wetlands Rating System for Eastern Washington (Annotated Version), Washington State Department of Ecology Publication No. 14-06-030 (October 2014)
- (6) Wetland Mitigation in Washington State – Parts 1 and 2, Washington Department of Ecology Publication #06-06-011a and b), March 2006);
- (7) Wetlands previously identified through the methodology specified under GCC § 24.08.200 for another development permit or approval application.

24.08.220 Classification

- (a) Wetland Rating Classes shall be as follows:
 - (1) Category I Wetlands: Those wetlands scoring a “Category I” rating under the Washington State Department of Ecology (Ecology) Washington State Wetlands Rating System for Eastern Washington (Annotated Version), Publication #14-06-030 (October 2014), as may be amended in the future (hereinafter referred to as the Ecology Wetlands Rating System);
 - (2) Category II Wetlands: Those wetlands scoring a “Category II” rating under the Ecology Wetlands Rating System;
 - (3) Category III Wetlands: Those wetlands scoring a “Category III” rating under the Ecology Wetlands Rating System; and
 - (4) Category IV Wetlands: Those wetlands scoring a “Category IV” rating under the Ecology Wetlands Rating System.

24.08.230 Site Assessment Requirements

- (a) The Administrative Official shall conduct a Preliminary Assessment pursuant to GCC § 24.08.070 using maps and references identified in GCC § 24.08.210.
- (b) If the Administrative Official has reason to believe that a wetland may exist within 100 feet of a proposed development activity, a written determination regarding the existence or nonexistence of wetlands within 100 feet of said proposed development activity must be submitted to the Department by the applicant. Only written determinations prepared by the U.S. Army Corps of Engineers, the Washington State Department of Ecology, the Natural Resources Conservation Service, or a Qualified Wetlands Professional shall be accepted.
- (c) If it is determined that a wetland exists, a site assessment report must be submitted to the Department by the applicant when an activity regulated under this Chapter is proposed within one hundred (100) feet of the boundary of a wetland. Only a site assessment report prepared by the U.S. Army Corps of Engineers, Washington Department of Ecology, Natural Resources Conservation Service, or a Qualified Wetlands Professional who has been approved by the Department of Community Development shall be accepted.
- (d) The site assessment report at a minimum shall cover the subject parcel and all area within 100 feet of a proposed development activity. If the applicant cannot obtain permission for access to properties

within 100 feet of the proposed development activity then an approximation of the extent of off-site wetlands within 100 feet of the proposed development activity may be completed based on aerial interpretation and/or visual observation from nearby vantage points.

- (e) The site assessment report shall include the following information:
- (1) A wetland boundary survey to identify and delineate all wetlands within 300 feet of the project or activity area using the approved federal wetland delineation manual and applicable regional supplements as specified by WAC 173-22-035. The wetland boundary shall be field staked by the Qualified Wetlands Professional and surveyed by a land surveyor for disclosure on all final plats, maps and site plans;
 - (2) A site plan, at a scale no smaller than one inch equals 200 feet, indicating the results of the wetland boundary survey;
 - (3) Description of the methods used to identify and delineate the wetland;
 - (4) Site plan indicating the location of all proposed improvements and wetland boundaries and the locations of all data points, as surveyed by a professional surveyor;
 - (5) Description of the hydrology, soils, and vegetative characteristics of the wetland;
 - (6) List of priority species and habitats within the vicinity of the wetland in question;
 - (7) Wetland community description including the wetland rating category pursuant to GCC § 24.08.220, including copies of all field data sheets;
 - (8) Values and functions assessment, including a discussion of water quality, fish and wildlife habitat, flood and stream flow attenuation, recreation and aesthetics. The values and functions assessment shall be conducted in accordance with the Ecology Wetlands Rating System and shall be used to determine the category of wetland pursuant to GCC § 24.08.220;
 - (9) A detailed narrative describing the project, its relationship to the wetland and its potential impact to the wetland; and
 - (10) A proposed mitigation plan pursuant to GCC § 24.08.260.

24.08.240 Alteration of Wetlands

- (a) A regulated wetland or its required buffer can only be altered if the wetlands site assessment pursuant to GCC § 24.08.230 shows that the proposed alteration does not degrade the quantitative and qualitative functioning of the wetland, or any degradation can be adequately mitigated to protect the wetland function, and protect wetland functions and values as a result of the overall project. Any alteration approved pursuant to this Section shall include mitigation necessary to mitigate the impacts of the proposed alteration on the wetland as described in GCC § 24.08.260
- (1) Storm water discharge: Storm water discharges to wetlands shall be controlled and treated to provide all known and reasonable methods of prevention, control, and treatment as mandated in the State Water Quality Standards, Chapter 173-201A WAC, as required by state law, and consistent with the Ecology Stormwater Manual for Eastern Washington. Changes in hydrology that negatively impact functions of a wetland shall not be permitted. Potential changes may include, but not be limited to, flooding of plant communities resulting in changes in composition, flooding of nests, or associated drawdowns that dehydrate nests, particularly amphibian eggs.
- (b) Exceptions to Mitigation Requirements: Requirements for mitigation do not apply under the following circumstances:
- (1) When a wetland alteration is intended exclusively for the enhancement or restoration of an existing regulated wetland and the proposal will not result in a loss of wetland function and value, subject to the following conditions:

- (A) The enhancement or restoration project shall not be associated with a development activity; and
- (B) An enhancement or restoration plan shall be submitted for site plan review. The restoration or enhancement plan must include the information required under GCC § 24.08.230

24.08.250 Protection Standards

- (a) Wetland buffer zones shall be required for all regulated activities adjacent to regulated wetlands. Any wetland created, restored or enhanced as compensation for approved wetland alterations shall also include the standard buffer required for the category of the created, restored or enhanced wetland.
- (b) Buffers shall not include areas that are functionally and effectively disconnected from the wetland by a road or other substantially developed surface of sufficient width and with use characteristics such that buffer functions are not provided.
- (c) Standard buffer widths. The standard buffer widths are based on wetland category, intensity of impacts, and wetland functions or special characteristics. The buffer is to be vegetated with native plant communities that are appropriate for the site conditions. If vegetation in the buffer is disturbed (grazed or mowed), applicants planning changes to land that will increase impacts to wetlands need to rehabilitate the buffer with native plant communities that are appropriate for the site conditions. The width of the buffer is measured in horizontal distance.
- (d) Measurement of wetland buffers. All buffers shall be measured from the wetland boundary as surveyed in the field. The width of the wetland buffer shall be determined according to the proposed land use (Table 1) and wetland category (Table 2).

Table 1. Land Use Intensity Table — Types of Proposed Land Use that Can Result in High, Moderate, and Low Levels of Impacts to Adjacent Wetlands

Level of Impact from Proposed Change in Land Use	Types of Land Use Based on Common Zoning Designations
High	<ul style="list-style-type: none"> • Commercial • Urban • Industrial • Institutional • Retail sales • Residential (more than 1 unit/acre) • High-intensity recreation (golf courses, ball fields, etc.)
Moderate	<ul style="list-style-type: none"> • Residential (1 unit/acre or less) • Moderate-intensity open space (parks with biking, jogging, etc.) • Paved driveways and gravel driveways serving 3 or more residences • Utility corridor or right-of-way shared by several utilities and including access/maintenance road • Paved trails
Low	<ul style="list-style-type: none"> • Low-intensity open space (hiking, bird-watching, preservation of natural resources, etc.) • Woody riparian tree management • Gravel driveways serving 2 or fewer residences • Unpaved trails • Utility corridor without a maintenance road and little or no vegetation management.

Table 2. Buffer Width

Wetland Characteristics	Buffer Width by Impact of Proposed Land Use
Category IV Wetlands (For wetlands scoring less than 16 points or more for all functions)	
Score for all functions is less than 16 points	Low – 25 ft Moderate – 40 ft High – 50 ft
Category III Wetlands (For wetlands scoring 16 - 18 points or more for all functions or isolated vernal pools)	
Moderate level of function for habitat (score for habitat 5 - 7 points), noting if wetland scores 8 – 9 habitat points use Category II buffers	Low – 75ft Moderate – 110ft High – 150 ft
Score for habitat 3 – 4 points	Low – 40 ft Moderate – 60 ft High – 80 ft
Category II Wetlands (For wetlands that score 19 – 21 points or more for all functions or having the “Special Characteristics” identified in the rating system)	
High level of function for habitat (score for habitat 8 - 9 points)	Low – 100 ft Moderate – 150 ft High – 200 ft
Moderate level of function for habitat (score for habitat 5 - 7 points)	Low – 75ft Moderate – 110ft High – 150 ft
High level of function for water quality improvement and low for habitat (score for water quality 8 - 9 points; habitat less than 5 points)	Low – 50 ft Moderate – 75 ft High – 100 ft
Vernal pool	Low – 100 ft Moderate – 150 ft High – 200 ft OR Develop a regional plan to protect the most important vernal pool complexes – buffers of vernal pools outside protection zones can then be reduced to: Low – 40 ft Moderate - 60 ft High – 80 ft
Not meeting above characteristic	Low – 50 ft Moderate – 75 ft High – 100 ft
Category I Wetlands (For wetlands that score 22 points or more for all functions or having the “Special Characteristics” identified in the rating system)	
Natural Heritage Wetlands	Low – 125 ft Moderate – 190 ft High – 250 ft
Bogs	Low – 125 ft Moderate – 190 ft High – 250 ft
Alkali	Low – 100 ft Moderate – 150 ft High – 200 ft
Forested	Buffer width based on score for habitat functions or water quality

