DRAFT REVISIONS TO TITLES 16 AND 17 – PART 2
BASED ON THE PROPOSED CHANGES TO LCC CHAPTER 17.05

Please note: This document is the second half of a proposal that shows the changes that could occur to the Lewis County Code (as a result of the draft changes to LCC Chapter 17.05 that were discussed at the Planning Commission meeting of January 12, 2016).

Proposed revisions to the existing language of the code are noted. Potential additions are underlined and proposed deletions are crossed-out. Chapters that have no proposed modifications are not included within the draft.

The first portion of this draft was presented at the meeting of February 9, 2016. That draft was included within that meeting's packet.

Chapter 17.30
RESOURCE LANDS

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Article I. General Provisions

17.30.010 Authority and title.

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This chapter is established pursuant to RCW 36.70A.060 and shall be known as the Lewis County resource lands ordinance. [Ord. 1197 §2, 2007; Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 1.1, 1996]

17.30.020 Purpose.

(1) The purpose of this chapter is to identify and conserve long-term commercially significant forest, agricultural, and mineral resource lands designated pursuant to this chapter 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 conserve resource lands and protect human health and safety. This chapter is adopted under the authority of Chapters 36.70A and 36.70 RCW.

(2) 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. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 1.2, 1996]

17.30.030 Policy.

(1) It is a policy of Lewis County that the resource lands supporting agriculture, forest, and mineral extractive industries be conserved as identified in this chapter, and further that reasonable associated and incidental uses be identified which aid and assure the economic viability of the long-term commercial resource user. Reasonable regulation shall be achieved by the balancing of individual and collective interests.

(2) The countywide 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 nonresource land 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 resource land functions during the life of the action;

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(e) Compensate for the impact by replacing, enhancing, or providing substitute resources or environments in lieu of resource lands 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 on resource lands or buffers where reasonable nonresource land alternatives are unavailable.

(6) The assessor is required to consider the impact to property values by reason of 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. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 1.3, 1996]

17.30.040 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 resource land system. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 1.4, 1996]

17.30.050 Duration.
The development regulations for resource lands, 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 36.70ARCW. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 1.5, 1996]

17.30.060 Judicial review.
Judicial review of any decision made hereunder shall be appealable pursuant to the Land Use Appeals Act, Chapter 36.70C RCW. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 1.7, 1996]

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Article II. Definitions

17.30.070 Administrator.
"Administrator" means the planning director of the Lewis County department of community development or his or her designee. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.080 Agricultural land - Agricultural resource land.
"Agricultural land" or "agricultural resource land" means land primarily devoted to the commercial production of aquaculture, horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock, and that has long-term commercial significance for agricultural production. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.085 Animal unit.
"Animal unit" means 1,000 pounds of live weight. [Ord. 1197 §2, 2007]

17.30.090 Best management practices.
"Best management practices" means conservation practices or system of practices and management measures that:

(1) Maximize the economic return;

(2) Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxics, and sediment;

(3) Minimize adverse impacts to surface water and groundwater flow, circulation patterns, and to the chemical, physical, and biological characteristics; and

(4) Take into account site-specific conditions, including, but not limited to, soil, climate, topography, operator's skills and abilities, and owner and/or operator's goals. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.100 Biosolids.
"Biosolids" means municipal sewage sludge or septage that is a primarily organic, semisolid product resulting from the wastewater treatment process, that can be beneficially recycled and meets all the requirements of 40 CFR Part 503, Subpart A (which establishes "standards and general requirements, pollutant limits, management practices, and operational standards for the final use or disposal of sewage sludge generated during the treatment of domestic sewage in treatment works"). Sewage sludge or septage, which does not meet all the requirements of Part 503, cannot be referred to as biosolids. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.105 Confined animal feeding operations.

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“Confined animal feeding operation” means a lot or facility (other than aquatic) where more than 300 animal units are confined and fed or maintained for a period of 45 days or more in any 12-month period, and in which crops, vegetation, forage growth or post-harvest residues are not sustained in the normal growing season. [Ord. 1197 §2, 2007]

17.30.110 Clustering.

“Clustering” means the placement of dwellings and accessory buildings in a pattern of development, which reduces impervious surface area, lowers cost of development and maintenance, and retains larger expanses of property available for agriculture, forestry, or continuity of ecological functions characteristic of the property to development. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.120 Economic viability.

“Economic viability” means that the profit (or return) can reasonably be expected to be high enough to justify the investment. The prudent investor will not invest in resource land activity unless there is a reasonable expectation of a competitive return on his investment. That is, the owner will expect to get all his investment back, plus at least the cost of investment capital, plus a management fee. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.130 Farm employee.

