

Chapter 17.35

CRITICAL AREAS*

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*Code reviser's note: Ord. 1204 provides that Chapter 17.35, Critical Areas, is retained only as it applies to agricultural activities in accordance with the 2007 Legislative Session, Senate Substitute Bill 5248 that provides that: "This chapter shall remain in effect as it applies to agricultural activities until regulations addressing agricultural use in critical areas are adopted by the county."

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Article I. Purpose

17.35.010 Statement of authority and title.

This chapter is established pursuant to RCW 36.70A.060 and shall be known as the “Lewis County Interim Critical Areas Ordinance.” [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 1.1, 1996]

17.35.020 Statement of purpose and goals.

The purpose of this chapter is to identify and protect critical areas and protect human health and safety as required by the Growth Management Act of 1990 (Chapter 17, Laws of 1990) by supplementing the development regulations contained in various ordinances of Lewis County and other applicable state and federal laws by providing additional controls and measures to protect critical areas and human health and safety. This chapter is adopted under the authority of Chapters 36.70A and 36.70 RCW.

This chapter is premised on a perceived community vision that calls for minimum critical areas designations and protection standards, consistent with the requirements of Chapter 36.70A RCW.

The intent of this chapter is to facilitate the processing of relevant land use and development applications in a timely fashion with minimum intrusion on individual freedom, with a maximum of consistency and predictability. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 1.2, 1996]

17.35.030 Statement of policy.

(1) It is a policy of Lewis County that the beneficial functions, structures, and values of critical areas be protected as identified in this chapter, and further that potential dangers or public costs associated with inappropriate use of such areas be eliminated or substantially reduced by reasonable regulation of uses within, adjacent to, or directly affecting such areas. Reasonable regulation shall be achieved by the balancing of individual and collective interests.

(2) The county-wide planning policies identified private property rights as the primary priority and all applications of this chapter shall be cognizant and consistent with private property rights.

(3) No permit granted pursuant to this chapter shall remove an applicant’s obligations with respect to applicable provisions of any other federal, state, or local law or regulation, including, but not limited to, the acquisition of any other required permit or approval.

(4) Mitigation Priorities.

(a) Avoid the impact altogether by not taking a certain action or parts of any action where reasonable noncritical area alternatives are available;

(b) Minimize 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;

(c) Rectify the impact by repairing, rehabilitating, or restoring the affected environment;

(d) Reduce or eliminate the impact over time by preservation and maintenance of critical area functions during the life of the action;

(e) Compensate for the impact by replacing, enhancing, or providing substitute resources or environments in lieu of critical areas impacted; and/or

(f) Monitor the impact and take appropriate corrective measures where appropriate.

(5) Mitigation Application.

(a) Lewis County respects the right of property owners to use their property consistent with the guidelines presented. Priorities in subsection (4) of this section are preferences to guide development and may be mixed to facilitate reasonable use of property, with increasing mitigation applied to the greater impacts to protect the functions, systems, and values identified.

(b) The priorities in subsection (4) of this section shall not be used to deny a permit for activities specifically authorized in critical areas or buffers where reasonable noncritical area alternatives are not available.

(6) The assessor is required to consider the impacts on property values which the restrictions in this chapter in assessing property in Lewis County.

(7) Existing property uses shall not be affected by this chapter. This chapter will apply only when regulations require a development permit from Lewis County. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 1.3, 1996]

17.35.040 Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

(1) Liberally construed to serve the purpose of this chapter.

(2) Deemed neither to limit nor repeal any other powers under state statute.

(3) Considered adequate mitigation under SEPA unless a proposed use or activity poses an unusual or extraordinary risk to a critical area system. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 1.4, 1996]

17.35.050 Duration.

The development regulations for critical areas, as set forth in this chapter, shall be reviewed during consideration of the implementing regulations for the Lewis County comprehensive plan, adopted pursuant to Chapter 36.70A RCW. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 1.5, 1996]

17.35.060 Judicial review.

Judicial review of any final decision made hereunder shall be appealable pursuant to the Land Use Appeals Act, Chapter 36.70C RCW. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 1.7, 1996]

Article II. Definitions

17.35.070 Administrator.

“Administrator” means the planning manager of the Lewis County department of community development or his or her designee. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.075 Agricultural activities - Existing and on-going.

“Agricultural activities” means those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops and/or raising or keeping livestock. Agricultural activities include associated activities, including the operation and maintenance of farm and stock ponds, drainage ditches, operation and maintenance of ditches, irrigation systems including irrigation laterals, canals, or irrigation drainage ditches, and normal operation, maintenance, and repair of existing serviceable agricultural structures, facilities or improved areas, and the practice of aquaculture. Agricultural activities include, but are not limited to, growing mint, bulb farming, haying, growing blueberries, hybrid poplars, Christmas trees, and other nursery and horticultural activities which may involve any rotation, not otherwise classified as a forest practice. To assure preservation of agricultural land, the ability to switch from one crop or activity to another to meet market forces is essential and shall be considered “existing and ongoing agricultural” use when such conversions occur. Further, land devoted to agricultural purposes shall be considered existing and on-going even if in-between crop activities are limited to haying or grazing. Land shall cease to be existing and ongoing agriculture if (1) platted or otherwise developed for nonagricultural purposes or (2) converted to nonagricultural use.

Forest practices not regulated under Chapter 76.90 RCW and WAC Title 222 are not included in this definition. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.080 Alluvial fan.

“Alluvial fan” means a low, outspread, relatively flat to gently sloping mass of loose rock and soil, shaped like an open fan or segment of a cone, deposited by streams or debris flows where they issue from narrow, steep valleys upon a plain or broad valley or wherever the gradient of the stream suddenly decreases. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.085 Alteration.

“Alteration” means a human-induced action which materially affects a regulated critical area, such as a physical change to the existing condition of land or improvements containing, but not limited to construction, clearing, filling, and grading. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.090 Aquifer.

“Aquifer” means a saturated permeable geologic unit that can transfer significant quantities of water under ordinary hydraulic gradients. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.095 Aquifer recharge area.

“Aquifer recharge area” means the area in which rainwater and other surface waters percolate downward through surface soil and underlying geologic formations that are permeable enough to allow significant additions of water to an underlying aquifer that is a source of drinking water that is vulnerable to contamination that would affect the potability of the water. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.100 Best management practices (BMPs) - Wetlands section.

“Best management practices (BMPs),” for the wetlands section, means conservation practices or systems of practices and management measures that:

- (1) Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxics, and sediment; and
- (2) Minimize adverse impacts to surface water and ground water flow, circulation patterns, and to the chemical, physical, and biological characteristics of wetlands. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.105 Best management practices (BMPs) - Aquifer recharge areas section.

“Best management practices (BMPs),” for the aquifer recharge areas section, means physical, structural, and or managerial practices that when used singly, or in combination, prevent or reduce the adverse environmental impacts to or pollution of ground water. Such practices may include schedules of activities, prohibitions of practices, maintenance procedures, and other management practices, to prevent or reduce pollution of ground water. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage, leaks, sludge, or water disposal, or drainage for raw material storage. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.110 Buffer - Geologically hazardous area.

For the purpose of the geologically hazardous area section, a “buffer” is an area established to protect the integrity or functions and values of a geologically hazardous area from potential adverse impacts. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.115 Buffer - Stream and habitat critical areas.

For purposes of the stream and habitat critical area sections, a “buffer” means an undisturbed area of native vegetation to protect the integrity, functions, and values of the affected habitat and shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.120 Classification.

“Classification” means defining value and hazard categories to which critical areas will be assigned. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.125 Clearing.

“Clearing” means the removal of timber, brush, grass, ground cover, or other vegetative matter from a site which exposes the soil, but not including activities normally associated with agriculture, home gardening, or permitted timber and mining activities under any of the permits identified in LCC 17.35.630(2). [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.130 Commercially viable use of land.

“Commercially viable use of land” means a use which will return an economic return to the land and for which commercial financing is normally and reasonably available. The fact that other uses may create a higher return or land value is irrelevant. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.135 Compensation project.

“Compensation project” means actions necessary to replace project-induced critical area and associated buffer losses, including land acquisition, planning, construction plans, monitoring, and contingency actions. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.140 Critical area functions.

“Critical area functions” means the physical, chemical, and biological processes or attributes of a critical area. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.145 Critical area values.

“Critical area values” means the critical area processes or attributes that are valuable or beneficial to society. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.150 Critical areas.

“Critical areas” means all wetlands, frequently flooded areas, aquifer recharge areas, fish and wildlife habitat conservation areas, and geologically hazardous areas, as those terms are used and defined herein. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.155 Critical facilities.

“Critical facilities” means facilities for which a significant chance of damage as a result of a geological hazard would be too great. Critical facilities include, but are not limited to, schools; hospitals; police, fire, and emergency response installations; nursing homes; and installations which produce, use, or store hazardous materials or hazardous waste. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.160 Dangerous wastes.

“Dangerous wastes” means those wastes designated in WAC 173-303-070 through 173-303-120 as dangerous or extremely hazardous or mixed waste. As used in Chapter 173-303 WAC, the words “dangerous waste” will refer to the full universe of wastes regulated by that chapter, and will be used interchangeably with “hazardous waste.” [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.165 Debris flow.

“Debris flow” means the rapidly down-slope-moving mass of a viscous water-saturated mixture of rock fragments, soil, and mud, more than half of the particles being larger than sand size. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.170 Designation.

“Designation” means taking a formal legislative action to adopt classifications, inventories, and regulations. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.175 Determination.

“Determination” means an action by an agency or individual qualified in the science of identification and delineation of a critical area to identify, characterize, and/or locate a critical area. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.180 Erosion control.

“Erosion control” means on-site and off-site control measures that are needed to control conveyance and/or deposition of earth, turbidity or pollutants after development, construction, or restoration. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.185 Erosion hazard areas.

“Erosion hazard areas” means those areas identified by the United States Department of Agriculture Soil Conservation Service as having “severe” rill and inter-rill erosion hazard and areas subject to severe streambank erosion. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.190 Extraordinary hardship.

“Extraordinary hardship” means the strict application of this chapter and/or programs adopted to implement this chapter by the administrator would cause or create severe financial loss, unreasonable safety risk, or health harm to the party seeking exception, waiver, or variance under this chapter. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.195 Fish and wildlife habitat conservation areas.

“Fish and wildlife habitat conservation areas” means all lands within the following categories:

- (1) Areas with which “priority species” as defined by the Washington Department of Wildlife have a primary association.
- (2) “Priority habitats” as identified by the Washington Department of Fish and Wildlife. Priority habitats are areas with one or more of the following attributes pertaining to state species listed as endangered or threatened: comparatively high wildlife density, high wildlife species richness, significant wildlife species richness, significant wildlife breeding habitat, significant wildlife seasonal ranges, significant movement corridors for wildlife, limited availability, and/or high vulnerability.
- (3) Naturally occurring ponds each over one-half acre and under 20 acres and their 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 years’ duration, and landscape amenities. However, naturally occurring ponds shall include those artificial ponds intentionally created with the approval of a regulatory authority from dry areas to mitigate adverse impact upon other ponds.
- (4) Lakes, ponds, streams, and rivers planted with game fish as defined by RCW 77.08.020, including fish planted under the auspices of federal, state, local, or tribal programs, or which support priority fish species as identified by the Washington Department of Fish and Wildlife. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.200 Fish and wildlife habitat critical areas (FWHCA).

“Fish and wildlife habitat critical areas (FWHCA)” means land area which meets the definition of a “fish and wildlife habitat critical area” pursuant to WAC 365-190-080(5) and is essential for maintaining specifically listed species in suitable habitats. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.205 Flood - Flooding.

“Flood” or “flooding” means a general or temporary condition of partial or complete inundation of normal dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of runoff of surface waters from any source. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.210 Forest practice.

“Forest practice” means any activity regulated by Chapters 222-12 through 222-50 WAC. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.215 100-year flood - Base flood.

“100-year flood” or “base flood” means the flood having a one percent chance of being equaled or exceeded in any given year. For purposes of this chapter, Lewis County adopts the Federal Emergency Management Act (FEMA) flood hazard classifications. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.220 Frequently flooded areas.

“Frequently flooded areas” means the floodways and associated floodplains designated by FEMA on the area flood hazard maps for Lewis County dated December 15, 1981. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.225 Geologically hazardous areas.

“Geologically hazardous areas” means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.230 Ground water.

“Ground water” means that part of the subsurface water that is in the zone of saturation (below the water table), as distinct from vadose water (above the water table). [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.235 Habitat management plan.

“Habitat management plan” means a plan prepared for a regulated wildlife habitat critical area and intended to provide for the site-specific protection of endangered, threatened, and sensitive species and their habitats. The plans are to be based on the unique characteristics of the species, as well as surrounding land uses in relation to the proposed activity and landowner goals. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.240 Hazardous substances.

“Hazardous substances” means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical, or biological properties described in WAC 173-303-090 or 173-303-100. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.245 High intensity uses.

“High intensity uses” means uses which by their nature have the potential for significant impact and will be regulated using a review process coupled with SEPA review, or, for SEPA exempt properties, substantially similar to SEPA review. Except as provided herein, high intensity uses shall include all uses not specifically identified as low intensity uses. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.250 Hydric soil.

“Hydric soil” means a soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of a hydric soil shall be determined following the methods described in the 1987 Corps of Engineers Wetlands Delineation Manual. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.255 Incidental amounts.

“Incidental amounts” means amounts unlikely to create negative health and/or safety impacts. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.260 Land use development permits.

“Land use development permits” means all subdivision approvals including short plats, preliminary plat approvals, shoreline substantial development permits, site plans for mobile home parks, building permits for any new structure or which increase an existing structure’s floor area by more than 10 percent; building permits for structures that have associated grading or filling activity in excess of 100 yards; and road approval permits for other than single-family homes. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.265 Landslide hazard areas.

“Landslide hazard areas” means areas potentially subject to landslides based on a combination of geologic, topographic, and hydrogeologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.270 Low intensity uses.

“Low intensity uses” means uses which by their nature generally have a low or moderate impact on the environment in which they occur and will be regulated using a single or short form of approval. Except as provided, low intensity uses shall include:

- (1) Agricultural uses, except those uses involving:

- (a) Livestock in excess of grazing best management practices recommended by the Natural Resources Conservation Service;
 - (b) Machinery storage, fueling, and maintenance; or
 - (c) Storage of petroleum, fertilizers, pesticides, and herbicides.
- (2) Residential uses with less than 35 percent impervious surface of the parcel.
- (3) Commercial uses with less than 50 percent impervious surface, less than 5,000-square-foot buildings, and all storm water treated through storm drains consistent with county standards.
- (4) Any use similar in size, scale, and impact to uses (1) to (3) where the rate of the storm water discharged from the site is less than 110 percent of the rate storm water discharged in a predevelopment state, and all storm water discharged to the wetland has been treated through storm drains consistent with county standards. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150A, 1996; Ord. 1150 § 2, 1996]

17.35.275 Mine hazard areas.

“Mine hazard areas” means areas underlain by, adjacent to, or affected by mine workings such as adits (mine entrances), gangways (haulage tunnels), drafts, or air shafts. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.280 Mitigation.

“Mitigation” means actions taken to replace or enhance critical area functions impacted by a land use development permitted under this chapter. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.285 Mudflow.

“Mudflow” means a general term for a mass-movement landform and a process characterized by a flowing mass of predominantly fine-grained earth material possessing a high degree of fluidity during movement. If more than half of the solid fraction of such a mass consists of material larger than sand size, the term “debris flow” is preferable. The water content of mudflows may range up to 60 percent with increasing fluidity, mudflows grade into muddy floods; with less fluidity, they grade into earthflows. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.290 Native vegetation.

“Native vegetation” means plant species which are indigenous to the site in question. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.295 Person.

“Person” means an individual, firm, copartnership, association, corporation, or other legal entity. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.300 Priority habitats.

“Priority habitats” means areas associated with a species listing by the Washington State Department of Fish and Wildlife, Priority Habitat and Species Program and which, if altered, may reduce the likelihood that the species will maintain or increase its population over the long term. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.305 Priority habitat and species database.

“Priority habitat and species database” means the database for the Washington State Department of Fish and Wildlife (WDFW) Priority Habitat and Species (PHS) Program which provides the following three products:

- (1) Lists of the WDFW’s most important habitats and species;
- (2) Management recommendations for each priority habitat and species; and
- (3) Maps showing the geographic location of priority habitats and species. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.315 Priority species.

“Priority species” means animal species listed by the Washington State Department of Fish and Wildlife, Priority Habitat and Species Program, that are of concern due to their low population and/or their sensitivity to habitat manipulation. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.320 Protection.

“Protection” means action to avoid or mitigate impacts to critical areas consistent with the requirements of this chapter may be applied consistent with priorities, in order to preserve the structure, values, and functions of the natural environment. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.325 Pyroclastic flow.

“Pyroclastic flow” means the geologic process and products of hot clouds of ash, volcanic rock, and gas that flow rapidly downslope under gravity. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.330 Qualified critical area professional.

“Qualified critical area professional” means a person with experience, education, and professional degrees and/or training pertaining to the critical area in question, and with experience in performing delineations, analyzing critical area functions and values, analyzing critical area impacts, and recommending critical area mitigation and restoration. The administrator may require professionals to demonstrate the basis for qualifications and shall make final determination as to qualifications. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.335 Secondary containment.

“Secondary containment” must be:

- (1) Impervious to the materials held in the primary container(s).
- (2) Large enough to hold 100 percent of the material in the largest container, or 10 percent of the total volume of all containers, or whichever volume is larger.
- (3) Large enough to also hold rainwater which would reasonably be expected to collect in 24 hours during a major storm, if the containment is exposed to the weather. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.340 Seismic hazard areas.

“Seismic hazard areas” means areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, or surface faulting. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.345 Sensitive, endangered, threatened species.

Lewis County adopts the state definitions as set forth in WAC 232-12-001, 232-12-011, and 232-12-014. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.350 Septage waste.

“Septage waste” means septic tank or holding tank pumpage which has not been subject to a wastewater treatment process. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.355 Sewage sludge.

“Sewage sludge” means semisolid matter consisting of settled sewage solids combined with varying amounts of water and dissolved material, remaining after the completion of wastewater treatment. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.360 Significant.

“Significant” means a condition which would have a negative impact on human health and/or safety as determined by a recognized authority. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.365 Significantly affect the quality.

“Significantly affect the quality” means a measurable impact on characteristics thereof, on a relative or absolute basis, of which more than a moderate level of effect is a reasonable probability. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.370 Storm water management facilities.

“Storm water management facilities” include biofiltration swales, filter strips, bubble diffusers, detention ponds, retention ponds, wet ponds, and similar facilities designed and intended to control and treat storm waters, and include ditches designed and intended primarily for conveyance. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.375 Streams.

“Streams” means those areas where naturally occurring surface waters flow sufficiently to produce a defined channel or bed which demonstrates clear evidence of the passage of water, including, but not limited to, bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed need not contain water during the entire year. This definition does not include watercourses which were created entirely by artificial means, such as irrigation ditches, canals, roadside ditches, or storm or surface water runoff features, unless the artificially created watercourse contains salmonids or conveys a stream that was naturally occurring prior to the construction of the artificially created watercourse. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.380 System function and values.

“System function and values” is a technical term used to identify the role of a critical area in a given area as opposed to its mere physical presence and size; used most often when comparing alternatives for mitigation purposes. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.385 Utility lines.

“Utility lines” means a pipe, conduit, cable, or other similar facility by which services are conveyed to the public or individual recipients. Such services shall include, but are not limited to, water supply, electrical power, gas, communications, and storm water or sanitary sewer transport facilities. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.390 Volcanic hazard areas.

“Volcanic hazard areas” means areas subject to pyroclastic flows, lava flows, debris avalanche, inundation by debris flows, mudflows, or related flooding from volcanic activity. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.395 Water table.

In pervious granular materials the “water table” is the upper surface of the body of free water which completely fills all openings in material sufficiently pervious to permit percolation. In fractured impervious rocks and in solution opening, it is the surface at the contact between the water body in the openings and the overlying ground air. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.400 Watershed.

“Watershed” means an area draining to the surface water systems of the Chehalis, Cowlitz, Deschutes, or Nisqually Rivers. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.405 Wetland - Wetlands.

“Wetland” or “wetlands” means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate the conversion of wetlands. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.410 Wetland buffer, buffer, or buffer zones.

“Wetland buffer,” “buffer,” or “buffer zones” means areas that surround and protect critical areas from adverse impacts to their functions and values. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.415 Wetland enhancement.

“Wetland enhancement” means a type of mitigation performed to improve the condition of existing degraded wetlands so that the functions and values provided are of a higher quality. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150A, 1996; Ord. 1150 § 2, 1996]

17.35.420 Wetland functions and values.

A given wetland may provide one or more functions, which fall into two classes: (1) human health and safety and (2) public welfare. Human health and safety functions include floodwater storage, water purification, and (in limited situations) aquifer recharge. Public welfare functions include wildlife habitat. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

Article III. General Requirements

17.35.430 Applicability.

This chapter classifies and designates critical areas in Lewis County and establishes regulations for the protection of critical areas, human health, and safety. Lewis County shall not grant any permit, license, or other development approval to alter the condition of any land, water, or vegetation, or to construct or to alter any structure or improvement, nor shall any person alter the condition of any land, water, or vegetation, or construct or alter any structure or improvement, for any development proposal regulated by this chapter, except in compliance with the provisions of this chapter. Failure to comply with the provisions of this chapter shall be considered a violation and subject to enforcement procedures. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.1, 1996]

17.35.440 Relationship to other regulations.

Areas characterized by a particular critical area may also be subject to other regulations due to the overlap of multiple functions of critical areas. In the event of any conflict between these regulations and other regulations of the county, the regulations which provide the greater protection for the particular critical areas still apply. No permit granted pursuant to this chapter shall remove the applicant’s obligation to comply in all respects with provision of any federal, state, or local law or regulation. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.2, 1996]

17.35.450 General exemptions.

The following activities shall be exempt from the provisions of this chapter:

- (1) Existing and on-going agricultural activities on lands designated as critical areas on the effective date of the ordinance codified in this chapter;
- (2) Normal and routine maintenance and operation of existing irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, landscape amenities, farm ponds, fish ponds, manure lagoons, and livestock water ponds; provided, that such activities do not involve conversion of any critical area not being used for such activities to another land use;
- (3) Construction, maintenance, operation, repair, or replacement of existing utility facilities and associated rights-of-way, including but not limited to reasonable access roads;
- (4) Passive recreational uses, sport fishing or hunting, scientific or educational review, or similar minimal impact, nondevelopment activities;
- (5) Site investigative work required by a city, county, state, or federal agency in conjunction with the preparation of a land use application submittal such as surveys, soil logs, percolation tests, and other related activities. In any such activity, impacts on environmentally critical areas are avoided where possible and minimized where necessary, and disbursed to the extent possible. Critical areas are restored to the pre-existing level of function and value within one year after tests are concluded;
- (6) Maintenance, operation, reconstruction of or addition to existing roads, streets, and driveways; provided, that reconstruction of any such facilities does not extend outside the previously disturbed area;
- (7) Any projects currently under review and “vested” as that term is used in RCW 19.27.095 and 58.17.033 by local, state, or federal agencies prior to official adoption of the ordinance codified in this chapter are exempt from this

chapter and will be grandfathered under previous critical areas protection measures. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.3, 1996]

17.35.460 Application requirements.

This chapter is an overlay similar to Chapter 43.21C RCW. No separate “application” or permit is required. The criteria and requirements of this section must be addressed, however, in connection with all land use or development permits issued by Lewis County. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.4, 1996]

17.35.470 Designation of the administrator.

The planning manager of the Lewis County department of community development or his or her designee shall be responsible for applying the provisions and requirements of this chapter.* [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.5, 1996]

17.35.480 Appeals.

(1) Any decision of the administrator in the administration of this chapter may be appealed by the applicant to the hearing examiner. The decision shall be based on the record at the time the decision was issued.

(2) Appeals shall be filed in writing in duplicate with the hearing examiner within 10 calendar days of the date of the action being appealed. The appeal must specify the code section under which error is alleged and state facts from the record to demonstrate prima facie violation of the section in question.

(3) Upon the filing of an appeal, the hearing examiner shall set the time and place at which the matter will be considered. At least 10 calendar days’ notice of such time and place, together with one copy of the written appeal, shall be given to the appellant. The appeal shall follow the requirements for a closed record appeal in Chapter 2.25 LCC.

(4) The hearing examiner may reverse or affirm wholly or in part the decision of the administrator. The hearing examiner may also remand if it appears that new or supplemental information may change the result reached. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.6, 1996]

17.35.490 Penalties and enforcement.

(1) It shall be unlawful for any person, firm, corporation, or association, or agent thereof, to violate any provision of this chapter. Under RCW 58.17.300, any such person or other such party who violates Chapter 58.17 RCW or such provision of this chapter as is required thereunder, with respect to the sale, offer for sale, lease, or transfer of any lot, tract, or parcel of land shall be guilty of a gross misdemeanor and each sale, offer for sale, lease, or transfer of each separate lot, tract, or parcel of land in violation of any provision of said RCW chapter or portions of this chapter as are required thereunder shall be deemed a separate and distinct offense.

(2) In addition to or in lieu of the penalties in subsection (1) of this section, any person, firm, corporation, association, or agent thereof that violates the provisions of this chapter shall be subject to the enforcement provisions of Chapter 17.07 LCC. [Ord. 1192 §6, 2006; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.7(A), 1996]

17.35.500 Notice of violation and order.

A notice of violation and order for the penalty may be issued by the administrator or designee when there is a finding by such official that a violation of this chapter has occurred or is occurring.

(1) The administrator shall issue such notice and order in writing to the person(s) creating, causing, participating in, or allowing the violation.

(2) The notice of violation and order shall contain the following:

(a) The name and mailing address of the property owner or other person(s) to whom the notice of violation is directed by the administrator;

(b) A street address or legal description adequate for the identification of the activity, property, or portion thereof upon which the violation is based;

(c) A description of the violation and a reference to the nature of the regulation violated which is sufficient to reasonably apprise the recipient of the nature of the violation;

(d) A statement of the action required or action to be terminated to correct the violation and a time or date by which the corrective action must be completed so as to avoid penalty and legal actions for injunctions and abatement;

(e) A statement that a civil penalty for each violation may be assessed against the person(s) to whom the notice and order to correct the violation is directed for each and every day for which the violation continues;

(f) A statement that the violation may also constitute a criminal gross misdemeanor for each and every day, or portion of a day, for which the violation continues.

(3) The notice shall be served upon the person(s) to whom it is directed, either personally or by mailing a copy of the notice by certified mail, postage prepaid, and return receipt requested, to such persons at their last known mailing address. Proof of service shall be made at the time of service by written declaration under penalty of perjury executed by the party effecting such service, and declaring the date of service and, in the case of personal service, the time of service, and the manner by which service was made.

(4) Except in criminal enforcement actions, upon the written request by the person(s) upon whom service was made, or their legal representative, and for good cause shown (as with substantial completion of corrective actions or unforeseeable circumstances which render good faith attempts at completion impossible), the administrator may extend the time or date originally set for completion of corrective action.

(5) Except in criminal enforcement actions, an informal administrative conference involving the person(s) receiving the notice may be conducted at any time by the administrator for the purposes of presenting facts and law relating to an alleged violation, promoting communication between the parties, and providing a nonadversarial forum for the resolution of any violation. The administrator shall determine whether or not to hold such conference, the attendance, and the agenda thereof, and, at the conclusion of the conference, may independently affirm or revoke the notice and penalty, or modify such notice and penalty by joint stipulation of the parties. [Ord. 1192 §7, 2006; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.7(B), 1996]

17.35.510 Additional enforcement actions.

The office of the Lewis County prosecuting attorney may bring such additional injunctive, declaratory, or other actions as are necessary to ensure compliance with this chapter, and county and state laws, and the costs of such action shall be taxed by the prosecuting attorney against the person committing the violation. In the enforcement of this chapter and Chapter 58.17 RCW, the prosecuting attorney may accept assurance of discontinuance of any act or practice deemed in violation thereof from any person engaging in, or who has engaged in such act or practice. A violation of such assurance shall for purposes of prosecuting constitute and serve as prima facie proof of violation of this chapter or Chapter 58.17 RCW. Acceptance of such assurance does not relieve a party from compliance with this chapter or state law. With respect to enforcement of Chapter 58.17 RCW and with court actions filed pursuant to this chapter, any such assurance shall be in writing and be filed with and subject to the approval of the superior court. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.7(C), 1996]

17.35.520 Nonconforming activities.

An established use or existing structure that was lawfully permitted prior to adoption of the ordinance codified in this chapter, but which is not in compliance with this chapter, may continue subject to the following:

(1) Nonconforming uses shall not be expanded or changed in any way that increases the nonconformity without a permit or other approval issued pursuant to the provisions of this chapter;

(2) Existing structures shall not be expanded or altered in any manner which will increase the nonconformity without a permit or other approval issued pursuant to the provisions of this chapter, except one-family dwellings and accessory structures may be expanded or altered as follows: Reconstruction, remodeling, or maintenance of one-family dwellings and accessory structures existing on the effective date of the ordinance codified in this chapter shall be allowed; provided, that a one-time only expansion of the building footprint does not increase that footprint by more than 25 percent;

(3) Activities or uses which are abandoned. A use discontinued for 60 months shall be presumed abandoned, but such presumption may be rebutted. An abandoned use or structure is allowed to resume only if in compliance with this chapter; and

(4) Nonconforming structures destroyed by fire, explosion, or other casualty may be replaced or restored if reconstruction of the same facility is commenced within two years of such damage. The reconstruction or restoration shall not serve to expand, enlarge, or increase the extent of the nonconformity. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.8, 1996]

17.35.530 Variances.

(1) If an applicant for a proposal demonstrates to the satisfaction of the administrator that application of the standards of this chapter would constitute an extraordinary hardship to the applicant, a variance to such standards shall be granted if the applicant also demonstrates all the following to the satisfaction of the administrator:

(a) That no commercially viable use with less impact on the critical area is possible which would not pose an extraordinary hardship on the applicant;

(b) That there is no commercially viable alternative to the proposed activities, including reduction in density, phasing of project implementation, change in timing of activities, revision of road and lot layout, and/or related site planning considerations, that would allow a reasonable economic use with less adverse impacts to the critical area and its related buffer;

(c) That the proposed activities will result in minimum feasible alteration or impairment to the critical area's functional characteristics and its existing environment;

(d) That disturbance of critical areas has been minimized by locating any necessary alteration in a related buffer to the extent possible;

(e) That the proposed activities will not jeopardize the continued existence of species listed by the federal government or the state as endangered, threatened, or sensitive species or habitats;

(f) That the proposed activities will not significantly affect the quality of ground water or surface water quality;

(g) That the proposed activities comply with all state, local, and federal laws, including those related to sediment control, pollution control, floodplain restrictions, and on-site wastewater disposal;

(h) That any and all alterations to critical areas and their related buffers will be mitigated as required by the provisions of this chapter;

(i) That there will be no injury to nearby public or private property and no significant affect upon the health, safety, or welfare of persons within or outside of the property; and

(j) That the need for a variance is not the result of deliberate actions by the applicant or prior owners after the effective date of the ordinance codified in this chapter.

(2) Notice of a variance request shall be given in conjunction with the notice of any permit application; provided, that if such permit application does not require a public hearing, the variance request shall be scheduled for hearing before the administrator upon the same notice as provided for other public hearings required by county subdivision ordinance. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.9, 1996]

17.35.540 Nonregulatory incentives.

The following nonregulatory incentives shall apply to all critical areas:

(1) Assessment Relief.

(a) The Lewis County assessor shall consider the impact of the critical area regulations contained in this chapter on property values when determining the fair market value of land.

(b) Any owner of a critical area and its buffer who has dedicated a conservation easement to or entered into a perpetual conservation restriction with a department of the local, state, or federal government; or to a nonprofit organization to permanently control some or all of the uses and activities within this area may request that the Lewis County assessor reevaluate that specific area with those restrictions.

(c) The administrator shall notify the assessor's office of any application of this chapter which results in building restrictions on a particular site.

(2) Open Space. Subject to the criteria established by law, any person who owns a critical area as identified by this chapter may apply for current use assessment pursuant to Chapter 84.34 RCW. The Open Space Tax Act allows Lewis County to designate lands which should be taxed at their "current use value." The county has programs for agricultural lands, small forest lands less than 20 acres in size, and other open spaces. Lewis County has adopted a public benefit rating system which classifies properties on the basis of their relative importance of natural and cultural resources, the availability of public access, and the presence of a "conservation easement." These features are given a point value, and the total point value determines the property tax reduction. Lands with an important habitat or species would commonly qualify for this voluntary program. Applications are approved by the board of county commissioners following a public hearing.

(3) Conservation Easement. Any person who owns an identified critical area as defined by this chapter may offer a conservation easement over that portion of the property designated a critical area naming the county or its qualified designee under RCW 64.04.130 as the beneficiary of the easement. The purpose of the conservation easement shall be to protect, preserve, maintain, restore, limit the future use of, or conserve for open space purposes the land designated as critical area(s), in accordance with RCW 64.04.130. Details governing easement restrictions and conditions of acceptance shall be negotiated between property owners and the county. Acceptance of such an easement and the consideration therefor, if any, shall be discretionary with the county and subject to the priorities for and availability of funds.

The administrator may attach such additional conditions of acceptance as deemed necessary to assure the preservation and protection of the affected wetlands and buffers within conservation easements to assure compliance with the purposes and requirements of this chapter.

The responsibility for maintaining conservation easements shall be held by the overlying lot owner(s) or other appropriate entity as approved by the administrator.

Lewis County may establish appropriate processing fees for such conservation easements. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.10, 1996]

17.35.550 SEPA.

This chapter is a written policy of Lewis County enforceable through the State Environmental Policy Act, Chapter 43.21C RCW and specifically RCW 43.21C.065. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.11, 1996]

17.35.560 Judicial or legislative modification.

Should the Growth Management Act (Chapter 36.70A RCW) or the implementing regulations (Chapter 360-190 WAC) be challenged or modified by a court of competent jurisdiction or modified by the Legislature in any way affecting this chapter, this chapter shall be brought before the board of county commissioners not less than 30 days after such action is final to determine what, if any, changes may be required by reason of such action. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.12, 1996]

17.35.570 Cost recovery.

Unfunded costs incurred by the county, or its citizens, which are properly chargeable to the state or state agencies shall be billed to such agencies consistent with applicable rules and regulations for such cost recovery. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.13, 1996]

Article IV. Critical Area Regulations

Article IV(A). Wetlands

17.35.580 Identification.

(1) Lewis County adopts the U.S. Corps of Engineers Wetlands Delineation Manual, 1987 edition, for use in the identification of wetland areas.

(2) Lewis County will accept the delineation of a specific wetland by any agency identified in LCC 17.35.630(2) where a formal delineation was performed in conjunction with a referenced permit.

(3) Lewis County will accept a written determination by the U.S. Army Corps of Engineers, Washington State Department of Ecology, or the Washington State Department of Natural Resources that a specific parcel is not a wetland, so long as the determination is still applicable under state or federal law. Such determinations specifically include determinations of “prior converted croplands” as that term is defined under federal law. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150A, 1996; Ord. 1150 § 4.1(A), 1996]

17.35.590 Classification.

(1) Classes of Wetlands

(a) Class A Wetlands. All wetlands scoring a “Category I” or “Category II” rating under the Washington State Department of Ecology Washington State Wetlands Rating System for Western Washington, Section Edition, August 1993.

(b) Class B Wetlands. All wetlands scoring a “Category III” or “Category IV” rating on the WDOE rating scale.

(2) Presumptions. All contiguous wetlands over two acres shall be presumed to be Class A wetlands and all other wetlands shall be presumed to be Class B wetlands until a formal rating is made. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150A, 1996; Ord. 1150 § 4.1(B), 1996]

17.35.600 Allowed activities in wetlands and buffers.

(1) The following uses are specifically allowed in wetland or buffer areas subject to the priorities, protection, and mitigation requirements of this article:

(a) Utility lines and facilities, regional transmission facilities, local delivery systems, and hydroelectric generating facilities where reasonable nonwetland alternatives are unavailable.

(b) Public and private roadways and railroad facilities, including bridge construction and culvert installation, where reasonable nonwetland alternatives are unavailable.

(c) Maintenance, repair, or operation of existing structures, facilities, or improved areas, including minor modification of existing serviceable structures within a buffer zone where modification does not adversely impact wetland functions.

(d) Development activities allowed by permits issued in conjunction with LCC 17.35.630(1) and (2).

(e) Single-family residence and ordinary residential improvements on an existing legal lot where nonwetland alternatives are unavailable.

(f) Regional storm water detention/ retention facilities, identified in an adopted plan of an appropriate public agency.

(g) Golf courses in buffers only where at least 60 percent of the area of the required buffer is left undisturbed and at least 75 percent of the wetland perimeter remains bounded by a minimum 25-foot-wide undisturbed buffer.

(2) The following uses are necessary to fully enjoy and understand wetlands or to provide resource activities and are permitted without any specific protection or mitigation other than may be identified in an applicable permit.

- (a) Conservation, preservation, or enhancement projects to protect functions and values of the critical area system, including activities and mitigation allowed pursuant to the mitigation priorities identified in LCC 17.35.030(4).
- (b) Outdoor recreational or educational activities which do not significantly affect the function of the wetland or regulated buffer (including wildlife management or viewing structures, outdoor scientific or interpretive facilities, trails, hunting blinds, etc.).
- (c) Harvesting wild crops which do not significantly affect the function of the wetland or regulated buffer (does not include tilling of soil or alteration of wetland area).
- (d) Existing and on-going agricultural activities, including maintenance of existing ditches and ponds.

(3) Wetland relocation when a plan is submitted as part of the critical area study which demonstrates that the following criteria are met:

- (a) The relocation will improve wetland systems, functions and values, water quality, fish or wildlife habitats, or aquifer recharge (if hydrologically connected to a wetland).
- (b) The plan must contain and show the following information: a topographic survey showing existing and proposed topography and location of the new wetland and buffer; and provisions for landscaping and long-term maintenance.
- (c) Relocation will maintain or improve the functions and values of the wetland system.
- (d) Natural materials and vegetation normally associated with the wetland will be utilized. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150A, 1996; Ord. 1150 § 4.1(C), 1996]

17.35.610 Protection.

Protection of wetland areas may be accomplished through one or a combination of the factors set forth in this section:

(1) Setbacks - Buffer.

- (a) Class A wetlands - low intensity uses: 50 feet (not subject to reduction per subsections (4) and (5) of this section);
- (b) Class A wetlands - high intensity uses: 100 feet;
- (c) Class B wetlands - low intensity uses 50 feet;
- (d) Class B wetlands - high intensity uses: 50 feet.

(2) Other Protections. All high intensity uses located within 50 feet of any Class B wetland or 75 feet of any Class A wetland shall provide screening of the wetland along the buffer edge sufficient to prevent the lights of auto traffic or required illumination of the facility from shining directly into the wetlands; provided, that this requirement shall not apply in any area where the width of the wetland is less than four times the width of the buffer.

(3) Order of Precedence.

- (a) Urban Areas. In urban areas the setbacks in this wetlands section shall take precedence over setback standards in other critical areas, except for threatened or endangered species specifically identified under the critical habitat section. In the latter case, critical habitat criteria shall prevail.

(b) Rural Areas. In rural areas the setbacks for all critical areas shall be overlapping and the most restrictive shall apply; provided, however, where a conflict exists in connection with prime agricultural soils, the provisions of the agricultural resource section of Chapter 17.30 LCC shall take precedence.