Wetland Characteristics	Buffer Width by Impact of Proposed Land Use
	functions
High level of function for habitat (score for habitat 8 - 9 points)	Low – 100 ft Moderate – 150 ft High – 200 ft
Moderate level of function for habitat (score for habitat 5 - 7 points)	Low – 75ft Moderate – 110ft High – 150 ft
High level of function for water quality improvement (8- 9 points) and low for habitat (less than 5 points)	Low – 50 ft Moderate – 75 ft High – 100 ft
Not meeting above characteristics	Low – 50 ft Moderate – 75 ft High – 100 ft

- (e) **Buffer Width Averaging:** The width of a buffer for Category I, Category II, or Category III wetlands may be averaged, thereby reducing the width of a portion of the buffer and increasing the width of another portion, if all of the following requirements are met:
- (1) Buffer averaging is necessary to avoid hardship to the person seeking this option which is caused by circumstances peculiar to the property, is necessary to accomplish the purposes of the proposed development or land use activity, and no reasonable alternative is available;
 - (2) The wetland contains variation in sensitivity due to existing physical characteristics, as confirmed in a Critical Areas Assessment, and the reduction from standard buffer widths will occur only contiguous to the area of the wetland determined to be least sensitive;
 - (3) Buffer width averaging will not adversely impact wetland functions and values;
 - (4) The total area contained within the wetland buffer after averaging is not less than the total area of the buffer which would have been required if buffer averaging was not allowed; and
 - (5) No part of the buffer is reduced by more than thirty-five (35) percent of the standard buffer width or 25 feet, whichever is greater.
- (f) **Buffer Width Measurement:** Wetland buffers shall be measured horizontally in a landward direction from the wetland edge, as delineated in the field, pursuant to the requirements of GCC § 24.08.230. Where a wetland is located within 25 feet of the toe of slopes of 25 percent or greater, the buffer shall be increased to include such sloping areas and the tops of slopes determined to be Erosion Hazard Areas as defined in GCC § 24.08.500.
- (g) Any wetland created, restored or enhanced as compensation for approved wetland alterations shall also include the standard buffer required for the category of the created, restored, or enhanced wetland.
- (h) **Temporary Buffer Alterations:** Buffers shall not be disturbed. However, where temporary buffer disturbance has or will occur in conjunction with approved permitted activities, restoration, including replanting with adapted species as recommended by the Washington State Department of Ecology and/or Fish and Wildlife, shall be required.
- (i) If an applicant proposes to decrease or alter a required buffer or alter a wetland, the applicant shall demonstrate why such buffer and/or wetland modification, together with such alternative mitigation proposed in the wetland area assessment is sufficient to adequately protect the wetland functions and values.

- (j) Roads, bridges and utilities: Road, bridge and utility maintenance, repair and construction may be permitted across wetland buffers under the following conditions:
- (1) It is demonstrated to the Administrative Official that there are no alternative routes that can be reasonably used to achieve the proposed development;
 - (2) The activity will have minimum adverse impact to the wetland area;
 - (3) The activity will not significantly degrade surface or groundwater; and
 - (4) Road maintenance, repair and construction shall be the minimum necessary to provide safe traveling surfaces;

In making such determination, the Administrative Official may solicit and may consider comments and recommendations provided by the Washington Departments of Ecology, and Fish and Wildlife, and any Technical Interdisciplinary Team participating in review for the proposed development.

- (k) Allowed uses in buffers: Low impact uses and activities which are consistent with the purpose and function of the habitat buffer and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the habitat involved, provided that such activity shall not result in a decrease in wetland functions and values and shall not prevent or inhibit the buffer's recovery to at least pre-altered condition or function. Examples of uses and activities which may be permitted in appropriate cases, as long as the activity does not retard the overall recovery of the buffer, include removal of noxious vegetation, pedestrian trails, and viewing platforms.

- (1) Trails. Public and private trails may be allowed within wetland buffers where it can be demonstrated in a Critical Areas Assessment that the wetland and wetland buffer functions and values will not be degraded by trail construction or use. Trail planning, construction, and maintenance shall adhere to the following criteria:
 - (A) Permeable surface trail alignment shall be located only in the outer 25 percent of a wetland buffer width, except as needed to access viewing platforms or to cross the wetland. Private trails shall be a maximum of 5 feet wide, but public trails may be as wide as 7 feet if they are part of a regional trail network. Trails may be placed on existing levees, railroad grades, or road grades where those features exist in any part of a wetland buffer and may occupy the full width of the levee, railroad grade or road grade;
 - (B) Trails and associated viewing platforms shall be constructed of pervious materials, unless impervious surfaces are necessary for conformance to the Americans with Disabilities Act. The trail surface shall meet all other requirements, including water quality standards set forth in the Stormwater Management Manual for Eastern Washington (September 2004), or as revised;
 - (C) Trail alignment shall avoid trees in excess of six inches in diameter of any tree trunk at a height of four and one-half feet above the ground on the upslope side of the tree, where feasible;
 - (D) Trail construction and maintenance shall follow the U.S. Forest Service Trails Management Handbook (FSH 2309.18, April 1993) and Standard Specifications for Construction and Maintenance of Trails (EM-7720-103, September 1996, or as revised);
 - (E) Access trails to viewing platforms within the wetland may be provided. Trail access and platforms shall be aligned and constructed to minimize disturbance to valuable functions of the wetland or its buffer and other habitat elements, and still provide enjoyment of the resource; and
 - (F) Buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas.
 - (G) Utilities. The criteria for alignment, construction, and maintenance within the wetland buffers and GCC § 24.12.450, Utilities, shall apply to utility corridors

within stream buffers. In addition, corridors shall not be aligned parallel with any stream channel unless the corridor is outside the buffer, and crossings shall be minimized. Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the waterbody where feasible. Crossings shall be contained within the existing footprint of an existing or new road or utility crossing where possible. Otherwise, crossings shall be at an angle greater than 60 degrees to the centerline of the channel. The criteria for stream crossings shall also apply.

- (2) Stormwater Management Facilities. Consistent with the Washington State Department of Ecology Eastern Washington Stormwater Manual, management facilities are limited to stormwater dispersion outfalls and bioswales. They may be allowed within the outer twenty-five percent (25%) of the buffer of Category III or IV wetlands only, provided that:
 - (A) No other location is feasible; and
 - (B) The location of such facilities will not degrade the functions or values of the wetland.
 - (C) Stormwater management facilities are not allowed in buffers of Category I or II wetlands.
- (3) Establishment of Limits of Clearing. The location of the outer extent of the wetland buffer shall be permanently marked as specified in GCC §24.08.190. The limits of the areas to be disturbed shall also be marked in the field as specified in GCC §24.08.190.

24.08.260 Mitigation

- (a) Mitigation Plan. Where mitigation is required pursuant to GCC § 24.08.240, the applicant shall prepare a Mitigation Plan. The Mitigation Plan shall follow the general requirements described herein below and Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1), Washington Department of Ecology Publication #06-06-011b), March. The following items at a minimum are required as part of a mitigation plan:
 - (1) Description of project or activity, including a detailed narrative describing the project or activity, its relationship to the wetland and its potential impact to the wetland; and
 - (2) Any proposed mitigation, including a discussion of how the project has been designed to avoid and minimize adverse impacts to wetlands, as well as the necessary monitoring and contingency actions for the continued maintenance of the wetland and its associated buffer.
 - (3) A report which includes, but is not limited to:
 - (A) Location maps;
 - (B) A site map prepared at a scale no smaller than one inch = 200 feet indicating the boundaries of the identified wetlands; the width and length of all existing and proposed structures, utilities, roads, easements; wastewater and stormwater management facilities; adjacent land uses, zoning districts, and comprehensive plan designations;
 - (C) A description of the vegetation in the wetland, on the overall project site, and adjacent to the site;
 - (D) A discussion of any federal, state, or local management recommendations which have been developed for the area;
 - (E) A discussion of the following mitigation alternatives as they relate to the proposal:
 - (i) Avoiding the impact altogether by not taking a certain action or parts of an action;
 - (ii) 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;