For farm housing purposes, a “farm employee” shall be a person employed in the farming operation who makes over 50 percent of his or her gross income from the farming operation. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.140 Forest land - Forest resource land.

“Forest land” or “forest resource land” means land primarily useful for growing trees, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, for commercial purposes, and that has long-term commercial significance for growing trees commercially. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.150 Geologist.

“Geologist” means a person who has earned his/her livelihood primarily from the field of geology for at least five years, and has received a degree in geology or a related field from an accredited four-year institution of higher education. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.160 Growing season.

“Growing season” means the growing season for the soils meeting the land capability criteria set forth in the Lewis County comprehensive plan. Also, the portion of the year when soil temperatures are above biologic zero at 50 cm (19.7"). [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.170 Home-based industries.

“Home-based industries” means a typically light industrial use located within a residential building, or a structural accessory thereto, which use is accessory, incidental, and secondary to the use of the building for dwelling purposes. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.180 Immediate family members.
Repealed. [Ord. 1197 §2, 2007]

17.30.190 Large lot subdivision.
“Large lot subdivision” means the division of land for sale or lease within a designated resource land, no lot of which is less than five acres in size and one lot of which is at least 20 acres in size. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.200 Long-term commercial significance.
“Long-term commercial significance” includes the growing capacity, productivity, soil composition of the land for long-term commercial production, and economic viability, in consideration with the land’s proximity to population areas, and the possibility of more intense uses of the land. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.210 Mineral resource lands.
“Mineral resource lands” means lands primarily devoted to the extraction of minerals or that have known or potential long-term commercial significance for the extraction of minerals. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.220 Minerals.
“Minerals” includes gravel, sand, rock, clay, coal, and valuable metallic substances. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.230 Qualified forester.
“Qualified forester” means a person with a bachelor of science degree in forestry or the equivalent in post-secondary education and work experience in forestry. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996. Formerly 17.30.240]

17.30.240 Urban governmental services.
“Urban governmental services” means those governmental services historically and typically delivered by cities, including storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with nonurban areas. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996. Formerly 17.30.250]

17.30.250 Urban growth.
“Urban growth” means growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources. When

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allowed to spread over wide areas, urban growth typically requires urban governmental services. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996. Formerly 17.30.260]

17.30.260 Urban growth area (UGA).

"Urban growth area (UGA)" means those areas designated for urban growth by Lewis County pursuant to RCW 36.70A.110. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996. Formerly 17.30.270]

17.30.270 Wetlands delineation.

Wetlands shall be defined and delineated in accordance with standards identified in the Lewis County critical lands ordinance. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996. Formerly 17.30.280]

17.30.280 Reserved.

[Ord. 1197 §2, 2007]

Article III. General Requirements

17.30.290 Applicability.

This chapter classifies and designates resource lands in Lewis County and establishes regulations for the protection of resource lands, 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. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.1, 1996]

17.30.300 Relationship to other regulations.

Areas characterized by a particular resource land may also be subject to critical areas regulations due to the overlap of multiple functions of critical areas and resource lands. In the event of any conflict between these regulations and other regulations of the county, the resource lands regulations shall take precedence. 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. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.2, 1996]

17.30.310 Exemptions.

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

(1) Existing and ongoing agricultural activities on lands designated as resource lands on the effective date of the ordinance codified in this chapter;

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(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 animal water ponds; provided, that such activities do not involve conversion of any resource lands to other than resource land uses;

(3) Maintenance, operation, repair, or replacement of utility facilities and associated rights-of-way, including but not limited to reasonable access roads, and construction of utility facilities reasonably necessary;

(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, resource lands are avoided where possible and minimized where necessary, and disbursed to the extent possible;

(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 resource lands protection measures; provided, however, "vested properties" shall include any property acquired for development purposes where the following qualifications have been met: (a) the purchase includes lands designated as resource lands pursuant to this chapter; (b) the purchaser can demonstrate through some objective means that the property was acquired for present development purposes (e.g., more than generalized intent, such as a feasibility study, nature of purchaser's business, or other facts or data); and (c) the earnest money agreement is complete and binding on both parties within 90 days prior to the effective date of the ordinance codified in this chapter; and provided further, such additional vested rights shall be in effect only for the subdivision of such property in fact completed (final plat recorded) within 18 months of the effective date of the ordinance codified in this chapter. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.3, 1996]

~~17.30.320 Application requirements - General.~~

~~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. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.4, 1996]~~