(4) Allowed Alteration to Buffers - Averaging Buffer Widths. The width of a buffer 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:

(a) Averaging will not impair or reduce the habitat, water quality purification and enhancement, storm water detention, ground water recharge, shoreline protection, erosion protection, and other functions of the wetland and buffer.

(b) The total area of the buffer on the subject property is not less than the buffer which would be required if averaging was not allowed.

(c) No part of the width of the buffer is less than 50 percent of the required width or 25 feet, whichever is greater.

(5) Buffer Width Reduction. Buffer widths may be reduced if the buffer is enhanced in accordance with the following requirements:

(a) Buffers, or buffers reduced after buffer averaging, will have a minimal function or value based on existing physical characteristics.

(b) The applicant demonstrates that the proposed buffer enhancement, together with proposed buffer width reduction, will result in an increase in the functions and values of the buffer when compared with the functions and values of the standard buffer. The applicant may use a combination of storm drains, bioswales, and/or other natural and manmade items which provide the equivalent storm water treatment, flood storage, and habitat values as the replaced buffer in its predevelopment state.

(c) The applicant includes a comparative analysis of buffer values prior to and after enhancement, and demonstrates compliance with this section.

(d) The buffer width is not reduced below 50 percent of the standard buffer width or 25 feet, whichever is greater, and the total buffer area reduction is not less than 75 percent of the total buffer area before reduction. Any reduction below 50 feet will require "equivalent protection" as described in subsection (5)(b) of this section to equal a total of 50 feet.

(e) The functions and values of the wetland protected by the buffer are not decreased. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150A, 1996; Ord. 1150 § 4.1(D), 1996]

17.35.620 Mitigation conditions.

(1) County Permits. Where a project other than those identified in LCC 17.35.600(2) requires the disruption of a wetland, the wetland system, function, and values shall be protected or enhanced through mitigation as specified in this section. A mitigation plan shall be prepared that describes how the proposed mitigation will replace the functions and values of the altered wetland.

(a) Land Based Mitigation. Alteration of wetlands shall require either the creation, restoration, or enhancement of wetlands to provide equivalent or greater functions and values. In order to address the risk and time lag associated with creating, restoring, or enhancing wetlands, the following acreage replacement ratios shall be required except as provided for in subsections (1)(b) and (c) of this section. These ratios assume that the replacement wetland will be similar in type and structure to the wetland being altered.

**Acreage Replacement Ratios
for
Creation/Restoration**

Class A Wetlands	
Category I	4:1
Category II	2:1
Class B Wetlands	
	1.5:1

When enhancement of existing wetlands is proposed, the above ratios shall be doubled.

(b) Increasing or Decreasing Replacement Ratios. Replacement ratios may be increased or decreased based on the following circumstances:

- (i) Degree of uncertainty as to the probable success of the proposed mitigation;
- (ii) The period of time between alteration of the wetland and replacement of lost functions and values;
- (iii) Projected gains or losses in functions and values; provided, that findings of special studies coordinated with agencies with expertise demonstrate that no loss of wetland functions or values results from a reduced ratio;
- (iv) A minimum acreage replacement ratio of 1:1 shall be required except as provided in subsection (1)(c) and (d) of this section.

(c) Replacing Functions and Values. In lieu of area-based mitigation provided above, an applicant may propose mitigation in the form of equivalent functions and values. Such a proposal shall:

- (i) Only be allowed when the wetland being altered is not a Category I wetland under the WDOE rating system.
- (ii) Include documentation (the "report") from a qualified critical area professional that describes how the proposed mitigation will replace or improve upon the functions and values provided by the altered wetland. This shall include a detailed assessment of the functions and values provided by the wetland to be altered and a detailed assessment of the functions and values to be provided by the proposed mitigation action. The report shall demonstrate:
 - (A) Degree of uncertainty as to the probable success of the proposed mitigation;
 - (B) The period of time between alteration of the wetland and replacement of lost functions and values;
 - (C) Projected gains or losses in functions and values; provided, that findings of special studies coordinated with agencies with expertise demonstrate that no loss of wetland functions or values results from a reduced ratio.
- (iii) Be reviewed by county or other agency staff with expertise in wetland mitigation.

(d) Mitigation Banking. The process of creating wetlands to be used as mitigation for future unavoidable wetland impacts is encouraged. Close coordination with all potential permitting agencies is necessary to implementing a mitigation bank. The provisions of this chapter may be modified as appropriate to be consistent

with a mitigation banking agreement signed by federal and state permitting agencies. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150A, 1996; Ord. 1150 § 4.1(E), 1996]

17.35.630 Processing.

(1) County Permits.

(a) Low Intensity Uses - Certificate of Compliance. Any applicant for a development permit for a low intensity use shall be in compliance with this section by submitting with the application for the development permit a certificate of compliance stating (i) that the author is a qualified critical area professional capable of identifying wetlands under the 1987 guidelines and determining the requirements of this section and (ii) the proposed structure or development is consistent with the requirements of this section. The county shall identify the process for a certificate of compliance through resolution.

(b) High Intensity Uses. Compliance with the requirements of this section shall be considered a material element of any permit approval. All technical analysis in connection with high intensity uses shall be by a qualified critical area professional.

(i) For projects requiring environmental review: Information demonstrating compliance with the standards of this section shall be submitted in connection with the environmental documents for all applications requiring environmental review and the environmental determination shall include a review of the material to determine an adequate demonstration of compliance with the requirements of this section. Enforcement of this section shall be pursuant to RCW 43.21C.065 and shall be material in any permit approval.

(ii) For projects exempt from environmental review: Information demonstrating compliance with the standards of this section shall be submitted in connection with the application documents for any development permit exempt from environmental review. A written finding of compliance, together with the reasons for such finding, shall be required in connection with the issuance of any county permit for a high intensity use.

(2) Other Agency Permits and Standards.

(a) Policy. The county desires to limit overlapping regulations and conflicting regulations. To this end, the county recognizes that a number of other permitting agencies do take steps to protect wetland areas. Where permits identified below are obtained in connection with a project in the county, the standards and/or approvals obtained in conjunction with such permits and approvals shall be "protective" of the wetland critical area and shall be deemed in compliance with the requirements of this chapter to the extent regulated by the permit in question.

Where any conflicts exist, requirements of the permits listed below shall supersede the provisions of LCC 17.35.600, 17.35.610 and 17.35.620.

(b) Permits Protective of Wetland Systems, Functions, and Values.

(i) An individual permit granted pursuant to Section 10 of the Rivers and Harbors Act of 1399, 33 USC § 403, or Section 404 of the Clean Water Act, 33 USC § 1344, by the U.S. Army Corps of Engineers or Nationwide Permit 21 (mines).

The standards of this chapter shall apply to all county permits for a project; provided, however, such county provision may be deleted or modified to reflect the federal requirement where the listed permit specifically addressed the issues of wetland and buffer protection.

(ii) An individual water quality certification given pursuant to Section 401 of the Clean Water Act by the Washington State Department of Ecology.

The standards of this chapter shall apply to all county permits for a project; provided, however, such county provision may be deleted or modified to reflect the federal requirement where the listed permit specifically addressed the issues of wetland and buffer protection.

(iii) Class I, II, or III forest practice permits and Class IV special permits issued by the Washington State Department of Natural Resources pursuant to the State Forest Practices Act.

(iv) Any agricultural practice which is the subject of a “resource conservation plan” approved by the Natural Resources Conservation Service which specifically incorporates recommended best management practices as a prerequisite to participating in specified federal farm programs.

(v) Any permit for substantial development in the shorelines of the state or of statewide significance which is consistent with the state Shoreline Management Act and the master program for Lewis County where wetland identification and protection has been specifically addressed. The standards of this chapter shall be a guideline for shoreline permits, but may be varied where required to meet shoreline goals and requirements. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150A, 1996; Ord. 1150 § 4.1(F), 1996]

17.35.640 References.

The following references provide an indication of wetland locations. Field conditions shall be used to determine the existence or extent of any wetland area. Reference sources:

(1) National Wetland Inventory USGS quadrangle maps on file at the county offices.

(2) Natural Resources Conservation Service, soils map for Lewis County, hydric soils designations. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150A, 1996; Ord. 1150 § 4.1(G), 1996]

Article IV(B). Fisheries Habitat

17.35.650 Identification.

Lewis County’s policy is to protect fisheries habitat as part of habitat conservation areas classified pursuant to Article IV(C) of this chapter for endangered, threatened, or sensitive species listed by the Washington State Department of Fish and Wildlife. Lewis County adopts the Department of Natural Resources’ Official Water Type Maps. Definitions are as identified in the water typing criteria in WAC 222-16-030; provided, however, that artificially created structures, ditches, canals, ponds, irrigation return ditches, and storm water channels of every type shall not be considered a stream for purposes of this section. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.2(A), 1996]

17.35.660 Classification.

Streams are classified Type 1-5 for critical area protection purposes based on the water typing criteria in WAC 222-16-030 as adopted by the state in June 1993 and summarized in Table 1 below. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.2(B), 1996]

TABLE 1

Water Typing Criteria, WAC 222-16-030

Water Type	1	2	3	4	5
Channel Width	N/A	20' or greater between ordinary high water mark (OHWM)	Anadromous fish: 5' or wider between OHWM. Resident game fish: 10' or wider between OHWM	2' or wider between OHWM	<2' between OHWM
Gradient	N/A	<4% (<5% for off-channel drainages).	Anadromous fish:<12%. Not upstream of a falls >10' high. Resident game fish: <12%	N/A	N/A
Flow	N/A	N/A	Anadromous fish: N/A Resident game fish:>0.3 CFS at summer low flow.	N/A	N/A

Water Type	1	2	3	4	5
Impoundment	N/A	Water surface area of 1 acre or greater at seasonal low flow.	Anadromous fish: Surface area <1 acre at seasonal low flow. Resident game fish: Surface area <0.5 acres at seasonal low flow.	N/A	N/A
Fisheries	N/A	Used by substantial numbers of anadromous or resident game fish for spawning, rearing and migration.	Used by significant numbers of anadromous or resident game fish for spawning, rearing, and migration.	Not used by significant numbers of fish.	Not used by significant numbers of fish
Diversions	N/A	Domestic use for 100 or more residences or campsites accommodation facility for 100 or more persons—includes upstream reach of 1,500' or until the drainage area is <50%, whichever is less.	Domestic use for 10 or more residences or camp-sites, accommodation facility for 10 or more persons—includes up-stream reach of 1,500' or until the drainage area is <50%, whichever is less.	N/A	N/A
Other	All water within OHWM inventoried as "Shore-lines of the State" excluding related wetlands (typically 20 CFS)	Streams flowing through campgrounds available to the public having 30 campsites or more.	Contributes > 20% of the flow to a Type 1 or 2 water. Anadromous fish impoundments have outlet to stream with anadromous fish.	All natural waters not classified as Type 1, 2, or 3 and for the purpose of protecting down-stream waters	All natural water not classified as Type 1,2,3,or 4, or seepage areas, ponds, and drainageways having short runoff periods

17.35.670 Allowed activities in streams and buffers.

(1) The following uses are specifically allowed in streams and buffer areas subject to the priorities, protection, and mitigation requirements of this article:

- (a) Utility lines and facilities, regional transmission facilities, local delivery systems, and hydroelectric generating facilities where reasonable nonstream alternatives are unavailable;
- (b) Public and private roadways and railroad facilities, including bridge construction and culvert installation, where reasonable nonstream alternatives are unavailable;
- (c) Maintenance, repair, or operation of existing structures, facilities, or improved areas, including minor modification of existing serviceable structures within a buffer zone where modification does not adversely impact stream-based functions;
- (d) Development activities allowed by permits issued in conjunction with LCC 17.35.700(1) and (2);
- (e) Single-family residence and ordinary residential improvements on an existing legal lot within the buffer only where alternatives outside the buffer are unavailable;
- (f) Regional storm water detention/ retention facilities, identified in an adopted plan of an appropriate public agency.

(2) The following uses might be necessary to fully enjoy and understand fisheries habitats or to provide resource activities and are permitted without any specific protection or mitigation other than may be identified in an applicable permit.

- (a) Conservation, preservation, or enhancement projects to protect functions and values of the critical area system, including activities and mitigation allowed pursuant to the mitigation priorities identified in LCC 17.35.030(4);

- (b) Outdoor recreational or educational activities which do not significantly affect the function of the fisheries habitat or regulated buffer (including wildlife management or viewing structures, outdoor scientific or interpretive facilities, trails, hunting blinds, etc.);
- (c) Harvesting wild crops which do not significantly affect the function of the fisheries habitat or regulated buffer (does not include tilling of soil or alteration of fisheries habitat area);
- (d) Existing and on-going agricultural activities, including maintenance of existing ditches and ponds;
- (e) Golf courses in buffers only where at least 60 percent of the area of the required buffer is left undisturbed and at least required buffer is left undisturbed and at least 75 percent of the stream perimeter remains bounded by a minimum 25-foot-wide undisturbed buffer;
- (f) Bank protection and flood protection, including flow control structures for regional retention/detention systems;
- (g) In-stream fish and/or wildlife habitat enhancement.

(3) Stream relocation when a plan is submitted as part of the critical area study which demonstrates that the following criteria are met:

- (a) The relocation will not significantly degrade water quality, fish or wildlife habitats, or aquifer recharge (if hydrologically connected to a wetland);
- (b) The plan must contain and show the following information: a topographic survey showing existing and proposed topography and location of the new stream channel; and provisions for landscaping and long-term maintenance and for filling and revegetating the prior channel, if appropriate;
- (c) Relocation will maintain or improve the functions and values of the fisheries habitat system;
- (d) Natural materials and vegetation normally associated with the stream will be utilized;
- (e) Spawning, rearing, and nesting areas will be created, if appropriate;
- (f) Fish populations directly affected by the activity will be re-established, if appropriate;
- (g) Current water flow characteristics compatible with fish habitat areas will be maintained. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.2(C), 1996]

17.35.680 Protection.

(1) Standard Buffer Width Requirements. The buffers for streams regulated under this article shall be distinguished between urban and rural characteristics. For purposes of this section, urban streams are those portions of streams which are contained within an urban growth boundary as designated by the county. Rural streams are those portions of streams which lie outside an urban growth boundary as designated by the county.

(a) Widths for required rural stream buffers:

Stream Type	High Intensity Uses	Low Intensity Uses
Type 1	100 feet	50 feet
Type 2	100 feet	50 feet
Type 3	100 feet	50 feet
Type 4	50 feet	25 feet
Type 5*	25 feet	25 feet

*(natural watercourse only)

(b) Widths for required urban stream buffers (where storm water is contained through an approved storm drain system):

Stream Type	High Intensity Uses	Low Intensity Uses
Type 1	100 feet	50 feet
Type 2	75 feet	50 feet
Type 3	50 feet	50 feet
Type 4	25 feet	25 feet
Type 5*	10 feet	10 feet

*(natural watercourse only)

(c) Measurement. For streams, the buffer shall be measured horizontally in a landward direction from the ordinary high water mark. Where lands adjacent to a stream display a continuous slope of 50 percent or greater, the buffer shall include such sloping areas. For Type 1, 2, and 3 streams, where the horizontal distance of the sloping area is greater than the required standard buffer, the buffer shall be extended to a point 25 feet beyond the top of the bank of the sloping area.

(2) Allowed Alteration to Buffers.

(a) Averaging Buffer Widths. The width of a buffer 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:

- (i) Averaging will not impair or reduce the habitat, water quality purification and enhancement, storm water detention, ground water recharge, shoreline protection, erosion protection, and other functions of the stream and buffer;
- (ii) The total area of the buffer on the subject property is not less than the buffer which would be required if averaging was not allowed;
- (iii) No part of the width of the buffer is less than 50 percent of the required width or 25 feet, whichever is greater.

(b) Buffer Width Reduction. Buffer widths may be reduced if the buffer is enhanced in accordance with the following requirements:

- (i) Buffers, or buffers reduced after buffer averaging, will have a minimal function or lue based on existing physical characteristics; va
- (ii) The applicant demonstrates that the proposed buffer enhancement, together with proposed buffer width reduction, will result in an increase in the functions and values of the buffer when compared with the functions and values of the standard buffer;
- (iii) The applicant includes a comparative analysis of buffer values prior to and after enhancement, and demonstrates compliance with this section;
- (iv) The buffer width is not reduced below 50 percent of the standard buffer width or 25 feet, whichever is greater, and the total buffer area reduction is not less than 75 percent of the total buffer area before reduction;

(v) The functions and values of the stream protected by the buffer are not decreased. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.2(D), 1996]

17.35.690 Mitigation conditions.

(1) County Permits. Unless otherwise provided by this section, mitigation shall be required for loss of area or function and value of streams and buffers regulated under this section. When mitigation is required by this section, it shall address restoration, rehabilitation, and compensation in accordance with the following requirements:

(a) Restoration is required when a stream or buffer regulated under this section has been altered prior to project approval unless the alteration was authorized by law, or when streams and/or buffers are temporarily affected by construction or any other temporary phase of a project.

(b) Mitigation is required when a stream or buffer regulated under this section is permanently altered as a result of project approval or activity.

(c) On-site mitigation is preferred so as to assure that the plan results in mitigation for direct impacts resulting from the alteration.

(d) Off-site mitigation will be used only in those situations where appropriate, adequate on-site mitigation is not reasonable or desirable to achieve. Off-site mitigation is allowed where it better serves the purposes of this chapter. When off-site mitigation is allowed, it must occur within the same subdrainage basin as the project impact.

(e) Mitigation shall be completed prior to granting of final occupancy, or the completion or final approval of any development activity for which mitigation measures have been required. Bonding at 150 percent of the cost of uncompleted activities is an acceptable alternative to completion where a contract to complete the work is in force. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.2(E), 1996]

17.35.700 Processing.

(1) County Permits.

(a) Low Intensity Uses - Certificate of Compliance. Any applicant for a development permit for a low intensity use shall be in compliance with this section by submitting with the application for the development permit a certificate of compliance stating (i) that the author is qualified to identify streams under state guidelines and determine the requirements of this section and (ii) the proposed structure or development is consistent with the requirements of this section.

(b) High Intensity Uses. Compliance with the requirements of this section shall be considered a material element of any permit approval. All technical analysis in connection with high intensity uses shall be by a qualified critical area professional.

(i) For projects requiring environmental review: Information demonstrating compliance with the standards of this section shall be submitted in connection with the environmental documents for all applications requiring environmental review and the environmental determination shall include a review of the material to determine an adequate demonstration of compliance with the requirements of this section. Enforcement of this section shall be pursuant to RCW 43.21C.065 and shall be material in any permit approval.

(ii) For projects exempt from environmental review: Information demonstrating compliance with the standards of this section shall be submitted in connection with the application documents for any development permit exempt from environmental review. A written finding of compliance, together with the reasons for such finding, shall be required in connection with the issuance of any county permit for a high intensity use.

(2) Other Agency Permits and Standards.

(a) Policy. The county desires to limit overlapping regulations and conflicting regulations. To this end, the county recognizes that a number of other permitting agencies do take steps to protect stream areas. Where permits identified below are obtained in connection with project in the county, the standards and approvals

obtained in conjunction with such permits and approvals shall be “protective” of the stream critical area and shall be deemed in compliance with the requirements of this chapter to the extent regulated by the permit in question.

Where any conflicts exist, such requirements shall supersede the provisions of LCC 17.35.670, 17.35.680 and 17.35.690.

(b) Permits Protective of Stream Systems, Functions, and Values.

(i) An individual permit granted pursuant to Section 10 of the Rivers and Harbors Act of 1899, 33 USC § 403, or Section 404 of the Clean Water Act, 33 USC § 1344, by the U.S. Army Corps of Engineers or Nationwide Permit 21 (mines).

(ii) An individual water quality certification given pursuant to Section 401 of the Clean Water Act by the Washington State Department of Ecology.

(iii) Class I, II, or III forest practice permits and Class IV special permits issued by the Washington State Department of Natural Resources pursuant to the State Forest Practices Act.

(iv) Any agricultural practice which is the subject of a “resource conservation plan” approved by the Natural Resources Conservation Service which specifically incorporates recommended best management practices as a prerequisite to participating in specified federal farm programs.

(v) Any permit for substantial development in the shorelines of the state or of state-wide significance which is consistent with the state Shoreline Management Act and the master program for Lewis County where stream identification and protection has been specifically addressed. The standards of this chapter shall be a guideline for shoreline permits, but may be varied where required to meet shoreline goals and requirements. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.2(F), 1996]

17.35.710 References.

The following references provide an indication of fisheries resources. Field conditions shall be used to determine the existence or extent of any classified stream area. Reference sources:

(1) DNR base maps for stream types and topography;

(2) WDFW Washington Rivers Information System, Salmon and Steelhead Inventory. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.2(G), 1996]

Article IV(C). Wildlife Habitat

17.35.720 Identification.

Lewis County adopts the Washington State Department of Fish and Wildlife Priority Habitats and Species Recommendations for Species and Habitats, listed at WAC 232-12-014 (Endangered); WAC 232-12-001 (Threatened) or WAC 232-12-011 (Sensitive); WAC 232-12-292 (Bald Eagle) or federally designated threatened or endangered species legally applicable to Lewis County by appropriately adopted regulation. The purpose of this section shall be the protection of such habitat consistent with the property rights of the property owners and occupants of Lewis County. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.3(A), 1996]

17.35.730 Classification.

The designation of a site as a wildlife critical habitat area shall apply to those lands where (1) the habitat in fact exists, (2) the habitat is in fact used for at least two consecutive seasons prior to the permit application, and (3) (within the urban area) the species will likely continue to use the habitat once full urbanization is reached (the 20-year buildout). [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.3(B), 1996]

17.35.740 Allowed activities in critical wildlife areas and buffers.

(1) The following uses are specifically allowed in critical wildlife habitat or buffer areas subject to the priorities, protection, and mitigation requirements of this article:

- (a) Utility lines and facilities, hydroelectric generating facilities, regional transmission facilities, and local delivery systems where no reasonable alternatives are available;
 - (b) Public and private roadways and railroad facilities, including bridge construction and culvert installation, where reasonable nonwetland alternatives are unavailable;
 - (c) Maintenance, repair, or operation of existing structures, facilities, or improved areas, including minor modification of existing serviceable structures within a buffer zone where modification does not adversely impact critical wildlife area functions and values;
 - (d) Development activities allowed by permits issued in conjunction with LCC 17.35.770(1) and (2);
 - (e) Single-family residence and ordinary residential improvements on an existing legal lot where no alternative outside the buffer is available;
 - (f) Regional storm water detention/ retention facilities, identified in an adopted plan of an appropriate public agency where no reasonable nonwildlife habitat alternative is available.
- (2) The following uses are necessary to fully enjoy and understand critical wildlife habitat areas or to provide resource activities and are permitted without any specific protection or mitigation other than may be identified in an applicable permit:
- (a) Conservation, preservation, or enhancement projects to protect functions and values of the critical area system, including activities and mitigation allowed pursuant to the mitigation priorities identified in LCC 17.35.030(4);
 - (b) Outdoor recreational or educational activities which do not significantly affect the function of the critical wildlife area or buffer (including wildlife management or viewing structures, outdoor scientific or interpretive facilities, trails, hunting blinds, etc.);
 - (c) Harvesting wild crops which do not significantly affect the function of the critical wildlife area or buffer (does not include alteration of a critical wildlife area);
 - (d) Existing and on-going agricultural activities, including maintenance of existing ditches and ponds;
 - (e) Golf courses in buffers only where at least 60 percent of the area of the required buffer is left undisturbed;
 - (f) Bank protection and flood protection, including flow control structures for regional retention/detention systems.
- (3) Habitat relocation when a plan is submitted as part of the critical area study which demonstrates that the following criteria are met:
- (a) The relocation will improve the critical area wildlife habitats;
 - (b) The plan must contain and show the following information: a topographic survey showing existing and proposed topography and location of the new habitat, and provisions for landscaping and long-term maintenance;
 - (c) Relocation will maintain or improve critical wildlife area habitat functions and values;
 - (d) Natural materials and vegetation normally associated with the habitat system will be utilized;
 - (e) Feeding, rearing, and nesting areas will be created, if applicable;
 - (f) Threatened, endangered, or sensitive species will be reestablished, if applicable;

(g) Critical wildlife area characteristics compatible with relevant threatened, endangered, or sensitive species habitat areas will be restored. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.3(C), 1996]

17.35.750 Protection.

(1) Lewis County adopts the recommendations of WDFW Management Recommendations for Washington's Priority Habitat and Species, May 1991, as may be amended, for guidelines for habitat protection and buffer creation and maintenance for listed species.

(2) Consideration. In reviewing any land use development permit application involving a property on which priority habitat is located and to accomplish the priorities and protections of this chapter, the administrator shall consider conditioning any approval consistent with recommendations derived from criteria and recommendations from the WDFW Management Recommendations for Washington's Priority Habitat and Species in the context of the location and importance of the parcel in the protection of the species identified. This provision does not apply to intentionally or unintentionally created habitat areas which were created in nonhabitat areas as a result of agricultural, forest, or mineral resource activities.

(3) Order of Precedence.

(a) Urban Areas. In urban areas the buffers in this wildlife habitat section will take precedence over other critical area buffers where:

(i) The habitat area is over one acre in size;

(ii) The listed species is in fact present; and

(iii) The Department of Fish and Wildlife can demonstrate a reasonable likelihood that the species in question is likely to remain on the site once full urbanization is reached (the 20-year buildout).

(b) Rural Areas. In rural areas the buffers for all critical areas shall be overlapping and the most restrictive shall apply. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.3(D), 1996]

17.35.760 Mitigation conditions.

(1) County Permits. Unless otherwise provided by this section, mitigation shall be required for loss of area or functions and values of wildlife habitat regulated under this section. When mitigation is required by this section, it shall address restoration, rehabilitation, and alternatives in accordance with the following requirements:

(a) Restoration is required when a wildlife habitat regulated under this section has been altered prior to project approval unless the alteration was authorized by law; or when wildlife habitats are temporarily affected by construction or any other temporary phase of a project.

(b) Mitigation is required when a wildlife habitat regulated under this section is permanently altered as a result of project approval or activity.

(c) On-site mitigation is preferred so as to assure that the plan results in mitigation for direct impacts resulting from the alteration.

(d) Off-site mitigation will be used only in those situations where appropriate, adequate on-site mitigation is not reasonable or desirable to achieve. Off-site mitigation is allowed where it better serves the purposes of this chapter. When off-site mitigation is allowed, it must occur within the same subbasin as the project impact.

(e) Mitigation shall be completed prior to granting of final occupancy, or the completion or final approval of any development activity for which mitigation measures have been required. Bonding at 150 percent of the cost of uncompleted activities is an acceptable alternative to completion where a contract to complete the work is in force. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.3(E), 1996]

17.35.770 Processing.

(1) County Permits. Where a critical area wildlife habitat is not dealt with in a permit identified in the above section, compliance with the requirements of this section shall be considered a material element of any permit approval.

Adverse effects shall be mitigated to ensure continuation of baseline populations for all priority species and any other species of local importance. Baseline populations are those population levels known to have been supported by the area in question with relative stability over the decade preceding the proposed development. Creation of isolated subpopulations of those species shall be avoided.

(a) Low Intensity Uses - Certificate of Compliance. Any applicant for a development permit for a low intensity use shall be in compliance with this section by submitting with the application for the development permit a certificate of compliance stating (i) that the author is qualified to identify critical habitat areas under state guidelines and determine the requirements of this section and (ii) the proposed structure or development is consistent with the requirements of this section.

(b) High Intensity Uses. Compliance with the requirements of this section shall be considered a material element of any permit approval. All technical analysis in connection with high intensity uses shall be by a qualified critical area professional.

(i) For projects requiring environmental review: Information demonstrating compliance with the standards of this section shall be submitted in connection with the environmental documents for all applications requiring environmental review and the environmental determination shall include a review of the material to determine an adequate demonstration of compliance with the requirements of this section. Enforcement of this section shall be pursuant to RCW 43.21C.065 and shall be material in any permit approval.

(ii) For projects exempt from environmental review: Information demonstrating compliance with the standards of this section shall be submitted in connection with the application documents for any development permit. A written finding of compliance, together with the reasons for such finding, shall be required in connection with the issuance of any county permit for a high intensity use.

(2) Other Agency Permits and Standards.

(a) Policy. The county desires to limit overlapping regulations and conflicting regulations. To this end, the county recognizes that a number of other permitting agencies do take steps to protect wildlife areas. Where permits identified below are obtained in connection with a project in the county, the standards and approvals obtained in conjunction with such permits and approvals shall be deemed in compliance with the requirements of this chapter for priority wildlife areas to the extent regulated by the permit in question.

(i) An individual permit granted pursuant to Section 10 of the Rivers and Harbors Act of 1899, 33 USC § 403, or Section 404 of the Clean Water Act, 33 USC § 1344, by the U.S. Army Corps of Engineers or Nationwide Permit 21 (mines).

(ii) An individual water quality certification given pursuant to Section 401 of the Clean Water Act by the Washington State Department of Ecology.

(iii) Class I, II, or III forest practice permits and Class IV special permits issued by the Washington State Department of Natural Resources pursuant to the State Forest Practices Act.

(iv) Any agricultural practice which is the subject of a "resource conservation plan" approved by the Natural Resources Conservation Service which specifically incorporates recommended best management practices as a prerequisite to participating in specified federal farm programs.

(v) Any permit for substantial development in the shorelines of the state or of state-wide significance which is consistent with the state Shoreline Master Program and the master program for Lewis County where habitat identification and protection of the subject habitat and species of consideration has been specifically addressed. [Ord.1170B, 2000; Ord. 1157, 1998; Ord. 1150 §4.3(F), 1996]

17.35.780 Limitation on applicability.

(1) Wildlife Habitat Criteria. Wildlife habitat criteria are recommended by the Washington State Department of Fish and Wildlife. Such recommendations shall be mandatory only to the extent they are:

(a) Part of a program adopted as a regulation by WDFW;

- (b) Reasonably ascertainable; and
- (c) Properly applicable to the property in question.

In other cases the recommendations shall be considered guidelines and the county may follow specific recommendations of a qualified critical area professional as to the scope and nature of mitigation to achieve a protection of the habitat system, functions, and values at issue for the project.

(2) Limitation. Lewis County will not rule on the constitutional enforceability of specific standards set by the Washington State Department of Fish and Wildlife. Nothing in this chapter, however, shall limit a property owner from challenging the applicability, reasonableness, or ability of the state to impose certain habitat conditions to a particular property or project. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.3(G), 1996]

17.35.790 References.

- (1) Wildlife critical areas shall be field located based on applicable criteria.
- (2) Lewis County maintains a wildlife critical areas map which may be used as a general reference. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.3(H), 1996]

Article IV(D). Frequently Flooded Areas

17.35.800 Purpose.

The purpose of the frequently flooded areas article is to help the public and private sectors avoid losses due to flood conditions in specific areas. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.4(A), 1996]

17.35.810 Classification.

For the purposes of this chapter, frequently flooded areas within Lewis County shall be classified using the following criteria: Frequently flooded areas shall be those lands identified by the Federal Emergency Management Agency as those areas falling within the 100-year frequency floodplain in the Flood Insurance Study for Lewis County, Washington, Unincorporated Areas, the most current version thereof with accompanying flood insurance rate maps and floodway maps. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.4(B), 1996]

17.35.820 Designation.

Lands within Lewis County meeting the classification criteria for frequently flooded areas are hereby so designated and subject to the standards and requirements set forth below. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.4(C), 1996]

17.35.830 Standards for permit decisions.

Development within designated frequently flooded areas shall be in compliance with Chapter 15.35 LCC, as now or hereafter amended, and/or the Lewis County shoreline management master program, as now or hereafter amended. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.4(D), 1996]

Article IV(E). Aquifer Recharge Areas

17.35.840 Purpose.

Once ground water is contaminated, it is difficult to clean and the cost of cleanup may be prohibitive. Since water, especially potable water, is such a vital resource, Lewis County will work to protect the water quality of its critical aquifers. Therefore, it is the policy of Lewis County to accomplish the following:

- (1) To prevent significant degradation of ground water resources;
- (2) To recognize the potential connection between surface and ground water resources;
- (3) To balance competing needs for water under regulated activities while preserving essential natural functions and processes;
- (4) To comply with Chapter 90.48 RCW, the Water Pollution Control Act of the state of Washington. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.5(A), 1996]

17.35.850 Classification.

Aquifer recharge areas are categorized according to the following standards and those contained in Table 2.

(1) Category I - Severe Aquifer Sensitivity. "Category I - Severe aquifer sensitivity" are those areas which provide rapid recharge with little protection, having highly permeable soils. The predominant soil series and types are those listed in Category I in Table 2.

(2) Category II - Moderate Aquifer Sensitivity. "Category II - Moderate aquifer sensitivity" are those areas with aquifers present, but which have a surface soil material that encourages run-off and slows water entry into the ground. The predominant soil series and types are those listed as Category II in Table 2.

TABLE 2

Aquifer Sensitivity Rating for Lewis County Soil Types

Soil Survey Map No. & Soil Series/Name	Category I Severe	Category II Moderate	Category III Slight
1. Alvor			X
2. Andaquepts			X
3. Andic Xerumbrepts			X
4. Aquic Xerofluvents	X		
5. Astoria			X
6-10. Baumgard		X	
11-15. Bellicum		X	
16-20. Benham		X	
21-22. Boistfort			X
23-25. Bromo		X	
26-28. Buckpeak			X
29-30. Bunker			X
31-41. Cattcreek		X	
42-44. Centralia			X
45-46. Centralia Variant			X
47-48. Chehalis		X	
49-56. Cinebar		X	
57-60. Cispus		X	
61. Cloquato	X		
62-69. Colter		X	
70-74. Cotteral		X	
75. Cryaquepts			X
76. Cryohemists			X
77-78. Dobbs			X

	Soil Survey Map No. & Soil Series/Name	Category I Severe	Category II Moderate	Category III Slight
79-83.	Domell			X
84.	Doty		X	
85.	Elochman			X
86-87.	Ferteg			X
88.	Fluvaquentic Humaquepts	X		
89-90.	Galvin		X	
91.	Glenoma	X		
92.	Greenwater	X		
93-98.	Hatchet			X
99-103.	Hoffstadt			X
104.	Indianola	X		
105-107.	Jonas			X
108-110.	Katula			X
111-113.	Katula-Bunker Complex			X
114-115.	Katula - Rock Outcrop			X
116-117.	Klaber		X	
118-120.	Lacamas			X
121 -122.	Lates			X
123.	Ledow	X		
124-125.	Lytell			X
126-127.	Mal			X
128-129.	Mashel			X
130-132.	Melbourne		X	
133.	Mossyrock		X	
134.	Murnen			X
135.	National	X		
136-137.	Nesika	X		
138-139.	Netrac	X		
140-144.	Nevat		X	
145-147.	Newaukum		X	
148.	Newberg	X		
149.	Nisqually	X		
150-151.	Ohana			X

Soil Survey Map No. & Soil Series/Name		Category I Severe	Category II Moderate	Category III Slight
152-154.	Olequa		X	
155-158.	Olympic		X	
159-165.	Pheeneey			X
166.	Pits	X		
167-169.	Prather		X	
170.	Puget		X	
171.	Puyallup	X		
172-173.	Reed		X	
174-179.	Reichel			X
180.	Riverwash	X		
181-185.	Rock outcrop			X
186.	Rubbleland			X
187-190.	Salkum			X
191 -192.	Sauvola			X
193-195.	Scamman		X	
196-203.	Schneider			X
204.	Schooley		X	
205.	Semiahmoo			X
206-207.	Siler	X		
208-211.	Skate	X		
212.	Spanaway	X		
213.	Squally		X	
214-220.	Stahl			X
221-223.	Swem			X
224.	Thrash			X
225-227.	Tradedollar		X	
228-229.	Vader			X
230-235.	Vailton			X
236.	Voight			X
237-239.	Walville			X
240-241.	Wilkeson			X
242-246.	Winston	X		
247.	Xerorthents, Spoils			X
248.	Xerorthents,		X	

	Soil Survey Map No. & Soil Series/Name	Category I Severe	Category II Moderate	Category III Slight
	Steep			
249.	Zenker			X
250-253.	Zynbar			X
254-255.	Zynbar Variant			X

(3) Category III - Slight Aquifer Sensitivity. "Category III - Slight aquifer sensitivity" are those areas of low ground water availability and whose soil series are derived from basaltic, andesitic, or sedimentary rock or ancient glacial till which are parent material for soils with more clays at the surface. These geological formations do not provide abundant ground water. The predominant soil series and types are those listed as Category III in Table 2. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.5(B), 1996]

17.35.860 Designation.

(1) Lands of Lewis County meeting the classification criteria for aquifer recharge areas are hereby officially designated, pursuant to the mandate of RCW 36.70A.060 and 36.70A.170 as critical aquifer recharge areas.

(2) Aquifer Recharge Areas - Rating System Determinations. In cases of disputed soil series, or series boundary, and resulting aquifer recharge category, the administrator shall use all available information including reports by the United States Geological Survey, and technical assessments submitted in accordance with Table 2 of this chapter to make the final determination. This may include consultation with the USDA Natural Resource Conservation Service, the Washington Department of Natural Resources Division of Geology and Earth Resources, or a soil scientist certified by the American Registry of Certified Professionals in agronomy, crops, and soils. In areas that have been disturbed or the surface soil removed, as in gravel pits, the administrator shall determine the most appropriate category with geological and hydrological information. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.5(C), 1996]

17.35.870 Allowed activities.

(1) The following uses are specifically allowed in aquifer recharge areas subject to the priorities, protection, and mitigation requirements of this article:

- (a) Utility lines and facilities, regional transmission facilities, and local delivery systems where reasonable nonaquifer recharge area alternatives are unavailable;
- (b) Public and private roadways and railroad facilities, including bridge construction and culvert installation, where reasonable nonaquifer recharge area alternatives are unavailable;
- (c) Maintenance, repair, or operation of existing structures, facilities, or improved areas, including, minor modification of existing serviceable structures where modification does not adversely impact aquifer recharge area functions;
- (d) Development activities allowed by permits issued in conjunction with LCC 17.35.900(1) and (2);
- (e) Single-family residence and ordinary residential improvements on an existing legal lot where nonaquifer recharge area alternatives are unavailable;
- (f) Regional storm water detention/ retention facilities, identified in an adopted plan of an appropriate public agency;
- (g) Golf courses.