- (iii) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
 - (iv) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;
 - (F) A detailed discussion of ongoing management and monitoring practices which will protect the wetland after the project site has been fully developed, including proposed monitoring, contingency maintenance and surety programs. Monitoring is required for at least five years from the date of plant installation or potentially longer, as determined by a qualified professional (e.g., wetland biologist or other professional), where woody vegetation (forested or shrub wetlands) is the intended result. Monitoring does not have to occur each year but the expected timing, e.g., years 1, 3 and 5) should be described; and
 - (G) Proposed mitigation ratios, including a discussion of functions and values of and the variety of habitats provided by the proposed replacement wetland. Proposed mitigation ratios less than the standard ratios shall include full justification thereof.
- (b) General Provisions. As a condition of any permit or other approval allowing alteration which results in the loss or degradation of a regulated wetland, or as an enforcement action pursuant to GCC § 25.16, mitigation shall be required to offset impacts resulting from the actions of the applicant or any violator of the GCC. The following shall apply to all mitigation:
 - (1) Mitigation shall follow an approved Mitigation Plan pursuant to GCC § 24.08.260(a) and reflect the ratios specified in GCC § 24.08.260(c) below;
 - (2) Mitigation shall be “on-site” and “in-kind”, except that “off-site” mitigation may be provided pursuant to GCC § 24.08.260(d) and “out-of-kind” mitigation may be provided pursuant to GCC § 24.08.260(f);
 - (3) Compensation shall be completed prior to, or concurrently with, wetland alteration, or, in the case of an enforcement action, prior to further development of the site;
 - (4) Mitigation must be conducted on property that will be protected and managed to avoid further development or degradation. The applicant shall provide for long-term preservation of the mitigation area; and
 - (5) The applicant shall demonstrate sufficient scientific expertise, supervisory capability, and financial resources, including bonding in accordance with GCC § 24.08.180, to carry out the project. The applicant shall demonstrate sufficient capability for monitoring the site and making corrections if the project fails to meet projected goals.
- (c) On-Site Mitigation: Any alteration of wetlands pursuant to GCC § 24.08.240 shall be mitigated by creating or restoring new wetlands at the standard mitigation ratios shown in Table 3. The ratios apply to creation or restoration which is in-kind (i.e., the same type of wetland), on-site, and is accomplished prior to or concurrently with loss. The first number specifies the acreage of new wetlands to be restored or created and the second specifies the acreage of wetlands altered.
- (d) The standard mitigation ratios may be increased or decreased by the Administrative Official on a case-by-case, site-specific basis. The determination shall be based on best available science and on site-specific and project-related conditions as described in the approved Mitigation Plan. In making such determination, the Administrative Official shall consider the functions and values of and the variety of habitats provided by the proposed replacement wetland, and may solicit and may consider comments and recommendations provided by the Washington Departments of Ecology, and Fish and Wildlife, and any Technical Interdisciplinary Team participating in review for the proposed development.

Table 3. Mitigation Ratios for Eastern Washington

Category and Type of Wetland Impacts	Re-establishment or Creation	Rehabilitation Only ¹	Re-establishment or Creation (R/C) and Rehabilitation (RH) ¹	Re-establishment or Creation (R/C) and Enhancement (E) ¹	Enhancement Only ¹
All Category IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1
All Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
Category II Forested	4:1	8:1	1:1 R/C and 4:1 RH	1:1 R/C and 6:1 E	16:1
Category II Vernal Pool	2:1 Compensation must be seasonally ponded wetland	4:1 Compensation must be seasonally ponded wetland	1:1 R/C and 2:1 RH	Case-by-case	Case-by-case
All other Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
Category I based on score for functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category I Natural Heritage site	Not considered possible ²	6:1 Rehabilitation of a Natural Heritage site	R/C Not considered possible ²	R/C Not considered possible ²	Case-by-base
Category I Alkali	Not considered possible ²	6:1 Rehabilitation of an alkali wetland	R/C Not considered possible ²	R/C Not considered possible ²	Case-by-case
Category I Bog	Not considered possible ²	6:1 Rehabilitation of a bog	R/C Not considered possible ²	R/C Not considered possible ²	Case-by-case

Notes:

1. These ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement (see
2. Natural Heritage sites, alkali wetland, and bogs are considered irreplaceable wetlands because they perform some functions that cannot be replaced through compensatory mitigation. Impacts to such wetlands would therefore result in a net loss of some functions no matter what kind of compensation is proposed.

Reference:

Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10. March 2006. Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance (Version 1). Washington State Department of Ecology Publication #06-06-011a. Olympia, WA.

- (e) Off-Site Mitigation: Off-site mitigation allows replacement of wetlands away from the site on which the wetland has been impacted by a regulated activity. Off-site mitigation shall be conducted by creating or restoring new wetlands at the ratios shown in Table 3 for on-site mitigation pursuant to GCC § 24.08.260(c) and by selecting mitigation sites pursuant to GCC § 24.08.260(f). Off-site compensation shall occur within the same drainage basin of the same watershed where the wetland loss occurs. Off-site compensation will be allowed only when the applicant demonstrates to the satisfaction of the Administrative Official that one or more of the following circumstances applies:
- (1) On-site mitigation is not feasible due to hydrology, soils, or other factors;

- (2) On-site mitigation is not practical due to probable adverse impacts from surrounding land uses or would conflict with a federal, state or local public safety directive;
- (3) Potential functions and values at the site of the proposed restoration are greater than the lost wetland functions and values; or
- (4) When the wetland to be altered is of low function and value mitigation shall be of the wetland community types needed most in the location of mitigation and those most likely to succeed with the highest function and value possible.

In making such determination, the Administrative Official may solicit and may consider comments and recommendations provided by the Washington Departments of Ecology, and Fish and Wildlife, and any Technical Interdisciplinary Team participating in review for the proposed development.

- (f) **Selecting Off-Site Mitigation Sites:** Applicants shall pursue locations for off-site mitigation in the following order of preference:
 - (1) Filled, drained, or cleared sites that were formerly wetlands and where appropriate hydrology exists; and
 - (2) Upland sites, adjacent to wetlands, if the upland is significantly disturbed and does not contain a mature community of native species, and where the appropriate natural hydrology exists.
- (g) **Out-of-kind Mitigation:** Out-of-kind Mitigation will be allowed only when the applicant demonstrates to the satisfaction of the Administrative Official that out-of-kind replacement will best meet the provisions of GCC § 24.08.260(f) and the mitigation sequence outlined in GCC § 24.08.160, and would be of equal or greater value to the environment. Where out-of-kind replacement is accepted by the Administrative Official, the Administrative Official may require greater mitigation ratios than those for on-site or off-site mitigation to compensate for lost functions and values.
- (h) **Timing:** Construction of mitigation projects shall be timed to reduce impacts to existing wildlife and plants. Construction shall be timed to assure that grading and soil movement occurs during those periods determined by the Administrative Official to be most advantageous to the needs of the species present.
- (i) **Alternative Mitigation Projects:** The Administrative Official may encourage, facilitate and approve innovative wetland mitigation projects, including a watershed approach consistent with *Selecting Wetland Mitigation Sites Using a Watershed Approach (Eastern Washington)* (Ecology Publication #10-06-07, November 2010). Advance compensation or mitigation banking are other suitable types of alternative mitigation projects allowed under the provisions of this Chapter wherein one or more applicant(s), or an organization with demonstrated capability, may undertake a mitigation project together if it is demonstrated to the satisfaction of the Administrative Official that all of the following circumstances exist:
 - (1) Creation of one or several larger wetlands may be preferable to many small wetlands;
 - (2) The group demonstrates the organizational and fiscal capability to act cooperatively;
 - (3) The group demonstrates that long term maintenance and management of the mitigation area will be provided;
 - (4) There is a clear potential for success of the proposed mitigation at the identified mitigation site;
 - (5) Conducting mitigation as part of a cooperative process does not reduce or eliminate the required replacement ratios outlined in GCC § 24.08.260(c);
 - (6) Permits and approvals are obtained from all other agencies having regulatory jurisdiction; and
- (j) Wetland mitigation banking programs are consistent with the provisions of Chapter 90.84 RCW and any Department of Ecology guidelines implementing provisions of Chapter 90.84 RCW regarding wetland mitigation banking.

In making such determination, the Administrative Official may solicit and may consider comments and recommendations provided by the Washington Departments of Ecology, and Fish and Wildlife, and any Technical Interdisciplinary Team participating in review for the proposed development.

Article IV. Fish and Wildlife Habitat Conservation Areas

24.08.300 Identification and Designation

- (a) Fish and Wildlife Habitat Conservation Areas (HCA) shall include:
- (1) Areas within which State and Federal endangered and threatened species exist, or State sensitive, candidate and monitor species have a primary association;
 - (2) Priority Habitat and Species Areas identified by the Washington State Department of Fish and Wildlife;
 - (3) Habitats and species of local importance that have been designated by the County at the time of application.
 - (4) Naturally occurring ponds under twenty (20) acres and their submerged aquatic beds that provide fish or wildlife habitat. These do not include ponds deliberately designed and created from dry sites such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds of less than three (3) years' duration and landscape amenities. Naturally occurring ponds may include those artificial ponds intentionally created from dry areas in order to mitigate conversion of ponds, if permitted by a regulatory authority;
 - (5) Waters of the state as defined by WAC 222-16;
 - (6) Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;
 - (7) Areas with which anadromous fish species have a primary association; and
 - (8) State natural area preserves and natural resources conservation areas.
- (b) In addition to the HCAs identified in Subsection (a), additional species and habitats of local importance may be designated by the Administrative Official based on declining populations, sensitivity to habitat manipulation or special value. These include a seasonal range or habitat element with which a given species has a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. These might include:
- (1) Areas of high relative density or species richness, breeding and rearing habitat, winter range and movement and/or migration corridors; and
 - (2) Habitats that are of limited availability or high vulnerability to alteration such as cliffs, caves, talus, shrub steppe, in-stream gravel deposits (salmon spawning beds), and wetlands riparian areas;
- (c) In order to nominate an area or a species to the category of Habitats and Species of Local Importance, an individual or organization must:
- (1) Demonstrate a need for special consideration based on:
 - (A) Declining population,
 - (B) Sensitivity to habitat manipulation, or
 - (C) Commercial or game value or other special value, such as public appeal;
 - (2) Propose relevant management strategies considered effective and within the scope of this Chapter;
 - (3) Provide species habitat location(s) on a map. Submitted proposals will be reviewed by the Administrative Official and forwarded to the Departments of Fish and Wildlife, Natural

Resources, and/or other local and state agencies or experts for comments and recommendations regarding accuracy of data and effectiveness of proposed management strategies.

- (4) Grant County will hold a public hearing before the Board of County Commissioners for proposals found to be complete, accurate, potentially effective, and within the scope of this Chapter. If a proposal is approved by the Board of County Commissioners, the habitat/species will become designated "Habitats/Species of Local Importance" and will be subject to the provisions of this Chapter.
- (d) The following important habitat areas which are not based on use by a specific species include those areas protected by their conservation ownership or management status and are not subject to the protection standards within this Chapter:
- (1) National Wildlife Refuges, National Parks, Natural Area Preserves, or any preserve or reserve designated under WAC 332-30-151;
 - (2) State Natural Area Preserves or Natural Resource Conservation Areas identified by state law and managed by the Department of Natural Resources; and
 - (3) Areas with recognized wildlife habitat value owned by the Bureau of Land Management or the Nature Conservancy.

24.08.310 Maps and References

- (a) In addition to the Critical Areas Checklist prepared by the applicant and any site reconnaissance conducted by the Department, the Administrative Official shall use the following maps and references to assist in making a Preliminary Determination pursuant to GCC § 24.08.070:
- (1) Washington State Department of Fish and Wildlife Priority Habitat and Species (PHS) maps;
 - (2) Wetlands mapped under the National Wetland Inventory by the U.S. Department of Interior; Fish and Wildlife Service;
 - (3) Washington State Department of Fish and Wildlife/Department of Natural Resources, Washington Rivers Inventory System (WARIS) maps;
 - (4) U.S. Department of the Interior, Spokane District Resource Management Plan; and

24.08.320 Site Assessment Requirements

- (a) The Administrative Official shall conduct a Preliminary Assessment pursuant to GCC § 24.08.070 using maps and references identified in GCC § 24.08.310. If necessary, the Administrative Official may consult with the Washington State Departments of Ecology, Fish and Wildlife and Natural Resources and Federally recognized Indian Tribes located in Grant County.
- (b) If the Administrative Official has reason to believe that a HCA may exist within 300 feet of a proposed development activity, a written determination regarding the existence or nonexistence of a HCA within 300 feet of said proposed development activity submitted to the Department by the applicant. Only written determinations prepared by the Washington State Department of Fish and Wildlife, U.S. Fish and Wildlife Service, or a Qualified Biological Professional shall be accepted.
- (c) If it is determined that a HCA exists, a site assessment report must be submitted to the Department by the applicant when an activity regulated under this Chapter is proposed within three hundred (300) feet of the boundary of a HCA. Only a site assessment report prepared by the Washington State Department of Fish and Wildlife, U.S. Fish and Wildlife Service, or a Qualified Biological Professional who has been approved by the Department of Community Development shall be accepted.

- (d) The site assessment report at a minimum shall cover the subject parcel and all area within 300 feet of a proposed development activity. If the applicant cannot obtain permission for access to properties within 300 feet of the proposed development activity then an approximation of the extent of off-site wetlands within 300 feet of the proposed development activity may be completed based on aerial interpretation and/or visual observation from nearby vantage points.
- (e) The site assessment report shall include the following information:
 - (1) A detailed narrative describing the project, including, but not limited to, associated grading and filling, structures, utilities, adjacent land uses, description of vegetation both within and adjacent to the habitat conservation area, and when deemed necessary by the Administrative Officer, surface and subsurface hydrologic analysis;
 - (2) Site plan indicating the location of all proposed improvements and all Fish and Wildlife Habitat Conservation Areas;
 - (3) Impact analysis identifying and documenting the presence of all habitat conservation areas and discussing the project's effects on the Fish and Wildlife Habitat Conservation Areas;
 - (4) Regulatory analysis including a discussion of any federal, state, tribal, and/or local requirements or special management recommendations which have been developed for species and/or habitats located on the site;
 - (5) A description of proposed management and maintenance practices that will assure protection of Fish and Wildlife Habitat Conservation Areas after the project has been completed, including a discussion of proposed monitoring criteria, methods and schedule; and
 - (6) A proposed mitigation plan pursuant to GCC § 24.08.350.

24.08.340 Protection Standards

- (a) No development permit or approval pursuant to this Chapter shall be granted unless adverse effects to Fish and Wildlife Habitat Conservation Areas resulting from proposed development activities located inside of or within 300 feet of a designated HCA are mitigated pursuant to GCC § 24.08.360.
- (b) HCAs shall be protected in accordance with the Administrative Official's determination of appropriate conditions and site-specific information supplied by the applicant. In making such determination, the Administrative Official may solicit and may consider comments and recommendations provided by the Washington Departments of Ecology, and Fish and Wildlife, and any Technical Interdisciplinary Team participating in review for the proposed development. Possible conditions may include, but are not limited to, the following:
 - (1) Establishment of buffer zones;
 - (2) Preservation of critically important vegetation;
 - (3) Limitation of access to the HCA; and
 - (4) Seasonal restriction of construction activities.
- (c) Special provisions – Anadromous Salmonids.
 - (1) Activities, uses, and alterations proposed to be located in waterbodies used by anadromous salmonids or in areas that affect such waterbodies shall give special consideration to the preservation and enhancement of anadromous salmonid habitat, including, but not limited to, the following:
 - (A) Activities shall be timed to occur only during the allowable work window as designated by the State Department of Fish and Wildlife;
 - (B) An alternative alignment or location for the activity is not feasible;

- (C) The activity is designed so that it will minimize the degradation of the functions or values of the fish habitat or other critical areas; and
 - (D) Any impact on the functions and values of the habitat conservation area are mitigated in accordance with an approved Critical Areas Assessment.
- (2) Structures that prevent the migration of anadromous salmonids shall not be allowed in the portion of waterbodies currently used by salmonids. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and shall prevent juveniles migrating downstream from being trapped or harmed.
 - (3) Fills waterward of the OHWM, when authorized, shall minimize the adverse impacts on anadromous salmonids and their habitat, shall mitigate any unavoidable impacts, and shall only be allowed for water-dependent uses or for uses that enable public access or recreation for significant numbers of the public.
- (d) Special provisions – Wildlife. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292).
- (e) Wetland habitats. All proposed activities within or adjacent to habitat conservation areas containing wetlands shall, at a minimum, conform to the wetland protection standards set forth in this Section 24.08.250, Wetlands, in addition to meeting the habitat conservation area standards in this Chapter.
- (f) Riparian habitat areas. Unless otherwise allowed in this Chapter, all structures and activities shall be located outside of the riparian habitat buffers;
- (1) Establishment of riparian habitat buffers. Buffers shall be established for habitats that include aquatic systems.
 - (2) Buffer widths. A riparian habitat shall have at least the buffer width identified in Table 4 below. Widths shall be measured outward, on the horizontal plane, from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified;
 - (3) Additional setbacks for structures or other facilities, as applicable, would be added on to identified buffer width;
 - (4) The required buffer shall be extended to include any adjacent regulated wetland(s), landslide hazard areas and/or erosion hazard areas and required buffers, but shall not be extended across roads or other lawfully established structures or hardened surfaces that are functionally and effectively disconnected from the stream.
 - (5) Buffers in conjunction with other critical areas. Where other critical areas defined in this chapter fall within the water body buffer, the buffer area shall be the most beneficial of the buffers applicable to any applicable critical area.
 - (6) Buffers shall be accompanied by stormwater management measures consistent with the Stormwater Management Manual for Eastern Washington (September 2004), or as revised.

Table 4. Stream Buffer Widths

Stream	Riparian Buffer Width (Feet) ^{(1) (2)}
Columbia River, Lower Crab Creek, Rocky Ford Creek and other SMP streams	See Shoreline Master Program
For streams with known fish presence or high intensity land use next to the stream as defined in Table 1 of Section 24.08.250	75'
All other streams and ponds not meeting the above criteria	50'
<small>(1) Measured from the OHWM or top of bank, as applicable</small>	
<small>(2) Accompanied by stormwater management measures</small>	