(2) The following uses are necessary to fully enjoy and understand aquifer recharge areas or to provide resource activities and are permitted without any specific protection or mitigation other than may be identified in an applicable permit:

- (a) Conservation, preservation, or enhancement projects to protect functions and values of the critical area system, including activities and mitigation allowed pursuant to the mitigation priorities identified in LCC 17.35.030(4);
- (b) Outdoor recreational or educational activities which do not significantly affect the function of the aquifer recharge area (including wildlife management or viewing structures, outdoor scientific or interpretive facilities, trails, hunting blinds, etc.);
- (c) Harvesting wild crops which do not significantly affect the function of the aquifer recharge area;
- (d) Existing and on-going agricultural activities, including maintenance of existing ditches and ponds. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.5(D), 1996]

17.35.880 Protection.

- (1) Low Intensity Uses. Any development on aquifer sensitive soils shall:
 - (a) Prohibit buried tanks of any petroleum or hazardous material unless the tank is double wall protected;
 - (b) Prohibit the discharge of petroleum or hazardous materials to any ditch, swale, or other non-impervious surfaced area where migration to the aquifer is a reasonable likelihood;
 - (c) Require oil-water separators for any impervious surface areas 5,000 square feet or larger.
- (2) High Intensity Uses. High intensity uses shall have the same protective standards as low intensity standards and shall comply with additional requirements where specifically listed below, where using hazardous materials in excess of small quantity generator status, and shall comply with requirements identified on registered label or material safety data sheets.
- (3) Special High Intensity Uses. The uses in Table 3 shall be reviewed as high intensity uses within any aquifer recharge area regardless of the size, where any petroleum or hazardous wastes as defined in Chapter 123-303 WAC are used or stored in excess of limits identified in Lewis County health department health section consistent with Chapter 123-303 WAC, as a risk to ground water quality.
- (4) Additional Protection for Specified High Intensity Uses. The following protection standards shall apply to aquifer recharge area review and approval of uses or activities by the administrator set forth in LCC 17.35.870, above, within aquifer recharge areas. Certain uses and activities conducted within some aquifer sensitivity categories, as identified in Table 3 of this chapter will require the submission of a technical assessment to the administrator. The submission of additional information may also be required for some of the uses and activities identified within this subsection.

TABLE 3
High Intensity Uses within Aquifer Recharge Areas

	On Sewerage System			Not on Sewerage System		
	CATEGORY			CATEGORY		
	1	2	3	1	2	3
1. Biological Research	S	S	S	S	S	S
2. Chemical Manufacturing, Mixing and Remanufacturing	X/S	X/S	S	X	X	X

	On Sewerage System			Not on Sewerage System		
	CATEGORY			CATEGORY		
	1	2	3	1	2	3
3. Chemical Research	S	S	S	S	S	S
4. Chemical Waste Reprocessing	X/S	X/S	S	X	X	X
5. Dry Cleaning (not clothing pick-up)	S	S	S	X	X	X
6. Electroplating	S	S	S	X	X	X
7. Fabric Coating	S	S	S	S	S	S
8. Fiberglass Lamination Processes	S	S	S	S	S	S
9. Fuel Pipelines	S	S	S	S	S	S
10. Furniture Stripping	S	S	S	X/S	X/S	X/S
11. Garages - Municipal, County, State	S	S	S	X/S	X/S	X/S
12. Solid Waste Disposal Facilities	X	X	S	X	X	S
13. Metal Processing with Etchers and Chemicals	S	S	S	X	X	X
14. Printing and Publishing	S	S	S	S	S	S
15. Solid Waste Handling/Processing	S	S	S	S	S	S
16. Storage Tanks - Above Ground	S	S	S	S	S	S
17. Storage Tanks - Underground	S	S	S	S	S	S
18. Subdivision creating lots less than 2 acres in size	S	S	S	S	S	S
19. Tanning	S	S	S	X/S	X/S	X/S
20. Textile Dyeing	S	S	S	X/S	X/S	X/S
21. Vehicle Repair	S	S	S	S	S	S
22. Vehicle Wrecking	S	S	S	S	S	S
23. Wood Preservers	X/S	X/S	S	X/S	X/S	S
24. All other activities using, handling, or storing hazardous materials, or generating hazardous materials by their activities or actions	S	S	S	S	S	S
25. Activities requiring an NPDES permit for process water or generating a waste water stream exceeding single-family residential strength, quantity, or quality	S	S	S	X/S	X/S	X/S

Notes:

X = Prohibited.

On Sewerage System			Not on Sewerage System		
CATEGORY	CATEGORY		CATEGORY	CATEGORY	
1	2	3	1	2	3

S =Allowed subject to the standards of this chapter.

X/S = These uses shall be prohibited when proposed at the usual commercial or industrial scale. Small scale uses or using non-hazardous materials may be permitted when the quantity, nature of the materials used or stored on site, and mitigation methods proposed create no significant risk to ground water.

(a) Aboveground Storage. Aboveground storage of petroleum products, wastewater or hazardous substances or dangerous wastes as defined in Chapter 173-303 WAC, or any other substances, solids, or liquids in quantities identified by the Lewis County health department environmental health section, consistent with Chapter 173-303 WAC, as a risk to ground water quality, shall be designed, constructed, and operated so as to:

- (i) Prevent the release of such substances to the ground, ground waters, or surface waters; and
- (ii) Have around and under it an impervious secondary containment area enclosing or underlying the container or part thereof;
- (iii) Provide a written spill response plan, when requested, and give immediate spill notification to the Lewis County health department environmental health section;
- (iv) Provide readable labeling as to contents and hazardous characteristics.

(b) Underground Storage Tanks and Vaults. Underground storage tanks and vaults used for the storage of petroleum products, wastewater, or hazardous substances or dangerous wastes as defined in Chapter 173-303 WAC, or any other substances, solids, or liquids in quantities identified by the Lewis County health department environmental health section, consistent with Chapter 173-303 WAC, as a risk to ground water quality, shall conform to Chapter 173-360 WAC and be designed, constructed and operated so as to:

- (i) Prevent release, corrosion, or structural failure for the operational life of the tank or vault;
- (ii) Be cathodically protected against corrosion, constructed of noncorrosive material, or steel clad with a noncorrosive material, or designed in a manner to prevent the release or threatened release of any stored substance;
- (iii) Use material in the construction or lining of the tank which is compatible with the substance to be stored;
- (iv) Provide for release detection method(s);
- (v) Provide a written spill response plan, when requested, and give immediate spill notification to the Lewis County health department environmental health section.

(c) Solid Waste Disposal. Landfills and other solid waste disposal facilities shall demonstrate that such facilities will not significantly impact ground water resources. In order to make such a determination, the administrator shall require the following information from the applicant:

- (i) Geologic setting and soils information of the site and the surrounding area;
- (ii) Water quality data, including pH, temperature, conductivity, nitrates, and bacteria;

- (iii) Location and depth of any perched water tables;
- (iv) Recharge potential of the facility in terms of permeability and transmissivity;
- (v) Local ground water flow, direction, and gradient;
- (vi) Location, depth, and other water quality data mentioned in subsection (4)(c)(ii) of this section on the three shallowest wells or springs located within 1,000 feet of the site;
- (vii) Surface water locations within 1,000 feet of the site;
- (viii) Discussion of the effects of the proposed project on ground water quality and quantity;
- (ix) Recommendations on appropriate mitigation, if any, to assure that there is no significant effect on the quality of ground water;
- (x) Provisions for contaminant release detection.

All lands on which the report indicates the proposed development would probably negatively impact the quality of the aquifer shall be prohibited unless the report can satisfactorily demonstrate that these negative impacts would be overcome in such a manner as to prevent significant affect on the quality of ground water.

(d) Junk Yards, Salvage Yards, Wrecking Yards, and Recycling Centers. Commercial and noncommercial enterprises in this category shall show that an adverse impact on ground water quality will not occur. To ensure such impact will not occur, the administrator shall require the following:

- (i) A written management plan that will describe the “best management practices” to be used to prevent the contamination of ground water and/or soil. The written plan will be located at the site and must be made available upon request by the administrator during normal business hours;
- (ii) Site specific geologic and soils information indicating the recharge potential of the facility site in terms of permeability and transmissivity;
- (iii) Location and depth of any perched water tables;
- (iv) Ground water quality monitoring may be required in cases where ground water contamination is considered likely or strongly suspected. Said monitoring will be conducted at the expense of the property owner and/or occupying business or enterprise having conducted the activities identified in this subsection;
- (v) Identification of permanent and temporary or seasonal surface water bodies on the site and within 1,000 feet of the site.

(e) Divisions of Land. Subdivisions, short subdivisions, and other divisions of land shall be evaluated for their impact on ground water quality. The following measures may be required as determined by the Lewis County health department environmental health section:

- (i) An analysis of the potential nitrate loading to the ground water may be required to assess the impact on ground water quality;
- (ii) Alternative site designs, phased development, and/or ground water quality monitoring may be required to reduce contaminant loading where site conditions indicate that the proposed action will measurably degrade ground water quality;
- (iii) Open spaces may be required on development proposals overlying areas highly susceptible to contamination of ground water resources;

(iv) Community/public water systems are encouraged and may be required where site conditions indicate a high degree of potential contamination to individual wells from on-site and off-site sources;

(v) Where wells are required to be abandoned, the applicant shall ensure that they are abandoned according to state guidelines;

(vi) It may be required that contaminants be removed from storm water runoff prior to their point of entry into surface or ground water resources using available and reasonable best management practices as approved by the Lewis County engineer.

(f) Storm Water Standards for Commercial and Industrial Uses. All new commercial and industrial land uses which either: (i) have greater than 5,000 square feet of impervious area; or (ii) handle, store; dispose, transport, or generate hazardous substances or wastes defined as dangerous or extremely dangerous wastes under Chapter 173-303 WAC (regardless of quantity), which may come in contact with storm water runoff including, but not limited to, gas stations and distributors, car washes, trucking companies, and paint shops, shall remove contaminants prior to their entry into surface or ground water resources using available and reasonable best management practices. Standard drywells are prohibited. Maintenance of storm water infiltration systems must be assured as a condition of permit approval.

(g) Parks, Schools, and Recreation Facilities. Fertilizer, herbicide, and pesticide management practices of schools, parks, golf courses, and other nonresidential facilities that maintain large landscaped areas shall be evaluated in relation to best management practices as recommended by the Cooperative Extension Service.

(h) Utility Transmission Facilities. New or expanded utility facilities which carry oil, gas, or any hazardous substance as defined by Chapter 173-303 WAC shall provide hydrogeologic information in addition to spill prevention measures and an emergency spill management plan.

(i) Sewage Sludge and Septage Disposal. Sewage sludge and septage disposal shall be prohibited within Category I aquifer recharge areas. Disposal within Category II and III aquifer recharge areas shall be subject to the requirements of 40 CFR Part 503, Subpart A;

(j) Hazardous Substances and Petroleum Activities. All other activities or actions involving the use, handling, storage, or generation of any amount of hazardous materials shall be subject to the protection standards set forth in Chapter 173-303 WAC.

Waste oil generating activities shall be subject to the provisions of Chapter 70.95I RCW.

Facilities with more than one 55-gallon drum or 450 pounds of hazardous substances or petroleum products on site at any one time shall:

(i) Keep and follow a written spill response plan; and

(ii) Establish a written best management practices plan that is site specific to prevent contamination of the environment.

Facilities shall report any significant spill out of containment to the Lewis County health department environmental health section within seven days of that spill. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.5(E), 1996]

17.35.890 Mitigation conditions.

(1) Mitigation Conditions. In addition to the conditions set forth in LCC 17.35.880(1) through (4), the administrator may require additional conditions which ensure that the specific use or activity will not significantly degrade ground water quality. Such conditions may include, but are not limited to the following:

(a) A written management plan for wastewater, hazardous products and hazardous waste, petroleum products and petroleum waste, and other materials judged by the administrator to be detrimental to ground water quality, that when implemented using best management practices, will prevent ground water contamination;

(b) Upgrading available on-site spill response equipment;

- (c) Employee spill response training;
- (d) Emergency service coordination measures;
- (e) Ground water monitoring. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.5(F), 1996]

17.35.900 Processing.

(1) County Permits.

(a) Low Intensity Uses - Certificate of Compliance. Any applicant for a development permit for a low intensity use shall be in compliance with this section by submitting with the application for the development permit a certificate of compliance stating (i) that the author is qualified to identify aquifer recharge areas under state guidelines and determine the requirements of this section and (ii) the proposed structure or development is consistent with the requirements of this section.

(b) High Intensity Uses. Compliance with the requirements of this section shall be considered a material element of any permit approval. All technical analysis in connection with high intensity uses shall be by a qualified critical area professional.

(i) For projects requiring environmental review: Information demonstrating compliance with the standards of this section shall be submitted in connection with the environmental documents for all applications requiring environmental review and the environmental determination shall include a review of the material to determine an adequate demonstration of compliance with the requirements of this section. Enforcement of this section shall be pursuant to RCW 43.21C.065 and shall be material in any permit approval.

(ii) For projects exempt from environmental review: Information demonstrating compliance with the standards of this section shall be submitted in connection with the application documents for any development permit exempt from environmental review. A written finding of compliance, together with the reasons for such finding, shall be required in connection with the issuance of any county permit for a high intensity use.

(2) Other Agency Permits and Standards.

(a) Policy. The county desires to limit overlapping regulations and conflicting regulations. To this end, the county recognizes that a number of other permitting agencies do take steps to protect aquifer recharge areas.

Where permits identified below are obtained in connection with a project in the county, the standards and approvals obtained in conjunction with such permits and approvals shall be “protective” of the aquifer recharge critical area and shall be deemed in compliance with this chapter to the extent regulated by the permit in question.

Where any conflicts exist, such requirements shall supersede the provisions of LCC 17.35.870, 17.35.880 and 17.35.890.

(b) Permits Protective of Aquifer Recharge Functions.

(i) An individual permit granted pursuant to Section 10 of the Rivers and Harbors Act of 1899, 33 USC § 403, or Section 404 of the Clean Water Act, 33 USC § 1344, by the U.S. Army Corps of Engineers or Nationwide Permit 21 (mines).

(ii) An individual water quality certification given pursuant to Section 401 of the Clean Water Act by the Washington State Department of Ecology.

(iii) Class I, II, or III forest practice permits and Class IV special permits issued by the Washington State Department of Natural Resources pursuant to the State Forest Practices Act.

(iv) Any agricultural practice which is the subject of a “resource conservation plan” approved by the Natural Resources Conservation Service which specifically incorporates recommended best management practices as a prerequisite to participating in specified federal farm programs.

(v) Any permit for substantial development in the shorelines of the state or of state-wide significance which is consistent with the state Shoreline Management Act and the master program for Lewis County where aquifer recharge area identification and protection has been specifically addressed. The standards of this chapter shall be a guideline for shoreline permits, but may be varied where required to meet shoreline goals and requirements. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.5(G), 1996]

Article IV(F). Geologically Hazardous Areas

17.35.910 Purpose.

It is the purpose of this article to minimize hazards to the public from development activities on or adjacent to areas of geological hazard. For purposes of this chapter, geologically hazardous areas include the following: erosion hazard areas, landslide hazard areas, seismic hazard areas, mine hazard areas, and volcanic hazard areas. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.6(A), 1996]

17.35.920 Erosion and landslide hazard areas.

(1) Classification of Erosion and Landslide Hazard Areas.

(a) Erosion hazard areas are those areas that have a severe or very severe erosion potential as detailed in the soil descriptions contained in the Soil Survey of Lewis County Area, Washington, 1987, Soil Conservation Service, USDA.

(b) Landslide hazard areas are those areas meeting any of the following criteria:

(i) Areas of historic failure, such as areas designated as quaternary slumps, earthflows, mudflows, or landslides on maps published as the United States Geological Survey or Department of Natural Resources Division of Geology and Earth Resources;

(ii) Areas which are rated as unstable due to characteristics of the earth material and topography;

(iii) Any area with all of the following:

(A) A slope greater than 15 percent, and

(B) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock, and

(C) Springs or ground water seepage;

(iv) Slopes that are parallel or sub-parallel to planes of weakness;

(v) Slopes having gradients greater than 80 percent subject to rockfall during seismic shaking;

(vi) Areas potentially unstable as a result of rapid stream incision and streambank erosion;

(vii) Areas located in a canyon, on an alluvial fan, or presently or potentially subject to inundation by debris flows or catastrophic flooding;

(viii) Areas included in the Slope Stability Study of the Centralia-Chehalis Area, Lewis County, Washington by Allen J. Fiksdal, Department of Natural Resources, Division of Geology and Earth Resources, 1978: Areas mapped as “unstable,” “landslides,” and “old landslides” (if slopes are in excess of 30 percent);

(ix) Areas located outside the study area on the Slope Stability Study of the Centralia-Chehalis Area, regardless of slope, that are mapped as “landslide debris” in the following Open File Reports and maps at a scale of 1:100,000 available from the Washington State Department of Natural Resources, Division of Geology and Earth Resources:

(A) Open File Report 87-11, Centralia Quadrangle, by H.S. Schasse, 1987,

- (B) Open File Report 87-16, Mount Rainier Quadrangle, by H.S. Schasse, 1987,
- (C) Open File Report 87-4, Mount St. Helens Quadrangle, by W.M. Phillips, 1987,
- (D) Open File Report 87-8, Chehalis River and Westport Quadrangle, by R.L. Logan, 1987,
- (E) Open File Report 87-5, Mount Adams Quadrangle, by M.A. Korosec, 1987,
- (F) Open File Report 87-2, Astoria and Ilwaco Quadrangle, by T.J. Walsh, 1987.

(2) Designation of Erosion and Landslide Hazard Areas. Lands of Lewis County meeting the classification criteria for erosion and landslide hazard areas are hereby, under Chapter 36.70A RCW, designated as erosion and landslide hazard areas.

(3) Applicability.

(a) When any provision of any other ordinance of Lewis County conflicts with this section, that provision which is intended for erosion and landslide hazard areas shall apply unless specifically provided otherwise in this chapter.

(b) The provisions of this section shall apply to any land use development permits in a landslide hazard area; provided, however, (i) that the expansion of preexisting structures shall be exempt so long as the intrusion into an erosion or landslide hazard area does not increase and (ii) these provisions do not apply to permits for single-family homes on existing lots of record where no alternative siting is available and the siting is approved by a professional engineer with regard to safety to the applicant and to down-gradient structures or population.

(4) Maps and Inventory.

(a) Erosion Hazard Areas. This chapter shall apply to all lots and parcels on which an erosion hazard area is located within the jurisdiction of Lewis County. The approximate location and extent of erosion hazard areas is displayed in the Soil Survey of Lewis County Area, Washington, 1987, Soil Conservation Service, USDA.

(b) Landslide Hazard Areas. See subsections (1)(b)(viii) and (ix) of this section.

(c) The soil survey may be relied upon by the administrator as a basis for requiring field investigation and special reports. In the event of a conflict between information contained in the soil survey and information shown as a result of a field investigation, the latter shall prevail.

(d) The maps and reports cited in subsections (1)(b)(viii) and (ix) of this section showing areas mapped as "landslide debris," "landslides," "old landslides," "modified land," "intermediate," and "unstable" should be used only as a general guide for landslide hazard investigation. Detailed site investigations may be needed for site specific hazard identification and regulation.

(5) Development Standards for Erosion and Landslide Hazard Areas. Uses and activities subject to a land use development permit shall conform to the following standards.

(a) Grading.

(i) Clearing, grading, and other construction activities shall not aggravate or result in slope instability or surface sloughing;

(ii) Undergrowth shall be preserved to the extent feasible;

(iii) No dead vegetation (slash), fill, or other foreign material shall be placed within a landslide hazard area, other than that approved for bulkheads or other methods of streambank stabilization under the shoreline master program or if such fill is consistent with authorized activities specified in a geotechnical report;

- (iv) Minimize ground disturbance to the extent feasible.
- (b) Ground Surface Erosion Control Management.
- (i) There shall be minimum disturbance of vegetation in order to minimize erosion and maintain existing stability of hazard areas;
 - (ii) Vegetation removal on the slopes of banks between the ordinary high water mark and the top of the banks shall be minimized because of the potential for erosion;
 - (iii) Vegetation and organic soil material shall be removed from a fill site prior to the placement of clean earthen material;
 - (iv) Vegetative cover shall be reestablished on any disturbed surface to the extent feasible;
 - (v) Groundcovers (approved geotechnical controls) such as filter fabrics, rip-rap, etc. shall be placed on any disturbed surface to the extent feasible.
- (c) Drainage.
- (i) 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.
 - (ii) Storm water retention and detention systems, including percolation systems utilizing buried pipe are strongly discouraged unless a geotechnical assessment indicates such a system shall not affect slope stability and the systems are designed by a licensed civil engineer. The licensed civil engineer shall also certify that the systems are installed as designed.
- (d) On-Site Sewage Disposal System Drainfields. For the purpose of landslide or erosion control, the on-site sewage disposal system drainfields shall be located outside the hazard area and its buffer, unless otherwise justified by a qualified geotechnical engineer. The septic system drainfield must be in compliance with the regulations of the Lewis County health department or its successors.
- (e) Lot Size. For the purpose of determining lot sizes within hazard areas, the administrator shall review available information, including any required geotechnical assessments and make a decision on a case-by-case basis based on the reports.
- (f) Buffers.
- (i) An undisturbed buffer adequate to assure that risk of slide is reduced to levels acceptable to geotechnical engineers shall be required for all structures intended for human user occupation. The buffer shall be measured on the surface and is required from the top, toe, and along all sides of any existing landslide or erosion hazard area.
 - (ii) The buffer shall be clearly staked before any construction or clearing takes place.
- (g) Design Guidelines.
- (i) Structures should be clustered where possible to reduce disturbance and removal of vegetation.
 - (ii) Foundations should conform to the natural contours of the slope and foundations should be stepped/tiered where possible to conform to existing topography of the site.
 - (iii) Roads, walkways, and parking areas should be designed with low gradients or parallel to the natural contours of the site.

(iv) Access should be in the least sensitive area of the site.

(h) No critical facilities shall be constructed or located within an erosion or landslide hazard area. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.6(B), 1996]

17.35.930 Mine hazard areas.

(1) Classification of Mine Hazard Areas. Mine hazard areas are those areas within 50 horizontal feet of a mine opening at the surface or which are underlain at a depth of 100 feet or less by mine workings identified in the Washington State Department of Natural Resources, Division of Geology and Earth Resources, Open File Report 94-7, The Washington State Coal Mines Map Collection: A Catalog, Index, and User's Guide, by H.W. Schaase, M. Lorraine Koler, Nancy A. Eberle, and Rebecca A. Christie, 1994, 107 pages, and Open File Report 84-6, Inventory of Abandoned Coal Mines in the State of Washington, by F.V. LaSalata, M.C. Meard, T.J. Walsh, and H.W. Schaase, 1985, 42 pages.

(2) Designation of Mine Hazard Areas. Lands of Lewis County meeting the classification criteria for mine hazard areas are hereby, under Chapter 36.70A RCW, designated as mine hazard areas.

(3) Applicability.

(a) When any provision of any other ordinance of Lewis County conflicts with this section, that provision which is intended for mine hazard areas shall apply, unless specifically provided otherwise in this chapter.

(b) The provisions of this section shall apply only to land use development permits; provided, that the expansion of pre-existing structures shall be exempt so long as the intrusion into a mine hazard area does not increase.

(4) Maps and Inventory.

(a) Mine Hazard Areas. See subsection (1) of this section.

(b) The above referenced reports may be relied upon by the administrator as a basis for requiring field investigation and special reports. In the event of a conflict between the information shown in the reports and the results of a field investigation, the latter shall prevail.

(5) Development Standards for Mine Hazard Areas. Development on or near a mine hazard area requires applicant to first demonstrate that no hazard to health or safety, persons, or property exists at the proposed site as a result of the development. If a proposal is located on or near a mine hazard area, a geotechnical report may be required. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.6(C), 1996]

17.35.940 Seismic hazard areas.

(1) Classification of Seismic Hazard Areas. For the purposes of this classification, a seismic hazard area is any area subject to a Seismic Risk Zone 3 rating or higher.

(2) Designation of Seismic Hazard Areas. Lands of Lewis County meeting the criteria for seismic hazard areas are hereby, under Chapter 36.70A RCW, designated as seismic hazard areas.

(3) Applicability.

(a) When any provision of any other ordinance of Lewis County conflicts with this section, that provision which is intended for seismic hazard areas shall apply unless specifically provided otherwise in this chapter.

(b) The provisions of this section shall apply to land use development permits; provided, that the expansion of preexisting structures and facilities shall be exempt so long as the hazard to health or safety, persons, or property does not increase.

(4) Maps and Inventory.

(a) All of Lewis County lies within Seismic Risk Zones D0 and D1, as established by the International Building and Residential Codes.

(b) The administrator may require site specific field studies or special reports for the location of critical facilities within seismic hazard areas.

(5) Development Standards for Seismic Hazard Areas. All development within areas that meet the classification criteria for seismic hazard areas shall comply with the International Residential Code and International Building Code requirements for Seismic Risk Zones D0 and D1 as adopted by Lewis County. No other permits are required by this chapter for seismic hazards. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.6(D), 1996]

17.35.950 Volcanic hazard areas.

(1) Classification of Volcanic Hazard Areas. Volcanic hazard areas are areas where the risk to life and property by a large volcanic event is high. These areas in Lewis County include: debris flow, mudflow, and volcanic-induced flooding zones. Volcanic hazards in Lewis County are imposed by the two nearby volcanic peaks, Mount St. Helens and Mount Rainier, which lie sufficiently far from the county that risks of lava flows, pyroclastic flows, and volcanic ashfall deposits are extremely minimal. Mudflows and debris flows which occur in the drainage basins that headwater on active volcanos, Mt. St. Helens and Mt. Rainier, are described in the following reports:

(a) Development and Routing of Mudflow Resulting from Hypothetical Failure of Spirit Lake Debris Dam, Washington, by D.L. Kresch, Water Resource Investigations Report 91-4028, U.S. Geological Survey, 1992, 29 pages.

(b) Sedimentology, Behavior, and Hazards of Debris Flows at Mount Rainier, Washington, by K.M. Scott, P.T. Pringle, and J.W. Vallance, Open-File Report OP-90-0385, U.S. Geological Survey, 1992, 106 pages.

(2) Designation of Volcanic Hazard Areas. Lands of Lewis County meeting the classification criteria for volcanic hazard areas are hereby, under Chapter 36.70A RCW, designated as volcanic hazard areas.

(3) Applicability.

(a) When any provision of any other ordinance of Lewis County conflicts with this section, that provision which is intended for volcanic hazard areas shall apply unless specifically provided otherwise in this chapter.

(b) The provisions of this section shall apply only to all land use development permits; provided, that the expansion of preexisting structures and facilities shall be exempt so long as the hazard to health or safety, persons, or property does not increase.

(4) Maps and Inventory.

(a) Volcanic Hazard Areas. See subsection (1) of this section.

(b) The reports cited in subsection (1) of this section may be relied upon by the administrator as a basis for requiring field investigations and special reports. In the event of a conflict between information contained in said reports and information shown as a result of a field investigation, the latter shall prevail.

(5) Development Standards for Volcanic Hazard Areas.

(a) No critical facilities shall be constructed or located in volcanic hazard areas.

(b) Other development shall comply with existing Federal Emergency Management Agency regulations. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.6(E), 1996]

Chapter 17.35A
CRITICAL AREAS*

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*Code reviser's note: Ord. 1204 adds a new Chapter 17.35A, Critical Areas, that shall apply to all activities except agricultural uses.

Article I. Purpose

17.35A.010 Statement of authority and title.

This chapter is established pursuant to RCW 36.70A.060 and shall be known as the Lewis County critical areas ordinance. [Ord. 1204 Exh. A § 2, 2008]

17.35A.020 Statement of purpose and goals.

The purpose of this chapter is to identify and protect the functions and values of critical areas using the best available science, protect human health and safety, and give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries as required by the Growth Management Act (RCW 36.70A.172) by supplementing the development regulations contained in various ordinances of Lewis County and other applicable state and federal laws by providing additional controls and measures to protect critical areas and human health and safety. This chapter is adopted under the authority of Chapters 36.70 and 36.70A RCW.

This chapter is premised on a perceived community vision that calls for minimum critical areas designations and protection standards, consistent with the requirements of Chapter 36.70A RCW.

The intent of this chapter is to achieve the goal of protecting critical areas while facilitating the processing of relevant land use and development applications in a timely fashion with minimum intrusion on individual freedom, with a maximum of consistency and predictability.

This chapter balances the requirements and goals of critical areas protection and use of best available science with other Growth Management Act goals identified by the county in consideration of local goals and circumstances to provide for growth in the community and direct economic development, plan for housing, business centers and open space/parks, and provide adequate public services and capital facilities as growth occurs. [Ord. 1204 Exh. A § 2, 2008]

17.35A.030 Statement of policy.

(1) It is a policy of Lewis County that the beneficial functions, structures, and values of critical areas be protected as identified in this chapter, and further that potential dangers or public costs associated with inappropriate use of such areas be eliminated or substantially reduced by reasonable regulation of uses within, adjacent to, or directly affecting such areas. Reasonable regulation shall be achieved by the balancing of individual and collective interests.

(2) The county-wide planning policies identified private property rights as the primary priority and all applications of this chapter shall be cognizant and consistent with private property rights.

(3) No permit granted pursuant to this chapter shall remove an applicant's obligations with respect to applicable provisions of any other federal, state, or local law or regulation, including, but not limited to, the acquisition of any other required permit or approval.

(4) Mitigation Priorities.

(a) Avoid the impact altogether by not taking a certain action or parts of any action where reasonable noncritical area alternatives are available;

(b) Minimize 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;

(c) Rectify the impact by repairing, rehabilitating, or restoring the affected environment;

(d) Reduce or eliminate the impact over time by preservation and maintenance of critical area functions during the life of the action;

(e) Compensate for the impact by replacing, enhancing, or providing substitute resources or environments in lieu of critical areas impacted; and/or

(f) Monitor the impact and take appropriate corrective measures where appropriate.

(5) Mitigation Application.

(a) Lewis County respects the right of property owners to use their property consistent with the guidelines presented. Priorities in subsection (4) of this section are preferences to guide development and application of this code and may be mixed to facilitate reasonable use of property, with increasing mitigation applied to the greater impacts to protect the functions, systems, and values identified.

(b) The priorities in subsection (4) of this section shall not be used to deny a permit for activities specifically authorized in critical areas or buffers where reasonable noncritical area alternatives are not available as specified in LCC 17.35A.530.

(6) The assessor is required to consider the impacts on property values including the restrictions in this chapter in assessing property in Lewis County.

(7) Existing property uses will be regulated only to the extent necessary to protect the ecological functions of critical areas and protect human health and safety.

(8) This chapter will apply to alteration to any critical area or related buffer defined herein; provided, that review shall be incorporated, wherever possible, in review of existing development permits required by Lewis County. [Ord. 1204 Exh. A § 2, 2008]

17.35A.040 Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

- (1) Liberally construed to serve the purpose of this chapter.
- (2) Deemed neither to limit nor repeal any other powers under state statute.
- (3) Considered in the review of impacts under the State Environmental Policy Act (SEPA) to determine whether the requirements for environmental analysis and mitigation measures in these provisions provide adequate mitigation for some or all of the project's specific adverse environmental impacts to which the requirements apply, and specifically whether a proposed use or activity poses an unusual or extraordinary risk to a critical area system. [Ord. 1204 Exh. A § 2, 2008]

17.35A.050 Duration.

The development regulations for critical areas, as set forth in this chapter, shall be reviewed during consideration of the implementing regulations for the Lewis County comprehensive plan, adopted pursuant to Chapter 36.70A RCW. [Ord. 1204 Exh. A § 2, 2008]

17.35A.060 Judicial review.

Judicial review of any final decision made hereunder shall be appealable pursuant to the Land Use Appeals Act, Chapter 36.70C RCW. [Ord. 1204 Exh. A § 2, 2008]

Article II. Definitions

17.35A.070 Administrator.

“Administrator” means the planning manager of the Lewis County department of community development or his or her designee.

Forest practices not regulated under Chapter 76.90 RCW and WAC Title 222 are not included in this definition. [Ord. 1204 Exh. A § 2, 2008]

17.35A.080 Alluvial fan hazard.

“Alluvial fan” means a low, outspread, relatively flat to gently sloping deposit of sediment and organic debris, shaped like an open fan or segment of a cone, deposited by streams or debris flows where they issue from narrow, steep valleys upon a plain or broad valley or wherever the gradient of the stream suddenly decreases. An alluvial fan hazard is present where: (1) the flow path below the hydrographic apex is uncertain, (2) abrupt deposition and ensuing erosion of sediment may occur as a stream or debris flow loses its competence to carry material eroded from a steeper, upstream source area, and (3) an environment where the combination of sediment availability, slope, and topography creates a hazardous condition. [Ord. 1204 Exh. A § 2, 2008]

17.35A.085 Alteration.

“Alteration” means a human-induced action which materially affects a regulated critical area, such as a physical change to the existing condition of land or improvements containing, but not limited to, construction, clearing, filling, and grading. [Ord. 1204 Exh. A § 2, 2008]

17.35A.090 Aquifer.

“Aquifer” means a saturated permeable geologic unit that can transfer substantial quantities of water under ordinary hydraulic gradients. [Ord. 1204 Exh. A § 2, 2008]

17.35A.095 Aquifer recharge area.

“Aquifer recharge area” means the area in which rainwater and other surface waters percolate downward through surface soil and underlying geologic formations that are permeable enough to allow significant additions of water to an underlying aquifer. [Ord. 1204 Exh. A § 2, 2008]

17.35A.100 Best management practices (BMPs) - Wetlands section.

“Best management practices (BMPs),” for the wetlands section, means conservation practices or systems of practices and management measures that:

- (1) Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxics, and sediment; and
- (2) Minimize adverse impacts to surface water and ground water flow, circulation patterns, and to the chemical, physical, and biological characteristics of wetlands. [Ord. 1204 Exh. A § 2, 2008]

17.35A.105 Best management practices (BMPs) - Aquifer recharge areas section.

“Best management practices (BMPs),” for the aquifer recharge areas section, means physical, structural, and/or managerial practices that when used singly, or in combination, prevent or reduce the adverse environmental impacts to or pollution of ground water. Such practices may include schedules of activities, prohibitions of practices, maintenance procedures, and other management practices, to prevent or reduce pollution of ground water. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage, leaks, sludge, or water disposal, or drainage for raw material storage. [Ord. 1204 Exh. A § 2, 2008]

17.35A.110 Buffer - Geologically hazardous area.

For the purpose of the geologically hazardous area section, a “buffer” is an area established to protect the integrity or functions and values of a geologically hazardous area from potential adverse impacts. [Ord. 1204 Exh. A § 2, 2008]

17.35A.115 Buffer - Stream, wetland and habitat critical areas.

For purposes of the wetland, stream, and habitat critical area sections, a “buffer” means an undisturbed area of native vegetation that is contiguous to and provides an area for related ecological functions to take place including, but not limited to, the continued maintenance, functioning, and/or structural stability of the wetland, stream, and habitat and/or separates and protects the ecological functions from adverse impacts associated with nearby land uses and shall reflect the sensitivity of the resource and the type and intensity of human activity. [Ord. 1204 Exh. A § 2, 2008]

17.35A.116 Buffer - Geologically hazardous areas.

For purposes of geologically hazardous areas, a “buffer” means an undisturbed area preserved to provide an assurance that activities that subject people or property to risk will be located out of the area of influence of landslides or similar geological hazards and for the protection of native vegetation to provide slope stability and reduce the risk of erosion. [Ord. 1204 Exh. A § 2, 2008]

17.35A.120 Classification.

“Classification” means defining value and hazard categories to which critical areas will be assigned. [Ord. 1204 Exh. A § 2, 2008]

17.35A.121 Channel migration zone (CMZ).

“Channel migration zone” means the area along a river or stream within which the channel can reasonably be expected to migrate over time as a result of normally occurring processes. It encompasses that area of lateral stream channel movement that can be identified by credible scientific information that is subject to erosion, bank destabilization, rapid stream incision, and/or channel shifting, as well as adjacent areas that are susceptible to channel erosion. For the purpose of this code, linear facilities parallel to the direction of flow, including roads and railroads and flood control levees permanently maintained by a public agency, may be considered to form the boundary of a channel migration zone. [Ord. 1204 Exh. A § 2, 2008]

17.35A.125 Clearing.

“Clearing” means the removal of timber, brush, grass, ground cover, or other vegetative matter from a site, which exposes the soil. [Ord. 1204 Exh. A § 2, 2008]

17.35A.130 Commercially viable use of land.

“Commercially viable use of land” means a use which will return an economic return to the land and for which commercial financing is normally and reasonably available. The fact that other uses may create a higher return or land value is irrelevant. [Ord. 1204 Exh. A § 2, 2008]

17.35A.135 Compensation project.

“Compensation project” means actions necessary to replace project-induced critical area and associated buffer losses, including land acquisition, planning, construction plans, monitoring, and contingency actions. [Ord. 1204 Exh. A § 2, 2008]

17.35A.140 Critical area functions.

“Critical area functions” means the physical, chemical, and biological processes or attributes of a critical area. [Ord. 1204 Exh. A § 2, 2008]

17.35A.145 Critical area values.

“Critical area values” means the critical area processes or attributes that are valuable or beneficial to society. [Ord. 1204 Exh. A § 2, 2008]

17.35A.150 Critical areas.

“Critical areas” means all wetlands, frequently flooded areas, aquifer recharge areas, fish and wildlife habitat conservation areas, and geologically hazardous areas, as those terms are used and defined herein. [Ord. 1204 Exh. A § 2, 2008]

17.35A.155 Critical facilities.

“Critical facilities” means facilities for which a significant chance of damage as a result of a geological hazard would be too great. Critical facilities include, but are not limited to, schools; hospitals; police, fire, and emergency response installations; nursing homes; and installations which produce, use, or store hazardous materials or hazardous waste. [Ord. 1204 Exh. A § 2, 2008]

17.35A.160 Dangerous wastes.

“Dangerous wastes” means those wastes designated in WAC 173-303-070 through 173-303-120 as dangerous or extremely hazardous or mixed waste. As used in Chapter 173-303 WAC, the words “dangerous waste” will refer to the full universe of wastes regulated by that chapter, and will be used interchangeably with “hazardous waste.” [Ord. 1204 Exh. A § 2, 2008]

17.35A.165 Debris flow.

“Debris flow” means the rapidly down-slope-moving mass of a viscous water-saturated mixture of rock fragments, soil, and mud, with more than half of the particles being larger than sand size. [Ord. 1204 Exh. A § 2, 2008]

17.35A.170 Designation.

“Designation” means taking a formal legislative action to adopt classifications, inventories, and regulations. [Ord. 1204 Exh. A § 2, 2008]

17.35A.175 Determination.

“Determination” means an action by an agency or individual qualified in the science of identification and delineation of a critical area to identify, characterize, and/or locate a critical area. [Ord. 1204 Exh. A § 2, 2008]

17.35A.180 Erosion control.

“Erosion control” means on-site and off-site control measures that are needed to control conveyance and/or deposition of earth, turbidity or pollutants after development, construction, or restoration. [Ord. 1204 Exh. A § 2, 2008]

17.35A.185 Erosion hazard areas, severe.

“Erosion hazard areas, severe” means those areas identified by the United States Department of Agriculture Soil Conservation Service as having “severe” rill and inter-rill erosion hazard and areas subject to severe streambank erosion. [Ord. 1204 Exh. A § 2, 2008]

17.35A.186 Erosion hazard areas, moderate.

“Erosion hazard areas, moderate” means those areas identified by the United States Department of Agriculture Soil Conservation Service as having “moderate” rill and inter-rill erosion hazard. [Ord. 1204 Exh. A § 2, 2008]

17.35A.190 Extraordinary hardship.

“Extraordinary hardship” means the strict application of this chapter and/or programs adopted to implement this chapter by the administrator would cause or create severe financial loss, unreasonable safety risk, or health harm to the party seeking exception, waiver, or variance under this chapter. [Ord. 1204 Exh. A § 2, 2008]

17.35A.195 Fish and wildlife habitat conservation areas.