- (g) Proposed developments or land use activities located within 300 feet of a designated HCA shall be reviewed for potential habitat impacts, considering the recommendations provided by the Washington Departments of Ecology, and Fish and Wildlife, and any Technical Interdisciplinary Team participating in review for the proposed development.
- (h) Allowed Uses in Fish and Wildlife Habitat Conservation Areas and Stream Buffers.
 - (1) Roads, bridges and utilities: Road, bridge and utility maintenance, repair and construction may be permitted across a Fish and Wildlife Habitat Conservation Area and/or buffers under the following conditions:
 - (A) It is demonstrated to the Administrative Official that there are no alternative routes that can be reasonably used to achieve the proposed development;
 - (B) The activity will have minimum adverse impact to the Fish and Wildlife Habitat Conservation Area;
 - (C) The activity will not significantly degrade surface or groundwater; and
 - (D) The intrusion into the Fish and Wildlife Habitat Conservation Area and its buffers is fully mitigated.
 - (2) Docks. Docks and similar facilities designed to facilitate low-impact uses, such as education and/or private, non-commercial recreation may be permitted within Fish and Wildlife Habitat Conservation Areas under the following conditions:
 - (A) The activity will have minimum adverse impact to the Fish and Wildlife Habitat Conservation Area;
 - (B) The activity will not significantly degrade surface or groundwater;
 - (C) The intrusion into the Fish and Wildlife Habitat Conservation Area and its buffers is fully mitigated;
 - (D) The Administrative Official may provide opportunity for review and comment by a Technical Interdisciplinary Team in which participation has been solicited from federal, state and tribal natural resource agencies.
 - (3) Limited park or recreational access to a fish and wildlife habitat area and/or stream buffers, provided that all of the following are satisfied:
 - (A) The access is part of a public park or a recreational resort development that is dependent on the access for its location and recreational function;
 - (B) The access is limited to the minimum necessary to accomplish the recreational function; and
 - (C) The intrusion is mitigated to protect ecological functions low impact uses and activities that are consistent with the purpose and function of the stream buffer and do not detract from its integrity. Examples of low impact uses and activities include removal of noxious vegetation, pedestrian trails, viewing platforms, and stormwater management facilities such as grass-lined swales.
- (i) Temporary and permanent erosion and sedimentation controls shall be provided to prevent the introduction of sediments or pollutants to water bodies or watercourses within the HCA.
- (j) Clearing and grading shall be limited to that necessary for establishment of the use or development and shall be conducted so as to avoid significant adverse impacts and to minimize the alteration of the volume, rate or temperature of freshwater flows to or within the HCA and any buffer required by this Chapter.
- (k) The proposed development shall not discharge hazardous substances to the HCA that would have significant adverse impacts on that area.

- (l) Stream flows shall be protected from changes to the normal flow, temperature, turbidity, and discharge to the maximum extent practicable.
- (m) Septic drainfields and any required replacement drainfield area shall be at least 50 feet from the edge of any HCA.
- (n) Exceptions to the above protection standards may be allowed by the Administrative Official based on a special report prepared by a Qualified Biological Professional that demonstrates that such exception would not adversely impact the habitat system, functions, and values of the HCA.
- (o) Activities may only be permitted in a stream or stream buffer if the applicant can show that the proposed activity will not degrade the functions and values of the stream, stream buffer, or other critical area.
- (p) Stream Crossings. Stream crossings shall be minimized, but when necessary they shall conform to the following standards as well as other applicable provisions of this critical areas code and other laws (see the State Department of Fish and Wildlife, or the State Department of Ecology).
 - (1) The stream crossing is the only reasonable alternative that has the least impact;
 - (2) It has been shown in the Critical Areas Assessment that the proposed crossing will not decrease the stream and associated buffer functions and values;
 - (3) The stream crossing shall use bridges instead of pipe or box culverts unless it can be demonstrated that a pipe or box culvert would result in equal or less ecological impacts;
 - (4) All stream crossings using pipe culverts shall use super span or oversized culverts with appropriate fish enhancement measures. Culverts shall not obstruct fish passage;
 - (5) Existing stream crossings are encouraged to continue and expand if doing so eliminates the need for an additional stream crossing,
 - (6) Stream crossings shall be designed according to the Washington Department of Fish and Wildlife Design of Road Culverts for Fish Passage, 2003, as amended, and the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossings, 2001, as amended;
 - (7) All stream crossings shall be constructed during the in-water work window as specified by the State Department of Fish and Wildlife in the Hydraulic Project Approval;
 - (8) Stream crossings shall not occur through salmonid spawning areas unless no other feasible crossing site exists;
 - (9) Bridge piers or abutments shall not be placed in either the floodway or between the OHWMs unless no other feasible alternative placement exists;
 - (10) The natural drainage pattern and discharges of the upstream drainage basin, up to the runoff event having an exceedance probability of 0.01, shall not be altered or diminished by a stream crossing;
 - (11) Stream crossings shall minimize interruption of downstream movement of wood and gravel;
 - (12) Stream crossings shall be designed to facilitate routine maintenance of culverts and bridges; and
 - (13) Stream crossings shall be minimized by serving multiple properties when-ever possible.
- (q) Stormwater conveyance facilities. Stormwater conveyance facilities may be permitted; provided, that they are only located in the buffer when no practicable alternative exists outside the buffer. Stormwater facilities shall be planted with native plantings where feasible to provide habitat, and/or less intrusive facilities should be used.

- (r) Floodway-Dependent Structures. Floodway-dependent structures or installations may be permitted within streams or their buffers if allowed or approved by other ordinances or other agencies with jurisdiction. See Section 600, Frequently Flooded Areas, for more information
- (s) Trails. The criteria for alignment, construction, and maintenance of trails within wetlands and their buffers shall apply to trails within stream buffers. Outer buffer trails may not exceed 10 feet in width and may be constructed with impermeable surface materials if on-site infiltration is utilized.
- (t) Utilities. The criteria for alignment, construction, and maintenance within the wetland buffers and GCC 24.12.450, Utilities, shall apply to utility corridors within stream buffers. In addition, corridors shall not be aligned parallel with any stream channel unless the corridor is outside the buffer, and crossings shall be minimized. Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the waterbody where feasible. Crossings shall be contained within the existing footprint of an existing or new road or utility crossing where possible. Otherwise, crossings shall be at an angle greater than 60 degrees to the centerline of the channel. The criteria for stream crossings shall also apply.
- (u) Native vegetation landscaping schemes that do not require application of herbicides, pesticides, or fertilizer to maintain robust growth.
- (v) No net effective impervious surfaces may be created in the outer buffer area, beyond what is otherwise permitted.
- (w) No structures or related improvements including buildings or decks, shall be permitted within the stream buffer except as otherwise allowed in GCC 24.12.510, General Provisions or in the critical areas code.

24.08.350 Mitigation

- (a) Mitigation shall be required for loss of area or function and value of fish and wildlife habitat regulated under this subsection. The applicant shall mitigate to protect ecological functions. Mitigation actions by an applicant or property owner shall occur in the preferred sequence specified in GCC § 24.08.160. If it is determined by the Administrative Official that a proposed development will likely have a significant adverse impact on a HCA, the applicant shall prepare and implement a Habitat Management Plan in accordance with GCC § 24.08.360.
- (b) Where impacts cannot be avoided, the applicant shall seek to implement other appropriate mitigation actions in compliance with the intent, standards, and criteria of this Chapter. In an individual case, these actions may include consideration of alternative site plans and layouts and reductions in the density or scope of the proposed development.

24.08.360 Habitat Management Plan

- (a) Any Habitat Management Plan required under this Chapter shall be prepared by a Qualified Biological Professional and shall identify how the impacts of the proposed development, land use or activity will be mitigated.
- (b) The following items at a minimum are required as part of a Habitat Management Plan:

- (1) Description of project or activity, including a detailed narrative describing the project or activity, its relationship to the wetland and its potential impact to the wetland; and
 - (2) Any proposed mitigation, including a discussion of how the project has been designed to avoid and minimize adverse impacts to wetlands, as well as the necessary monitoring and contingency actions for the continued maintenance of the wetland and its associated buffer.
 - (3) A site map prepared at a scale no smaller than one inch = 200 feet showing:
 - (A) Project location;
 - (B) The relationship of the site to surrounding topographic and cultural features;
 - (C) The width and length of all existing and proposed structures, utilities, roads, easements, and landscape features;
 - (D) Wastewater and stormwater management facilities;
 - (E) The name and location of all watercourses, ponds, and other bodies of water.
 - (4) A report which includes, but is not limited to:
 - (A) A description of the nature, density and intensity of the proposed development or land use change in sufficient detail to allow analysis of the impact of such land use change on the habitat;
 - (B) An analysis of the effect of the proposed development, activity, or land use change on the designated HCA;
 - (C) A discussion of any federal, state, or local management recommendations which have been developed for the area;
 - (D) A plan for the mitigation of any adverse impacts to designated HCAs, including a discussion of the following mitigation alternatives as they relate to the proposal:
 - (i) Avoiding the impact altogether by not taking a certain action or parts of an action;
 - (ii) 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;
 - (iii) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
 - (iv) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;
 - (E) A detailed discussion of ongoing management and monitoring practices which will protect the HCA after the project site has been fully developed, including proposed monitoring, contingency, maintenance and surety programs; and
 - (F) An evaluation by the Washington State Department of Fish and Wildlife or a Qualified Biological Professional regarding the effectiveness of any proposed mitigating measures or programs, including recommendations as appropriate.
- (c) In making such determination, the Administrative Official may solicit and may consider comments and recommendations provided by the Washington Departments of Ecology, and Fish and Wildlife, and any Technical Interdisciplinary Team participating in review for the proposed development. Possible mitigation measures may include, but are not limited to, the following:
- (1) Establishment of buffer zones;
 - (2) Preservation of critically important vegetation;
 - (3) Limitation of access to the HCA;
 - (4) Seasonal restriction of construction activities; and
 - (5) Establishment of a timetable for periodic review of the Habitat Management Plan and performance or maintenance security pursuant to GCC § 24.08.180.

Article V. Critical Aquifer Recharge Areas

24.08.400 Identification and Designation

- (a) Critical aquifer recharge areas are defined as those areas having a critical recharging effect on aquifer use for potable water in community systems. Critical aquifer recharge areas are classified and designated as follows:
 - (1) Those areas designated as “Wellhead Protection Areas” pursuant to WAC 246-290-135(4) and the groundwater contribution area in WAC 246-291-100 (2)(e). Wellhead protection areas shall, for the purpose of this regulation, include the identified recharge areas associated with either Group A public water supply wells and those Group B wells with a wellhead protection plan filed with the Grant County Health District; and
 - (2) Any land identified in the Soil Survey of Grant County as having high potential for aquifer recharge, as determined by the Administrative Official.

24.08.410 Maps and References

- (a) In addition to the Critical Areas Checklist prepared by the applicant and any site reconnaissance conducted by the Department, the Administrative Official shall use the following maps and references to assist in making a Preliminary Determination pursuant to GCC § 24.08.070:
 - (1) Wellhead Protection Plans on file with the Grant County Health District; and
 - (2) Soil Survey of Grant County, Washington by the United States Department of Agriculture, Soil Conservation Service.

24.08.420 Site Assessment Requirements

- (a) The Administrative Official shall conduct a Preliminary Assessment pursuant to GCC § 24.08.070 using maps and references identified in GCC § 24.08.410. If necessary, the Administrative Official may consult with the Washington State Department of Ecology and the Grant County Health District.
- (b) If the Administrative Official has reason to believe that an aquifer recharge area may exist within 100 feet of a proposed development activity, the proposed development shall be subject to the protection standards and mitigation requirements pursuant to this Chapter.
- (c) If it is determined that an aquifer recharge area exists, a site assessment report shall be submitted to the Department by the applicant when a non-residential development proposal activity pursuant to GCC § 24.08.430(d) is proposed on a parcel within an aquifer recharge area. Only a site assessment report prepared by the Washington State Department of Ecology, the Grant County Health District or a Qualified Hydrogeological Professional who has been approved by the Department of Community Development shall be accepted. For those areas designated as Wellhead Protection Areas, the applicant may substitute excerpts from the Wellhead Protection Plan filed with the Grant County Health District for the site assessment report, if approved by the Administrative Official.
- (d) The site assessment report shall include the following information:
 - (1) A detailed narrative describing the project, including, but not limited to, associated grading and filling, structures, utilities, and those activities, practices, materials, or chemicals that have a potential to adversely affect the quantity or quality of underlying aquifer;
 - (2) Site plan indicating the location of all proposed improvements and aquifer recharge areas;

- (3) A hydrogeological evaluation that includes at a minimum, a description and/or evaluation of the following:
- (A) Site location, topography, drainage and surface water bodies;
 - (B) Soils and geologic units underlying the site;
 - (C) Groundwater characteristics of the area, including flow direction, gradient, and existing groundwater quality;
 - (D) Location and characteristics of wells and springs within 300 feet of the perimeter of the property;
 - (E) Evaluation of existing on-site groundwater recharge; and
 - (F) Evaluation of the potential impact of the proposed development on groundwater quality, both short and long term, based on an assessment of the cumulative impacts of the proposal in combination with existing and potential future land use activities; and
 - (G) A proposed mitigation plan pursuant to GCC § 24.08.440.
- (e) Qualifications of Qualified Hydrogeological Professional: Site assessment reports prepared pursuant to GCC § 24.08.420 shall be prepared by a Professional Engineer registered in the State of Washington or Registered Geologist, trained and qualified to analyze geologic, hydrologic, and groundwater flow systems, or a geologist or hydrogeologist who has received a degree from an accredited four-year college or university and who has relevant training and experience in analyzing geologic, hydrologic, and groundwater flow systems. Such qualifications shall be demonstrated to the satisfaction of the Administrative Official.

24.08.430 Protection Standards

- (a) Prohibited activities: The following activities are prohibited in aquifer recharge areas due to the probability and/or potential magnitude of their adverse effects on groundwater unless any significant adverse impacts can be mitigated by conditions of approval. Such conditions shall be based on a hydrogeological evaluation that demonstrates that the proposed development or land use will not degrade groundwater, and that hydrogeological conditions do not facilitate degradation:
- (1) Solid waste landfill activities as defined in Chapter 173-304 WAC and Chapter 173-351 WAC;
 - (2) Land application of sewage sludge from sewage treatment works;
 - (3) Underground storage of fuel in excess of 1,100 gallons for consumptive use on the parcel where stored;
 - (4) Underground storage of hazardous materials;
 - (5) Commercial and industrial facilities that store, use, handle, or produce hazardous substances or waste products;
 - (6) Petroleum pipelines for other than single family use;
 - (7) All uses where repetitive pesticide and fertilizer applications are required or where any toxic substance is disseminated;
 - (8) Creosote manufacturing or treatment;
 - (9) Chemical manufacture or reprocessing of any extremely hazardous waste as defined by RCW 70.105.010(6) and listed in Chapter 173-303 WAC; and
 - (10) Class V injection wells, including:
 - (A) Agricultural drainage wells;
 - (B) Untreated sewage waste disposal wells;
 - (C) Cesspools;
 - (D) Industrial process water and disposal wells; and
 - (E) Radioactive waste disposal.

- (b) All development within Grant County must be in compliance with all of the following requirements:
- (1) The Grant County Potable Water Ordinance, Number 92-44-CC, passed by the Grant County Board of Commissioners April 13, 1992;
 - (2) An and all applicable ground water management areas (G.W.M.A.'s) regulations, as designated by the State of Washington (including Chapter 173-100 WAC, Chapter 173-124 WAC, and Chapter 173-128A WAC, Chapter 173-130A WAC, Chapter 173-134A WAC, as well as other sources, such as the provisions for other GWMA's such as the Moses Lake G.W.M.A.);
 - (3) State requirements regarding protection of upper aquifer zones and ground water quality (Chapter 173-154 WAC and Chapter 173-200 WAC, respectively);
 - (4) Any and all applicable regulations set forth by any Irrigation Districts regulated by the United States Department of Interior, Bureau of Reclamation; and
 - (5) Any and all regulations set forth by the Washington State Department of Health, the Grant County Health District and the Washington State Department of Ecology.
- (c) Residential Development Standards: All residential development applications (except for single-family residential building permits) on parcels of land within designated aquifer recharge areas are subject to the following provisions:
- (1) Lots in new land divisions outside of urban growth areas shall require a minimum net land area of one acre, but not less than the minimum area required to meet local Health District requirements for on-site septic systems, when on-site septic systems are proposed;
 - (2) Lots in new land divisions in urban growth areas shall be required to connect to municipal or sewer district sewage collection and treatment systems, if available within two hundred (200) feet of the proposed development;
 - (3) Lots in new land divisions shall require a stormwater collection, treatment and disposal system designed by a Professional Engineer and approved by the County Engineer, except for short subdivisions where each lot is at least one (1) acre in size.
- (d) Non-Residential Development Standards: An applicant seeking the following types of new construction activities on parcels of land within designated aquifer recharge areas shall prepare and submit to the Administrative Official a site assessment report pursuant to GCC § 24.08.420:
- (1) Industrial and commercial agricultural facilities applying fertilizers or pesticides in excess of agronomic rates;
 - (2) Golf courses or other recreational or institutional facility that involve extensive turf cultivation or maintenance;
 - (3) Aboveground storage tanks, except for water tanks;
 - (4) Industrial or commercial facilities that, when completed, will use, store, or handle dangerous wastes in quantities in excess of five (5) gallons or twenty-five (25) pounds or more of any one substance, or in aggregate quantities of twenty (20) gallons or 100 pounds or more of all dangerous waste;
 - (5) Fossil fuel exploration or development; and
 - (6) Commercial underground storage tanks in excess of 1,100 gallons.
- (e) Agricultural uses shall employ best management practices in the application, storage, and disposal of pesticides, herbicides, sterilants, fumigants, and fertilizers, including livestock wastes.

24.08.440 Mitigation

- (a) The Department, Health District and the jurisdictional agency for any affected Wellhead Protection Area shall review development proposals to assess aquifer(s) vulnerability and establish needed

mitigation. Where determined to be necessary through the site assessment process, development approvals shall include conditions designed to prevent significant degradation of water quality or reduction in water quantity in aquifer recharge areas. Where a wellhead protection plan that addresses the project area exists, the Administrative Official shall use the recommendations contained in the wellhead protection plan as a basis for formulating mitigation. In the absence of such a mitigation plan, the Planning Department and/or Health Department shall contact the Public Water System Water Purveyor and jointly develop mitigation, a summary of which shall be signed by the applicant and recorded with the applicant's property title.

Article VI. Geologically Hazardous Areas

24.08.500 Identification and Designation

- (a) Geologically Hazardous Areas shall be designated consistent with the definitions provided in WAC 365-190-080(4). Geologically Hazardous Areas as defined in GCC § 25.02 and shall include:
 - (1) Erosion Hazards;
 - (2) Landslide Hazards;
 - (3) Mine Hazards; and
 - (4) Seismic Hazards.

- (b) Erosion Hazard Areas: Those areas identified as having high or very high water erosion hazard by the U.S. Department of Agriculture Natural Resources Conservation Service as designated by the Natural Resources Conservation Service local office.