“Fish and wildlife habitat conservation areas” means land area which meets the definition thereof pursuant to WAC 365-190-080(5) and includes all lands within the following categories:

- (1) Areas with which endangered, threatened, and sensitive species have a primary association including areas with which “priority species” as defined by the Washington Department of Fish and Wildlife have a primary association.
- (2) “Priority habitats” as identified by the Washington Department of Fish and Wildlife. Priority habitats are areas with one or more of the following attributes pertaining to state species listed as endangered or threatened: comparatively high wildlife density, high wildlife species richness, significant wildlife species richness, significant wildlife breeding habitat, significant wildlife seasonal ranges, significant movement corridors for wildlife, limited availability, and/or high vulnerability.
- (3) Naturally occurring ponds under 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 years’ duration, and landscape amenities. However, naturally occurring ponds shall include those artificial ponds intentionally created with the approval of a regulatory authority from dry areas to mitigate adverse impact upon other ponds.
- (4) Lakes, ponds, streams, and rivers planted with game fish as defined by RCW 77.08.020, including fish planted under the auspices of federal, state, local, or tribal programs, or which support priority fish species as identified by the Washington Department of Fish and Wildlife.
- (5) Habitats and species of local importance as designated in this chapter.
- (6) Waters of the state as defined in WAC Title 222.
- (7) State natural area preserves and natural resource conservation areas. [Ord. 1204 Exh. A § 2, 2008]

17.35A.205 Flood - Flooding.

“Flood” or “flooding” means a general or temporary condition of partial or complete inundation of normal dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of runoff of surface waters from any source. [Ord. 1204 Exh. A § 2, 2008]

17.35A.210 Forest practice.

“Forest practice” means any activity regulated by Chapters 222-12 through 222-50 WAC. [Ord. 1204 Exh. A § 2, 2008]

17.35A.215 100-year flood - Base flood.

“100-year flood” or “base flood” means the flood having a one percent chance of being equaled or exceeded in any given year. For purposes of this chapter, Lewis County adopts the Federal Emergency Management Act (FEMA) flood hazard classifications. [Ord. 1204 Exh. A § 2, 2008]

17.35A.220 Frequently flooded areas.

“Frequently flooded areas” means the floodways and associated floodplains in the latest edition of the Federal Emergency Management Agency Flood Insurance Rate Maps (FIRMs) for Lewis County or the best available information based on past flood records or special studies. [Ord. 1204 Exh. A § 2, 2008]

17.35A.225 Geologically hazardous areas.

“Geologically hazardous areas” means areas that, because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns. [Ord. 1204 Exh. A § 2, 2008]

17.35A.230 Ground water.

“Ground water” means that part of the subsurface water that is in the zone of saturation (below the water table), as distinct from vadose water (above the water table). [Ord. 1204 Exh. A § 2, 2008]

17.35A.235 Habitat management plan.

“Habitat management plan” means a plan prepared for a regulated wildlife habitat critical area and intended to provide for the site-specific protection of endangered, threatened, and sensitive species and their habitats. The plans are to be based on the unique characteristics of the species, as well as surrounding land uses in relation to the proposed activity and landowner goals. [Ord. 1204 Exh. A § 2, 2008]

17.35A.238 Hazard tree.

“Hazard tree” means any tree that is susceptible to immediate fall due to its condition (damaged, diseased, or dead) or other factors, and which because of its location is at risk of damaging permanent physical improvements to property or causing personal injury. [Ord. 1204 Exh. A § 2, 2008]

17.35A.240 Hazardous substances.

“Hazardous substances” means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical, or biological properties described in WAC 173-303-090 or 173-303-100. [Ord. 1204 Exh. A § 2, 2008]

17.35A.245 High intensity uses.

“High intensity uses” means uses which by their nature have the potential for substantial effect on critical areas. High intensity uses, where applicable, are defined separately in regulations for individual critical areas. [Ord. 1204 Exh. A § 2, 2008]

17.35A.250 Hydric soil.

“Hydric soil” means a soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of a hydric soil shall be determined following the methods described in the Washington State Wetland Identification and Delineation Manual (RCW 36.70A.175). [Ord. 1204 Exh. A § 2, 2008]

17.35A.252 Impervious surface.

“Impervious surface” means a hard surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development or that causes water to run off the surface in greater quantities or at an increased rate of flow compared to natural conditions prior to development. Common impervious surfaces may include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of storm water. [Ord. 1204 Exh. A § 2, 2008]

17.35A.253 Incidental amounts.

“Incidental amounts” means amounts unlikely to create negative health and/or safety impacts. [Ord. 1204 Exh. A § 2, 2008]

17.35A.254 Infiltration.

“Infiltration” means the downward entry of water into the immediate surface of soil. [Ord. 1204 Exh. A § 2, 2008]

17.35A.255 In-kind compensation.

“In-kind compensation” means to replace critical areas with substitute areas whose characteristics and functions mirror those destroyed or degraded by a regulated activity. [Ord. 1204 Exh. A § 2, 2008]

17.35A.260 Land use development permits or approvals.

“Land use development permits” means all approvals by Lewis County for land alteration or change in use, including, but not limited to, subdivision approvals including short plats, preliminary plat approvals, shoreline substantial development permits, site plans for mobile home parks, building permits for any new structure or which increase an existing structure’s floor area by more than 10 percent or 500 square feet, whichever is less; building permits for structures that have associated grading or filling activity; and road approval permits. [Ord. 1204 Exh. A § 2, 2008]

17.35A.265 Landslide hazard areas.

“Landslide hazard areas” means areas potentially subject to landslides based on a combination of geologic, topographic, and hydrogeologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. [Ord. 1204 Exh. A § 2, 2008]

17.35A.270 Low intensity uses.

“Low intensity uses” means uses which by their nature generally have a low level of adverse effect on critical areas. Low intensity uses, where applicable, are defined separately in regulations for individual critical areas. [Ord. 1204 Exh. A § 2, 2008]

17.35A.275 Mine hazard areas.

“Mine hazard areas” means areas underlain by, adjacent to, or affected by mine workings such as adits (mine entrances), gangways (hauling tunnels), drafts, or air shafts. [Ord. 1204 Exh. A § 2, 2008]

17.35A.280 Mitigation.

“Mitigation” means actions taken to replace, compensate for, or enhance critical area functions impacted by a land use development permitted under this chapter. Mitigation may include individual actions or a combination of actions generally falling into the following classification, listed in order of preference:

- (1) Avoiding an impact altogether by not taking a certain action or parts of actions;
- (2) Minimizing impacts by limiting the degree or magnitude of an action and its implementation;
- (3) Rectifying impacts by repairing, rehabilitating, or restoring the affected environment;
- (4) Reducing or eliminating an impact over time by preservation and maintenance operations during the life of the action;
- (5) Compensating for an impact by replacing or providing substitute resources or environments; and
- (6) Monitoring the mitigation and taking remedial action when necessary. [Ord. 1204 Exh. A § 2, 2008]

17.35A.281 Mitigation - Creation (establishment).

“Creation” means the manipulation of the physical, chemical, or biological characteristics within a critical site where the resource did not previously exist. Establishment results in a gain in area. For example, activities related to wetlands typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species. [Ord. 1204 Exh. A § 2, 2008]

17.35A.282 Mitigation - Enhancement.

“Enhancement” is the manipulation of the physical, chemical, or biological characteristics of a site to heighten, intensify, or improve specific ecologic function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in some ecological functions and can lead to a decline in other ecological functions, but does not result in a gain in area. For example, activities related to wetlands typically consist of planting vegetation, controlling nonnative or invasive species, modifying site elevations or the proportion of open water to influence hydroperiods, or some combination of these activities. [Ord. 1204 Exh. A § 2, 2008]

17.35A.283 Mitigation - Re-establishment.

“Re-establishment” means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historical functions to a former wetland. Re-establishment results in a gain in wetland acres (and functions). For example, activities related to wetlands could include removing fill material, plugging ditches, or breaking drain tiles. [Ord. 1204 Exh. A § 2, 2008]

17.35A.284 Mitigation - Rehabilitation.

“Rehabilitation” means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions of a degraded wetland. Rehabilitation results in a gain in ecological function but does not result in a gain in area. For example, activities related to wetland mitigation could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland. [Ord. 1204 Exh. A § 2, 2008]

17.35A.285 Mitigation - Restoration.

“Restoration” means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historical functions to a former or degraded wetland. For the purpose of tracking net gains in wetland acres, restoration is divided into re-establishment and rehabilitation. Re-establishment represents a net gain in acres while rehabilitation does not. [Ord. 1204 Exh. A § 2, 2008]

17.35A.286 Moderate intensity uses.

“Moderate intensity uses” means uses which by their nature generally have a moderate level of adverse effect on critical areas. Moderate intensity uses, where applicable, are defined separately in regulations for individual critical areas. [Ord. 1204 Exh. A § 2, 2008]

17.35A.287 Mudflow.

“Mudflow” is a general term for a mass-movement landform and a process characterized by a flowing mass of predominantly fine-grained earth material possessing a high degree of fluidity during movement. If more than half of the solid fraction of such a mass consists of material larger than sand size, the term “debris flow” is preferable. The water content of mudflows may range up to 60 percent with increasing fluidity. Mudflows grade into muddy floods; with less fluidity, they grade into earthflows. [Ord. 1204 Exh. A § 2, 2008]

17.35A.290 Native vegetation.

“Native vegetation” means plant species which are indigenous to the site in question. [Ord. 1204 Exh. A § 2, 2008]

17.35A.295 Person.

“Person” means an individual, firm, copartnership, association, corporation, or other legal entity. [Ord. 1204 Exh. A § 2, 2008]

17.35A.300 Priority habitats.

“Priority habitats” means areas associated with a species listed as endangered, threatened or sensitive by the Washington Department of Fish and Wildlife Priority Habitat and Species Program and which, if altered, may reduce the likelihood that the species will maintain or increase its population over the long term. [Ord. 1204 Exh. A § 2, 2008]

17.35A.305 Priority habitat and species database.

“Priority habitat and species database” means the database for the Washington Department of Fish and Wildlife Priority Habitats and Species Program, which provides the following three products:

- (1) Lists of the Washington Department of Fish and Wildlife’s most important habitats and species;
- (2) Management recommendations for each priority habitat and species; and
- (3) Maps showing the geographic location of priority habitats and species. [Ord. 1204 Exh. A § 2, 2008]

17.35A.315 Priority species.

“Priority species” means animal species listed by the Washington Department of Fish and Wildlife Priority Habitats and Species Program that are of concern due to their low population and/or their sensitivity to habitat manipulation. [Ord. 1204 Exh. A § 2, 2008]

17.35A.320 Protection.

“Protection” means action to avoid or mitigate impacts to in order to preserve the structure, values, and functions of the natural environment. [Ord. 1204 Exh. A § 2, 2008]

17.35A.325 Pyroclastic flow.

“Pyroclastic flow” means the geologic process and products of hot clouds of ash, volcanic rock, and gas that flow rapidly downslope under gravity. [Ord. 1204 Exh. A § 2, 2008]

17.35A.330 Qualified critical area professional.

“Qualified critical area professional” means a person or a team of persons with experience, education, and professional degrees and/or training pertaining to the critical area in question, and with experience in performing delineations, analyzing critical area functions and values, analyzing critical area impacts, and recommending critical area mitigation and restoration. The administrator may require professionals to demonstrate the basis for qualifications and shall make final determination as to qualifications.

(1) A qualified professional for wetlands must have a degree in biology, ecology, soil science, botany, or a closely related field and demonstrate professional experience in wetland identification, delineation, and assessment in the Pacific Northwest. Qualified professionals preparing wetland mitigation plans must have, in addition to the qualifications above, demonstrated professional experience in hydrology and other disciplines essential to the success of mitigation plans. This expertise may be provided in a team of qualified professionals each of which has expertise in relevant areas.

(2) A qualified professional for habitat conservation areas must have a degree in wildlife biology, ecology, fisheries, or closely related field and demonstrated professional experience related to the subject species/habitat type.

(3) A qualified professional for geologically hazardous areas must be a professional geologist, a professional engineering geologist or a professional engineer, with specific education and demonstrated professional competence related to geologic hazards. For mine hazard assessment, a qualified professional must be a professional mining engineer, or other professional engineer with demonstrated professional competence related to mine hazards. For foundation design for mine hazard areas, a qualified professional must be a professional engineer with demonstrated professional competence related to foundation design.

(4) A qualified professional for critical aquifer recharge areas means a Washington State licensed hydrogeologist, geologist, or a professional engineer, with specific education and demonstrated professional competence related to ground water hazards.

(5) A qualified professional for frequently flooded areas means a Washington State licensed engineer or land surveyor (for documentation of lowest floor elevations, only), with specific education and demonstrated professional competence related to flood hazard assessment and construction requirements. [Ord. 1204 Exh. A § 2, 2008]

17.35A.335 Relative density.

“Relative density” is a method for evaluating the density of trees in relation to the theoretical maximum density for trees of the same size and species. It is preferable to a simple density (trees/acre) because it is a more accurate measure of occupied growing space and suppression mortality. Relative density equals the basal area of all trees in the stand divided by the square root of the quadratic mean diameter. [Ord. 1204 Exh. A § 2, 2008]

17.35A.336 Secondary containment.

“Secondary containment” must be:

(1) Impervious to the materials held in the primary container(s).

(2) Large enough to hold 100 percent of the material in the largest container, or 10 percent of the total volume of all containers, or whichever volume is larger.

(3) Large enough to also hold rainwater which would reasonably be expected to collect in 24 hours during a major storm, if the containment is exposed to the weather. [Ord. 1204 Exh. A § 2, 2008]

17.35A.340 Seismic hazard areas.

“Seismic hazard areas” means areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, or surface faulting. [Ord. 1204 Exh. A § 2, 2008]

17.35A.345 Sensitive, endangered, threatened species.

Lewis County adopts the state definitions as set forth in WAC 232-12-001, 232-12-011, and 232-12-014. [Ord. 1204 Exh. A § 2, 2008]

17.35A.350 Septage waste.

“Septage waste” means septic tank or holding tank pumpage which has not been subject to a wastewater treatment process. [Ord. 1204 Exh. A § 2, 2008]

17.35A.355 Sewage sludge.

“Sewage sludge” means semisolid matter consisting of settled sewage solids combined with varying amounts of water and dissolved material, remaining after the completion of wastewater treatment. [Ord. 1204 Exh. A § 2, 2008]

17.35A.360 Significant.

“Significant” means a condition which would have a negative impact on human health and/or safety or upon ecological functions as determined by a recognized authority. [Ord. 1204 Exh. A § 2, 2008]

17.35A.365 Significantly affect the quality.

“Significantly affect the quality” means a measurable impact on characteristics thereof, on a relative or absolute basis, of which more than a moderate level of effect is a reasonable probability. [Ord. 1204 Exh. A § 2, 2008]

17.35A.369 Storm water.

“Storm water” means that portion of precipitation that does not naturally percolate into the mound or evaporate, but flows via overland flow, interflow, pipes, and other features of a storm water drainage system into a defined surface water body, or a constructed facility. [Ord. 1204 Exh. A § 2, 2008]

17.35A.370 Storm water management facilities.

“Storm water management facilities” includes measures to control storm water flow and water quality, and may include, but is not limited to, ditches designed and intended primarily for conveyance, biofiltration swales, filter strips, bubble diffusers, detention ponds, retention ponds, wet ponds, and similar facilities. [Ord. 1204 Exh. A § 2, 2008]

17.35A.375 Streams.

“Streams” means those areas where naturally occurring surface waters flow sufficiently to produce a defined channel or bed which demonstrates clear evidence of the passage of water, including, but not limited to, bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed need not contain water during the entire year. This definition does not include watercourses that were created entirely by artificial means, such as irrigation ditches, canals, roadside ditches, or storm or surface water runoff features, unless the artificially created watercourse contains salmonids or conveys a stream that was naturally occurring prior to the construction of the artificially created watercourse. [Ord. 1204 Exh. A § 2, 2008]

17.35A.380 System function and values.

“System function and values” is a technical term used to identify the role of a critical area in a given area as opposed to its mere physical presence and size. It is used most often when comparing alternatives for mitigation purposes. [Ord. 1204 Exh. A § 2, 2008]

17.35A.381 Use.

“Use” means purpose for which a property is occupied and utilized, that may include a variety of activities related to the use. Uses may be categorized according to a variety of systems, in a number of manners that emphasize shared characteristics; land use is typically classified in terms of agricultural, residential, commercial, industrial, etc.; uses may be characterized in terms of high, moderate, and low intensity based on characteristics that impact other uses or activities. [Ord. 1204 Exh. A § 2, 2008]

17.35A.385 Utility lines.

“Utility lines” means a pipe, conduit, cable, or other similar facility by which services are conveyed to the public or individual recipients. Such services shall include, but are not limited to, water supply, electrical power, gas, communications, and storm water or sanitary sewer transport facilities. [Ord. 1204 Exh. A § 2, 2008]

17.35A.390 Volcanic hazard areas.

“Volcanic hazard areas” means areas subject to pyroclastic flows, lava flows, debris avalanche, inundation by debris flows, mudflows, or related flooding from volcanic activity. [Ord. 1204 Exh. A § 2, 2008]

17.35A.392 Water table.*

In pervious granular materials the “water table” is the upper surface of the body of free water which completely fills all openings in material sufficiently pervious to permit percolation. In fractured impervious rocks and in solution opening, it is the surface at the contact between the water body in the openings and the overlying ground air. [Ord. 1204 Exh. A § 2, 2008]

* Code reviser’s note: Ord. 1204 adds two sections numbered 17.35A.395. This section has been editorially renumbered to avoid duplication.

17.35A.395 Well head protection area.

“Well head protection area” means the area (surface and subsurface) managed to protect ground water-based public water supplies. [Ord. 1204 Exh. A § 2, 2008]

17.35A.400 Watershed.

“Watershed” means an area draining to the surface water systems of the Chehalis, Cowlitz, Deschutes, or Nisqually Rivers. [Ord. 1204 Exh. A § 2, 2008]

17.35A.405 Wetland.

“Wetland” or “wetlands” means areas that are defined by RCW 36.70.A.030(21) and 90.58.380 as areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands. Wetlands shall be delineated in accordance with the manual adopted by the Washington State Department of Ecology pursuant to RCW 90.58.380. [Ord. 1204 Exh. A § 2, 2008]

17.35A.415 Wetland enhancement.

See “enhancement.” [Ord. 1204 Exh. A § 2, 2008]

17.35A.420 Wetland functions and values.

“Functions” refer to the physical, biological, chemical, and geologic interactions among different components of the environment that occur within a wetland. Wetlands perform many valuable functions and these can be grouped into three categories: functions that improve water quality, functions that change the water regime in a watershed such as flood storage, and functions that provide habitat for plants and animals. “Values” refer to wetland processes, characteristics, or attributes that are considered to benefit society. [Ord. 1204 Exh. A § 2, 2008]

Article III. General Requirements

17.35A.430 Applicability.

This chapter classifies and designates critical areas in Lewis County and establishes regulations for the protection of critical areas' ecological functions and values, human health and safety, and gives special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries. Lewis County shall not grant any permit, license, or other development approval to alter the condition of any land, water, or vegetation, or to construct or to alter any structure or improvement, nor shall any person alter the condition of any land, water, or vegetation, or construct or alter any structure or improvement, for any development proposal within a critical area or its buffer regulated by this chapter, except in compliance with the provisions of this chapter. Failure to comply with the provisions of this chapter shall be considered a violation and subject to enforcement procedures. [Ord. 1204 Exh. A § 2, 2008]

17.35A.440 Relationship to other regulations.

Areas characterized by a particular critical area may also be subject to other regulations due to the overlap of multiple functions of critical areas. In the event of any conflict between these regulations and other regulations of the county, the regulations which provide the greater protection for the particular critical areas still apply. No permit granted pursuant to this chapter shall remove the applicant's obligation to comply in all respects with the provisions of any federal, state, or local law or regulation. [Ord. 1204 Exh. A § 2, 2008]

17.35A.450 General exemptions and allowed activities.

(1) The following activities shall be exempt from the provisions of this chapter, subject to the provisions for mitigation, provided:

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

Emergency actions that create an impact to a sensitive area or its buffer shall use reasonable methods to address the emergency; in addition, they must have the least possible impact to the sensitive area or its buffer. The person or agency undertaking such action shall notify the administrator within 14 working days following commencement of the emergency activity, except for county-wide or regional disasters for which the director shall provide alternative deadlines.

After the emergency, the person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the sensitive area and buffers resulting from the emergency action. The person or agency undertaking the action shall obtain all approvals required for this chapter. Restoration and/or mitigation activities must be initiated within one year of the date of the emergency, and completed as provided for in this chapter;

(b) Passive recreational uses, sport fishing or hunting, hiking, canoeing, viewing, nature study, photography, scientific or educational review, or similar minimal impact, nondevelopment activities;

(c) Site investigative work required by a city, county, state, or federal agency in conjunction with the preparation of a land use application submittal or monitoring of restoration or mitigation sites, such as surveys, soil logs, percolation tests, and other related activities. In any such activity, impacts on environmentally critical areas must be avoided where possible and minimized where necessary, and disbursed to the extent possible. Critical areas shall be restored to the pre-existing level of function and value within one year after tests are concluded;

(d) Maintenance of existing, lawfully established landscaping and gardens within a critical area or its buffer, including, but not limited to, mowing lawns, weeding, removal of noxious and invasive species, harvesting and replanting of garden crops, pruning, and replanting and replacement of ornamental vegetation or indigenous native species to maintain the condition and appearance of such areas as they existed prior to adoption of this code. Household herbicides, pesticides, and fertilizers may be used to maintain existing landscaping and gardens within critical area buffers, but not in wetlands, streams, or other water bodies, when applied at times and rates specified on the label in accordance with Washington State Department of Agriculture and other

applicable regulations. This provision shall not apply in areas designated in project approvals as buffer areas, mitigation sites, or other areas protected via conservation easements or similar restrictive covenants;

(e) Forest practices governed by a valid forest practices permit granted by the Washington State Department of Natural Resources, except where land is proposed to be converted to non-forest use, as provided in RCW 76.09.050 and 76.09.240 including the provisions of WAC 222-16-050(2):

(i) The lands have been or are proposed to be converted under a conversion option harvest plan to a use other than commercial forest product production as provided in RCW 76.09.050 and 76.09.240;

(ii) On lands which have been platted after January 1, 1960, as provided in RCW 76.09.050 and 76.09.240;

(iii) Forest practices which would otherwise be Class III, but which are taking place on lands which are not to be reforested because of likelihood of future conversion to urban development as provided by WAC 222-16-060 and 222-34-050;

(iv) Forest practices involving timber harvesting or road construction on lands that are contained within urban growth areas, designated pursuant to Chapter 36.70A RCW.

(2) The following actions shall be allowed subject to the specific performance standards enumerated, compliance with other applicable regulations and implementation of BMPs designed to reduce or eliminate effects on critical areas:

(a) Normal and routine maintenance and operation of existing public and private detention facilities, wastewater treatment facilities, grass-lined swales, instream detention facilities, flood control facilities, or similar facilities; provided, that activities do not expand the facility beyond the approved dimensions;

(b) Maintenance, operation, repair, reconstruction or replacement of existing utility facilities and associated rights-of-way, including but not limited to reasonable existing access roads; except replacement of facilities within a water body, wetland or associated buffer that results in additional disturbance of a critical area or associated buffer;

(c) Maintenance, operation, reconstruction of or addition to existing roads, streets, and driveways; provided, that reconstruction of any such facilities does not increase impervious surface and does not extend outside the previously disturbed area;

(d) The removal with hand labor and light equipment of any invasive vegetation designated by the Lewis County weed control board and, in addition, English ivy (*Header helix*); Himalayan blackberry (*Rubus discolor*, *R. braceros*); and evergreen blackberry (*Rubus laciniatus*);

(e) Any projects currently under review and “vested” under common law, state law, or local law, and as that term is used in RCW 19.27.095 and 58.17.033 prior to official adoption of the ordinance codified in this chapter are exempt from this chapter and will be processed under previous critical areas protection measures.

(3) Alteration of critical areas and buffers may be allowed for water-dependent or water-oriented uses permitted in accordance with the Lewis County shoreline master program (SMP) where the facility is located, designed, constructed, and operated to minimize and, where possible, avoid critical area and buffer area disturbance to the maximum extent feasible; and impacts are mitigated in accordance with this chapter. [Ord. 1204 Exh. A § 2, 2008]

17.35A.460 Application requirements.

No separate “application” or permit is required if the criteria and requirements of this section are addressed in connection with a land use or development permit required by Lewis County. An activity that alters a critical area or associated buffer that is not addressed by an existing permit shall require an approval that shall be administered in accordance with procedures adopted by the administrator. [Ord. 1204 Exh. A § 2, 2008]

17.35A.470 Designation of the administrator.

(1) The planning manager of the Lewis County department of community development or his or her designee shall be responsible for applying the provisions and requirements of this chapter.

(2) The director is authorized to adopt such rules as are necessary and appropriate to implement this chapter.

(3) The director may prepare and require the use of such forms as are necessary to its administration. [Ord. 1204 Exh. A § 2, 2008]

17.35A.480 Appeals.

(1) Any decision of the administrator in the administration of this chapter may be appealed in accordance with the appeal provisions provided in the underlying permit. If no appeal is provided, the applicant may submit an appeal to the hearing examiner. The decision shall be based on the record at the time the decision was issued.

(2) Appeals shall be filed in writing in duplicate with the hearing examiner within 10 calendar days of the date of the action being appealed. The appeal must specify the code section under which error is alleged and state facts from the record to demonstrate prima facie violation of the section in question.

(3) Upon the filing of an appeal, the hearing examiner shall set the time and place at which the matter will be considered. At least 10 calendar days' notice of such time and place, together with one copy of the written appeal, shall be given to the appellant. The appeal shall follow the requirements for a closed record appeal in Chapter 2.25 LCC.

(4) The hearing examiner may reverse or affirm wholly or in part the decision of the administrator. The hearing examiner may also remand if it appears that new or supplemental information may change the result reached. [Ord. 1204 Exh. A § 2, 2008]

17.35A.490 Penalties and enforcement.

(1) It shall be unlawful for any person, firm, corporation, or association, or agent thereof, to violate any provision of this chapter.

(2) Each violation of this chapter or of any regulation, order, or ruling promulgated hereunder shall be subject to enforcement pursuant to LCC 1.20.020. In addition, pursuant to LCC 1.20.010 any violation of this chapter shall be a misdemeanor under RCW 36.32.120(7).

(3) In addition to or in lieu of the above penalty, an action may be instituted in superior court to prevent, restrain, correct or abate any violation of this chapter, or of any order or ruling made in connection with administration or enforcement. The court shall adjudge to the plaintiff such relief, by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of this chapter and of the regulations adopted and orders and rulings made pursuant thereto. [Ord. 1204 Exh. A § 2, 2008]

17.35A.520 Nonconforming activities.

An established use or existing structure that was lawfully permitted prior to adoption of the ordinance codified in this chapter, but which is not in compliance with this chapter, may continue subject to the following:

(1) Nonconforming uses shall not be expanded or changed in any way that increases the nonconformity without a permit or other approval issued pursuant to the provisions of this chapter;

(2) Existing structures shall not be expanded or altered in any manner which will increase the nonconformity without a permit or other approval issued pursuant to the provisions of this chapter, except one-family dwellings and accessory structures may be expanded or altered as follows: reconstruction, remodeling, or maintenance of one-family dwellings and accessory structures existing on the effective date of the ordinance codified in this chapter shall be allowed; provided, that a one-time only expansion of the building footprint is allowed if expansion outside the critical area or buffer is not feasible, and provided the expansion is outside a waterbody or wetland and in the direction opposite from the critical areas protected, does not increase that footprint by more than 25 percent and;

provided, that if on a geologically hazardous area a technical report demonstrates that the use does not constitute a risk to occupants or adjacent lands;

(3) Activities or uses which are abandoned. A use discontinued for 60 months shall be presumed abandoned, but such presumption may be rebutted. An abandoned use or structure is allowed to resume only if in compliance with this chapter; and

(4) Nonconforming structures destroyed by fire, explosion, or other casualty may be replaced or restored if reconstruction of the same facility is commenced within two years of such damage. The reconstruction or restoration shall not serve to expand, enlarge, or increase the extent of the nonconformity, except as provided in subsection (2) of this section. [Ord. 1204 Exh. A § 2, 2008]

17.35A.530 Reasonable use and variances.

Permit applicants who are unable to comply with the specific standards of this chapter may seek approval pursuant to the reasonable use or variance standards and procedures provided for in this section. If an applicant for a proposal demonstrates to the satisfaction of the administrator that application of the standards of this chapter would constitute an extraordinary hardship to the applicant, a variance to such standards shall be granted if the applicant also demonstrates all the following to the satisfaction of the administrator:

(1) Reasonable Use Standard. This chapter is not intended to preclude all reasonable economic use of property. If the application of this chapter would deny all reasonable economic use of the subject property, including agricultural use, use or development shall be allowed if an applicant for a proposal demonstrates all the following to the satisfaction of the administrator:

(a) There is no portion of the site where the provisions of this chapter allow reasonable economic use, including agricultural use or continuation of legal nonconforming uses;

(b) That there is no feasible alternative to the proposed activities, including locating the activity on a contiguous parcel that has been under the ownership or control of the applicant since the effective date of the ordinance codified in this chapter, change in use, reduction in density, phasing of project implementation, change in timing of activities, revision of road and lot layout, and/or related site planning considerations, that would allow a reasonable economic use with less adverse impacts to the critical area and its related buffer;

(c) That the proposed activities will result in minimum feasible alteration or impairment to the critical area's functional characteristics and its existing environment;

(d) That disturbance of critical areas has been minimized by locating any necessary alteration as far as possible from critical areas and the project employs all reasonable methods to avoid or mitigate adverse effects on critical area functions and values, including maintaining existing topography, and hydrology and maintaining or enhancing existing vegetation through site planning including road or driveway location. Disturbance or activities shall be located in a related buffer to the extent possible rather than in the critical area;

(e) That the proposed activities will not jeopardize the continued existence of species listed by the federal government or the state as endangered, threatened, or sensitive species or habitats;

(f) That the proposed activities will not significantly affect the quality of ground water or surface water quality;

(g) That the proposed activities comply with all state, local, and federal laws, including those related to sediment control, pollution control, floodplain restrictions, and on-site wastewater disposal;

(h) That any and all alterations to critical areas and their related buffers will be mitigated as required by the provisions of this chapter;

(i) That there will be no injury to nearby public or private property and no significant effect upon the health, safety, or welfare of persons within or outside of the property; and

(j) That the inability to derive reasonable economic use of the property is not the result of deliberate actions by the applicant or prior owners after the effective date of the ordinance codified in this chapter.

(k) In the case of development of a single-family dwelling on a single contiguous parcel under one ownership as of the effective date of the ordinance codified in this chapter, the director may approve up to 2,500 square feet of land disturbance as part of ministerial building permit approval without meeting criteria in subsections (1)(a) and (b) of this section; provided, that additional disturbance may be allowed for a driveway required to be longer than 50 feet in order to meet criteria in subsection (1)(d) of this section.

(2) Notice of a reasonable use request shall be given in conjunction with the notice of any permit application; provided, that if such permit application does not require a public hearing, the reasonable use request for a use other than specified in subsection (1)(k) of this section shall be scheduled for hearing before the administrator upon the same notice as provided for other public hearings required by county subdivision ordinance.

(3) Variance Standards. In cases where the reasonable use criteria do not apply, or for variance from other standards of this chapter, the hearing examiner may grant a variance from the requirements in this chapter in accordance with the procedure and criteria in LCC 17.160.010. [Ord. 1204 Exh. A § 2, 2008]

17.35A.540 Nonregulatory incentives.

The following nonregulatory incentives shall apply to all critical areas:

(1) Assessment Relief.

(a) The Lewis County assessor shall consider the impact of the critical area regulations contained in this chapter on property values when determining the fair market value of land.

(b) Any owner of a critical area and its buffer who has dedicated a conservation easement to or entered into a perpetual conservation restriction with a department of the local, state, or federal government; or to a nonprofit organization to permanently control some or all of the uses and activities within this area may request that the Lewis County assessor reevaluate that specific area with those restrictions.

(c) The administrator shall notify the assessor's office of any application of this chapter which results in building restrictions on a particular site.

(2) Open Space. Subject to the criteria established by law, any person who owns a critical area as identified by this chapter may apply for current use assessment pursuant to Chapter 84.34 RCW. The Open Space Tax Act allows Lewis County to designate lands, which should be taxed at their current use value. The county has programs for agricultural lands, small forest lands less than 20 acres in size, and other open spaces. Lewis County has adopted a public benefit rating system which classifies properties on the basis of their relative importance of natural and cultural resources, the availability of public access, and the presence of a conservation easement. These features are given a point value, and the total point value determines the property tax reduction. Lands with an important habitat or species would commonly qualify for this voluntary program. Applications are approved by the board of county commissioners following a public hearing.

(3) Conservation Easement. Any person who owns an identified critical area as defined by this chapter may offer a conservation easement over that portion of the property designated a critical area naming the county or its qualified designee under RCW 64.04.130 as the beneficiary of the easement. The purpose of the conservation easement shall be to protect, preserve, maintain, restore, limit the future use of, or conserve for open space purposes the land designated as critical area(s), in accordance with RCW 64.04.130. Details governing easement restrictions and conditions of acceptance shall be negotiated between property owners and the county. Acceptance of such an easement and the consideration therefor, if any, shall be discretionary with the county and subject to the priorities for and availability of funds.

(a) The administrator may attach such additional conditions of acceptance as deemed necessary to assure the preservation and protection of the affected wetlands and buffers within conservation easements to assure compliance with the purposes and requirements of this chapter.

(b) The responsibility for maintaining conservation easements shall be held by the overlying lot owner(s) or other appropriate entity as approved by the administrator.

(c) Lewis County may establish appropriate processing fees for such conservation easements. [Ord. 1204 Exh. A § 2, 2008]

17.35A.550 SEPA.

This chapter is a written policy of Lewis County enforceable through the State Environmental Policy Act, Chapter 43.21C RCW and specifically RCW 43.21C.065. [Ord. 1204 Exh. A § 2, 2008]

17.35A.560 Judicial or legislative modification.

Should the Growth Management Act (Chapter 36.70A RCW) or the implementing regulations (Chapter 360-190 WAC) be challenged or modified by a court of competent jurisdiction or modified by the legislature in any way affecting this chapter, this chapter shall be brought before the board of county commissioners not less than 30 days after such action is final to determine what, if any, changes may be required by reason of such action. [Ord. 1204 Exh. A § 2, 2008]

17.35A.570 Cost recovery.

Unfunded costs incurred by the county, or its citizens, which are properly chargeable to the state or state agencies shall be billed to such agencies consistent with applicable rules and regulations for such cost recovery. [Ord. 1204 Exh. A § 2, 2008]

17.35A.571 Administration.

(1) When the administrator determines a proposed development or activity is within, abutting, or is likely to adversely affect a critical area or buffer pursuant to the provisions of this chapter, he/she shall:

(a) Determine the likely presence of a critical area including field verification or consultation with agencies with expertise;

(b) Determine appropriate use as provided in this code and require project plans to incorporate appropriate setbacks or buffers to avoid critical areas, and meet specific performance standards;

(c) If needed to establish the presence of critical areas or establish appropriate development or mitigation measures, require a critical area assessment report from the applicant that has been prepared by a qualified professional;

(d) Review and evaluate the proposal, the critical area report, and relevant information; and

(i) Determine whether the development proposal conforms to the purposes and performance standards of this code;

(ii) Assess the potential impacts to the critical area and determine if they can be avoided or minimized;

(iii) Determine if any mitigation proposed by the applicant is sufficient to protect the functions and values of the critical area and public health, safety, and welfare concerns consistent with the goals, purposes, objectives, and requirements of this code; and

(iv) Impose any required conditions to assure compliance with this code, including mitigation measure implementation and monitoring.

(2) County Permits. Compliance with the requirements of this section shall be considered a material element of any permit approval. All technical analysis shall be by a qualified critical area professional. Information demonstrating compliance with the standards of this section shall be submitted in connection with all proposed development. A written finding of compliance, together with the reasons for such finding, shall be required in connection with the issuance of any county permit for a high intensity use.

(3) Other Agency Permits and Standards. The county desires to limit overlapping regulations and conflicting regulations. To this end, the county recognizes that a number of other permitting agencies do take steps to protect wetland areas. Where permits are required by other agencies in addition to the county, the county shall coordinate review and conditions to the maximum extent feasible. [Ord. 1204 Exh. A § 2, 2008]

17.35A.572 Critical area assessment report authority and use.

(1) When the administrator determines a proposed development is within, abutting, or is likely to adversely affect a critical area or buffer pursuant to the provisions of this chapter, he/she shall have the authority to require a technical study. A qualified professional, as defined by this chapter, shall prepare the report consistent with best available science. The intent of these provisions is to require a reasonable level of technical study and analysis sufficient to protect critical areas. The analysis shall be commensurate with the value or sensitivity of a particular critical area and relative to the scale and potential impacts of the proposed activity.

(2) The assessment report shall:

(a) Demonstrate that the submitted proposal is consistent with the purposes and specific standards of this chapter;

(b) Describe all relevant aspects of the development proposal and critical areas adversely affected by the proposal and assess impacts on the critical area from activities and uses proposed; and

(c) Identify proposed mitigation and protective measures as required by this chapter.

(3) The administrator shall review the critical areas assessment report for completeness and accuracy. The administrator may retain, at the applicant's expense, a qualified professional to perform peer review of the conclusions and may consult with agencies with expertise. The administrator may reject or request revision of the field and literature findings and conclusions reached in a critical areas assessment report when the assessment is inaccurate, incomplete, or does not fully address the critical areas impacts involved.

(4) Critical areas assessment reports shall generally be valid for a period of five years. Future land use applications may require preparation of new or supplemental critical area assessment reports unless it can be demonstrated to the satisfaction of the administrator that the previously prepared report is adequate for current analysis. The administrator may also require the preparation of a new critical area assessment report or a supplemental report when new information is found demonstrating that the initial assessment is in error. If the administrator requires more information in the report, he/she shall make the request in writing to the applicant stating what additional information is needed and why.

(5) Applicants shall provide reports and maps in an electronic format that allows site data to be incorporated into the county geographic information system (GIS) database; provided, that the administrator may waive this requirement for single-family developments. Applicants are encouraged to coordinate with the administrator regarding electronic submittal guidelines. This requirement shall not be construed as a requirement to use specific computer software. [Ord. 1204 Exh. A § 2, 2008]

17.35A.573 Critical area assessment report general content.

At a minimum, a critical areas assessment report shall include the following information as well as any specific information required in provisions for the specific critical area:

(1) A site plan showing the proposed development footprint and clearing limits, all relevant critical areas and buffers within and abutting the site, a written description of the project, an examination of project on-site design alternatives, and an explanation of why the proposed activity requires a location on, or access across, a critical area and why alternatives are not feasible;

(2) A written description of the critical areas and buffers on or abutting the site, including their size, type, classification or rating, condition, disturbance history, and functions and values;

(3) An analysis of potential adverse critical area impacts associated with the proposed activity including, but not limited to, effects related to clearing, grading, noise, light/glare, drilling, damming, draining, creating impervious surface, managing storm water, releasing hazardous materials, and other alterations;

(4) An analysis of how critical area impacts or risks will be avoided and/or minimized, and/or an analysis of the proposed measures to prevent or minimize hazards. When impacts cannot be avoided, the report shall include a plan

describing mitigation that will be provided to replace critical area functions and values altered as a result of the proposal;

(5) The dates, names, and qualifications of the persons preparing the report and documentation of analysis methods including any fieldwork performed on the site; and

(6) Additional information requested by the administrator for the assessment of critical area impacts or otherwise required by the subsequent articles of this chapter. [Ord. 1204 Exh. A § 2, 2008]

17.35A.574 Critical area protective measures.