- (c) Landslide Hazard Areas: those areas potentially subject to landslides based upon the following combination of geologic, topographic and hydrologic factors:
 - (1) Areas of historic failure including:
 - (A) areas having: (1) a 30 percent slope or steeper; (2) a vertical relief of 30 feet or more; and (3) delineated in Table 10 of the Soil Survey of Grant County Washington, Soil Conservation Service, USDA, as having "severe: slope" limitations for building site development; and
 - (B) areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps or technical reports published by the United States Geological Survey such as topographic or geologic maps, or the Geology and Earth Resources Division of the Washington Department of Natural Resources, or other documents authorized by government agencies.
 - (2) Areas with all of the following characteristics:
 - (A) A gradient of 15% or greater;
 - (B) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
 - (C) Springs or groundwater seepage;
 - (3) Areas that have shown movement during the Holocene Epoch or which are underlain or covered by mass wastage debris of the epoch;
 - (4) Slopes that are parallel or sub-parallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;
 - (5) Slopes having gradients greater than eighty percent (80%) subject to rockfall during seismic shaking;
 - (6) Areas potentially unstable as a result of rapid stream incision and streambank erosion;

- (7) Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and
 - (8) Any area with a slope of forty percent (40%) or steeper and with a vertical relief of ten (10) or more feet except areas composed of solid rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten (10) feet of vertical relief.
- (d) Mine Hazard Areas: Those areas that fall within or 100 horizontal feet of a mine opening at the surface or an area designated as a mine hazard area by the Washington State Department of Natural Resources;
- (e) Seismic Hazard Areas: Those areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction or surface faulting, including
- (1) Areas described in GCC § 24.08.500(b) and (c) or having a potential for soil liquefaction and soil strength loss during ground shaking; and
 - (2) Areas located on a Holocene fault line identified by USGS investigative maps and studies.

24.08.510 Applicability

- (a) The provisions of GCC § 24.08500 shall apply only to land use and development permits or approvals. Permits and approvals required under GCC § 14.04 shall be exempt from this section. However, the Building Official may require evaluation using the provisions set forth in Chapter 18 of the 1994 Uniform Building Code (or the corresponding Chapter in any later adopted edition of the UBC). The expansion of pre-existing structures shall also be exempt so long as the intrusion into an erosion or landslide hazard area does not increase.

24.08.520 Maps and References

- (a) In addition to the Critical Areas Checklist prepared by the applicant and any site reconnaissance conducted by the Department, the Administrative Official shall use the following maps and references to assist in making a Preliminary Determination pursuant to GCC § 24.08.070:
- (1) United States Department of Agriculture, Soil Conservation Service Soil Survey of Grant County Maps and Tables;
 - (2) All of Grant County lies within a Seismic Risk Zone 2(b), as shown on the Uniform Building Code Seismic Risk Zone Map of the United States; and
 - (3) United States Geological Survey topographic and geologic maps.

24.08.530 Site Assessment Requirements

- (a) The Administrative Official shall conduct a Preliminary Assessment pursuant to GCC § 24.08.070 using maps and references identified in GCC § 24.08.520. If necessary, the Administrative Official may consult with the Washington State Department of Natural Resources, the USDA Natural Resources Conservation Service, and the Grant County Building Official. The Administrative Official shall:
- (1) determine if a geological hazard area may be present within 100 feet of the proposed activity; and
 - (2) whether the proposed activity may result in or contribute to an increase in hazard, or may pose a risk to life and property on or off the project site.
- (b) If the Administrative Official has reason to believe that a geological hazard area may be present

within 100 feet of the proposed activity, the proposed development shall be subject to the protection standards and mitigation requirements pursuant to this Chapter.

- (c) If the Administrative Official has reason to believe that a geological hazard area may be present within 100 feet of the proposed activity and the proposed activity may result in or contribute to an increase in hazard, or may pose a risk to life and property on or off the project site, a site assessment report shall be submitted to the Department by the applicant. Only a site assessment report prepared by a Qualified Geotechnical Professional who has been approved by the Department of Community Development shall be accepted.
- (d) The site assessment report shall include the following information:
 - (1) A detailed narrative describing the project, including, but not limited to, associated grading and filling, structures, and utilities;
 - (2) Classification of the type of hazard that exists;
 - (3) Site plan that depicts: the location of all proposed improvements, the height of slope, slope gradient and cross section of the site; the location of springs, seeps, or other surface expressions of groundwater; and any evidence of surface or stormwater runoff;
 - (4) A geotechnical evaluation that includes at a minimum, a description and/or evaluation of the following:
 - (A) Site location, topography, drainage and surface water bodies;
 - (B) Soils and geologic units underlying the site;
 - (C) An assessment of the geologic characteristics and engineering properties of the soils, sediments, and/or rock of the subject property and potentially affected adjacent properties. Soils analysis shall be accomplished in accordance with the Unified Soil Classification System;
 - (D) Determination of height of slope and slope gradient, including slope cross sections;
 - (E) A description of load intensity including surface and groundwater conditions, public and private sewage disposal systems, fills and excavations and all structural development;
 - (F) An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure;
 - (G) An estimate of the bluff retreat rate which recognizes and reflects potential catastrophic events such as seismic activity or one-hundred-year storm event;
 - (H) An assessment describing the extent and type of vegetative; and
 - (I) A detailed description of the project, its relationship to geologic hazard(s), and its potential impact upon the hazard area, the subject property and affected adjacent properties.
 - (J) A proposed mitigation plan pursuant to GCC § 24.08.550.
- (e) Qualifications of Qualified Geotechnical Professional: Site assessment reports prepared pursuant to GCC § 24.08.530 shall be prepared by a Professional Engineer registered in the State of Washington, trained and qualified to analyze geologic, geotechnical, hydrologic, and groundwater flow systems, or a geologist or geotechnical engineer who has received a degree from an accredited four-year college or university and who has relevant training and experience in analyzing geologic, geotechnical, hydrologic, and groundwater flow systems. Such qualifications shall be demonstrated to the satisfaction of the Administrative Official.
- (f) The Administrative Official shall evaluate documentation submitted pursuant to GCC § 24.08.530 and condition permit approvals to minimize risk on both the subject property and proposed improvements as well as affected adjacent properties. All conditions on approvals shall be based on

known, available, and reasonable methods of prevention, control and treatment. Evaluation of geotechnical reports may also constitute grounds for denial of the proposal. Any County permits or approvals issued shall contain a statement on the face of the permit notifying the permit recipient that the permit involves work within or adjacent to a geologic hazard and/or its buffer and that the permit recipient assumes the risk and associated liability for such activity

24.08.540 Protection Standards

(a) Erosion and Landslide Hazard Areas:

(1) Grading:

- (A) Clearing, grading, and other construction activities shall not aggravate or result in slope instability or surface sloughing;
- (B) Undergrowth shall be preserved to the extent practicable;
- (C) No dead vegetation, fill or other foreign material shall be placed within a landslide hazard area, other than that approved for bulkheads or other methods of stabilization unless a geotechnical report shows that the activity will not exacerbate landslide hazards; and
- (D) Ground disturbance shall be minimized to the extent practicable.

(2) Ground Surface Erosion Control Management:

- (A) There shall be minimum disturbance of vegetation in order to minimize erosion and maintain existing stability of hazard areas;
- (B) Vegetation removal on the slopes of banks between the ordinary high water mark and the top of the banks shall be minimized;
- (C) Vegetation and organic soil material shall be removed from a fill site prior to the placement of clean earthen material;
- (D) Vegetative cover shall be re-established on any disturbed surface to the extent practicable; and
- (E) To the extent practicable, soil stabilization materials such as filter fabrics, rip-rap, and similarly designed materials, shall be placed on any disturbed surface when future erosion is likely.

(3) Drainage:

- (A) Surface drainage, including downspouts, shall not be directed across the face of a hazard area; if drainage must be discharged from the top of a hazard area to its toe, it shall be collected above the top and directed to the toe by tight line drain, and provided with an energy dissipative device at the toe for discharge to a swale or other acceptable natural drainage areas;
- (B) Stormwater retention and detention systems, including infiltration systems utilizing buried pipe, may be used if a geotechnical assessment indicates such a system shall not affect slope stability and the system is designed by a licensed civil engineer; the licensed civil engineer shall also certify that the system is installed as designed.

(4) Buffers:

- (A) An undisturbed thirty (30) foot buffer, as measured on the top surface, is required from the top, toe, and along all sides of any existing landslide or erosion hazard areas;
- (B) Based on the results of a geotechnical assessment, the Administrative Official may increase or decrease the buffer; and
- (C) The buffer shall be clearly staked before any construction or clearing (grading) takes place.

- (D) Normal non-destructive pruning and trimming of vegetation for maintenance purposes, or thinning of limbs of individual trees to provide a view corridor shall not be subject to these buffer requirements.
- (5) Design Guidelines:
 - (A) Foundations shall conform to the natural contours of the slope and foundations should be stepped or tiered where possible to conform to existing topography;
 - (B) Roads, walkways, and parking areas shall be designed with low gradients or be parallel to the natural contours of the site; and
 - (C) To the extent practicable, access shall be in the least sensitive area of the site.
 - (D) Structures and improvements shall be clustered to avoid geologically hazardous areas and other critical areas;
 - (E) Structures and improvements shall minimize alterations to the natural contours of the slope and foundations shall be tiered where possible to conform to existing topography;
 - (F) Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;
 - (G) The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;
 - (H) New development that would require structural shoreline stabilization over the life of the development is prohibited except when the applicant can demonstrate that stabilization is necessary to protect allowed uses where no alternative locations are available and no net loss of ecological functions will result;
 - (I) The use of a retaining wall that allows the maintenance of existing natural slopes are preferred over graded artificial slopes;
 - (J) Development shall be designed to minimize impervious lot coverage; and
 - (K) New development or the creation of new lots that would cause foreseeable risk from geological conditions to people or improvements during the life of the development is prohibited.
- (6) Additional Standards for Erosion and Landslide Hazard Areas:
 - (A) No critical facilities shall be constructed or located within an erosion or landslide hazard area;
 - (B) No new structures shall be located on a permanent foundation within an erosion or landslide hazard area, unless the foundation is located at a distance landward of the ordinary high water mark that is greater than or equal to the amount of land that is expected to erode within the next thirty (30) years as determined by the Administrator;
 - (C) New septic system drainfields in an erosion hazard area shall be located landward of any new structure; and

(b) Mine Hazard Areas: Development within a mine hazard area is prohibited.

(c) Seismic Hazard Areas: Development within areas that meet the classification criteria for seismic hazard areas shall comply with the Uniform Building Code requirements for Seismic Risk Zone 2a as adopted by Grant County. No other permits are required by this ordinance for seismic hazards.

24.08.550 Mitigation

(a) When mitigation is required by this section, a mitigation plan shall be prepared by a Qualified Geotechnical Professional and shall:

- (1) Include a discussion on how the project has been designed to avoid and minimize the impacts to geologically hazardous areas;
- (2) Make a recommendation for the minimum building setback from any bluff edge and/or other geologic hazard and shall be based upon the geotechnical analysis under GCC § 24.08.530(d)(4);
- (3) Include the location and methods of drainage, locations and methods of erosion control, a vegetation management and/or restoration plan and/or other means for maintaining long term stability of slopes;
- (4) Address the potential impact of mitigation on the hazard area, the subject property and proposed improvements and affected adjacent properties;
- (5) Include a temporary erosion and sedimentation control plan prepared in accordance with the requirements of GCC § 23.12;
- (6) Include a drainage plan for the collection, transport, treatment, and discharge of surface water in accordance with the requirements of GCC § 23.12; and
- (7) Demonstrate compliance with GCC § 24.08.540.

Article VII. Frequently Flooded Areas

24.08.600 Identification and Designation

- (a) Frequently flooded areas shall be those floodways and associated floodplains designated by the Federal Emergency Management Agency (FEMA) flood hazard classifications as delineated on the most current available Flood Insurance Rate Maps for Grant County, or as subsequently revised by FEMA, as being within the 100-year flood plain, or those floodways and associated floodplains delineated by a comprehensive flood hazard management plan adopted by Grant County Board of Commissioners, as being within the 100-year floodplain or having experienced historic flooding. For the purpose of this ordinance, in case of conflict between FEMA flood hazard maps and the comprehensive flood hazard management plan designations, the more restrictive designation shall apply.

24.08.610 Maps and References

- (a) In addition to the Critical Areas Checklist prepared by the applicant and any site reconnaissance conducted by the Department, the Administrative Official shall use the following maps and references to assist in making a Preliminary Determination pursuant to GCC § 24.08.070:
 - (1) F.E.M.A. Flood Insurance Rate Maps (FIRM), most current available.

24.08.620 Site Assessment Requirements

- (a) The Administrative Official shall conduct a Preliminary Assessment pursuant to GCC § 24.08.070 using maps and references identified in GCC § 24.08.610. If necessary, the Administrative Official may consult with the Federal Emergency Management Agency and the Grant County Engineer. The Administrative Official shall determine if a frequently flooded area may be present within 100 feet of the proposed activity.
- (b) If an area of interest is not included in a comprehensive flood hazard management plan adopted by the Board of County Commissioners, and the County Engineer believes that the FEMA FIRM maps do not correctly delineate the 100-year floodplain, the County Engineer may delineate the 100-year

flood plain based on documented historic flooding of the area. If such documentation is not adequate to allow the County Engineer to make such delineation, the applicant shall provide a flood hazard study prepared by a Professional Engineer assessing the extent of the 100-year floodplain, which shall be subject to approval by the County Engineer.

- (c) If the Administrative Official has reason to believe that a frequently flooded area may be present within 100 feet of the proposed activity, the proposed development shall be subject to the protection standards and mitigation requirements pursuant to this Chapter.
- (d) The site assessment report shall include the following information:
 - (1) A detailed narrative describing the project, including, but not limited to, associated grading and filling, structures, and utilities;
 - (2) Site plan that depicts the location of all proposed improvements and existing topography, drainage and surface water bodies;
 - (3) If the FEMA FIRM maps do not specify a base flood elevation, the applicant shall prepare and submit a flood elevation certificate on form provided by the Department; and

24.08.630 Protection Standards

- (a) All development within frequently flooded areas shall comply with the Grant County Flood Damage and Prevention Ordinance, the Grant County Shoreline Master Program, the Uniform Building Code regarding structural safeguards to reduce risk to human life, health and property from flooding, and other pertinent ordinances and codes.
- (b) Any use or development shall not alter the normal movement of surface water in a manner that would cause the unnatural diversion of floodwater to otherwise flood-free areas.

Article VIII. Cultural Resources

24.08.700 Identification and Designation

- (a) Cultural resources are those areas that have been identified as having lands, sites, and structures that have historical or archaeological significance.

24.08.710 Maps and References

- (a) Archaeological sites are subject to RCW 27.44 (Indian Graves and Records) and RCW 27.53 (Archaeological Sites and Records) and must comply with WAC 25-48 (Archaeological Excavation and Removal Permit). Archaeological excavations are allowed subject to applicable state laws.
- (b) In addition to the Critical Areas Checklist prepared by the applicant and any site reconnaissance conducted by the Department, the Administrative Official shall use the following maps and references to assist in making a Preliminary Determination pursuant to GCC § 24.08.070:
 - (1) Washington Department of Community Development, Office of Archaeology and Historical Preservation, National Register of Historic Places, State Register of Historic Places, and the Archives of the DCD-OAHP.

24.08.720 Site Assessment Requirements

- (a) When an application for a permit is received within 300 feet of a site known to contain historic, cultural, or archaeological artifacts and data, the County shall not take action on the application and shall inform the applicant thereof, and the applicant shall not initiate any excavation or development activity until the site has been inspected and a written evaluation is provided by a Qualified Archaeologist. Significant archaeological data or artifacts must be recovered before work begins or resumes on a project. No application will be unreasonably delayed for such an inspection. If the application is approved by the County, conditions shall be attached reflecting the recommendations of the archaeologist regarding preservation or protection of the site.
- (b) All permits shall contain a special provision advising the permit holder that if during excavation or development of the site an area of potential archaeological significance is uncovered, all activity in the immediate vicinity of the find must be halted immediately and the Administrator must be notified at once. The project proponent shall contact the appropriate Native American tribal organization(s) or other appropriate group, County and OAHP. This contact shall initiate a consultation process for determining subsequent actions. Activities authorized by the permit will not be delayed more than five (5) working days for a finding of significance by the Administrative Official, following the Administrative Official's receipt of notification, unless the permit holder agrees to an extension of that time period.
- (c) All development proposed for location adjacent to sites which are listed, or are determined by the appropriate State or Federal authority to be eligible for listing in the state or national registers or historic places, must be located so as to complement the historic site. Development, which degrades or destroys the historical character of such sites, is not permitted.
- (d) Identified historical or archaeological resources must be considered in site planning for public parks, public open space, and public access and site planning, with access to such areas designed and managed so as to give maximum protection to the resource.
- (e) The site assessment report shall include the following information:
 - (1) A detailed narrative describing the project, its relationship to the cultural resource area and its potential impact to the cultural resource;
 - (2) Site plan indicating the location of proposed development in reference to the location of the cultural resource/archaeological site;
 - (3) A description outlining the local topography, geology, water sources, vegetation, wildlife, and any notable environmental conditions;
 - (4) A detailed summary of what was actually observed;
 - (5) A brief summary of the prehistory, history and ethnography of the study area citing major studies and their results.
 - (6) If the cultural resource site assessment identifies the presence of significant historic or archaeological resources, a Cultural Resource Management Plan (CRMP) shall be prepared by a professional archaeologist or historic preservation professional, as applicable. The fee for the services of the professional archaeologist or historic preservation professional shall be paid by the landowner or responsible party. In the preparation of such plans, the professional archaeologist or historic preservation professional shall solicit comments from the Washington State Department of Archaeology and Historic Preservation, and the local tribes (Yakama, Colville, Wanapum Band).
 - (7) A description of applicable federal and state laws for protection of cultural and historic resources, along with associated requirements and processes to follow.

24.08.730 Protection Standards

- (a) All development within cultural resources areas shall comply with the conditions included in the site assessment report as approved by the Administrative Official.
- (b) During any construction authorized under the development approval, should human remains, cultural or archaeological resources be encountered, all construction activities shall immediately halt. The project proponent, or his contractor or agent shall immediately contact OAHP, the Administrative Official, and the appropriate Native American tribal organization(s) or other appropriate group or agency. This contact shall initiate a consultation process for determining subsequent actions. Activities authorized by the permit will not be delayed more than five (5) working days for a finding of significance by the Administrative Official, following the Administrative Official's receipt of notification, unless the permit holder agrees to an extension of that time period.