(1) Signage. The administrator as a condition of permit approval may require that the outer boundary of a critical area or buffer be identified with signs or markers when needed to minimize potentially harmful intrusions from adjacent land uses, to alert citizens to a potential public health or safety risk associated with a critical area, or to accomplish other objectives specifically provided for elsewhere in this chapter. The administrator shall provide specifications on the type, content, and size of the signs prior to permit approval. The signs shall be posted near primary access points and approximately every 200 feet along the critical area boundary unless the administrator determines that less frequent spacing is adequate considering the size and location of the site.

(2) Notice on Title. The owner of any property containing a critical area or buffer for which a development permit is about to be issued shall record a notice with the county auditor real estate records in a format approved by the administrator and provide a copy of the filed notice to the planning and development services department at the time the permit is issued. The notice shall state the general presence of the critical area or buffer on the property, and the fact that limitations on actions in or affecting the critical area or buffer exist. The notice shall provide that restrictions on use within the critical area exist until such time as the administrator approves a change in restriction and such approval is filed. This notice on title shall not be required for a development proposal by a public agency or public or private utility within a right-of-way or easement for which they do not have fee-simple title.

(3) Easements or Tracts. Prior to final approval of any subdivisions, short subdivisions, or binding site plans, the part of the critical area and required buffer that is located on the site shall be protected by clearly showing the boundary of the critical area and buffer together with a restriction on use as well as one of the following mechanisms:

(a) Placed in a separate tract or tracts owned in common by all lots within a subdivision. This is the preferred means of protection in a subdivision of 10 or more lots or where a mechanism for shared management can be demonstrated. This tract may be dedicated to a public agency or public or private land trust;

(b) Covered by a protective easement, or public or private land trust dedication; or public or private land trust dedication;

(c) Preserved through an appropriate permanent protective mechanism that provides the same level of permanent protection as designation of a separate tract or tracts as determined by the county administrator or hearing examiner.

(4) Building Setback. In order to protect vegetation or other features of the critical area from disturbance during construction, buildings and other structures are to be set back a minimum distance of 15 feet from the edge of a critical area buffer or from the critical area where no buffer is required. This provision may be modified by the administrator upon submittal by the applicant of a specific construction proposal that demonstrates that the buffer area or critical area will not be disturbed. The following uses are allowed in the building setback:

(a) Landscaping;

(b) Uncovered decks;

(c) Building overhangs;

(d) Impervious surfaces such as driveways, parking lots, roads, and patios; provided, that such surfaces conform to the applicable water quality standards and that construction equipment does not enter or damage the buffer or critical area;

- (e) Clearing and grading; and
- (f) Wells. [Ord. 1204 Exh. A § 2, 2008]

17.35A.575 General mitigation requirements.

Developments permitted pursuant to this chapter that adversely impact or alter a critical area or buffer shall include mitigation sufficient to minimize risks associated with geologic hazards and/or maintain or replace critical area functions and values.

(1) Mitigation Sequence. When an alteration or impact to a critical area is proposed, the applicant shall demonstrate that all reasonable efforts have been taken to mitigate impacts in the following prioritized order:

- (a) Avoiding the adverse impact altogether by not taking a certain action or parts of an action, or moving the action.
- (b) Minimizing adverse impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology and engineering, or by taking affirmative steps to avoid or reduce adverse impacts.
- (c) Rectifying the adverse impact by repairing, rehabilitating or restoring the affected environment.
- (d) Reducing or eliminating the adverse impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the adverse impact by replacing, enhancing, or providing similar substitute resources or environments and monitoring the adverse impact and the mitigation project and taking appropriate corrective measures.

(2) Mitigation for individual projects may include a sequenced combination of the above measures as needed to achieve the most effective protection or compensatory mitigation for critical area functions. The administrator may enter into an agreement with property owners in conjunction with other regulatory agencies that provides for programmatic mitigation of impacts; provided, that the mitigation program produces equal or greater mitigation of ecological functions as that provided by the specific standards of this chapter.

(3) Mitigation Plan. Compensatory mitigation shall be provided for all unavoidable adverse alterations to a critical area or buffer. A mitigation plan shall be developed in accordance with an approved critical area assessment report. The analysis shall be commensurate with the value or sensitivity of a particular critical area and relative to the scale and potential impacts of the proposed activity.

(4) The mitigation plan shall be prepared by a qualified professional; provided, that the administrator may waive the requirement to hire a qualified professional to prepare a mitigation plan when the required mitigation involves standard planting or enhancement practices. The waiver shall not be granted for mitigation practices involving wetland creation, rehabilitation and/or restoration.

(5) The mitigation plan shall contain the following information:

- (a) A description and scaled drawings of the activities proposed to reduce risks associated with geologic hazards and/or flooding, and/or to mitigate for impacts to critical area functions and values. This shall include all clearing, grading/excavation, drainage alterations, planting, invasive weed management, installation of habitat structures, irrigation, and other site treatments associated with the development activities.
- (b) Specific information on construction or the proposed mitigation activity including timing, sequence, equipment needs, and best management practices.
- (c) A description of the functions and values that the proposed mitigation area(s) shall provide, and/or a description of the level of hazard mitigation provided.

- (d) An evaluation of potential adverse impacts on adjacent property owners resulting from the proposed mitigation and measures to address such impacts. Mitigation projects shall not result in adverse impacts to adjacent property owners.
- (e) A description of the measurable goals, objectives, and performance standards that the proposed mitigation action(s) shall achieve.
- (f) A description of how the mitigation measures will be evaluated and monitored to determine if the performance standards are being met, including a program and schedule for construction and post-construction monitoring of the mitigation project.
- (g) Identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates that project performance standards are not being met.
- (h) Additional information as required by the administrator or subsequent articles of this chapter. [Ord. 1204 Exh. A § 2, 2008]

17.35A.576 Mitigation monitoring and assurance.

- (1) The administrator shall have the authority to require that compensatory mitigation projects be monitored annually for at least five years to establish that performance standards have been met. Required monitoring reports shall be submitted to the county annually during the monitoring period to document milestones, successes, problems, and contingency actions of the compensatory mitigation. The administrator may reduce the monitoring timeframe to three years for minor mitigation projects involving critical area or buffer re-vegetation or vegetation enhancement, but not for projects involving wetland creation, wetland restoration, stream restoration or other activities that require manipulation of soils or water. All mitigation areas shall be maintained and managed to prevent degradation and ensure protection of critical area functions and values subject to field verification by the administrator.
- (2) The administrator shall have the authority to extend the monitoring period, require corrective measures, and/or require additional monitoring reports beyond the initial monitoring period for any project that does not meet the performance standards identified in the mitigation plan, or does not provide adequate replacement for the functions and values of the impacted critical area.
- (3) Permanent protection of areas or facilities shall be achieved through deed restriction or other protective covenant.
- (4) Mitigation Assurance. The applicant shall demonstrate sufficient capability to implement the mitigation, monitor the site, and make corrections if the project fails to meet projected goals. The administrator may require the following to ensure that the mitigation is fully functional:
 - (a) The applicant shall post a mitigation surety in the amount of 125 percent of the estimated cost of the uncompleted mitigation actions. The surety shall be based on an itemized cost estimate of the mitigation activity including clearing and grading, plant materials, plant installation, irrigation, weed management, monitoring, and other costs.
 - (b) The surety shall be in the form of an assignment of funds or other means approved by the administrator.
 - (c) Surety authorized by this section shall remain in effect until the administrator determines, in writing, that the standards bonded for have been met. Surety shall generally be held by the county for a period of five years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary. Surety for construction may be reduced after initial completion in an amount not to exceed the cost of monitoring plus not less than 25 percent of the construction cost.
 - (d) Depletion, failure, or collection of surety funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, or monitoring.

(e) Public development proposals shall be relieved from having to comply with the bonding requirements of this section if the agency demonstrates public funds have previously been committed for mitigation, maintenance, or monitoring and will be available throughout the monitoring period.

(5) Default. Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default, and the county may demand payment of any financial guarantees or require other action authorized by the county code or any other law. Any funds recovered pursuant to this section shall be used to complete the required mitigation. [Ord. 1204 Exh. A § 2, 2008]

17.35A.577 Performance-based critical area standards.

(1) The county may provide for an alternative critical area protection plan for a major development including:

- (a) Fully contained community as provided for in LCC 17.20.060(1).
- (b) Master planned resorts as provided for in LCC 17.20.060(2).
- (c) Major industrial developments as provided for in RCW 36.70A.365.
- (d) Public or private parks or recreation facilities, including golf courses, greater than 10 acres.

(2) The alternative critical area protection plan may be used to satisfy the requirements of this code and provide protective measures and buffers that differ from the specific standards and requirements thereof, when it is demonstrated that all of the following circumstances exist:

- (a) The proposed plan results in equal or greater protection and conservation of critical areas than would be achieved using the standards of this code as demonstrated through scientific analysis of the ecological processes, functions and values provided by the plan in comparison to the standards of this code.
- (b) The plan shall include baseline studies that clearly describe the ecological processes, functions and values provided by the existing site and how those processes relate to watershed or similar scale functions.
- (c) The plan shall contain specific use and management strategies to achieving equal or greater protection and conservation of critical areas and shall document through scientific analysis when, where, and how such strategies are equivalent to or more effective than compliance with the specific standards of this code.
- (d) The plan shall contain clear and measurable standards for achieving compliance with the specific provisions of the plan. A monitoring and adaptive management plan shall specify how such standards will be monitored and measured over the life of the plan, and provide a fully funded contingency plan with appropriate performance assurances if any element of the plan does not meet standards for performance. Phased plans or reserved areas may be specified to limit build-out of the entire site until monitoring of early phases demonstrates the success of the approach.
- (e) The proponent(s) shall demonstrate the organizational and fiscal capability to carry out the purpose and intent of the plan, including establishment of corporate entities capable of sustaining funding through public or private assessments.
- (f) The plan shall be prepared by qualified professionals in each of the critical areas addressed and shall be peer reviewed by qualified professionals representing the county and/or by agencies with expertise. The plan and supporting information shall be provided to other agencies with permit authority over features of the plan with an adequate review and comment period.

(3) The plan shall be reviewed and approved as part of overall approval of the proposed use, or if a specific approval process is not specified, in accordance with the provisions for a special use permit in LCC 17.160.020. Consultation with agencies with expertise and jurisdiction over the resources may be incorporated into the review to assist with analysis and identification of appropriate performance measures that adequately safeguard critical areas. [Ord. 1204 Exh. A § 2, 2008]

17.35A.578 Mitigation banking.

(1) The county may approve mitigation banking as a form of compensatory mitigation for wetland and habitat conservation area impacts when the provisions of this chapter require mitigation and when it is demonstrated that the use of a bank will provide equivalent or greater replacement of critical area functions and values when compared to on-site mitigation; provided, that all of the following criteria are met:

(a) Banks shall only be used when they provide significant ecological benefits including long-term conservation of critical areas, important species, habitats and/or habitat linkages, and when they are consistent with the county comprehensive plan and create a viable alternative to the piecemeal mitigation for individual project impacts to achieve ecosystem-based conservation goals.

(b) The bank shall be established in accordance with the Washington State Draft Mitigation Banking Rule Chapter 173-700 WAC or as revised, Chapter 90.84 RCW, and the federal mitigation banking guidelines as outlined in the Federal Register Volume 60, No. 228, November 28, 1995. These guidelines establish the procedural and technical criteria that banks must meet to obtain state and federal certification.

(c) Preference shall be given to mitigation banks that implement restoration actions that have been identified formally by an adopted watershed planning document prepared and adopted pursuant to Chapter 90.82 RCW, a Salmonid Recovery Plan or project that has been identified on the Salmon Recovery Board Habitat Project List or by the Washington Department of Fish and Wildlife as essential for fish and wildlife habitat enhancement.

(2) Mitigation banks shall require an administrative use permit as provided by LCC 17.160.050(3) and shall be subject to a formal review process including public review as follows:

(a) The bank sponsor shall submit a bank prospectus for county review. The prospectus shall identify the conceptual plan for the mitigation bank, including:

(i) The ecological goals and objectives of the bank;

(ii) The rationale for site selection, including a site map and legal description of the prospective bank site;

(iii) A narrative demonstrating compliance with the Comprehensive Plan, associated development standards and this chapter, watershed planning documents prepared and adopted pursuant to Chapter 90.32 RCW, and/or the Salmonid Recovery Plan;

(iv) A description of the existing site conditions and expected changes in site conditions as a result of the banking activity, including changes on neighboring lands;

(v) Conceptual site design;

(vi) Description of the proposed protective mechanism such as a conservation easement; and

(vii) Demonstration of adequate financial resources to plan, implement, maintain, and administer the project.

(b) The administrator shall review the bank prospectus either by participating in the state's Mitigation Bank Review Team (MBRT) process and/or by hiring independent, third-party expertise to assist in the review.

(c) If the administrator determines that the bank prospectus is complete, technically accurate, and consistent with the purpose and intent of this chapter, he/she shall schedule review of an administrative use permit as provided by LCC 17.160.050(3).

(d) Approval of an administrative use permit as provided by LCC 17.50.0505(1) shall be considered a conditional notice to proceed. The approval shall not be construed as final approval of the bank proposal, but shall indicate approval to proceed with the development of the mitigation bank instrument, which details all of the legal requirements for the bank.

(e) Upon receipt of a draft mitigation banking instrument from the bank sponsor and major project permit application, the administrator shall review the banking instrument in consultation with the MBRT and/or other third-party expert. Following review of the mitigation banking instrument and major project permit, the administrator shall certify and approve, conditionally certify and approve, or deny the bank proposal in accordance with the conditions of the administrative use permit.

(3) The award of bank credits for an approved bank may be based on habitat acreage, habitat quality, and contribution to a regional conservation strategy that has been approved by the county and other appropriate regulatory agency(ies). Credit availability may vary in accordance with agreed upon performance criteria for the development of the resource value in question. Awarded bank credits, subject to the approval of the county and regulatory agency(ies), may be made transferable. Whether out-of-kind mitigation credit will be allowed at a particular bank will require a fact-specific inquiry on a case-by-case basis for the project creating the impacts. [Ord. 1204 Exh. A § 2, 2008]

Article IV(A). Wetlands

17.35A.580 Identification.

(1) Wetlands shall be identified in accordance with the requirements of RCW 36.70A.175. Unless otherwise provided for in this chapter, all areas within the county meeting the criteria in the Washington State Wetlands Identification and Delineation Manual (Ecology Publication No. 96-94), as revised, are hereby designated critical areas and are subject to the provisions of this chapter.

(2) The administrator may accept the delineation of a specific wetland performed by or for other agencies where a formal delineation was performed in conjunction with a referenced permit with equivalent methodology.

(3) The administrator may accept a written determination by the U.S. Army Corps of Engineers, or the Washington State Department of Ecology (Ecology) that a specific parcel is not a wetland, as long as the determination is still applicable under state or federal law. [Ord. 1204 Exh. A § 2, 2008]

17.35A.590 Classification.

(1) Classes of Wetlands. Wetlands shall be rated based on categories that reflect the functions and values of each wetland. Wetland categories shall be based on the criteria provided in the Washington State Wetland Rating System for Western Washington, revised August 2004 (Ecology Publication No. 04-06-025), as determined using the appropriate rating forms contained in that publication. These categories are generally defined as follows:

(a) Category IV Wetlands. Category IV wetlands are wetlands of limited resource value as indicated by a total rating system score of less than 30 points on the Ecology rating forms. They typically have vegetation of similar age and class, lack special habitat features, and/or are isolated or disconnected from other aquatic systems or high quality upland habitats.

(b) Category III Wetlands. Category III wetlands have important resource value as indicated by a total rating system score of between 30 and 50 points on the Ecology rating forms.

(c) Category II Wetlands. Category II wetlands have significant value based on their function as indicated by a total rating system score of between 51 and 69 points on the Ecology rating forms. They do not meet the criteria for Category I rating but occur infrequently and have qualities that are difficult to replace if altered.

(d) Category I Wetlands. Category I wetlands are those wetlands of exceptional value in terms of protecting water quality, storing flood and storm water, and/or providing habitat for wildlife as indicated by a total rating system score of 70 points or more on the Ecology rating forms. These are wetland communities of infrequent occurrence that often provide documented habitat for sensitive, threatened or endangered species, and/or have other attributes that are very difficult or impossible to replace if altered. [Ord. 1204 Exh. A § 2, 2008]

17.35A.591 Exemption.

(1) Wetlands with an area of 1,000 square feet or less shall be exempt from these regulations, where it has been shown by the applicant that they:

- (a) Are not associated with a riparian corridor;
- (b) Are not part of a wetland mosaic; and
- (c) Do not contain habitat identified as essential for local populations of priority species identified in LCC 17.35A.651 and 17.35A.720.

(2) Category III and IV wetlands 2,500 square feet or less that meet the criteria in subsection (1) of this section, and that do not score 20 points or greater in the habitat score, may be displaced with mitigation as specified in LCC 17.35A.620. [Ord. 1204 Exh. A § 2, 2008]

17.35A.600 Allowed activities in wetlands and buffers.

(1) The following uses are allowed in wetland or buffer areas subject to the priorities, protection, and mitigation requirements of this article:

(a) Utility lines serving local delivery systems, hydroelectric generating facilities not including electrical substations, sewage pumping stations, and petroleum product pipelines not including transformers or other facilities containing hazardous substances may be located in Category II, III, and IV wetlands and their buffers and/or Category I wetland buffers when no feasible conveyance alternative is available. These facilities shall be designed and constructed to minimize physical, hydrologic, and ecological impacts to the wetland, if the following criteria are met:

(i) There is no reasonable location outside the wetland or wetland buffer based on analysis of system needs, available technology, and alternative routes. Location within a wetland buffer shall be preferred over a location within a wetland.

(ii) The utility line is located as far from the wetland edge as possible and in a manner that minimizes disturbance of soils and vegetation.

(iii) Clearing, grading, and excavation activities are limited to the minimum necessary to install the utility line, which may include boring, and the area is restored following utility installation.

(iv) Buried utility lines shall be constructed in a manner that prevents adverse impacts to subsurface drainage. This may include the use of trench plugs or other devices as needed to maintain hydrology.

(v) Impacts on wetland functions are mitigated in accordance with LCC 17.35A.620.

(b) Public and private roadways and railroad facilities, including bridge construction and culvert installation, if the following criteria are met:

(i) There is no reasonable location outside the wetland or wetland buffer based on analysis of system needs and alternative routes. Location within a wetland buffer shall be preferred over a location within a wetland.

(ii) Facilities parallel to the wetland edge are located as far from the wetland edge as possible and in a manner that minimizes disturbance of soils and vegetation.

(iii) Clearing, grading, and excavation activities are limited to the minimum necessary, which may include placement on elevated structures as an alternative to fill, where feasible.

(iv) Impacts on wetland functions are mitigated in accordance with LCC 17.35A.620.

(c) Access to private development sites may be permitted to cross Category II, III, or IV wetlands or their buffers, pursuant to the criteria in subsection (1)(b) of this section. Alternative access shall be pursued to the maximum extent feasible. Exceptions or deviations from technical standards for width or other dimensions, and specific construction standards to minimize impacts may be specified, including placement on elevated structures as an alternative to fill, if feasible.

(d) Maintenance, repair, or operation of existing structures, facilities, or improved areas, including minor modification of existing serviceable structures within a buffer zone where modification does not adversely impact wetland functions.

(e) Storm water conveyance or discharge facilities such as dispersion trenches, level spreaders, and outfalls may be permitted within a Category II, III, or IV wetland buffer on a case-by-case basis if the following are met:

(i) Due to topographic or other physical constraints, there are no feasible locations for these facilities to discharge to surface water through existing systems or outside the buffer. Locations and designs that infiltrate water shall be preferred over a design that crosses the buffer.

(ii) The discharge is located as far from the wetland edge as possible and in a manner that minimizes disturbance of soils and vegetation and avoids long-term rill or channel erosion.

(f) Regional storm water detention/retention facilities, identified in an adopted plan of an appropriate public agency if adopted after implementation of these regulations, and if the plan has undergone review for compliance with this chapter.

(g) On-site sewage disposal system conventional drainfields may be permitted in the outer 50 percent of a Category II, III and IV wetland buffer when they are an accessory to an approved residential structure, if the following conditions are met:

(i) It is not feasible to connect to a public sanitary sewer system.

(ii) There is no reasonable location outside the wetland buffer based on analysis of conditions within the contiguous property owned by the applicant.

(iii) The facility is located as far from the wetland edge as possible and is designed and constructed in a manner that minimizes disturbance of soils and vegetation.

(iv) Clearing, grading, and excavation activities are limited to the minimum necessary and the area is restored following installation.

(h) Conservation, preservation, or enhancement projects that protect functions and values of the critical area system, including activities and mitigation, are allowed pursuant to the mitigation priorities identified in LCC 17.35A.030(4).

(2) The following uses are necessary to fully enjoy and understand wetlands or to provide resource activities and are permitted without any specific protection or mitigation other than may be identified in an applicable permit:

(a) Outdoor recreational or educational activities which do not significantly affect the function of the wetland or regulated buffer (including wildlife management or viewing structures, outdoor scientific or interpretive facilities, trails, hunting blinds, etc.) and meet the following criteria:

(i) Trails shall not exceed four feet in width and shall be made of gravel or pervious material.

(ii) The trail or facility is located in the outer 25 percent of the buffer of a Category I and II wetland and the outer 50 percent of the buffer of other wetlands, unless a location closer to the wetland edge is required for interpretive purposes.

(iii) The trail or facility is constructed and maintained in manner that minimizes disturbance of the wetland or buffer and avoids removal of trees in excess of four inches in diameter. Trails or facilities within wetlands shall be placed on an elevated structure as an alternative to fill.

(b) Harvesting wild crops which do not significantly affect the function of the wetland or regulated buffer (does not include tilling of soil or alteration of wetland area). [Ord. 1204 Exh. A § 2, 2008]

17.35A.605 Use intensity.

(1) Low intensity uses and activities are those that provide a context in which many of the ecological functions related to wetlands can occur on adjacent land subject to low intensity uses and activities outside of protected areas. Land alteration associated with low intensity uses is slight and human activities are infrequent or at a low level of intensity. Wildlife habitat functions in particular are accommodated to a large extent on land subject to low intensity use. Low intensity uses, facilities, and activities include, but are not limited to:

- (a) Forestry;
- (b) Low intensity open space uses and activities, including but not limited to hiking, bird-watching, hunting, and similar activities;
- (c) Unpaved trails; provided, that the width does not exceed four feet and is on slopes no greater than 35 percent;
- (d) Utility corridors without maintenance roads and with little to no periodic vegetation management; and
- (e) Harvesting wild products, including the gathering of mushrooms, pinecones, and understory plants involving limited and isolated excavation, but not including tilling of soil.

(2) Moderate intensity uses and activities provide a context in which a limited number of the ecological functions related to wetlands can occur on adjacent land subject to moderate intensity uses and activities listed outside of protected areas. The proximity impacts of moderate intensity uses are either of moderate frequency or a moderate level. Wildlife habitat uses in particular are accommodated to a limited extent on land subject to moderate intensity use and activities. Uses, facilities, and activities include, but are not limited to:

- (a) Residential use at one unit/acre or less;
- (b) Parks characterized by open space without extensive areas of turf and largely limited to interpretive facilities and trails;
- (c) Paved trails; provided, that the width does not exceed 10 feet and on side slopes no greater than 35 percent;
- (d) Logging roads and farm access roads that are unpaved and used primarily for access to forests or farmland on less than a daily basis, except during harvest periods; and
- (e) Utility corridors or right-of-way shared by several utilities and including access/maintenance road.

(3) High intensity uses and activities provide a context in which few of the ecological functions related to wetlands can occur on adjacent land. The proximity impacts of such uses are great and require buffering for attenuation. Few habitat functions are provided on lands devoted to high intensity uses. Uses, facilities, and activities include, but are not limited to:

- (a) Residential use at greater than one unit/acre;
- (b) Commercial use;
- (c) Industrial use;
- (d) Institutional use;
- (e) Retail use; and
- (f) Park and recreation uses and facilities involving a high level of alteration of the natural environment, parking and recreation areas, and areas often associated with use of fertilizers, pesticides, and herbicides and include, but are not limited to, golf courses, ball fields, recreation centers, and similar uses. [Ord. 1204 Exh. A § 2, 2008]

17.35A.610 Protection.

Protection of wetland areas may be accomplished through one or a combination of the factors set forth in this section:

(1) Buffers.

(a) For wetlands that have a low level of function for wildlife habitat as indicated by a habitat function score of less than 20 points on the wetland rating form (Ecology Publication No. 04-06-025), the buffers shall be as follows:

Wetland Category	Use Intensity		
	Low Intensity	Moderate Intensity	High Intensity
	Buffer Width (feet)		
Category IV	25	40	50
Category III	50	60	80
Category II	50	75	100
Category I	50	75	100

(b) For wetlands that have a moderate level of function for wildlife habitat as indicated by a habitat function score of 20 to 28 points on the wetland rating form (Ecology Publication No. 04-06-025), the buffers shall be as follows:

Wetland Category	Use Intensity		
	Low Intensity	Moderate Intensity	High Intensity
	Buffer Width (feet)		
Category IV	25	40	50
Category III	60	100	150
Category II	75	See subsection (2) of this section	See subsection (2) of this section
Category I	125	See subsection (2) of this section	See subsection (2) of this section

(c) For wetlands that have a high level of function for wildlife habitat as indicated by a habitat function score of 29 points or more on the wetland rating form (Ecology Publication No. 04-06-025), the buffers shall be as follows:

Wetland Category	Use Intensity		
	Moderate Intensity	High Intensity	Low Intensity
	Buffer Width (feet)		
Category IV	25	40	50
Category III	75	110	150

Wetland Category	Use Intensity		
	Moderate Intensity	High Intensity	Low Intensity
	Buffer Width (feet)		
Category II	100	See Subsection (2) of this section	See Subsection (2) of this section
Category I	100	See Subsection (2) of this section	See Subsection (2) of this section

(2) Buffer Standards for Moderate and High Wildlife Function for Category II and III Wetlands.

The administrator may use the following buffer dimensions as an alternative for those indicated above, based on the habitat function score from the wetland rating form (Ecology Publication No. 04-06-025).

Points for Habitat from Wetland Rating Form																		
	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36
High Intensity Land Use	100	110	120	130	140	150	170	190	210	230	250	270	280	290	300	300	300	300
Moderate Intensity Land Use	75	80	85	95	110	125	135	145	160	175	190	210	225	225	225	225	225	225

(3) Provisions for single-family development on parcels of five acres or greater:

(a) The following buffers may be utilized for single-family residences and accessory buildings on parcels of five acres or more in size, provided the standards in subsection (3)(b) of this section are met:

Wetland Category	Habitat Points		
	Less than 20	20 to 28	29 or greater
	Buffer Width (feet)		
Category IV	25	25	NA
Category III	40	60	75
Category II	50	80	100
Category I	50	100	150

(b) In order to utilize the buffers in subsection (3)(a) of this section, the development and use adjacent to the buffer must meet the following standards:

- (i) The site must be on average slopes of 25 percent or less;
- (ii) A single-family dwelling and accessory structures may be located within 100 feet of the buffer if no other location further from the critical area is feasible. If located within 100 feet of the buffer, the

single-family dwelling and accessory structures shall not result in more than 5,000 square feet of vegetation disturbance;

(iii) All drainage from impervious surfaces shall be infiltrated;

(iv) At the perimeter of the developed area appropriate measures shall be implemented to control intrusion of domestic animals into the buffer area and a continuous row of native coniferous trees shall be planted to attenuate light and glare impacts and visibility of the development for wildlife from within the buffer;

(v) The relative density of forest within the buffer must be 20 or greater with native understory. If the relative density is less than 20, the buffer shall be planted with native coniferous seedlings or native deciduous trees, or a combination, based on the native plants characteristics of the site. Plantings shall result in a post-planting (simple) density of not less than 300 trees per acre (including existing coniferous and deciduous trees greater than six inches in diameter). Native understory must be present or installed throughout the buffer area at densities characteristic of native evergreen forests, or native understory shall be planted at native densities. If planting is required, plant survival will be monitored annually for five years following planting, with plant survival a minimum of 80 percent over the monitoring period.

(4) Other Protections. Uses with proximity impacts such as noise, light, glare or other characteristics that may affect wetland ecological functions may be required to provide greater buffers than indicated, or provide site design and layout or operational measures to reduce those impacts to levels appropriate to the designated buffer including screening of the buffer edge with dense plantings or fencing.

(5) Order of Precedence. The setbacks for all critical areas shall be overlapping and the most restrictive shall apply. [Ord. 1204 Exh. A § 2, 2008]

17.35A.611 Buffer width reduction with specific mitigation.

(1) The administrator may allow reduction of buffer dimensions as provided below, provided the specific mitigation measures in subsection (2) of this section are incorporated into adjacent development:

Mitigated Buffer Width - Points for Habitat from Wetland Rating Form																		
	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36
Buffer	75	80	85	95	110	125	135	145	160	175	190	210	225	225	225	225	225	225

(2) The specific mitigation measures that shall be incorporated into adjacent development in order to utilize the buffer dimensions specified in subsection (1) of this section shall be as follows; provided, that the administrator may approve alternative measures that are demonstrated by the applicant to have equivalent effectiveness in reducing impacts on wetland functions:

Impact Type	Typical Facility	Measures to Reduce Impacts
Storm water runoff	<ul style="list-style-type: none"> • Parking lots • Roads • Manufacturing • Residential areas • Commercial • Landscaping 	<ul style="list-style-type: none"> • Provide storm water detention and treatment meeting 2005 Storm Water Management Manual for all impervious surfaces that drain to the wetland • Provide infiltration, except where soil conditions preclude • Prevent flow from lawns that directly enters the buffer through swales or other interception
Lights	<ul style="list-style-type: none"> • Residential • Warehouses • Manufacturing • Parking lots 	<ul style="list-style-type: none"> • Provide no or few windows on buildings adjacent to wetlands • Do not locate parking lots adjacent to wetland, or provide light mounting of less than five feet and provide screening through fencing and vegetation • Do not place building security lights on the side of buildings adjacent to the wetland
Noise	<ul style="list-style-type: none"> • Residential • Commercial • Warehouse • Manufacturing 	<ul style="list-style-type: none"> • Locate activity that generates noise away from wetland • Place loading areas, garbage pickup and other pickup/delivery functions on the building side furthest removed from the wetland
Toxic runoff	<ul style="list-style-type: none"> • Pesticides • Herbicides 	<ul style="list-style-type: none"> • Provide non-turf landscaping within 25 feet of buffer • Require development and implementation of integrated pest management plan to

Impact Type	Typical Facility	Measures to Reduce Impacts
	• Fertilizer	reduce chemical use
Pets and human disturbance	• Residential areas	• Fence buffer area with chain link or equivalent fencing • Plant dense native vegetation to delineate buffer edge
Lack of native vegetation in buffer	• Buffer will not provide functions	• Ensure minimum vegetation relative density of 20 or plant to 300 stems per acre

[Ord. 1204 Exh. A § 2, 2008]

17.35A.612 Averaging buffer widths.

The width of a buffer 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) Averaging to improve wetland protection may be permitted when all of the following conditions are met:
 - (a) The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a “dual-rated” wetland with a Category I area adjacent to a lower rated area.
 - (b) The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower functioning or less sensitive portion.
- (2) Averaging to allow reasonable use of a parcel may be permitted when all of the following are met:
 - (a) Buffer averaging is necessary to accommodate existing conditions, such as topography, existing roads, or other public facilities, or similar features that prevent reasonable development in compliance with standard buffers.
 - (b) There are no feasible alternatives to the site design that could be accomplished without buffer averaging.
 - (c) Averaging will not impair or reduce the habitat, water quality purification and enhancement, storm water detention, ground water recharge, shoreline protection, erosion protection, and other functions of the wetland and buffer as demonstrated by a report from a qualified wetland professional.
- (3) Any buffer averaging must meet the following criteria:
 - (a) The total area of the buffer on the subject property is not less than the buffer which would be required if averaging was not allowed and all increases in buffer dimension for averaging must be generally parallel to the wetland boundary to avoid creating buffer panhandles.
 - (b) No part of the width of the buffer is less than 75 percent of the required width or as specified in the table below, or if the criteria in subsection (2) of this section are met, whichever results in a greater buffer.

Wetland Category	Use Intensity		
	Low Intensity	Moderate Intensity	High Intensity
	Buffer Width (feet)		
Category IV	50	50	50
Category III	50	60	80
Category II	50	75	100
Category I	50	75	100

[Ord. 1204 Exh. A § 2, 2008]

17.35A.620 Mitigation.

(1) Where a project requires the disruption of a wetland, the wetland system, function, and values shall be protected or enhanced through mitigation as specified in this section. A mitigation plan shall be prepared that describes how the proposed mitigation will replace the functions and values of the altered wetland.

(2) Wetland Mitigation. Alteration of wetlands shall require the creation, restoration, or enhancement of wetlands to provide equivalent or greater functions and values. In order to address the risk and time lag associated with creating, restoring, or enhancing wetlands, the following acreage replacement ratios shall be required, except as provided for in subsections (6) and (7) of this section.

Compensation for wetland alterations shall occur in the following order of preference:

- (a) Re-establishing wetlands on upland sites that were formerly wetlands.
- (b) Rehabilitating wetlands for the purposes of repairing or restoring natural and/or historical functions.
- (c) Creating wetlands on disturbed upland sites such as those consisting primarily of nonnative, invasive plant species.
- (d) Enhancing significantly degraded wetlands.
- (e) Preserving additional buffer area in Category I or II wetlands beyond that required by county standards, or preserving wetlands not required to be preserved by other regulatory programs; provided, that preservation shall only be allowed in combination with other forms of mitigation and when the administrator determines that the overall mitigation package fully replaces the functions and values lost due to development.

These ratios assume that the replacement wetland will be similar in type and structure to the wetland being altered. Acreage replacement ratios are indicated in the table below.

Wetland Mitigation Type and Replacement Ratio*				
Wetland Category	Re-establishment	Rehabilitation	Creation	Enhancement
Category IV	1.5:1	2:1 to 3:1	1.5:1 to 2:1	3:1 to 6:1
Category III	2:1	3:1 to 4:1	1.5 to 2:1	4:1 to 8:1
Category II	3:1	4:1 to 6:1	3:1	6:1 to 12:1
Category I	4:1 to 6:1	8:1 to 12:1	6:1	12:1 to 24:1

*Ratio is the replacement area:impact area.

(3) Buffer Mitigation. Compensation for wetland buffer impacts, other than buffer averaging, shall occur at the following minimum ratios:

- Category IV - ratio of 1:1
- Category III - ratio of 1:1
- Category II - ratio of 1.5:1
- Category I - 2.5:1

Compensatory mitigation for buffer impacts may include enhancement of degraded buffers by planting native species, removing structures and impervious surfaces within buffers, and other measures.

(4) Special Provisions for Small, Isolated Wetlands. The administrator may exempt one wetland for any contiguously owned parcel from the provisions of this code, if they meet the following criteria:

- (a) Is Category III and does not exceed 2,500 square feet or is Category IV and does not exceed 4,000 square feet;
- (b) Is not associated with a riparian corridor;
- (c) Is not part of a wetland mosaic;
- (d) Does not score 20 points or greater for habitat; and
- (e) Does not contain habitat identified as essential for local populations of priority species identified by Washington Department of Fish and Wildlife.

(5) Adaptive Management Program for Small Isolated Wetlands. The county will implement a monitoring and adaptive management program that includes:

- (a) Collection of survey data on all wetlands exempted;
- (b) Periodic assessment by a qualified professional of data collected and assessment of potential cumulative impacts. Said assessment will include:
 - (i) Assessment at five years after implementation of this provision, or when data collected on exempt wetlands reaches 50 sites;
 - (ii) The assessment shall be reviewed by a peer group consisting of the Washington State Department of Ecology and Washington Department of Fish and Wildlife;
 - (iii) A staff recommendation and recommendation of Ecology and Washington Department of Fish and Wildlife shall be submitted to the planning commission and board of county commissioners outlining potential changes to this provision of the code to address the results of the assessment;
- (c) At the time a wetland mitigation bank is established that includes portions of the county within the receiving area, the county shall consider implementing a mitigation requirement for exempt wetlands within the area served;

(6) Increasing or Decreasing Replacement Ratios. Mitigation ratios may be increased or decreased based on the following circumstances:

- (a) Degree of uncertainty as to the probable success of the proposed mitigation;
- (b) The period of time between alteration of the wetland and replacement of lost functions and values;
- (c) Projected gains or losses in functions and values; provided, that findings of special studies coordinated with agencies with expertise demonstrate that no loss of wetland functions or values results from a reduced ratio; and
- (d) A minimum acreage replacement ratio of 1.5:1 shall be required except as provided in subsection (7) and (8) of this section.

(7) Replacing Functions and Values. In lieu of area-based mitigation provided above, an applicant may propose mitigation in the form of equivalent functions and values. Such a proposal shall:

- (a) Only be allowed when the wetland being altered is not a Category I or II wetland.
- (b) Include documentation (the "report") from a qualified critical area professional that describes how the proposed mitigation will replace or improve upon the functions and values provided by the altered wetland.

This shall include a detailed assessment of the functions and values provided by the wetland to be altered and a detailed assessment of the functions and values to be provided by the proposed mitigation action. The report shall demonstrate:

- (i) Degree of uncertainty as to the probable success of the proposed mitigation;
- (ii) The period of time between alteration of the wetland and replacement of lost functions and values;
- (iii) Projected gains or losses in functions and values; provided, that findings of special studies coordinated with agencies with expertise demonstrate that no loss of wetland functions or values results from a reduced ratio.

(c) Be reviewed by county or other agency staff with expertise in wetland mitigation.

(8) Mitigation Banking. The process of creating wetlands to be used as mitigation for wetland impacts is encouraged. Close coordination with all potential permitting agencies is necessary to implementing a mitigation bank. The provisions of this chapter may be fulfilled by a wetland bank in accordance with LCC 17.35A.591, provided the administrator determines that mitigation is equivalent to that required by this code. [Ord. 1204 Exh. A § 2, 2008]

17.35A.621 Wetland review and reporting requirements.

(1) When critical area maps or other sources of credible information indicate that a site proposed for development or alteration may contain wetlands or wetland buffers, the administrator shall require a site evaluation (field investigation) by a qualified professional to determine whether or not a regulated wetland is present and, if so, its relative location in relation to the proposed project area on site. If the administrator determines that a wetland is more likely to be present, the administrator shall require a wetland study. If no regulated wetlands are present, then a wetland review will be considered complete.

(2) A wetland assessment study describes the characteristics of the subject property and adjacent areas. The assessment shall be completed pursuant to the information provided in LCC 17.35A.620 and include the following:

- (a) Existing physical features of the site including buildings, fences, and other structures, roads, parking lots, utilities, water bodies, etc.;
- (b) Determination of the wetland category and standard wetland buffers;
- (c) Field identification and delineation of wetland boundaries. For on-site wetlands, the assessment shall include the dominant and subdominant plant species; soil type, color and texture; sources of hydrology (patterns of surface and subsurface water movement, precipitation, etc.), topography, and other pertinent information;
- (d) Identification of sensitive areas and buffers within 300 feet of the site and an estimate of the existing approximate acreage for each. The assessment of off-site wetlands shall be based on available information and shall not require accessing off-site properties;
- (e) A detailed description of the effects of the proposed development on wetland and buffer function and value, including the area of direct wetland disturbance; area of buffer reduction or averaging including documentation that functions and values will not be adversely affected by the reduction or averaging; effects of storm water management; proposed hydrologic alteration including changes to natural drainage or infiltration patterns; effects on fish and wildlife species and their habitats; clearing and grading impacts; temporary construction impacts; and effects of increased noise, light, or human intrusion; and
- (f) A mitigation plan, if applicable, meeting the requirements outlined in LCC 17.35A.622. [Ord. 1204 Exh. A § 2, 2008]

17.35A.622 Wetland mitigation plan.

In addition to meeting the requirements of LCC 17.35A.620, a mitigation plan for wetland and wetland buffer impacts shall meet the following requirements:

- (1) The plan shall be based on applicable portions of the latest edition of the Washington State Department of Ecology Guidelines for Developing Freshwater Wetland Mitigation Plans and Proposals, or equivalent;
- (2) The plan shall contain sufficient information to demonstrate that the proposed activities are logistically feasible, constructible, ecologically sustainable, and likely to succeed. Specific information to be provided in the plan shall include:
 - (a) The rationale for site selection including:
 - (i) General description and scaled drawings of the activities proposed including, but not limited to, clearing, grading/excavation, drainage alterations, planting, invasive plant management, installation of habitat structures, irrigation, and other site treatments associated with the development activities and proposed mitigation action(s);
 - (ii) A description of the ecological functions and values that the proposed alteration will affect and the specific ecological functions and values the proposed mitigation area(s) shall provide, together with a description of required or recommended mitigation ratios and an assessment of factors that may affect the success of the mitigation program;
 - (iii) Overall goals of the plan, including wetland function, value, and acreage;
 - (iv) Description of baseline (existing) site conditions including topography, vegetation, soils, hydrology, habitat features (i.e., snags), surrounding land use, and other pertinent information;
 - (b) Field data confirming the presence of adequate hydrology (surface and/or ground water) to support existing and compensatory wetland area(s);
 - (c) Nature of mitigation activities, including area of restored, created, enhanced, and preserved wetland, by wetland type;
 - (d) Detailed grading and planting plans showing proposed post-construction topography; general hydrologic patterns; spacing and distribution of plant species; size and type of proposed planting stock; watering or irrigation plans; and other pertinent information;
 - (e) A description of site treatment measures including invasive species removal, use of mulch and fertilizer, placement of erosion and sediment control devices, and best management practices that will be used to protect existing wetlands and desirable vegetation;
 - (f) A demonstration that the site will have adequate buffers sufficient to protect the wetland functions into perpetuity;
 - (g) Specific measurable performance standards that the proposed mitigation action(s) shall achieve together with a description of how the mitigation action(s) will be evaluated and monitored to determine if the performance standards are being met. Identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates that project performance standards are not being met. The performance standards shall be tied to and directly related to the mitigation goals and objectives;
 - (h) Cost estimates for the installation of the mitigation program, monitoring, and potential corrective actions if project performance standards are not being met;
- (3) All compensatory mitigation projects shall be monitored for a period necessary to establish that performance standards have been met, but generally not for a period less than five years. The administrator shall have the authority to extend the monitoring period and require additional monitoring reports for up to 10 years when any of the following conditions apply:
 - (a) The project does not meet the performance standards identified in the mitigation plan;

(b) The project does not provide adequate replacement for the functions and values of the impacted sensitive area;

(c) The project involves establishment of forested plant communities, which require longer time for establishment;

(d) Reports shall be submitted annually for the first three years following construction and at the completion of years five, seven, and 10 if applicable to document milestones, successes, problems, and contingency actions of the compensatory mitigation;

(4) Mitigation Surety. A performance assurance shall be provided to guarantee installation, monitoring, and performance of mitigation actions in accordance with LCC 17.35A.576; provided, that the time period for the surety may be extended for the length of the monitoring period;

(5) Monitoring Reports. Mitigation monitoring reports shall include information sufficient to document and assess the degree of mitigation success or failure as defined by the performance standards contained in the approved mitigation plan. Information to be provided in annual monitoring reports shall include the following:

(a) Number and location of vegetation sample plots used to document compliance with performance standards;

(b) Measurements of the percent survival of planted material, plant cover, stem density, presence of invasive species, or other attributes;

(c) For sites that involve wetland creation, re-establishment or rehabilitation, and hydrologic observations of soil saturation/inundation as needed to demonstrate that a site meets the wetland hydrology criterion;

(d) Representative photographs of the site;

(e) A written summary of overall site conditions and recommendations for maintenance actions if needed; and

(f) Other information that the administrator deems necessary to ensure the success of the site. [Ord. 1204 Exh. A § 2, 2008]

17.35A.640 References.

The approximate location and extent of wetland and hydric soils are shown on the county's critical area maps. Maintenance of maps does not imply that land outside mapped areas does not contain wetlands. Preparation and maintenance of such maps shall not create liability on the part of Lewis County, or any officer or employee thereof, for any damages that result from reliance on said maps or any decision lawfully made hereunder. Critical area maps and other information may be relied upon by the administrator as a basis for requiring field investigation and special reports. In the event of a conflict between information contained in the critical area maps and information resulting from a field investigation, the latter shall prevail. The following references provide an indication of wetland locations.

Reference sources:

(1) National Wetland Inventory USGS quadrangle maps on file at the county offices.

(2) Natural Resources Conservation Service, soils map for Lewis County, hydric soils designations. [Ord. 1204 Exh. A § 2, 2008]

Article IV(B). Aquatic Habitat

17.35A.650 Purpose.

Lewis County's policy is to protect fish and aquatic habitat as part of habitat conservation areas classified pursuant to Article IV(C) of this chapter in order to:

(1) Identify and protect areas with which endangered, threatened, and sensitive species have a primary association;

(2) Identify and protect habitats and species of local importance, including those waters of the state, lakes, ponds, and riparian habitat essential to their protection; and

(3) Give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries. [Ord. 1204 Exh. A § 2, 2008]

17.35A.651 Identification of aquatic habitat.

The following resources are identified as critical areas for the purposes of this chapter:

(1) Endangered, threatened, or sensitive species listed by the Washington Department of Fish and Wildlife together with the areas with which they have a primary association.

(2) Endangered or threatened species listed in accordance with the federal Endangered Species Act together with the areas with which they have a primary association.

(3) Habitats and species of local importance, including:

(a) Western brook lamprey;

(b) Pacific lamprey;

(c) Fresh water mussels; and

(d) Western toad.

Species may be nominated by agencies of the public in the same manner as provided for wildlife in LCC 17.35.720(6).

(4) Waters of the state as defined in RCW 77.55.011 and 90.56.010, including shorelines of the state as defined in RCW 90.58.010.

(5) Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat.

(6) Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity. [Ord. 1204 Exh. A § 2, 2008]

17.35A.660 Classification.

Streams are classified in accordance with the Washington State Department of Natural Resources (DNR) as provided in WAC 222-16-030 with the following revisions:

(1) "Type S water" means all waters, as inventoried as shorelines of the state under Chapter 90.58 RCW and the rules promulgated pursuant to Chapter 90.58 RCW, including periodically inundated areas of their associated wetlands.

(2) "Type F-A water" means segments of natural waters other than Type S waters, which are within defined channels greater than 10 feet in width, as defined by the ordinary high water mark and periodically inundated areas of their associated wetlands, except as regulated by LCC 17.35A.580, or within lakes, ponds, or impoundments having a surface area of one-half acre or greater at seasonal low water and which in any case contain fish habitat, as well as riverine ponds, wall-based channels, and other channel features that are used by fish for off-channel habitat.

(3) "Type F-B water" means segments of natural waters other than Type S waters which are within defined channels less than 10 feet in width, as defined by the ordinary high water mark and periodically inundated areas of their associated wetlands, except as regulated by LCC 17.35A.580, or within lakes, ponds, or impoundments having a surface area of one-half acre or greater at seasonal low water and which in any case contain fish habitat, as well as riverine ponds, wall-based channels, and other channel features that are used by fish for off-channel habitat.

(4) "Type Np water" means all segments of natural waters within defined channels that are perennial nonfish habitat. Perennial streams are waters that do not go dry any time of a year of normal rainfall. However, for the purpose of

water typing, Type Np waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.

(5) "Type Ns water" means all segments of natural waters within defined channels that are not Type S, F, or Np waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np water. Ns waters must be physically connected by an above-ground channel system to Type S, F, or Np waters. [Ord. 1204 Exh. A § 2, 2008]

17.35A.670 Allowed activities in waters and buffers.

(1) The following uses are specifically allowed in waters and buffer areas subject to the priorities, protection, and mitigation requirements of this article:

(a) Utility lines serving local delivery systems, not including electrical substations, sewage pumping stations, petroleum product pipelines, transformers, or other facilities containing hazardous substances, may cross water bodies and their buffers when no feasible conveyance alternative is available and shall be designed and constructed to minimize physical, hydrologic, and ecological impacts, if the following criteria are met:

(i) There is no reasonable location outside the water body or buffer based on analysis of system needs, available technology, and alternative routes. Location within a buffer shall be preferred over a location within a water body.

(ii) The utility line is located as far from the water body edge as possible and in a manner that minimizes disturbance of soils and vegetation.

(iii) Clearing, grading, and excavation activities are limited to the minimum necessary to install the utility line, which may include boring, and the area is restored following utility installation.

(iv) Buried utility lines shall be constructed in a manner that prevents adverse impacts to subsurface drainage. This may include the use of trench plugs or other devices as needed to maintain hydrology.

(v) Impacts on ecological functions are mitigated in accordance with LCC 17.35A.690.

(b) Public and private roadways and railroad facilities, including bridge construction and culvert installation, if the following criteria are met:

(i) There is no reasonable location outside the water body or buffer based on analysis of system needs and alternative routes. Location within a buffer shall be preferred over a location within a water body.

(ii) Crossings of water bodies shall minimize the buffer area disturbed by alignment as close to perpendicular to the edge of the water body as possible.

(iii) Crossings shall be designed in accordance with the standards in LCC 17.35A.683.

(iv) Impacts on aquatic functions are mitigated in accordance with LCC 17.35A.690.

(c) Access to private development sites may be permitted to cross a water body or its buffer, pursuant to the criteria in subsection (1)(b) of this section. Alternative access shall be pursued to the maximum extent feasible. Exceptions or deviations from technical standards for width or other dimensions, and specific construction standards to minimize impacts may be specified, including placement on elevated structures as an alternative to fill, if feasible.

(d) Maintenance, repair, or operation of existing structures, facilities, or improved areas, including minor modification of existing serviceable structures within a buffer zone where modification does not adversely impact water-based functions.

(e) Storm water conveyance or discharge facilities such as dispersion trenches, level spreaders, and outfalls may be permitted within the buffer to a water body on a case-by-case basis if the following are met:

(i) Due to topographic or other physical constraints, there are no feasible locations for these facilities to an existing conveyance or outside the buffer. Locations and designs that infiltrate water shall be preferred over a design that crosses the buffer and discharges to surface water.

(ii) The discharge is located as far from the water body as possible and in a manner that minimizes disturbance of soils and vegetation and avoids long-term rill or channel erosion.

(f) Regional storm water detention/retention facilities, identified in an adopted plan of an appropriate public agency if adopted after implementation of these regulations and if the plan has undergone review for compliance with this chapter.

(g) On-site sewage disposal system conventional drainfields may be permitted in the outer 25 percent of a buffer to a water body when accessory to an approved residential structure, if the following conditions are met:

(i) It is not feasible to connect to a public sanitary sewer system;

(ii) There is no reasonable location outside the water body buffer based on analysis of conditions within the contiguous property owned by the applicant;

(iii) The facility is located as far from the water body edge as possible and is designed and constructed in a manner that minimizes disturbance of soils and vegetation; and

(iv) Clearing, grading, and excavation activities are limited to the minimum necessary and the area is restored following installation.

(h) Conservation, preservation, or enhancement projects to protect functions and values of the critical area system, including activities and mitigation allowed pursuant to the mitigation priorities identified in LCC 17.35A.030(4).

(2) The following uses might be necessary to fully enjoy and understand fisheries habitats or to provide resource activities and are permitted without any specific protection or mitigation other than may be identified in an applicable permit:

(a) Outdoor recreational or educational activities which do not significantly affect the function of the fisheries habitat or regulated buffer (including wildlife management or viewing structures, outdoor scientific or interpretive facilities, trails, hunting blinds, etc.) and meet the following criteria:

(i) Trails shall not exceed four feet in width and shall be made of gravel or pervious material.

(ii) The trail or facility is located in the outer 25 percent of buffers to Type S and F waters and the outer 50 percent of other buffers unless a location closer to the edge of the water body is required for interpretive purposes.

(iii) The trail or facility is constructed and maintained in a manner that minimizes disturbance of the water body or buffer and avoids removal of trees in excess of four inches in diameter. Trails or facilities within a water body shall be placed on an elevated structure as an alternative to fill.

(b) Harvesting wild crops which do not significantly affect the function of the fisheries habitat or regulated buffer (does not include tilling of soil or alteration of fisheries habitat area).

(c) Bank protection and flood protection, including flow control structures for regional retention/detention systems when developed in accordance with standards in LCC 17.35A.684.

(d) Instream fish and/or wildlife habitat enhancement.

(3) Stream relocation or restoration when a plan is submitted as part of the critical area study which demonstrates that the following criteria are met:

- (a) The relocation or restoration will not significantly degrade water quality, fish or wildlife habitats, or aquifer recharge (if hydrologically connected to a wetland).
- (b) The plan must contain and show the following information: a topographic survey showing existing and proposed topography and location of the new stream channel; and provisions for landscaping and long-term maintenance and for filling and revegetating the prior channel, if appropriate.
- (c) The relocation will maintain or improve the functions and values of the fisheries habitat system, and if feasible restore a channelized stream to a more natural configuration.
- (d) Natural materials and vegetation normally associated with the water body will be utilized.
- (e) Spawning, rearing, and nesting areas will be created, if appropriate.
- (f) Aquatic populations directly affected by the activity will be re-established, if appropriate.
- (g) Current water flow characteristics compatible with fish habitat areas will be maintained.
- (h) Relocation of Type S streams (shoreline of the state) shall be prohibited unless the relocation has been identified formally by the Washington Department of Fish and Wildlife as essential for fish and wildlife habitat enhancement or identified in watershed planning documents prepared and adopted pursuant to Chapter 90.82 RCW, the Salmonid Recovery Plan, or the Salmon Recovery Board Habitat Project List or county shoreline restoration plan.

(4) Timing. Work in or adjacent to water shall be conditioned to avoid time periods when aquatic species are particularly sensitive to damage or disturbance. The administrator may implement this provision through adoption of conditions of the Washington Department of Fish and Wildlife imposed pursuant to Chapter 220-110 WAC, or through specific provisions relating to site and resource conditions. [Ord. 1204 Exh. A § 2, 2008]

17.35A.680 Protection.

(1) Standard Buffer Width Requirements. The buffers for waters regulated under this article shall be as follows:

Stream Type	Buffers
Type S Water - "shorelines of the state" per Chapter 90.58 RCW	150
Type F Water A - waters other than Type S waters that contain fish habitat and have width of greater than 10 feet	150
Type F Water B - waters other than Type S waters that contain fish habitat and have width of less than 10 feet	100
Type Np Water - natural waters that are perennial nonfish habitat streams	75
Type Ns Water - seasonal, nonfish habitat streams	75

(2) Alternative buffer standards for single-family development on parcels of five acres or greater:

The administrator may utilize the following buffer dimensions as an alternative for single-family residences and accessory buildings on parcels of five acres or more in size, in compliance with the standards in LCC 17.35A.610(3), Provisions for single-family development on parcels of five acres or greater.

Stream Type	Reduction with Additional Conditions
Type S water - "shorelines of the state" per Chapter 90.58 RCW	100

Stream Type	Reduction with Additional Conditions
Type F water A - waters other than Type S waters that contain fish habitat and have width of greater than 10 feet	100
Type F water B - waters other than Type S waters that contain fish habitat and have width of less than 10 feet	75
Type Np water - natural waters that are perennial nonfish habitat streams	50
Type Ns water - seasonal, nonfish habitat streams	50

(3) Measurement. For streams, the buffer shall be measured horizontally in a landward direction from the ordinary high water mark. [Ord. 1204 Exh. A § 2, 2008]

17.35A.681 Averaging buffer width.

The width of a buffer 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 as documented in an aquatic assessment report:

(1) Averaging to improve aquatic habitat may be permitted when all of the following conditions are met:

- (a) The water body and buffer has significant differences in characteristics that affect its functions.
- (b) The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the aquatic habitat and decreased adjacent to the lower functioning or less sensitive portion.

(2) Averaging to allow reasonable use of a parcel may be permitted when all of the following are met:

- (a) Buffer averaging is necessary to accommodate existing conditions, such as topography, existing roads, or other public facilities, or similar features that prevent reasonable development in compliance with standard buffers.
- (b) There are no feasible alternatives to the site design that could be accomplished without buffer averaging.
- (c) Averaging will not impair or reduce the habitat, water quality purification and enhancement, storm water detention, ground water recharge, shoreline protection, erosion protection, and other functions of the stream and buffer as demonstrated by a report from a qualified professional.

(3) Any buffer averaging must meet the following criteria:

- (a) The total area of the buffer on the subject property is not less than the buffer which would be required if averaging was not allowed and all increases in buffer dimension for averaging must be generally parallel to the edge of the water body to avoid creating buffer panhandles.
- (b) No part of the width of the buffer is less than 75 percent of the required width or as specified in the table below, or if the criteria in subsection (2)(b) of this section are met, whichever results in a greater buffer.
- (c) Enhancement of reduced buffer areas may be required as necessary to ensure a vegetation community that fully performs buffer function and to ensure that no net loss of buffer functions results from width averaging.
- (d) No part of the width of the buffer is less than 75 percent for Type S and F-A waters or 50 percent for Type F-B, Type NP and Type Ns waters, except if the criteria in subsection (2)(b) of this section are met. If the provisions for alternative buffer standards for single-family development on parcels of five acres or greater in LCC 17.35A.680(2) are used, averaging may take place only in compliance with subsection (2) of this section. [Ord. 1204 Exh. A § 2, 2008]

17.35A.682 Riparian buffer increase.

The administrator may increase the width of the standard buffer on a case-by-case basis, based on a critical area study, when a larger buffer is required to:

- (1) Protect critical habitats as outlined in LCC 17.35A.720, or to maintain viable populations of priority species of fish and wildlife dependent on a specific water body; or
- (2) Protect the function and value of the water body from proximity impacts of adjacent land use, including noise, light, and other disturbance, not sufficiently limited by buffers provided above.
- (3) Add protection if adjacent land has a gradient such that buffers will be less effective; in such cases, buffers shall extend to a 30 percent greater dimension where lands within the standard stream buffer in LCC 17.35A.680(1) include slopes in excess of 25 percent and the standard buffer in LCC 17.35A.680(1) is less than 100 feet.
- (4) Consider geologic hazards; in such cases, buffers shall extend to the extent required for geologic hazards in LCC 17.35A.922 for slopes of 35 percent or greater, or to a point 25 feet beyond the top of the 35 percent slope, whichever extent is greater. [Ord. 1204 Exh. A § 2, 2008]

17.35A.683 Standards for crossing water bodies.

Public and private roadways and railroad facilities, including bridge construction and culvert installation, may be approved only if the following criteria and standards are met:

- (1) There is no reasonable location outside the water body or buffer based on analysis of system needs and alternative routes. Location within a buffer shall be preferred over a location within a water body.
- (2) Crossings of water bodies shall minimize the buffer area disturbed by alignment as close to perpendicular to the edge of the water body as possible.
- (3) Facilities parallel to the edge of the water body shall be located as far from the edge as possible and in a manner that minimizes disturbance of soils and vegetation.
- (4) Clearing, grading, and excavation activities are limited to the minimum necessary, which may include placement of crossings and approaches on elevated structures as an alternative to fill, where feasible.
- (5) Bridges are preferred for all stream crossings and are required for Type S and F-A streams, unless demonstrated to be infeasible. Culverts, where approved, shall be designed according to applicable state and federal guidance criteria for fish passage as identified in Washington Department of Fish and Wildlife Fish Passage Design at Road Culverts, March 1999, and/or the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossings, 2000 (and subsequent revisions), and in accordance with a state hydraulic project approval. The applicant or property owner shall maintain fish passage through the bridge or culvert. Existing culverts will be removed or corrected if the culvert is detrimental to fish passage or water quality, and a feasible alternative exists, or if part of a road reconstruction and the criteria above for bridges is met.
- (6) Facilities design shall demonstrate that the proposal will maintain or enhance ecological functions, through appropriate analysis by qualified professionals, including but not limited to:
 - (a) Minimize interruption of natural processes such as channel migration;
 - (b) Maintain existing stream gradient;
 - (c) Provide for the downstream movement of stream substrate and large woody debris (LWD); and
 - (d) Provide for the movement of all fish and wildlife including multiple benefits of wildlife corridors by providing adequate horizontal clearance on each side of the ordinary high water mark, and adequate vertical clearance above the ordinary high water mark. [Ord. 1204 Exh. A § 2, 2008]

17.35A.684 Standards for bank stabilization and protection.

Stabilization of the bank or a water body may be approved only when the following criteria and standards are met:

- (1) New development shall be designed to avoid the need for bank stabilization. Land division shall be designed to assure that each lot may be developed in the future without the need for structural bank protection.
- (2) New or expanded bank stabilization and protection structures shall be allowed only in cases where geotechnical analysis documents that a primary structure is in imminent danger from shoreline erosion caused by natural processes, or where waiting until the need is immediate would foreclose opportunities to avoid impacts on shoreline ecological functions, and where moving the structure outside of the area of erosion is infeasible. Alternatives that relocate structure and allow natural stream and other processes to continue are preferred.
- (3) Replacement of existing bank stabilization or protection structures with a similar structure is permitted if there is a demonstrated need to protect primary uses or structures, or public facilities including roads and bridges, railways, and utility systems. A geotechnical analysis may be required to document that alternative solutions are not feasible or do not provide sufficient protection. Existing structures that are being replaced shall be removed where a net loss in habitat would occur. Replacement structures shall not encroach waterward of the ordinary high water mark or the existing shore defense structure unless the primary use being protected is a residence that was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing stabilization structure.
- (4) Groins are prohibited, except as a component of a professionally designed management program that encompasses an entire reach for which alternatives are infeasible, or where installed to protect or restore or enhance ecological functions.
- (5) New or expanded bank stabilization and protection structures may be permitted to protect projects with the primary purpose of enhancing or restoring ecological functions, or hazardous substance remediation permits pursuant to Chapter 70.105D RCW when non-structural approaches, such as vegetation planting, and on-site drainage improvements are not feasible or do not provide sufficient protection.
- (6) The size of bank stabilization and protection structures shall be limited to the minimum necessary to provide protection for the primary structure or use it is intended to protect.
- (7) Hard structural bank stabilization or protection shall generally not be authorized except when a geotechnical report confirms that flexible defense works constructed of natural materials, including soft solutions, bioengineering, or vegetative stabilization, are infeasible.
- (8) New, expanded, or replacement bank stabilization or protection structures shall not be permitted unless it can be demonstrated that the proposal will maintain or enhance ecological functions, including but not limited to:
 - (a) Maintenance of existing stream substrate and gradient;
 - (b) Recruitment of large woody debris;
 - (c) Preservation or restoration of nearshore vegetation and shading and temperature attenuation functions; and
 - (d) Preservation of fish habitat, including that related to anadromous fish. [Ord. 1204 Exh. A § 2, 2008]

17.35A.685 Standards for docks, launch ramps, and instream structures.

Docks, launch ramps, and other instream structures shall comply with the following criteria:

- (1) New docks should only be allowed for public access, as an accessory to water-dependent uses, or associated with a single-family residence; provided, that it is designed and used only as a facility for access to watercraft.
 - (a) To limit the effects on ecological functions, the number of docks should be limited and new subdivisions should employ shared moorage whenever feasible. Docks on shorelines of the state must comply with policies and regulations of the Lewis County shoreline master program.
 - (b) Docks shall be located and designed to minimize adverse effects on ecological processes through:
 - (i) Docks shall not be located where they will interfere with:

- (A) Maintenance of existing substrate and stream processes gradient;
 - (B) Recruitment of large woody debris;
 - (C) Maintenance of nearshore vegetation and shading and temperature attenuation functions; and
 - (D) Preservation of fish habitat, including that related to anadromous fish.
- (ii) Docks shall minimize reduction in ambient light level by limiting width to the minimum necessary and shall not exceed four feet in width, except where specific information on use patterns justifies a greater width. Materials that will allow light to pass through the deck may be required including grating on walkways or gangplanks in nearshore areas.
 - (iii) Approaches shall utilize piers or other structures to span the entire upper foreshore to the point of intersection with stable upland soils and shall be designed to avoid interfering with stream processes.
 - (iv) Pile spacing shall be the maximum feasible to minimize shading and avoid a wall effect that would block or baffle currents, sediment movement, or movement of aquatic life forms, or result in structure damage from driftwood impact or entrapment.
 - (v) Docks should be constructed of materials which will not adversely affect water quality or aquatic plants and animals in the long term.
- (2) Launch ramps may be permitted for access to the water for the public, or for residents of a development, or for water-dependent use subject to the following criteria:
- (a) Technical studies accompanying an application shall demonstrate that launch ramps will not interfere with fluvial processes.
 - (b) Ramps shall be placed and maintained near flush with the bank slope. Preferred ramp designs, in order of priority, are:
 - (i) Open grid designs with minimum coverage of beach substrate;
 - (ii) Seasonal ramps that can be removed and stored upland;
 - (iii) Structures with segmented pads and flexible connections that leave space for natural beach substrate and can adapt to changes in beach profile.
- (3) Instream structures, including dams, other than those regulated exclusively by the Federal Energy Regulatory Commission shall be permitted only when multiple public benefits are provided and ecological impacts are fully mitigated. Instream structures on shorelines of the state shall be regulated in accordance with the Lewis County shoreline master program. Instream structures on other streams shall require a special use permit as provided by LCC 17.160.020.
- (a) Instream structure locations shall avoid areas of high habitat value for aquatic organisms, specifically anadromous fish.
 - (b) Instream structures shall be designed to produce the least feasible effect on fluvial processes. Small dams that minimize change in gradient shall be preferred.
 - (c) Instream structures shall provide mitigation of all impacts on aquatic species and habitat.
 - (d) Fish passage shall be provided for all dams, in accordance with Chapter 77.57 RCW.
 - (e) A construction bond for 150 percent of the cost of the instream structure shall be filed prior to construction.

(f) A maintenance agreement shall specify responsibility for maintenance, shall incorporate the maintenance schedule specified by the design engineer, shall require annual inspections by a civil engineer licensed in the state of Washington and shall stipulate abandonment procedures which shall include, where appropriate, provisions for site restoration.

(g) Instream structures shall comply with the floodway zero rise requirements as established in the Code of Federal Regulations at 44 CFR 60.3(d)(3). [Ord. 1204 Exh. A § 2, 2008]

17.35A.690 Mitigation conditions.

Unless otherwise provided by this section, mitigation shall be required for loss of area or function and value of water bodies and buffers regulated under this section. When mitigation is required by this section, it shall address restoration, rehabilitation, and compensation in accordance with the following requirements:

- (1) Restoration is required when a stream or buffer regulated under this section has been altered prior to project approval unless the alteration was authorized by law, or when streams and/or buffers are temporarily affected by construction or any other temporary phase of a project.
- (2) Mitigation is required when a water body or buffer regulated under this section is permanently altered as a result of project approval or activity.
- (3) On-site mitigation is preferred so as to assure that the plan results in mitigation for direct impacts resulting from the alteration.
- (4) Off-site mitigation will be used only in those situations where appropriate, adequate on-site mitigation is not reasonable or desirable to achieve. Off-site mitigation is allowed where it better serves the purposes of this chapter. When off-site mitigation is allowed, it must occur within the same subdrainage basin as the project impact.
- (5) Mitigation shall be completed prior to granting of final occupancy, or the completion or final approval of any development activity for which mitigation measures have been required. Bonding at 150 percent of the cost of uncompleted mitigation activities is an acceptable alternative to completion where a contract to complete the work is in force. [Ord. 1204 Exh. A § 2, 2008]

17.35A.691 Review and reporting requirements.

- (1) When critical area maps or other sources of credible information indicate that a site proposed for development or alteration may contain aquatic resources, the administrator may apply the mapped classification of the water body or, where there is uncertainty, may require a site evaluation (field investigation) by a qualified professional to determine whether or not an aquatic resource is present and if so, its relative location in relation to the proposed project area on site. If the administrator determines that an aquatic resource is more likely to be present, the administrator may require a more detailed study and shall require a study if modification of the water body or buffer is proposed. If no regulated aquatic resources are present, then the review will be considered complete.
- (2) An aquatic assessment study describes the characteristics of the subject property and adjacent areas. The assessment shall include the following:
 - (a) Existing physical features of the site including buildings, fences, and other structures, roads, parking lots, utilities, water bodies, etc.;
 - (b) Determination of the aquatic resource category and standard buffers;
 - (c) Identification of critical areas and buffers within 300 feet of the site and an estimate of the existing approximate acreage for each. The assessment of off-site resources shall be based on available information and shall not require accessing off-site properties;
 - (d) Proposed development activity; and
 - (e) A detailed description of the effects of the proposed development on aquatic resources and buffer function and value, including the area of direct disturbance; area of buffer reduction or averaging including documentation that functions and values will not be adversely affected by the reduction or averaging; effects of

storm water management; proposed hydrologic alteration including changes to natural drainage or infiltration patterns; effects on fish and wildlife species and their habitats; clearing and grading impacts; temporary construction impacts; and effects of increased noise, light, or human intrusion.

(3) Provisions to reduce or eliminate adverse impacts of the proposed development activities including, but not limited to:

- (a) Buffering and clustering of development;
- (b) Retention of native vegetation;
- (c) Access limitations;
- (d) Seasonal restrictions on construction activities in accordance with the guidelines developed by the Washington Department of Fish and Wildlife, the U.S. Army Corps of Engineers, the Salmonid Recovery Plan and/or other agency or tribe with expertise and jurisdiction over the subject species/habitat; and
- (e) Other appropriate and proven low impact development techniques. [Ord. 1204 Exh. A § 2, 2008]

17.35A.700 References.

The approximate location and classification of streams and other aquatic resources are shown on the county's critical area maps. Maintenance of maps does not imply that land outside areas mapped does not contain aquatic resources. Preparation and maintenance of such maps shall not create liability on the part of Lewis County, or any officer or employee thereof, for any damages that result from reliance on said maps or any decision lawfully made hereunder. Critical area maps and other information may be relied upon by the administrator as a basis for administering provisions of the code requiring field investigation and special reports. In the event of a conflict between information contained in the critical area maps and information resulting from a field investigation of stream typing, the latter shall prevail. For the location and extent of priority habitat and species protected by this section, the Washington Department of Fish and Wildlife shall be relied upon for providing best available information.

The following references provide an indication of fisheries resources. Field conditions shall be used to determine the existence or extent of any classified stream area. Reference sources:

- (1) Washington Department of Natural Resources base maps for stream types and topography;
- (2) Washington Department of Fish and Wildlife Washington Rivers Information System, Salmon and Steelhead Inventory. [Ord. 1204 Exh. A § 2, 2008]

Article IV(C). Wildlife Habitat

17.35A.720 Identification.

Lewis County adopts as critical terrestrial wildlife habitat areas:

- (1) The Washington Department of Fish and Wildlife Priority Habitats and Species Recommendations for Species and Habitats, for:
 - (a) Endangered species listed at WAC 232-12-014;
 - (b) Threatened species listed at WAC 232-12-001;
 - (c) Sensitive species listed at WAC 232-12-011.
- (2) Bald eagle habitat pursuant to RCW 77.12.655 and WAC 232-12-292.
- (3) Federally designated threatened or endangered species.
- (4) State natural area preserves and natural resource conservation areas including:

(a) Washington Department of Natural Resources designated natural areas preserves and natural resource conservation areas;

(b) Washington Department of Fish and Wildlife-designated wildlife recreation areas;

(c) Areas designated for wildlife management by the Federal Energy Regulatory Commission as the result of licensing of dams or other energy resources.

(5) The following species and their habitat are designated as species of local importance and locally important habitat areas:

(a) Elk wintering habitat; and

(b) Western toad.

(6) In addition to the species, habitats, and wildlife corridors identified above, the county may designate additional species, habitats of local importance, and/or wildlife corridors as follows:

(a) In order to nominate an area, species, or corridor to the category of locally important, an individual or organization must:

(i) Demonstrate a need for special consideration based on:

(A) Declining population;

(B) Sensitivity to habitat manipulation;

(C) Commercial, recreational, cultural, or other special value; or

(D) Maintenance of connectivity between habitat areas;

(ii) Propose relevant management strategies considered effective and within the scope of this chapter;

(iii) Identify effects on property ownership and use; and

(iv) Provide a map showing the general species or habitat location(s).

(b) Submitted proposals shall be reviewed by the administrator and may be forwarded to the Washington State Departments of Fish and Wildlife, Natural Resources, and/or other local, state, federal, and/or tribal agencies or experts for comments and recommendations regarding accuracy of data and effectiveness of proposed management strategies.

(c) If the administrator finds the proposal to be complete and accurate, he shall forward the nomination to the Lewis County planning commission for consideration of whether the nomination is consistent with the purposes and intent of this chapter, as well as the goals and objectives of the Lewis County comprehensive plan and the Growth Management Act. The administrator shall hold public meetings or hearings and take other action as provided by Chapters 17.12 and 17.165 LCC.

The purpose of this section shall be the protection of such habitat consistent with the property rights of the property owners and occupants of Lewis County. [Ord. 1204 Exh. A § 2, 2008]

17.35A.730 Classification.

The designation of a site as a wildlife critical habitat area shall apply to those lands where the habitat in fact exists. [Ord. 1204 Exh. A § 2, 2008]

17.35A.740 Allowed activities in critical wildlife areas and buffers.

(1) The following uses are specifically allowed in critical wildlife habitat or buffer areas subject to the priorities, protection, and mitigation requirements of this article:

(a) Utility lines serving local delivery systems, not including electrical substations, sewage pumping stations, petroleum product pipelines, transformers, or other facilities containing hazardous substances, may be located in terrestrial wildlife habitat areas and their buffers when no feasible conveyance alternative is available and shall be designed and constructed to minimize physical, hydrologic, and ecological impacts to the wetland, if the following criteria are met:

- (i) There is no reasonable location outside the terrestrial wildlife habitat areas and their buffers on analysis of system needs, available technology, and alternative routes.
- (ii) The utility line is located as far from the terrestrial wildlife habitat areas and their buffers as possible and in a manner that minimizes disturbance of soils and vegetation.
- (iii) Clearing, grading, and excavation activities are limited to the minimum necessary to install the utility line.
- (iv) Impacts on terrestrial wildlife functions are mitigated in accordance with LCC 17.35A.760.

(b) Public and private roadways and railroad facilities, including bridge construction and culvert installation, if the following criteria are met:

- (i) There is no reasonable location outside the terrestrial habitat area and buffer based on analysis of system needs, and alternative routes. Location within a wetland buffer shall be preferred over a location within a wetland.
- (ii) Clearing, grading, and excavation activities are limited to the minimum necessary, and are scheduled to avoid the seasons and time periods when species are most sensitive, such as nesting times.
- (iii) Impacts on terrestrial wildlife habitat functions are mitigated in accordance with LCC 17.35A.760.

(c) Access to private development sites may be permitted to cross terrestrial habitat areas pursuant to the criteria in subsection (1)(b) of this section. Alternative access shall be pursued to the maximum extent feasible. Exceptions or deviations from technical standards for width or other dimensions, and specific construction standards to minimize impacts may be specified.

(d) Maintenance, repair, or operation of existing structures, facilities, or improved areas, including minor modification of existing serviceable structures within a terrestrial habitat area, where modification does not adversely impact critical wildlife area functions and values.

(e) Regional storm water detention/retention facilities, identified in an adopted plan of an appropriate public agency where no reasonable nonwildlife habitat alternative is available.

(f) Conservation, preservation, or enhancement projects that protect functions and values of the critical area system, including activities and mitigation, are allowed pursuant to the mitigation priorities identified in LCC 17.35A.030(4).

- (i) The activities are conducted in accordance with all applicable provisions of this chapter and other state and federal requirements, including applicable permit requirements of the Hydraulics Code (Chapter 77.55 RCW) and a hydraulic project approval, if required.

(2) The following uses are necessary to fully enjoy and understand critical wildlife habitat areas or to provide resource activities and are permitted without any specific protection or mitigation other than may be identified in an applicable permit:

- (a) Outdoor recreational or educational activities which do not significantly affect the function of the critical wildlife area or buffer (including wildlife management or viewing structures, outdoor scientific or interpretive facilities, trails, hunting blinds, etc.);

(b) Harvesting wild crops which do not significantly affect the function of the critical wildlife area or buffer (does not include alteration of a critical wildlife area);

(c) Bank protection and flood protection, including flow control structures for regional retention/detention systems as regulated in LCC 17.35A.684 and 17.35A.685.

(3) Habitat relocation or enhancement when a plan is submitted as part of the critical area study which demonstrates that the following criteria are met:

(a) The relocation or enhancement will improve the critical area wildlife habitats;

(b) The plan must contain and show the following information: a topographic survey showing existing and proposed topography and location of the new habitat, and provisions for landscaping and long-term maintenance;

(c) The relocation will maintain or improve critical wildlife area habitat functions and values;

(d) Natural materials and vegetation normally associated with the habitat system will be utilized;

(e) Feeding, rearing, and nesting areas will be created, if applicable;

(f) Threatened, endangered, or sensitive species will be re-established, if applicable; and

(g) Critical wildlife area characteristics compatible with relevant threatened, endangered, or sensitive species habitat areas will be restored. [Ord. 1204 Exh. A § 2, 2008]

17.35A.750 Protection.

(1) Lewis County adopts the recommendations of Washington Department of Fish and Wildlife Management Recommendations for Washington's Priority Habitats and Species, as may be amended, for habitat protection and buffer creation and maintenance for listed species.

(2) In reviewing any land use development permit application involving a property on which priority habitat may be located, the administrator shall consult maps of priority habitats and species and other available information and initiate review if the site is within the area of potential effect as defined by the radius of potential effect. The administrator shall maintain revisions to Appendix A, Priority Species and Habitat Geographic Identification, included at the end of this chapter, to comply with the current Washington Department of Fish and Wildlife recommendations for state-listed species and the current U.S. Fish and Wildlife Service management recommendations for federal-listed species.

(3) In reviewing any land use development permit application involving a property on which priority habitat is located, and to accomplish the priorities and protections of this chapter, the administrator shall condition any approval consistent with recommendations derived from criteria and recommendations from the Washington Department of Fish and Wildlife Management Recommendations for Washington's Priority Habitats and Species and U.S. Fish and Wildlife Service management recommendations for federal-listed species. Said recommendation shall be implemented in the context of the location and importance of the parcel in the protection of the species identified and the potential impacts of the proposed land use activity. Variation from the management recommendations may be implemented with the concurrence of Washington Department of Fish and Wildlife and may require preparation of a habitat assessment report as provided in LCC 17.35A.751. The administrator shall maintain revisions to Appendix B, Current Buffers for Priority Species, included at the end of this chapter to comply with the current Washington Department of Fish and Wildlife recommendations for state-listed species and the current U.S. Fish and Wildlife Service management recommendations for federal-listed species. Divisions of land, including subdivisions and short subdivisions, shall include provisions to assure that each lot may be developed consistent with wildlife management recommendations with designation of buffer areas as needed. All plats and short plats will clearly show the boundary of any areas where use or development are restricted together with the terms of the restriction. A habitat assessment report may be required to assess needs for habitat connectivity and movement, as well as other management criteria.

(4) Review of development that may affect bald eagle habitat shall be consistent with RCW 77.12.655 and WAC 232-12-292. For any application within the review area for bald eagle in Appendix A included at the end of this chapter, the administrator shall notify the Washington Department of Fish and Wildlife pursuant to WAC 232-12-292(4.4). The administrator shall issue development permits only after certification from Washington Department of Fish and Wildlife that the development is in compliance with an approved habitat management plan.

(5) Review of development adjacent to a state natural area preserve, natural resource conservation area, or federal wildlife refuge shall provide for notification of the management agency for the facility, except for activities accessory to agricultural or forestry use or single-family development, unless the county has entered into a memorandum of understanding with the agency. Unless otherwise provided by a memorandum of agreement, if a public review period is provided for an approval, comments of the agency shall be entertained within that time period. If no public review period is provided, 14 days shall be for public review. The administrator may require a habitat management plan, or impose additional conditions, beyond those provided for priority species to provide reasonable protection to wildlife habitat within the preserve or conservation area.

(6) Review of development within the habitat of a designated species of local importance and locally important habitat areas shall consist of the following:

(a) Elk Wintering Habitat. Habitat continuity for elk wintering areas shall be provided through review of new subdivisions and major road and highway construction or alteration within the following areas:

(i) Subdivisions in areas designated in the Washington Department of Fish and Wildlife Priority Habitats and Species database as elk wintering areas shall provide open space corridors for elk movement across the site that will not be blocked by fences or structures. Adequate dimensions for such corridors shall be determined in consultation with Washington Department of Fish and Wildlife. Joint use of other open space such as stream corridors and wetland areas is encouraged.

(ii) Major roads with average daily traffic greater than 2,000 shall provide for elk movement across the roadway within areas designated in the Washington Department of Fish and Wildlife Priority Habitat and Species database as elk movement corridors. Corridors consistent with stream or other open space with bridges adequate to provide for elk movement are encouraged. Other provisions such as signage, sensing, and signalization or other grade-separated crossing shall be determined in consultation with Washington Department of Fish and Wildlife.

(b) Western toad habitat will be protected in Sections 30, 31, 32, Twn. 12, R 4E and Sections 3, 4, 9, 10, 11, and 12, Twn. 11, R 4E within areas designated in the Washington Department of Fish and Wildlife Priority Habitat and Species database as areas of Western toad habitat through the following provisions:

(i) Subdivisions shall provide corridors for toad movement across the site. Adequate design and dimensions for such corridors shall be determined in consultation with Washington Department of Fish and Wildlife. Joint use of other open space such as stream corridors and wetland areas is encouraged.

(ii) New roads or major improvements to existing roads shall provide for movement of dispersing toadlets with a minimum of roadkill. Structures to funnel toadlets through culverts or other crossings are encouraged. Adequate design and dimensions for such corridors shall be determined in consultation with Washington Department of Fish and Wildlife.

(iii) Development may be conditioned to provide specific features that reduce toad mortality, including but not limited to enclosed roof downspout drainage and other features designed to avoid entrapment or hindrance of movement. [Ord. 1204 Exh. A § 2, 2008]

17.35A.751 Habitat assessment report.

(1) A habitat assessment report may be required to document the character of habitat and assist in determining appropriate buffers.

(2) The habitat assessment report shall describe the characteristics of the subject property and adjacent areas; an assessment of buffers alternatives, including the Washington Department of Fish and Wildlife recommendations;

and may include field identification and/or delineation of habitat areas, analysis of historical aerial photos, review of public records, and interviews with adjacent property owners as necessary to determine potential effects of the development action on critical areas. Assessment reports shall include the following site- and proposal-related information unless the administrator determines that any portion of these requirements is unnecessary given the scope and/or scale of the proposed development:

- (a) A map drawn to scale or survey showing the following information:
 - (i) Topographic, hydrologic, and vegetative features;
 - (ii) The location and description of wildlife and habitat features, and all critical areas on or abutting the site;
 - (iii) Proposed development activity; and
 - (iv) Existing physical features of the site including buildings, fences, and other structures, roads, parking lots, utilities, water bodies, etc.
 - (b) An analysis of how the proposed development activities will affect the fish and wildlife habitat conservation area and/or buffer, including the area of direct disturbance; effects of storm water management; proposed alteration to surface or subsurface hydrology; natural drainage or infiltration patterns; clearing and grading impact; temporary construction impacts; and effects of increased noise, light, or human intrusion.
 - (c) Provisions to reduce or eliminate adverse impacts of the proposed development activities including, but not limited to:
 - (i) Buffering and clustering of development;
 - (ii) Retention of native vegetation;
 - (iii) Access limitations;
 - (iv) Seasonal restrictions on construction activities in accordance with the guidelines developed by the Washington Department of Fish and Wildlife, the U.S. Army Corps of Engineers, the Salmonid Recovery Plan and/or other agency or tribe with expertise and jurisdiction over the subject species/habitat; and
 - (v) Other appropriate and proven low impact development techniques.
 - (d) Assessment of the management recommendations developed by Washington Department of Fish and Wildlife through its Priority Habitat and Species program and potential modifications based on the analysis above.
 - (e) When appropriate due to the type of habitat or species potentially present or the project area conditions, the administrator may also require that the report include additional information including, but not limited to, direct observations of species use or detailed surface and subsurface hydrologic features both on and adjacent to the site. The assessment of off-site conditions shall be based on available information and shall not require accessing off-site properties.
 - (f) When appropriate, a mitigation plan may be incorporated in the habitat assessment report.
- (3) A habitat assessment report shall be prepared in consultation with the Washington Department of Fish and Wildlife and/or other federal, state, local, or tribal resource agencies with jurisdiction and expertise in the subject species/habitat.
- (4) At the request of the applicant for a single-family residence, the administrator may determine that county staff will gather the required information in this section for applicants; provided, that:

(a) Staff is available, as determined at the discretion of the administrator, and subject to workload and scheduling constraints.

(b) The cost of county staff services shall be fully reimbursed by the applicant. The administrator may require posting of the estimated cost of services. [Ord. 1204 Exh. A § 2, 2008]

17.35A.760 Mitigation conditions.

(1) County Permits. Unless otherwise provided by this section, mitigation shall be required for loss of area or functions and values of wildlife habitat regulated under this section. When mitigation is required by this section, a habitat assessment report shall address restoration, rehabilitation, and alternatives in accordance with the following requirements:

(a) Restoration is required when a wildlife habitat regulated under this section has been altered prior to project approval unless the alteration was authorized by law, or when wildlife habitats are temporarily affected by construction or any other temporary phase of a project.

(b) Mitigation is required when a wildlife habitat regulated under this section is permanently altered as a result of project approval or activity and shall follow the mitigation sequence in LCC 17.35A.030(4).

(c) On-site mitigation is preferred.

(d) Off-site mitigation will be used only in those situations where appropriate, adequate on-site mitigation is not reasonable or desirable to achieve. Off-site mitigation is allowed where it better serves the purposes of this chapter. When off-site mitigation is allowed, it must occur within the same subbasin or wildlife management unit as the project impact.

(e) Mitigation shall be completed prior to granting of final occupancy, or the completion or final approval of any development activity for which mitigation measures have been required. Bonding at 150 percent of the cost of uncompleted mitigation activities is an acceptable alternative to completion where a contract to complete the work is in force. [Ord. 1204 Exh. A § 2, 2008]

17.35A.770 Processing.

Compliance with the requirements of this section shall be considered a material element of any permit approval.

Adverse effects shall be mitigated to ensure continuation of baseline populations for all priority species and any other species of local importance. Baseline populations are those population levels known to have been supported by the area in question with relative stability over the decade preceding the proposed development. Creation of isolated subpopulations of those species shall be avoided.

(1) County Permits. Compliance with the requirements of this section shall be considered a material element of any permit approval. All technical analysis in connection with high intensity uses shall be by a qualified critical area professional. Information demonstrating compliance with the standards of this section shall be submitted in connection with all proposed development. A written finding of compliance, together with the reasons for such finding, shall be required in connection with the issuance of any county permit for a high intensity use.

(2) Other Agency Permits and Standards. The county desires to limit overlapping regulations and conflicting regulations. To this end, the county recognizes that a number of other permitting agencies do take steps to protect wildlife areas. Where permits are required by other agencies, in addition to the county, the county shall coordinate review and conditions to the maximum extent feasible. [Ord. 1204 Exh. A § 2, 2008]

17.35A.790 Mapping and references.

The county shall use Washington Department of Fish and Wildlife priority species maps and other relevant information as a source of information on the probable location of critical species. Sensitive information may not be released to the public pursuant to wildlife agency guidelines. Maintenance of maps does not imply that land outside areas mapped does not contain habitat resources. Preparation and maintenance of such maps shall not create liability on the part of Lewis County, or any officer or employee thereof, for any damages that result from reliance on said maps, or any decision lawfully made hereunder. The priority habitats and species database, other critical area maps,

and other information may be relied upon by the administrator as a basis for administering provisions of the code requiring field investigation and special reports. In the event of a conflict between information contained in the critical area maps and information resulting from a field investigation, the administrator shall coordinate with the Washington Department of Fish and Wildlife to determine whether field records are adequate to depart from priority species maps or to determine additional study that may be needed to substantiate a change in application of priority species information. [Ord. 1204 Exh. A § 2, 2008]

Article IV(D). Aquifer Recharge Areas

17.35A.840 Purpose.

Once ground water is contaminated, it is difficult to clean and the cost of cleanup may be prohibitive. Because water, especially potable water, is such a vital resource, Lewis County will work to protect the water quality of its critical aquifers. Therefore, it is the policy of Lewis County to accomplish the following:

- (1) To prevent significant degradation of ground water resources;
- (2) To recognize the potential connection between surface and ground water resources;
- (3) To balance competing needs for water under regulated activities while preserving essential natural functions and processes; and
- (4) To comply with Chapter 90.48 RCW, the Water Pollution Control Act of the state of Washington. [Ord. 1204 Exh. A § 2, 2008]

17.35A.850 Classification.

Aquifer recharge areas are categorized according to the following standards and those contained in Table 1:

- (1) Category I - Severe Aquifer Sensitivity. "Category I - Severe aquifer sensitivity" are those areas which provide rapid recharge with little protection, having highly permeable soils. The predominant soil series and types are those listed in Category I in Table 1.
- (2) Category II - Moderate Aquifer Sensitivity. "Category II - Moderate aquifer sensitivity" are those areas with aquifers present, but which have a surface soil material that encourages run-off and slows water entry into the ground. The predominant soil series and types are those listed as Category II in Table 1.
- (3) Category III - Slight Aquifer Sensitivity. "Category RI - Slight aquifer sensitivity" are those areas of low ground water availability and whose soil series are derived from basaltic, andesitic, or sedimentary rock or ancient glacial till, which are parent material for soils with more clays at the surface. These geological formations do not provide abundant ground water. The predominant soil series and types are those listed as Category III in Table 1.

Table 1. Aquifer Sensitivity Rating for Lewis County Soil Types

Soil Survey Map No. and Soil Series/Name	Category I Severe	Category II Moderate	Category III Slight
1. Alvor			X
2. Andaquepts			X
3. Andic Xerumbrepts			X
4. Aquic Xerofluvents		X	
5. Astoria			X
6-10. Baumgard			X
11-15. Bellicum		X	

Soil Survey Map No. and Soil Series/Name	Category I Severe	Category II Moderate	Category III Slight
16-20. Benham		X	
21-22. Boistfort			X
23-25. Bromo		X	
26-28. Buckpeak			X
29-30. Bunker			X
31-41. Cattcreek		X	
42-44. Centralia			X
45-46. Centralia Variant			X
47-48. Chehalis		X	
49-56. Cinebar		X	
57-60. Cispus		X	
61. Cloquato	X		
62-69. Colter		X	
70-74. Cotteral		X	
75. Cryaquepts		X	
76. Cryohemists			X
77-78. Dobbs			X
79-83. Domell			X
84. Doty		X	
85. Elochman			X
86-87. Ferteg			X
88. Fluvaquentic Humaquepts	X		
89-90. Galvin		X	
91. Glenoma	X		
92. Greenwater	X		
93-98. Hatchet			X
99-103. Hoffstadt			X
104. Indianola	X		
105-107. Jonas			X
108-110. Katula			X
111-113. Katula-Bunker Complex			X
114-115. Katula-Rock Outcrop			X
116-117. Klaber		X	

Soil Survey Map No. and Soil Series/Name	Category I Severe	Category II Moderate	Category III Slight
118-120. Lacamas			X
121-122. Lates			X
123. Ledow	X		
124-125. Lytell			X
126-127. Mal			X
128-129. Mashel			X
130-132. Melbourne		X	
133. Mossyrock		X	
134. Murnen			X
135. National	X		
136-137. Nesika	X		
138-139. Netrac	X		
140-144. Nevat		X	
145-147. Newaukum		X	
148. Newberg	X		
149. Nisqually	X		
150-151. Ohana			X
152-154. Olequa		X	
155-158. Olympic		X	
159-165. Pheeneey			X
166. Pits	X		
167-169. Prather		X	
170. Puget		X	
171. Puyallup	X		
172-173. Reed		X	
174-179. Reichel			X
180. Riverwash	X		
181-185. Rock outcrop			X
186. Rubbleland			X
187-190. Salkum			X
191-192. Sauvola			X
193-195. Scamman		X	
196-203. Schneider			X

Soil Survey Map No. and Soil Series/Name	Category I Severe	Category II Moderate	Category III Slight
204. Schooley		X	
205. Semiahmoo			X
206-207. Siler	X		
208-211. Skate	X		
212. Spanaway	X		
213. Squally		X	
214-220. Stahl			X
221-223. Swem			X
224. Thrash			X
225-227. Tradedollar		X	
228-229. Vader			X
230-235. Vailton			X
236. Voight			X
237-239. Walville			X
240-241. Wilkeson			X
242-246. Winston	X		
247. Xerorthents, Spoils			X
248. Xerorthents, Steep		X	
249. Zenker			X
250-253. Zynbar			X
254-255. Zynbar Variant			X

[Ord. 1204 Exh. A § 2, 2008]

17.35A.860 Designation.

(1) Lands of Lewis County meeting the classification criteria for aquifer recharge areas are hereby officially designated, pursuant to the mandate of RCW 36.70A.060 and 36.70A.170, as critical aquifer recharge areas.

(2) Aquifer Recharge Areas - Rating System Determinations. In cases of disputed soil series, or series boundary, and resulting aquifer recharge category, the administrator shall use all available information, including reports by the United States Geological Survey and technical assessments submitted in accordance with Table 1 of this chapter, to make the final determination. This may include consultation with the USDA Natural Resource Conservation Service, the Washington Department of Natural Resources Division of Geology and Earth Resources, or a soil scientist certified by the American Registry of Certified Professionals in agronomy, crops, and soils. In areas that have been disturbed or the surface soil removed, as in gravel pits, the administrator shall determine the most appropriate category with geological and hydrological information. [Ord. 1204 Exh. A § 2, 2008]

17.35A.870 Allowed activities.

(1) The following uses are specifically allowed in aquifer recharge areas subject to the priorities, protection, and mitigation requirements of this article:

- (a) Utility lines and facilities, regional transmission facilities, and local delivery systems where reasonable nonaquifer recharge area alternatives are unavailable, not including new electrical substations, sewage pumping stations, petroleum product pipelines, and not including transformers or other facilities containing hazardous substances;
- (b) Public and private roadways and railroad facilities, including bridge construction and culvert installation, where reasonable nonaquifer recharge area alternatives are unavailable;
- (c) Maintenance, repair, or operation of existing structures, facilities, or improved areas, including minor modification of existing serviceable structures where modification does not adversely impact aquifer recharge area functions;
- (d) Single-family residence and ordinary residential improvements on an existing legal lot where nonaquifer recharge area alternatives are unavailable;
- (e) Regional storm water detention/retention facilities, identified in an adopted plan of an appropriate public agency if adopted after implementation of these regulations and if the plan has undergone review for compliance with this chapter;
- (f) Conservation, preservation, or enhancement projects to protect functions and values of the critical area system, including activities and mitigation allowed pursuant to the mitigation priorities identified in LCC 17.35A.030(4).

(2) The following uses are necessary to fully enjoy and understand aquifer recharge areas or to provide resource activities and are permitted without any specific protection or mitigation other than may be identified in an applicable permit:

- (a) Outdoor recreational or educational activities which do not significantly affect the function of the aquifer recharge area (including wildlife management or viewing structures, outdoor scientific or interpretive facilities, trails, hunting blinds, etc.); and
- (b) Harvesting wild crops which do not significantly affect the function of the aquifer recharge area. [Ord. 1204 Exh. A § 2, 2008]

17.35A.880 Protection.

(1) Low Intensity Uses. Low intensity uses shall be all uses not defined as high intensity uses in subsection (2) of this section.

Any development on aquifer sensitive soils shall:

- (a) Prohibit buried tanks of any petroleum or hazardous material unless the tank is double-wall protected;
- (b) Prohibit the discharge of petroleum or hazardous materials to any ditch, swale, or other nonimpervious surfaced area where migration to the aquifer is a reasonable likelihood; and
- (c) Require oil-water separators for any impervious surface areas 5,000 square feet or larger.

(2) High Intensity Uses. High intensity uses shall have the same protective standards as low intensity standards and shall comply with additional requirements where specifically listed below, where using hazardous materials in excess of small quantity generator status, and shall comply with requirements identified on the registered label or material safety data sheets.

(3) High Intensity Uses. The uses in Table 2 shall be reviewed as high intensity uses within any aquifer recharge area regardless of the size. In addition, high intensity uses shall consist of any use where any petroleum or hazardous wastes as defined in Chapter 123-303 WAC are used or stored in excess of limits identified in Lewis County health department health regulations consistent with Chapter 123-303 WAC, as a risk to ground water quality.

(4) Additional Protection for Specified High Intensity Uses. The following protection standards shall apply to aquifer recharge area review and approval of uses or activities by the administrator set forth in LCC 17.35A.870 within aquifer recharge areas. Certain uses and activities conducted within some aquifer sensitivity categories, as identified in Table 2 of this chapter, will require the submission of a technical assessment to the administrator. The submission of additional information may also be required for some of the uses and activities identified within this subsection.

Table 2.
High Intensity Uses within Aquifer Recharge Areas

	On Sewerage System			Not on Sewerage System		
	Category			Category		
	1	2	3	1	2	3
1. Biological Research	S	S	S	S	S	S
2. Chemical Manufacturing, Mixing and Remanufacturing	X/S	X/S	S	X	X	X
3. Chemical Research	S	S	S	S	S	S
4. Chemical Waste Reprocessing	X/S	X/S	S	X	X	X
5. Dry Cleaning (not clothing pick-up)	S	S	S	X	X	X
6. Electroplating	S	S	S	X	X	X
7. Fabric Coating	S	S	S	S	S	S
8. Fiberglass Lamination Process	S	S	S	S	S	S
9. Fuel Pipelines	S	S	S	S	S	S
10. Furniture Stripping	S	S	S	X/S	X/S	X/S
11. Garages - Municipal, County, State	S	S	S	X/S	X/S	X/S
12. Solid Waste Disposal Facilities	X	X	S	X	X	S
13. Metal Processing with Etchers and Chemicals	S	S	S	X	X	X
14. Printing and Publishing	S	S	S	S	S	S
15. Solid Waste Handling/Processing	S	S	S	S	S	S
16. Storage Tanks Above Ground	S	S	S	S	S	S
17. Storage Tanks Underground	S	S	S	S	S	S
18. Subdivision creating lots less than two acres in size	S	S	S	S	S	S
19. Tanning	S	S	S	X/S	X/S	X/S
20. Textile Dyeing	S	S	S	X/S	X/S	X/S
21. Vehicle Repair	S	S	S	S	S	S
22. Vehicle Wrecking	S	S	S	S	S	S
23. Wood Preservers	X/S	X/S	S	X/S	X/S	S
24. All other activities using, handling, or storing hazardous materials, or generating hazardous materials by their activities or actions	S	S	S	S	S	S
25. Activities requiring an NPDES permit for process	S	S	S	X/S	X/S	X/S

	On Sewerage System			Not on Sewerage System		
	Category			Category		
	1	2	3	1	2	3
water or generating a waste water stream exceeding single family residential strength, quantity, or quality						

Notes:

X = Prohibited.

S = Allowed subject to the standards of this chapter.

X/S = These uses shall be prohibited when proposed at the usual commercial or industrial scale. Small scale uses or using nonhazardous materials may be permitted when the quantity, nature of the materials used or stored on site and mitigation methods proposed create no significant risk to ground water.

(a) Aboveground Storage. Aboveground storage of petroleum products, wastewater or hazardous substances or dangerous wastes as defined in Chapter 173-303 WAC, or any other substances, solids, or liquids in quantities identified by the Lewis County health department environmental health section, consistent with Chapter 173-303 WAC, as a risk to ground water quality, shall be accompanied by a design and management plan prepared by a qualified professional to assure that the facility is designed, constructed, and operated so as to:

- (i) Prevent the release of such substances to the ground, ground waters, or surface waters;
- (ii) Have around and under it an impervious secondary containment area enclosing or underlying the container or part thereof;
- (iii) Provide a written spill response plan, when requested, and give immediate spill notification to the Lewis County health department environmental health section; and
- (iv) Provide readable labeling as to contents and hazardous characteristics.

(b) Underground Storage Tanks and Vaults. Underground storage tanks and vaults used for the storage of petroleum products, wastewater, or hazardous substances or dangerous wastes as defined in Chapter 173-303 WAC, or any other substances, solids, or liquids in quantities identified by the Lewis County health department environmental health section, consistent with Chapter 173-303 WAC, as a risk to ground water quality, shall conform to Chapter 173-360 WAC and be accompanied by a design and management plan prepared by a qualified professional to assure that the facility is designed, constructed and operated so as to:

- (i) Prevent release, corrosion, or structural failure for the operational life of the tank or vault;
- (ii) Be cathodically protected against corrosion, constructed of noncorrosive material, or steel clad with a noncorrosive material, or designed in a manner to prevent the release or threatened release of any stored substance;
- (iii) Use material in the construction or lining of the tank which is compatible with the substance to be stored;
- (iv) Provide for release detection method(s); and
- (v) Provide a written spill response plan, when requested, and give immediate spill notification to the Lewis County health department environmental health section.

(c) Solid Waste Disposal. Landfills and other solid waste disposal facilities shall be accompanied by a design and management plan prepared by a qualified professional demonstrating that such facilities will not significantly impact ground water resources.

The design and management plan shall provide the following information:

- (i) Geologic setting and soils information of the site and the surrounding area;
- (ii) Water quality data, including pH, temperature, conductivity, nitrates, and bacteria;
- (iii) Location and depth of any perched water tables;
- (iv) Recharge potential of the facility in terms of permeability and transmissivity;
- (v) Local ground water flow, direction, rate and gradient;
- (vi) Location, depth, and other water quality data mentioned in subsection (4)(c)(ii) of this section on the three shallowest wells or springs located within 1,000 feet of the site;
- (vii) Surface water locations within 1,000 feet of the site;
- (viii) Assessment of the effects of the proposed project on ground water quality and quantity;
- (ix) Recommendations on appropriate mitigation, if any, to assure that there is no significant effect on the quality of ground water;
- (x) Provisions for contaminant release detection.

All lands on which the report indicates the proposed development would probably negatively affect the quality of the aquifer shall be prohibited unless the report can satisfactorily demonstrate that these negative impacts would be overcome in such a manner as to prevent significant effect on the quality of ground water.

Ground water quality monitoring may be required in cases where ground water contamination is considered a credible risk. A monitoring plan shall be developed by a qualified professional, be approved by the county, and conducted at the expense of the property owner and/or occupying business or enterprise having conducted the activities identified in this subsection.

(d) Junk Yards, Salvage Yards, Wrecking Yards, and Recycling Centers. Commercial and noncommercial enterprises in this category shall show that an adverse impact on ground water quality will not occur. To ensure such impact will not occur, the administrator shall require a design and management plan prepared by a qualified professional to include the following:

- (i) Site-specific geologic and soils information indicating the recharge potential of the facility site in terms of permeability and transmissivity;
- (ii) Location and depth of any perched water tables;
- (iii) Identification of permanent and temporary or seasonal surface water bodies on the site and within 1,000 feet of the site;
- (iv) Assessment of the effects of the proposed project on ground water quality and quantity;
- (v) A written management plan that describes the best management practices to be used to prevent the contamination of ground water and/or soil. The written plan shall be approved by the administrator and a copy of the plan shall be located at the site and must be made available upon request by the administrator during normal business hours;
- (vi) Ground water quality monitoring may be required in cases where ground water contamination is considered a credible risk. A monitoring plan shall be developed by a qualified professional, be approved by the county, and conducted at the expense of the property owner and/or occupying business or enterprise having conducted the activities identified in this subsection;

(e) Divisions of Land. Subdivisions, short subdivisions, and other divisions of land shall be evaluated for their impact on ground water quality. The following measures may be required as determined by the Lewis County health department environmental health section:

- (i) An analysis by a qualified professional of the potential nitrate loading to the ground water may be required to assess the impact on ground water quality;
- (ii) Alternative site designs, specific sewage disposal systems or other facilities are required to reduce contaminant loading where site conditions indicate that the proposed action will measurably degrade ground water quality. Where uncertainty exists, phased development may be required with ground water quality monitoring of the initial phases conducted by a qualified professional at the expense of the property owner and/or developer. The results of the monitoring shall be considered prior to approval of future phases;
- (iii) Open spaces may be required on development proposals overlying areas highly susceptible to contamination of ground water resources;
- (iv) Community/public water systems are encouraged and may be required where site conditions indicate a high degree of potential contamination to individual wells from on-site and off-site sources;
- (v) It may be required that contaminants be removed from storm water runoff prior to their point of entry into surface or ground water resources in accordance with specific plans prepared by a qualified professional to include using available and reasonable best management practices and approved by the Lewis County engineer.

(f) Storm Water Standards for Commercial and Industrial Uses. The following standard shall apply to all new commercial and industrial land uses which either:

- (i) Have greater than 5,000 square feet of impervious area; or
- (ii) Handle, store, dispose, transport, or generate hazardous substances or wastes defined as dangerous or extremely dangerous wastes under Chapter 173-303 WAC (regardless of quantity), which may come in contact with storm water runoff including, but not limited to, gas stations and distributors, car washes, trucking companies, and paint shops;

Such uses shall provide design and management plans prepared by a qualified professional to include removal of contaminants prior to their entry into surface or ground water resources using available and reasonable best management practices. Standard drywells are prohibited. Maintenance of storm water treatment systems must be assured as a condition of permit approval.

(g) Parks, Schools, and Recreation Facilities. A management plan prepared by a qualified professional to address fertilizer, herbicide, and pesticide management practices of schools, parks, golf courses, and other nonresidential facilities that maintain large landscaped areas shall be submitted, evaluated for effectiveness, approved, implemented, and monitored in relation to best management practices as recommended by the Cooperative Extension Service.

(h) Utility Transmission Facilities. New or expanded utility facilities which carry oil, gas, or any hazardous substance as defined by Chapter 173-303 WAC, as well as electrical substations, gas pumping facilities, and sewage and water pump stations shall provide design and management plans prepared by a qualified professional to include hydrogeologic information, assessment of potential risks of ground water contamination, spill prevention measures and an emergency spill management plan.

(i) Sewage Sludge and Septage Waste Disposal. Sewage sludge and septage waste disposal shall be prohibited within Category I aquifer recharge areas. Disposal within Category II and III aquifer recharge areas shall require a design and management plan prepared by a qualified professional to include the following:

- (i) Site-specific geologic and soils information indicating the recharge potential of the facility site in terms of permeability and transmissivity;

- (ii) Location and depth of any perched water tables;
- (iii) Identification of permanent and temporary or seasonal surface water bodies on the site and within 1,000 feet of the site;
- (iv) Assessment of the effects of the proposed project on ground water quality and quantity;
- (v) A management plan that describes facilities and practices to prevent the contamination of ground water and/or soil;
- (vi) Ground water quality monitoring may be required in cases where ground water contamination is considered a credible risk likely or strongly suspected. Said monitoring plan shall be developed by a qualified professional, be approved by the county, and will be conducted at the expense of the property owner and/or enterprise conducting the use.

(j) Hazardous Substances and Petroleum Activities. All other activities or actions involving the use, handling, storage, or generation of any amount of hazardous materials shall be subject to the protection standards set forth in Chapter 173-303 WAC. Waste oil generating activities shall be subject to the provisions of Chapter 70.951 RCW. Facilities with more than one 55-gallon drum or 450 pounds of hazardous substances or petroleum products on site at any one time shall:

- (i) Keep and follow a written spill response plan; and
- (ii) Establish a written best management practices plan that is site-specific to prevent contamination of the environment.

Facilities shall report any significant spill out of containment to the Lewis County health department environmental health section within seven days of that spill. [Ord. 1204 Exh. A § 2, 2008]

17.35A.890 Mitigation conditions.

(1) Mitigation Conditions. In addition to the standards and criteria set forth in LCC 17.35A.880(1) through (4), the administrator may impose additional conditions which ensure that the specific use or activity will not significantly degrade ground water quality. Such conditions may include, but are not limited to, the following:

- (a) A written management plan for wastewater, hazardous products and hazardous waste, petroleum products and petroleum waste, and other materials judged by the administrator to be detrimental to ground water quality, that when implemented using best management practices, will prevent ground water contamination;
- (b) Upgrading available on-site spill response equipment;
- (c) Employee spill response training;
- (d) Emergency service coordination measures; and
- (e) Ground water monitoring. [Ord. 1204 Exh. A § 2, 2008]

17.35A.900 Processing.

(1) Compliance with the requirements of this section shall be considered a material element of any permit approval. All technical analysis in connection with high intensity uses shall be by a qualified critical area professional. Information demonstrating compliance with the standards of this section shall be submitted in connection with all proposed development. The administrator may provide for an abbreviated review process for low intensity use relying on standard best management practices. A written finding of compliance, together with the reasons for such finding, shall be required in connection with the issuance of any county permit for a high intensity use.

(2) Other Agency Permits and Standards - Policy. The county desires to limit overlapping regulations and conflicting regulations. To this end, the county recognizes that a number of other permitting agencies do take steps to protect aquifer recharge areas and the county shall coordinate review and conditions to the maximum extent feasible. [Ord. 1204 Exh. A § 2, 2008]

Article IV(E). Geologically Hazardous Areas

17.35A.910 Purpose.

It is the purpose of this article to minimize hazards to the public from development activities on or adjacent to areas of geological hazard. For purposes of this chapter, geologically hazardous areas include the following: erosion hazard areas, landslide hazard areas, seismic hazard areas, mine hazard areas, and volcanic hazard areas. [Ord. 1204 Exh. A § 2, 2008]

17.35A.920 Erosion and landslide hazard areas.

(1) Classification of Erosion and Landslide Hazard Areas.

(a) Erosion hazard areas include severe and moderate erosion hazard areas.

(i) Severe erosion hazard areas are those areas that have severe or very severe erosion potential as detailed in the soil descriptions contained in the Soil Survey of Lewis County Area, Washington, 1987, Soil Conservation Service, USDA.

(ii) Moderate erosion hazard areas are those areas that have moderate erosion potential as detailed in the soil descriptions contained in the Soil Survey of Lewis County Area, Washington, 1987, Soil Conservation Service, USDA.

(b) Landslide hazard areas are those areas meeting any of the following criteria:

(i) Areas with evidence of failure, such as areas designated as quaternary slumps, earthflows, mudflows, or landslides, including those areas shown on maps published by the United States Geological Survey or Department of Natural Resources Division of Geology and Earth Resources; areas that show evidence of historical failure or instability, including, but not limited to, back-rotated benches on slopes; areas with structures that exhibit structural damage such as settling and racking of building foundations; areas that have toppling, leaning, or bowed trees caused by ground surface movement; and areas that show past sloughing or calving of bluff sediments, resulting in a vertical or steep bluff face with little or no vegetation;

(ii) Areas that are rated as unstable due to characteristics of the earth material and topography, including slopes exceeding 35 percent with a vertical relief of 10 or more feet, except areas composed of competent rock or constructed slopes designed and approved by a geotechnical engineer licensed in the state of Washington and experienced with the site, or engineered slopes that show stable physical characteristics based on analysis by a qualified professional;

(iii) Any area with all of the following:

(A) A slope greater than 15 percent;

(B) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

(C) Springs or ground water seepage;

(iv) Slopes that are parallel or sub-parallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;

(v) Slopes having gradients greater than 80 percent subject to rockfall during seismic shaking;

(vi) Areas potentially unstable as a result of rapid stream incision and streambank erosion or undercutting. These include slopes exceeding 10 feet in height adjacent to streams, lakes, and coastal shorelines and with more than a 35 percent gradient;

(vii) Areas located in a canyon, on an alluvial fan, or presently or potentially subject to inundation by debris flows or catastrophic flooding;

(viii) Areas included in the Slope Stability Study of the Centralia-Chehalis Area, Lewis County, Washington, by Allen J. Fiksdal, Department of Natural Resources, Division of Geology and Earth Resources, 1978. Areas mapped as “unstable,” “landslides,” and “old landslides” (if slopes are in excess of 30 percent);

(ix) Areas located outside the study area on the Slope Stability Study of the Centralia-Chehalis Area, regardless of slope, that are mapped as “landslide debris” in the following open file reports and maps at a scale of 1:100,000 available from the Washington State Department of Natural Resources, Division of Geology and Earth Resources:

(A) Open File Report 87-11, Centralia Quadrangle, by H.S. Schasse, 1987,

(B) Open File Report 87-16, Mount Rainier Quadrangle, by H.S. Schasse, 1987,

(C) Open File Report 87-4, Mount St. Helens Quadrangle, by W.M. Phillips, 1987,

(D) Open File Report 87-8, Chehalis River and Westport Quadrangle, by R.L. Logan, 1987,

(E) Open File Report 87-5, Mount Adams Quadrangle, by M.A. Korosec, 1987,

(F) Open File Report 87-2, Astoria and Ilwaco Quadrangle, by T.J. Walsh, 1987;

(x) Areas at risk from snow avalanches as evidenced by existing deposits and vegetation.

(2) Designation of Erosion and Landslide Hazard Areas. Lands of Lewis County meeting the classification criteria for erosion and landslide hazard areas are hereby, under Chapter 36.70A RCW, designated as erosion and landslide hazard areas, respectively.

(3) Applicability.

(a) When any provision of any other ordinance of Lewis County conflicts with this section, that provision which is more stringent shall apply unless specifically directed otherwise in this chapter.

(b) The provisions of this section shall apply to any land use development permits in a landslide hazard area; provided, however, that the alteration and minor expansion of pre-existing structures may be permitted as long as the risk associated with an erosion or landslide hazard area does not increase as certified through analysis by a qualified professional, based on specific development plans.

(4) Maps and Inventory. The approximate location and extent of geologically hazardous areas are shown on the county’s critical area maps. The county shall update the maps as new hazard areas are identified and as new information becomes available. The maps and reports cited should be used only as a general guide for landslide hazard investigation. Detailed site investigations may be needed for site-specific hazard identification and regulation. Maintenance of maps does not imply that land outside mapped geologically hazardous areas will be without risk. Preparation and maintenance of such maps shall not create liability on the part of Lewis County, or any officer or employee thereof, for any damages that result from reliance on said maps or any decision lawfully made hereunder. [Ord. 1204 Exh. A § 2, 2008]

17.35A.921 Development standards for erosion hazard areas.

Uses and activities shall conform to the following standards:

(1) Severe erosion hazards areas shall be protected to provide multiple benefits including reduction of erosion, reduction of sedimentation in water bodies, and preservation of related ecological values. Modification of topography and vegetation shall be strictly limited.

(a) Subdivision within erosion hazard areas shall be clustered where possible to reduce disturbance and removal of vegetation. Land that is located partially or wholly within a severe erosion hazard area or its buffer may be divided; provided, that each resulting lot has sufficient buildable area outside of the severe erosion hazard area with provision for drainage, erosion control, and related features that will not adversely affect the hazard area

or vegetation, and an erosion control plan is developed by a qualified professional and implemented as provided below.

(b) Existing contiguous parcels under single ownership within severe and moderate erosion hazard areas may be developed to provide for reasonable use in accordance with a vegetation and erosion management plan developed by a qualified professional and implemented as provided below.

(2) Moderate erosion hazards areas shall be protected through adequate provisions to limit erosion and sedimentation during construction and use.

(3) An erosion control plan for a severe and moderate erosion hazard area shall incorporate the following, and shall be coordinated with requirements under other county codes and state National Pollutant Discharge Elimination System permits and other agency requirements:

(a) Alteration of topography and disturbance and removal of vegetation shall be minimized by location on the least sensitive portion of the site. In a land division or multi-unit development, structures should be clustered.

(b) To conform to existing topography of the site and reduce topographic modification, foundations shall conform to the natural contours of the slope and be stepped/tiered where possible.

(c) Roads, driveways, other vehicular access, trails, walkways, and parking areas should be located in the least sensitive area of the site and designed with low gradients and/or parallel to the natural contours of the site. Retaining walls shall be preferred over cut and fill slopes to minimize topographic modification.

(d) Clearing and Grading.

(i) The area of clearing and grading shall be minimized to the maximum extent feasible;

(ii) Impervious surfaces shall be minimized to the maximum extent feasible;

(iii) Clearing and grading to create a flat area for lawn or recreation is prohibited in severe erosion hazard areas;

(iv) Undergrowth shall be preserved to the maximum extent feasible.

(e) Erosion Control Management.

(i) The area of vegetation disturbance shall be minimized through a staging plan to develop sites in sequence with full stabilization of early phases, such as infrastructure installation, before disturbance for structures and other facilities in order to minimize erosion potential.

(ii) Erosion and sedimentation control facilities such as silt fences shall be installed prior to any clearing and grading.

(iii) Disturbed areas shall be protected from erosion through implementation of best management practices, including groundcovers (approved geotechnical controls) such as filter fabrics, immediately after disturbance. Vegetative cover shall be re-established on disturbed surfaces as soon as feasible.

(f) A drainage plan shall be developed by a qualified professional that includes:

(i) Surface drainage, including downspouts, shall not be used in erosion hazard areas. Drainage originating above an erosion hazard area shall be collected and directed by a tight line drain, and provided with an energy dissipative device for discharge to a swale or other acceptable natural drainage areas.

(ii) Storm water retention and detention systems, including percolation systems utilizing buried pipe, are prohibited on severe erosion hazard areas and strongly discouraged on moderate erosion hazard areas unless an analysis by a qualified professional certifies that such a system will not result in an increase in

erosion. Said systems shall be designed by a qualified professional. The qualified professional shall also certify that the systems are installed as designed and function as predicted.

(iii) On-site sewage disposal system drainfields are prohibited on severe erosion hazard areas and strongly discouraged on moderate erosion hazard areas unless analysis by a qualified professional certifies that such a system will not result in an increase in erosion. Said system shall be designed by a qualified professional. The qualified professional shall also certify that the systems are installed as designed and function as predicted. The septic system drainfield must be in compliance with the regulations of the Lewis County health department or its successors.

(g) Utility lines and pipes shall be permitted in severe and moderate erosion hazard areas only where analysis by a qualified professional certifies that such a system will not result in an increase in erosion. Said system shall be designed by a qualified professional. The qualified professional shall also certify that the systems are installed as designed and function as predicted. [Ord. 1204 Exh. A § 2, 2008]

17.35A.922 Development standards for landslide hazard areas.

Uses and activities permit shall conform to the following standards:

(1) Protection of Landslide Area and Buffer. The landslide hazard area and associated buffer shall be protected from disturbance, except in compliance with the standards of this section. Modification of topography and vegetation in landslide hazard areas shall be stringently limited to provide multiple benefits of long-term stability of sensitive slopes and related benefits including reduction of erosion potential, reduction of storm water runoff, and preservation of related ecological values. Unless otherwise provided or as part of an approved alteration, removal of vegetation from a landslide hazard area or related buffer shall be prohibited. The landslide and buffer shall include woody vegetation adequate to stabilize the soil and prevent mass wasting. If the designated buffer area lacks adequate woody vegetation, the administrator shall have the authority to require vegetation restoration or other measures to improve slope stability.

(2) A buffer shall be established from all edges of landslide hazard areas. The size of the buffer shall be determined by the administrator to minimize or eliminate the risk of property damage, death, or injury and effects on other elements of the environment resulting from earth movement caused in whole or part by the development.

(a) The buffer from the top of a slope shall be designed to protect persons and property from damage due to catastrophic slope failure and slope retreat over the lifetime of its use and provide an area of vegetation to promote shallow stability, control erosion, and multiple benefits to wildlife and other resources. The minimum dimension of the buffer shall be equal to the greater of:

(i) The distance from the top of slope equal to the vertical distance from the toe of slope to the top of slope;

(ii) The distance from the top of the slope equal to the distance from the toe of the slope upslope at a slope of 2:1 (horizontal to vertical) to a point that intersects with the site's ground elevation; or

(iii) Fifty feet from the top of the slope.

(b) The minimum buffer from the bottom of a slope shall provide for safety of persons and property from the run-out resulting from slope failure and shall be the greater of:

(i) The height of the slope; or

(ii) Fifty feet from the toe of the slope.

(3) Design Standards.

(a) Subdivision within landslide hazard areas and associated buffers shall be clustered where possible to reduce disturbance and removal of vegetation. Land that is located partially within a landslide hazard area or its buffer may be divided; provided, that each resulting lot has sufficient buildable area outside of the hazardous area and buffer with provision for drainage, erosion control, and related features that will not adversely affect the hazard

area or its buffer. Land within a landslide hazard area and its buffer may not be subdivided to create buildable sites within the landslide hazard area unless the standards for alteration are met as provided below. All plats and short plats will clearly show the boundary of the hazard area and buffer together with a restriction prohibiting development within the hazard area.

(b) Existing contiguous parcels under single ownership within landslide hazard areas and associated buffers may be developed to provide for reasonable use in accordance with LCC 17.35A.923 and the standards for alteration as provided below.

(c) Roads, driveways, other vehicular access, trails, walkways, and parking areas may be permitted only if the standards for alteration below are met and the applicant demonstrates that no other feasible alternative exists, including through the provisions of Chapter 8.24 RCW. If access through hazardous areas is granted, exceptions or deviations from technical standards for width or other dimensions, and specific construction standards to minimize impacts may be specified. Access roads and trails shall be engineered and built to standards that avoid the need for major repair or reconstruction beyond that which would be required in nonhazard areas and shall be:

(i) Located in the least sensitive area of the site.

(ii) Designed to minimize topographic modification with low gradients and/or parallel to the natural contours of the site.

(iii) Retaining walls shall be preferred over cut and fill slopes to minimize topographic modification.

(d) Structures may be permitted only if the standards for alteration below are met and shall be designed to meet the following standards:

(i) Structures shall be located on the least sensitive portion of the site and clustered where possible to reduce disturbance and removal of vegetation.

(ii) Foundations should conform to the natural contours of the slope and foundations should be stepped/tiered where possible to conform to existing topography of the site.

(iii) Retaining walls shall be preferred over cut and fill and shall be incorporated into structures wherever feasible.

(e) Clearing and grading may be permitted only if the standards for alteration below are met and shall meet the following standards:

(i) Clearing and grading shall minimize ground disturbance to the maximum extent feasible to accommodate allowed development and generally shall not extend more than 10 feet beyond the approved development;

(ii) Undergrowth shall be preserved to the extent feasible; and

(iii) No dead vegetation (slash), fill, or other foreign material shall be placed within a landslide hazard area, other than that approved for bulkheads or other methods of streambank stabilization as provided in regulations for streams in this chapter and under the shoreline master program.

(f) Drainage.

(i) 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 a tight line drain, and provided with an energy dissipative device at the toe for discharge to a swale or other acceptable natural drainage areas.

(ii) Storm water retention and detention systems, including percolation systems utilizing buried pipe, shall be located outside the landslide hazard area and its buffer, unless standards for alteration in LCC 17.35A.923 are met.

(g) On-site sewage disposal system drainfields shall be located outside the landslide hazard area and its buffer, unless standards for alteration in LCC 17.35A.923 are met. The septic system drainfield must be in compliance with the regulations of the Lewis County health department or its successors.

(h) Utility lines and pipes shall be permitted in landslide hazard areas only when standards for alteration in LCC 17.35A.923 are met. The line or pipe shall be located above ground and properly anchored and/or designed so that it will continue to function in the event of an underlying slide.

(i) Lot Size. For the purpose of determining lot sizes within hazard areas, the administrator shall review available information, including any required geotechnical assessments, and make a decision on a case-by-case basis based on the reports. [Ord. 1204 Exh. A § 2, 2008]

17.35A.923 Standards for alteration of landslide hazard areas and buffers.

(1) Confirmation of Presence of Landslide Hazard Area. The administrator may determine that a landslide hazard is not present on a site based on analysis by a qualified professional as provided in LCC 17.35A.330 that establishes that a risk of slope failure is not present on a specific site as a result of the absence of the indicators enumerated in LCC 17.35A.920(1)(b) based on a specific analysis of site conditions.

(2) Alteration of Landslide Hazard Area and Buffer. The administrator may allow alteration of a landslide hazard area and buffer in cases where the administrator finds that reasonable development cannot be accommodated on portions of the site not subject to landslide hazards and buffers and if analysis by a qualified professional establishes compliance with the following standards, based on specific development plans:

(a) The proposed development will not result in a risk of landslide that may affect development on the subject property or other properties in the vicinity, and will not result in a greater risk or a need for increased buffers on neighboring properties. For unconsolidated deposits, development shall not decrease the factor of safety for landslide occurrences below the limits of 1.5 for static conditions and 1.2 for dynamic conditions. Analysis of dynamic conditions shall be based on a minimum horizontal acceleration as established by the current version of the International Building Code.

(b) Measures to maintain slope stability, such as drainage systems, must be of a design that will assure operation without facilities requiring regular maintenance that would jeopardize stability if the facility fails.

(c) The development will not increase erosion or sedimentation risk on the site.

(d) The development will not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions.

(e) Such alterations will not adversely impact other critical areas.

(f) Landslide hazard areas on unconsolidated deposits with a gradient of 40 percent where the toe of slope is within the buffer area of a wetland, stream, pond, or lake are not eligible for alteration of landslide hazard areas but may be subject to alteration of buffers.

(3) The qualified professional performing the analysis shall monitor installation of all facilities related to the development and certify that systems are installed as designed to meet the approval criteria in subsection (2) of this section. [Ord. 1204 Exh. A § 2, 2008]

17.35A.924 Development standards for alluvial fan hazard areas.

Uses and activities shall conform to the following standards;

(1) Protection of Alluvial Fan Hazard Area and Buffer. The alluvial fan hazard area and associated buffer shall not be subject to human use and development to minimize or eliminate the risk of property damage, death, or injury, except in compliance with the standards of this section.

(2) Because of uncertainty as to the exact location of an alluvial fan hazard area, a buffer of 100 feet from the designated edge of the hazard area shall be defined to minimize or eliminate the risk of property damage, death, or injury, until the preparation, approval, and implementation of a detailed alluvial fan hazard mitigation plan.

(3) Subdivision within alluvial fan hazard areas and associated buffers shall be prohibited. Land that is located partially within an alluvial fan hazard area or its buffer may be divided; provided, that each resulting lot has sufficient buildable area outside of the hazard area and buffer. All plats and short plats will clearly show the boundary of the alluvial fan hazard together with a restriction prohibiting development within the hazard area.

(4) No new critical facility may be constructed or located in an alluvial fan hazard. An existing critical facility may be not be expanded, except in conformance with subsection (6) of this section.

(5) Existing contiguous parcels under single ownership within alluvial fan hazard areas and associated buffers may be developed to provide for reasonable use in accordance with LCC 17.35A.530; provided, that:

(a) Analysis by a qualified professional certifies that the development is on the portion of the site least subject to risk;

(b) The location and design of the development, including any protective features, will not adversely affect the safety or usability of other properties; and

(c) The owner executes a covenant that shall run with the land, filed for record with the Lewis County auditor that:

(i) Acknowledges that the development is within an alluvial fan and may be subject to changes in stream channels or debris flows that potentially endanger property and life;

(ii) The owner, and all future owners, take complete responsibility for development and occupation of the residence and holds Lewis County, its employees, and others harmless for any damage suffered; and

(iii) The owner and all future owners agree to participate in future establishment of any governmental entity charged with development and maintenance of facilities to manage alluvial fan risks and any future charges or assessments associated with management of alluvial fan hazards.

(6) Development other than specified in subsection (4) of this section may be allowed in alluvial fan hazard areas only if:

(a) The fan has been subject to a study and management plan that identifies risks and hazards associated with a 500-year return period debris flow or the maximum credible event that could impact the alluvial fan and identify mitigation measures;

(b) The study includes a management plan with specific mitigating measures deemed by Lewis County to suitably reduce risks; and

(c) Implementation of the plan has been committed to by a suitable entity empowered to develop and maintain the facilities identified to mitigate risks and is empowered to levy assessments on benefited properties to develop and maintain such mitigating measures in perpetuity. [Ord. 1204 Exh. A § 2, 2008]

17.35A.930 Mine hazard areas.

(1) Classification of Mine Hazard Areas. Mine hazard areas are those areas within 100 horizontal feet of a mine opening at the surface or which are underlain at a depth of 300 feet or less by mine workings identified in the Washington State Department of Natural Resources, Division of Geology and Earth Resources, Open File Report 94-7; The Washington State Coal Mines Map Collection: A Catalog, Index, and User's Guide, by H.W. Schaase, M. Lorraine Koler, Nancy A. Eberle, and Rebecca A. Christie, 1994, 107 pages; Open File Report 84-6, Inventory of Abandoned Coal Mines in the State of Washington, by F.V. LaSalata, M.C. Meard, T.J. Walsh, and H.W. Schaase, 1985, 42 pages; and specific maps and surveys of mine workings on file with the Division of Geology and Earth Resources.

(2) Designation of Mine Hazard Areas. Lands of Lewis County meeting the classification criteria for mine hazard areas are hereby, under Chapter 36.70A RCW, designated as mine hazard areas.

(3) Applicability.

(a) When any provision of any other ordinance of Lewis County conflicts with this section, that provision which is intended for mine hazard areas shall apply, unless specifically directed otherwise in this chapter.

(b) The provisions of this section shall apply to land use and development permits; provided, that the alteration and minor expansion of pre-existing structures may be permitted as long as the risk associated with a mine hazard area does not increase as certified through analysis by a qualified professional, based on specific development plans.

(4) Maps and Inventory.

(a) Mine hazard areas in subsection (1) of this section, including the approximate location and extent of mine hazard areas, shall be shown on the county's critical area maps. The county shall update the maps as new information becomes available. Said maps and reports should be used only as a general guide for mine hazard investigation. Detailed site investigations may be needed for site-specific hazard identification and regulation. Maintenance of maps does not imply that land outside mapped mine hazard areas will be without risk. Preparation and maintenance of such maps shall not create liability on the part of Lewis County, any officer or employee thereof, for any damages that result from reliance on said maps or any decision lawfully made hereunder.

(b) The above referenced maps and reports may be relied upon by the administrator as a basis for requiring field investigation and special reports. In the event of a conflict between the information shown in the reports and the results of a field investigation, the latter shall prevail. [Ord. 1204 Exh. A § 2, 2008]

17.35A.931 Development standards for mine hazard areas.

Development on or near a mine hazard area requires the applicant to first demonstrate that no hazard to health or safety, persons, or property exists at the proposed site as a result of the development. If a proposal is located on or near a mine hazard area, a study by a qualified professional and accompanying geotechnical report may be required.

(1) Development within mine hazard areas shall be accompanied by technical studies by qualified professionals that assess the potential risk from mine entries, shafts, and ventilation facilities; investigate potential future trough subsidence or sinkhole development due to collapse of abandoned coal mines; and identify specific measures to mitigate the risk in accordance with the criteria below.

(a) Mine entries and shafts shall be permanently sealed using controlled backfill and/or grouting, or an approved, engineered seal and shall include permanent diversion of surface drainage away from the shaft or mine entry.

(b) Existing sinkholes and shallow prospect excavations shall be backfilled to surface using controlled placement of suitable backfill and shall include permanent diversion of surface drainage away from existing sinkholes and prospect excavations.

(c) Potential sinkhole hazards shall be assessed by a qualified professional utilizing direct subsurface investigation that demonstrate coal mine workings either do not exist, or that the workings have fully collapsed so that there is no remaining potential for sinkhole development, or show that the hazards associated with any voids that are identified are fully mitigated by backfilling, grouting, or other approved means such that the potential for sinkhole development is eliminated.

(d) Any coal mine waste dump shall be demonstrated to be stable through analysis by a qualified professional. If the coal mine waste dump does not meet the stability criteria, it shall be regraded or otherwise mitigated to meet stability criteria. If springs or seeps discharge from the coal mine waste dump, materials shall be removed or regraded to expose the source of the spring or seep. Coal mine waste material shall be covered with a minimum of two feet of clean soil and be revegetated with native vegetation. Development shall not be

permitted within 100 feet of any coal mine waste dump that shows evidence of current or past combustion. Development may be permitted over coal mine waste material only if an investigation and analysis by a qualified professional identifies feasible construction criteria for foundation stability and performance.

(e) Mine gas hazards shall be mitigated by backfilling all mine entries, shafts, and sinkholes and providing appropriate venting.

(f) Mine fire potential shall be assessed through analysis by a qualified professional. Development shall not be permitted within 100 feet of workings where investigations indicate the possible presence of combustion in the underlying seam or seams.

(2) Every development shall include appropriate construction standards established by a qualified professional in accordance with the criteria below.

(a) Foundations shall be designed by a Washington State licensed structural engineer, with consideration of the subsidence effects documented for the site and the requirements of the International Building Code as provided by the criteria below.

(i) The forces generated by subsidence effects of tilt and strain shall be treated as live loads with the appropriate load factors and/or factors of safety in design. Friction drag force loads must be combined simultaneously with lateral earth pressure loads, with both loads treated as earth pressure in load combinations. The design requirements may be applied independently of the friction and earth pressure loads.

(ii) Foundations and slabs on grade shall be designed to resist the ultimate friction forces for tension and/or compression as determined from the geotechnical investigation.

(iii) Ultimate passive soil pressure shall be assessed for all vertical surfaces in contact with foundation soil due to horizontal strain occurring from a subsidence. Ultimate pressures, and the distribution, shall be determined by a qualified engineer or geologist in accordance with established engineering practice.

(iv) Foundations shall be designed to resist the shears and movements generated.

(v) Utility lines shall not be rigidly connected to the foundation wall. A flexible joint shall be provided at the point of transition from soil support to building support for all utilities.

(vi) Positive drainage shall be designed for positive gravity flow under the most critical predicted subsidence conditions.

(b) Roads and utilities shall be designed to accommodate the magnitudes of strains and tilts documented by technical studies through adequate strength to resist the forces of maximum predicted subsidence-related tilts and strains, or by adequate flexibility to accommodate the resulting deformations.

(i) Roadways shall be flexible material and shall have a minimum slope of not less than one-half percent plus the slope of the maximum predicted subsidence profile to facilitate maintaining positive drainage.

(ii) Bridges shall be designed to safely accommodate twice the maximum strains and tilts predicted at the bridge location.

(iii) Water utilities shall be designed to provide for twice the maximum predicted tilts and strains, including service lines, structures, and related appurtenances.

(iv) The sewer and storm drainage utility design shall be able to provide for 1.5 times the maximum predicted tilts and strains, including service lines, structures, and related appurtenances. Design grades shall provide positive gradient after allowing for the maximum predicted subsidence.

(v) Storm drainage detention and retention facilities shall be designed to remain functional following the occurrence of twice the maximum predicted tilts and strains. Such facilities may be located in mine hazard areas only if all risk of sinkhole development has been eliminated.

(vi) Electric and gas cables and pipelines shall be designed to accommodate the maximum predicted tilts and strains with suitable safety factors applied to these magnitudes such that failure of the utility line will not present a risk to public safety. The applicant shall present certification from the respective private utility that utilities have been designed in accordance with the above. [Ord. 1204 Exh. A § 2, 2008]

17.35A.932 Standards for mine hazard studies.

(1) A mine hazard study shall contain all available documentary information about mine workings and the results of a surface reconnaissance that shall identify any public safety mine hazards, mine waste dumps, or evidence of mine subsidence or sinkholes and shall include:

(a) Historical mining data, including available copies of original mine records for mine workings.

(b) A map showing property boundaries, mine hazard boundaries, and any potential hazards identified on or within 100 feet of the property.

(2) Shallow hazards such as entry portals, shaft collars, ventilation shafts, prospects, and mine waste dumps may be investigated by test pits or trenching, providing the method enables an investigation to an adequate depth for the hazard being investigated.

(3) Site-Specific Evaluation of Potential Trough Subsidence.

(a) Review of available records of original mine workings that could potentially influence the site by trough subsidence.

(i) Locations, depths, and thicknesses of such seams and workings.

(ii) Workings that could potentially influence the site shall be determined by projecting the downdip limit angle from the lowest limit of the documented workings to the ground surface. Mine workings are considered to potentially influence the property if the property lies within the line at which the limit angle intersects the ground surface.

(b) Subsurface conditions may be evaluated by drilling. Drilling is the most acceptable method for providing information for reducing the remaining mine height value used in subsidence calculations to less than the height of the original workings.

(i) Drillholes shall be logged continuously from 100 feet above to 20 feet below mine workings, including lithology at five-foot intervals, drill fluid circulation, penetration rate, and free fall of the drill string.

(ii) Greater confidence will be placed in core drilling logs than rotary drilling logs.

(iii) As a guideline, a minimum of one drillhole penetrating each seam that could potentially cause trough subsidence at the site should be drilled for each 200-foot length of the adit.

(iv) Surface geophysics, or other indirect means, may be used to assist in projecting information between and beyond drillholes, but shall not be accepted as the sole method for evaluating the condition of underground mine workings and calculating remaining mine height.

(c) Calculation of trough subsidence magnitudes, tilts, and strains shall be in accordance with the empirical function method of the British National Coal Board, as presented in their Subsidence Engineers' Handbook, adjusted to reflect the effects of inclined seams and a downdip limit angles encountered, and shall be based on a conservative evaluation of site conditions developed from the review of available records, site investigation, and subsurface exploration.

(i) Direct field evidence or a review of detailed mine records shall be used to calculate the subsidence factor, the downdip limit angle.

(ii) Remaining mine height shall be presumed to be equal to the seam thickness for the subsidence calculations unless evidence from drilling justifies modification.

(iii) The calculation of potential tilts and strains shall consider effects of individual panel widths and barrier pillar widths. If direct subsurface investigation indicates that the mine workings are fully collapsed, an estimate of potential surface settlements due to consolidation of rubble and loose material shall be made for the cumulative effect of all seams that could induce trough subsidence at the site.

(d) Site plans shall be prepared showing the proposed development and calculated magnitudes of potential subsidence, strains, and tilts at the property boundaries and at the locations of any proposed structures.

(i) A map showing contours of potential subsidence magnitudes, strains, and tilts throughout the property shall be submitted for use in design of roads and utilities.

(ii) Appropriate recommendations shall be provided for structural and civil design requirements.

(4) Site-Specific Evaluation - Potential Sinkhole Hazards.

(a) Review of available records shall be as in subsection (1)(a) of this section.

(b) Subsurface conditions for workings located within 200 feet of the ground surface shall be investigated by drilling.

(i) Drillhole sites shall be selected at representative locations and at representative working depths. A minimum of five drillholes shall be drilled along the alignment of any linear structure, such as roads or utility lines designed to cross a mine hazard area. No fewer than one drillhole per acre shall be provided for a site.

(ii) Core drilling is preferred, but is not compulsory. Rotary drilling is an acceptable method, provided it is used in combination with downhole geophysical logging, including caliper logs. Drilling shall penetrate immediately above and through the predicted mine workings locations to facilitate interpretation of the condition of the mine workings.

(iii) Drillholes shall be logged continuously throughout their length, including lithology at five-foot intervals for rotary drillholes, drill fluid circulation, penetration rate, and free fall of the drill string.

(5) The administrator may waive or reduce engineering study and design requirements for alterations in mine hazard areas for:

(a) Mobile homes;

(b) Additions or alterations that do not increase occupancy or significantly affect the risk of structural damage or injury; and

(c) Buildings that are not dwelling units or used as places of employment or public assembly. [Ord. 1204 Exh. A § 2, 2008]

17.35A.940 Seismic hazard areas.

(1) Classification of Seismic Hazard Areas. For the purposes of this classification, a seismic hazard area is any area subject to:

(a) Underlying deposits indicative of a risk of liquefaction during a seismic event;

(b) Areas subject to slope failure during a seismic event;

- (c) Areas subject to surface faulting during a seismic event; and
- (d) Areas that are at risk of mass wasting due to seismic forces.

Seismic hazards shall be as identified in Washington State Department of Natural Resources seismic hazard maps for Western Washington and other geologic resources.

(2) Designation of Seismic Hazard Areas. Lands of Lewis County meeting the criteria for seismic hazard areas are hereby, under Chapter 36.70A RCW, designated as seismic hazard areas.

(3) Applicability.

(a) When any provision of any other ordinance of Lewis County conflicts with this section, that provision which is intended for seismic hazard areas shall apply unless specifically directed otherwise in this chapter.

(b) The provisions of this section shall apply to land use development permits; provided, that the expansion of pre-existing structures and facilities shall be exempt as long as the hazard to health or safety, persons, or property does not increase.

(4) Maps and Inventory.

(a) Maps of seismic hazard areas as defined in subsection (1) of this section, including the approximate location and extent of seismic hazard areas, shall be shown on the county's critical area maps. The county shall update the maps as new information becomes available. Said maps and reports should be used only as a general guide for mine hazard investigation. Detailed site investigations may be needed for site-specific hazard identification and regulation. Maintenance of maps does not imply that land outside mapped mine hazard areas will be without risk. Preparation and maintenance of such maps shall not create liability on the part of Lewis County, any officer or employee thereof, for any damages that result from reliance on said maps or any decision lawfully made hereunder.

(b) The administrator may require site-specific field studies or special reports for the location of critical facilities within seismic hazard areas. [Ord. 1204 Exh. A § 2, 2008]

17.35A.941 Development standards for seismic hazard areas.

All development within areas that meet the classification criteria for seismic hazard areas shall comply with the following criteria:

(1) If evaluation of site-specific subsurface conditions by a qualified professional demonstrates that the proposed development site is not subject to the conditions indicating seismic risk in LCC 17.35A.940(1), the provisions of this subsection shall not apply.

(2) If subject to seismic risk, the applicant will implement appropriate engineering design based on analysis by a qualified professional of the best available engineering and geological practices that either eliminates or minimizes the risk of structural damage or injury resulting from seismically induced settlement or soil liquefaction, including compliance with the following criteria:

(a) Land within seismic hazard areas may be divided; provided, that each resulting lot has sufficient buildable area outside of the hazard area, or appropriate limitations on building and reference to appropriate standards are incorporated into the approval. All plats and short plats will clearly show the boundary of the hazard area together with a restriction prohibiting development within the hazard area.

(b) Public roads, bridges, utilities, and trails shall be allowed when there are no feasible alternative locations, and geotechnical analysis and design are provided that ensure the roadway, bridge and utility structures and facilities will not be susceptible to damage from seismic-induced ground deformation. Mitigation measures shall be designed in accordance with the most recent version of the American Association of State Highway and Transportation Officials (AASHTO) Manual or other appropriate document.

(c) Structures in seismic hazard areas shall conform to applicable analysis and design criteria of the International Building Code.

(3) The administrator may waive or reduce engineering study and design requirements for alterations in seismic hazard areas for:

(a) Mobile homes;

(b) Additions or alterations that do not increase occupancy or significantly affect the risk of structural damage or injury; and

(c) Buildings that are not dwelling units or used as places of employment or public assembly. [Ord. 1204 Exh. A § 2, 2008]

17.35A.950 Volcanic hazard areas.

(1) Classification of Volcanic Hazard Areas. Volcanic hazard areas are areas where the risk to life and property by a large volcanic event is high. These areas in Lewis County include debris flow, mudflow, and volcanic-induced flooding zones. Volcanic hazards in Lewis County are imposed by the two nearby volcanic peaks, Mount St. Helens and Mount Rainier, which lie sufficiently far from the county that risks of lava flows, pyroclastic flows, and volcanic ashfall deposits are extremely minimal. Mudflows and debris flows, which occur in the drainage basins that headwater on the active volcanos, Mt. St. Helens and Mt. Rainier, are described in the following reports:

(a) Development and Routing of Mudflow Resulting from Hypothetical Failure of Spirit Lake Debris Dam, Washington, by D.L. Kresch, Water Resource Investigations Report 91-4028, U.S. Geological Survey, 1992, 29 pages.

(b) Sedimentology, Behavior and Hazards of Debris Flows at Mount Rainier, Washington, by K.M. Scott, P.T. Pringle, and J.W. Vallance, Open-File Report OP-90-0385, U.S. Geological Survey, 1992, 106 pages.

(2) Designation of Volcanic Hazard Areas. Lands of Lewis County meeting the classification criteria for volcanic hazard areas are hereby, under Chapter 36.70A RCW, designated as volcanic hazard areas.

(3) Applicability.

(a) When any provision of any other ordinance of Lewis County conflicts with this section, that provision which is intended for volcanic hazard areas shall apply unless specifically directed otherwise in this chapter.

(b) The provisions of this section shall apply only to all land use development permits; provided, that the expansion of pre-existing structures and facilities shall be exempt as long as the hazard to health or safety, persons, or property does not increase.

(4) Maps and Inventory.

(a) Volcanic Hazard Areas. See subsection (1) of this section.

(b) The reports cited in subsection (1) of this section may be relied upon by the administrator as a basis for requiring field investigations and special reports. In the event of a conflict between information contained in said reports and information shown as a result of a field investigation, the latter shall prevail. [Ord. 1204 Exh. A § 2, 2008]

17.35A.951 Development standards for volcanic hazard areas.

(1) No new critical facilities shall be constructed or located in volcanic hazard areas except that:

(a) Expansion of existing schools may be allowed with provision of an evacuation plan that provides a reasonable assurance that occupants can be relocated to a safe haven with the warning times provided by existing or committed volcanic hazard warning systems.

(b) Development of new critical facilities with an occupancy of 100 persons or more may be allowed if findings are made that there is no feasible location within the service area outside volcanic hazard areas and with provision of an evacuation plan that provides a reasonable assurance that occupants can be relocated to a safe haven within the warning times provided by existing or committed volcanic hazard warning systems.

(c) Development of new critical facilities with an occupancy of 100 persons or less, or that is occupied fewer than 100 days per year, may be allowed if findings are made that there is no feasible location within the service area outside volcanic hazard areas. Provision of an evacuation plan that provides a reasonable assurance that occupants can be relocated to a safe haven within the warning times provided by existing or committed volcanic hazard warning systems is recommended but not required.

(2) Other development shall be allowed with:

(a) An evacuation plan shall be provided for all lodging and public assembly uses with posting of the plan in all occupied rooms.

(b) Execution of a covenant by property owners that runs with the land and is filed with the Lewis County auditor that:

(i) Acknowledges that the development is within a volcanic hazard area subject to debris flows and other hazards that potentially endangers property and life;

(ii) The owner and all future owners take complete responsibility for development and occupation of the residence and hold Lewis County, its employees and others, harmless for any damage suffered; and

(iii) Acknowledges that evacuation is the sole responsibility of the owner or occupant and that information on potential evacuation routes and holding areas is available to the owner from local emergency management agencies. [Ord. 1204 Exh. A § 2, 2008]

17.35A.955 Channel migration hazard area identification.

(1) The channel migration zone shall be a corridor that includes the present channel and is defined by:

(a) The maximum width occupied by channels in the past based on the period during which records of channel location are available and topographic and geologic evidence.

(b) Where the current active channel is near the edge of the historical meander belt, the corridor shall be extended the distance equal to the median amplitude of all historical channel meanders measured as centered upon the historical migration zone.

(2) Where natural geologic features will affect the predicted migration, the corridor width shall be modified to consider such natural constraints.

(3) Where linear structures such as arterial roads, railroads, or flood hazard reduction facilities managed by public agencies are likely to be protected from future bank erosion or channel movement due to existing programs for public maintenance, the corridor width may be modified to the boundaries of such structures.

(4) Best available information shall be used for the designation of channel migration zones. Where detailed channel migration zone studies have been completed, such information shall be employed. Areas that are identified as potential channel migration hazards based on sound scientific evidence, but which are pending further study shall be regulated based on best available information (generally topographic features), or based upon specific studies performed by qualified professionals on behalf of applicants.

(5) The channel migration zone may be modified by the administrator based on a study provided by an applicant prepared by a qualified professional that demonstrates there are specific geologic, landform, hydraulic, sediment transport, or other factors that demonstrate that a specific area is not in the channel migration zone. Such a study must investigate areas upstream and downstream of the review site that could influence migration of the channel and channel migration corridor. The study will map historical channel areas; the boundary of the greatest bank loss in erodible materials present at the subject site based on the channel migration base width established in the regional

study of the area; determine sediment deposition reaches for determining potential avulsion sites in the project influence area; map the terraces in the study area and quantify the rates of terrace recession based on historical maps and photographs; and map fixed boundaries such as bedrock, lahar, or other ancient terraces, and certified levees or other built structures where channel movement is limited and not likely to occur in the future. [Ord. 1204 Exh. A § 2, 2008]

17.35A.956 Development standards for channel migration hazard areas.

Uses and activities shall conform to the following standards.

- (1) Protection of Channel Migration Zone. The channel migration zone shall not be subject to human use and development to minimize or eliminate the risk of property damage, death, or injury, except in compliance with the standards of this section.
- (2) Subdivision within the channel migration zone shall be prohibited. Land that is located partially within a channel migration zone may be divided; provided, that each resulting lot has sufficient buildable area outside of the hazard area. All plats and short plats will clearly show the boundary of the hazard area together with a restriction prohibiting development within the hazard area.
- (3) A new critical facility, or expansion of an existing facility within a channel migration zone, may be permitted if:
 - (a) Findings are made that there is no feasible location within the service area outside the channel migration zone and that the potential risk has been assessed and is acceptable both to the service provider and the county as the responsible entity for consideration of the general welfare;
 - (b) The new facility or expansion results in an occupancy of 100 persons or less, or is occupied fewer than 100 days per year;
 - (c) Analysis by a qualified professional certifies that the development is on the portion of the site least subject to risk;
 - (d) The location and design of the critical facility, including any protective features, will not adversely affect the safety or usability of other properties.
- (4) Existing contiguous parcels under single ownership within a channel migration zone may be developed to provide for reasonable use in accordance with LCC 17.35A.530; provided, that:
 - (a) Analysis by a qualified professional certifies that the development is on the portion of the site least subject to risk;
 - (b) The location and design of the development, including any protective features, will not adversely affect the safety or usability of other properties; and
 - (c) The owner executes a covenant that shall run with the land, filed for record with the Lewis County auditor that:
 - (i) Acknowledges that the development is within a channel migration zone and may be subject to changes in stream channels that potentially endanger property and life;
 - (ii) The owner and all future owners take complete responsibility for development and occupation of the residence and holds Lewis County, its employees and others, harmless for any damage suffered; and
 - (iii) The owner and all future owners agree to participate in future establishment of any entity charged with development and maintenance of facilities to manage channel migration risks and any future charges or assessments associated with management of a channel migration zone.
- (5) Development other than specified in subsections (3) and (4) of this section may be allowed in a channel migration zone only if:

- (a) The channel migration zone has been subject to a study and management plan prepared by a qualified professional;
- (b) The plan includes specific mitigating measures deemed by the administrator or other appropriate decision maker to suitably reduce risks; and
- (c) Implementation of the plan has been committed to by a suitable entity empowered to develop and maintain the facilities identified to mitigate risks and is empowered to levy assessments on benefited properties to develop and maintain such mitigating measures in perpetuity. [Ord. 1204 Exh. A § 2, 2008]

17.35A.960 Geologically hazardous areas review and reporting requirements.

(1) When critical area maps or other sources of credible information indicate that a site proposed for development or alteration is located or may be located within a geologically hazardous area the administrator shall have the authority to require the submittal of a geological assessment report.

(2) A geological assessment report is an investigation process to evaluate the geologic characteristics of the subject property and adjacent areas. The geological assessment shall include a field investigation and may include the analysis of historical aerial photographs, review of public records and documentation, and interviews with adjacent property owners. The report shall include the following if the administrator determines that any portion of these requirements is unnecessary given the scope and/or scale of the proposed development:

- (a) A description of the areas on the site, the surrounding areas that influence or could be influenced by the site, or areas within 300 feet of the site that meet the criteria for geologically hazardous areas as set forth in LCC 17.35A.920.
- (b) A scaled site plan showing:
 - (i) The type and extent of geologic hazard areas and any other critical areas, and buffers on, adjacent to, or that are likely to impact or influence the proposal, including properties upslope of the subject site;
 - (ii) The existing site topography preferably accurate to within two-foot contours; and
 - (iii) The location of existing and proposed clearing, vegetation alteration, topographic modification, fill, structures, access roads, parking areas, storage of materials, water and sewer and other utilities, and drainage facilities, with dimensions.
- (c) A description of the site features, including surface and subsurface geology, hydrology, soils, and vegetation found in the project area and in all critical areas addressed in this code. This may include surface exploration data such as borings, drill holes, test pits, wells, geologic reports, and other relevant reports or site investigations that may be needed to make conclusions or recommendations about the site under investigation.
- (d) A description of the geologic and other relevant processes affecting the property or affected by development of the property including soil erosion, deposition, or accretion.
- (e) A description and assessment of the vulnerability of the site to seismic and other geologic processes and a description of any potential hazards that could be created or exacerbated as a result of site development.
- (f) A description and assessment of the risk associated with the proposed development, including risks associated with standards and buffers associated with this code and the level of risk associated with alternative proposals for development within or with less setback from the area of geological hazard.
- (g) A description and analysis of the risk associated with the measures proposed to mitigate the hazards, ensure public safety, and protect property and other sensitive areas, including the risk of failure of facilities due to uncertainty about existing conditions, or future failure of the mitigation measures.
- (h) The assessment shall provide additional information and address specific standards and criteria specified for individual geologically hazardous areas above. [Ord. 1204 Exh. A § 2, 2008]

Article IV(F). Frequently Flooded Areas

17.35A.980 Purpose.

The purpose of the frequently flooded areas article is to help the public and private sectors avoid losses due to flood conditions in specific areas. [Ord. 1204 Exh. A § 2, 2008]

17.35A.990 Classification.

For the purposes of this chapter, frequently flooded areas within Lewis County shall be classified using the following criteria: frequently flooded areas shall be those lands identified by the Federal Emergency Management Agency as those areas falling within the 100-year frequency floodplain in the Flood Insurance Study for Lewis County, Washington, Unincorporated Areas, the most current version thereof, with accompanying flood insurance rate maps and floodway maps or the best available information based on past flood records or special studies. [Ord. 1204 Exh. A § 2, 2008]

17.35A.1000 Designation.

Lands within Lewis County meeting the classification criteria for frequently flooded areas are hereby so designated and subject to the standards and requirements set forth below. [Ord. 1204 Exh. A § 2, 2008]

17.35A.1010 Standards for permit decisions.

Development within designated frequently flooded areas shall be in compliance with Chapter 15.35 LCC, as now or hereafter amended, and/or the Lewis County shoreline master program, as now or hereafter amended. [Ord. 1204 Exh. A § 2, 2008]

Appendix A Priority species and habitat geographic identification.*

For each listed species, the criteria below define the geographic limits commonly used by Lewis County staff to trigger the need for review. Additional information in a habitat assessment report may be required.

This information is updated by the administrator to reflect changes in Washington Department of Fish and Wildlife and U.S. Fish and Wildlife Service management guidelines:

- Bald eagle: activity within 800 feet of nests; 400 feet of communal roosts, with cross reference to requirements of WAC 232-12-292.
- Golden eagle (state candidate): activities that may remove shrub cover within 1.9 miles of nests.
- Sandhill crane: activity within 1,312 feet of nest sites; 1,640 feet of night roosts; 2,625 feet of feeding areas.
- Common loon (state sensitive): activity within 492 feet of nest sites and brood rearing areas.
- Marbled murrelet: 0.5 mile around nest tree.
- Northern spotted owl: 0.7 mile around nest tree.
- Northern goshawk (state candidate): activity within 420 acres centered on nest site.
- Peregrine falcon (state sensitive): activity within 0.5 mile of nesting cliffs.
- Pileated woodpecker (state candidate): activity within suitable habitat.
- Vaux's swift (state candidate): activity within 400 feet of suitable nesting habitat.
- Townsend's big-eared bat (state candidate): activity within 450 feet of known or potential nursery sites.
- Fisher travel corridors: activity within 600 feet of suitable habitat. [Ord. 1204 Exh. A § 2, 2008]

*Code reviser's note: Appendix A references standards developed by the Washington Department of Fish and Wildlife and is subject to change without amendment to the code if the WDFW standards change.

Appendix B Current buffers for priority species.*

Current buffer requirements for specific species consistent with Washington Department of Fish and Wildlife management guidelines.

Recommended species and associated buffers (radius) for high intensity uses are indicated with additional standards, where applicable, for moderate and low intensity uses:

- Bald eagle nest sites: 800 feet; communal roosts: 400 feet; assess potential impact to exposed foraging areas within 1,500 feet.
- Golden eagle nest sites (state candidate): establish on a case-by-case basis.
- Sandhill crane nest sites: 1,300 feet for foot and vehicular traffic. No roads or buildings within 1,650 feet of night roosts or 2,625 feet of feeding areas.
- Common loon nest sites (state sensitive): 500 feet of nest sites and brood-rearing areas.
- Marbled murrelet: 0.5 mile around nest tree.
- Northern spotted owl: 0.7 mile around nest tree.
- Northern goshawk nest sites (state candidate): 30 acres; post-fledging areas, 420 acres.
- Peregrine falcon nesting cliffs (state sensitive): avoid disturbance and restrict access during breeding season within 0.5 mile of cliff rim, 0.25 mile of cliff face.
- Vaux's swift nest sites (state candidate): 400 feet.
- Townsend's big-eared bat nursery sites (state candidate): 450 feet. [Ord. 1204 Exh. A § 2, 2008]

*Code reviser's note: Appendix B references standards developed by the Washington Department of Fish and Wildlife and is subject to change without amendment to the code if the WDFW standards change.