~~17.30.330 Designation of the administrator.~~

~~The planning director of the Lewis County department community development or his or her designee shall be responsible for applying the provisions and requirements of this chapter. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.5, 1996]~~

~~17.30.340 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. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.6, 1996]~~

~~17.30.350 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. Any such person or other such party who violates such provision of this chapter shall be subject to the enforcement provisions of Chapter 17.07 LCC.~~

~~(2) 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.~~

~~The administrator shall issue such notice and order in writing to the person(s) creating, causing, participating in, or allowing the violation pursuant to LCC 1.20.040.~~

~~(3) 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 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. Acceptance of such assurance does not relieve a party from compliance with this chapter or state law. With respect to court actions filed pursuant to this chapter, any~~

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~~such assurance shall be in writing and be filed with and subject to the approval of the superior court. [Ord. 1197 §2, 2007; Ord. 1192 §5, 2006; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.7, 1996]~~

17.30.360 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 single-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. 1197 §2, 2007; Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.8, 1996]

~~**17.30.370 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 resource lands 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 resource land and its related buffer;~~
>
> ~~(c) That the proposed activities will result in minimum feasible alteration or impairment to the resource land's functional characteristics and its existing environment;~~

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~~(d) That disturbance of resource lands 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 groundwater or surface water;~~

~~(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 resource lands 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 need for a variance is not the result of deliberate actions by the applicant or prior owners after the effective date of the ordinance.~~

~~(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. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.9, 1996]~~

17.30.380 Nonregulatory incentives.

The following nonregulatory incentives shall apply to all resource lands:

(1) Assessment Relief.

(a) The Lewis County assessor shall consider the resource lands regulations contained in this chapter when determining the fair market value of land.

(b) Any owner of a resource land 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 re-evaluate 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.

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(2) Open Space. Subject to the criteria established by law, any person who owns a resource land 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.

(a) Any person who owns an identified resource land as defined by this chapter may offer a conservation easement over that portion of the property designated a resource land 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 resource lands, 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.

(b) 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.

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

(d) Lewis County may establish appropriate processing fees for such conservation easements.

(4) Development Rights Transfer and Acquisition. Lewis County shall adopt a development rights transfer and/or acquisition program pertaining to development rights on designated resource lands by September, 1998. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.10, 1996]

17.30.390 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. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.11, 1996]

17.30.400 Judicial or legislative modification.

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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. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.12, 1996]

17.30.410 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. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.13, 1996]

Article IV. Forest Resource Lands

17.30.420 Classification.

Long-term commercially significant forest resource lands of Lewis County are classified according to the following:

(1) Private Forest Land Grades of the Washington State Department of Revenue (WAC 458-40-530).

(a) The land grade system incorporates consideration of growing capacity, productivity, and soil composition of the land. Forest land of long-term commercial significance will generally have a predominance of the higher private forest land grades. However, the presence of lower private forest land grades within the areas of predominantly higher grades need not preclude designation of forest land.

(b) The Washington State Department of Community, Trade and Economic Development also recommends that each county determine which land grades constitute forest land of long-term commercial significance, based on local and regional physical, biological, economic, and land use considerations.

(c) The following table is a cross reference of tree species, growth potential, and corresponding land grades on a 50-year basis:

Washington State Private

Forest Land Grades

Species	Growth Potential	Land Grade*
Douglas Fir	136 feet and over	1

Washington State Private

Forest Land Grades

Species	Growth Potential	Land Grade*
	118 - 135 feet	2
	99 - 117 feet	3
	84 - 98 feet	4
	under 84 feet	5
Western Hemlock	136 feet and over	1
	116 - 135 feet	2
	98 - 115 feet	3
	83 - 97 feet	4
	68 - 82 feet	5
	under 68 feet	6
Red Alder	117 feet and over	6
	under 117 feet	7

*Land grade 1 = highest; land grade 7 = lowest

(d) The predominant species growing in Lewis County is Douglas fir. Most of Lewis County is composed of Land Grade 2 and Land Grade 3.

(e) A predominance of Forest Land Grade 2 and Forest Land Grade 3 shall be required for designation as forest land of long-term commercial significance.

(2) Minimum Block Size. A minimum block size of 5,000 contiguous acres managed as forest lands. These blocks consist of predominantly large parcels and which can be in multiple ownerships.

(3) Property Tax Classification. Property in the block is assessed or eligible to be assessed as open space or forest land pursuant to Chapter 84.33 or 84.34 RCW.

(4) Availability of Public Services Conducive to the Conversion of Forest Land. The property is located outside a designated urban growth area (UGA).

(5) Proximity of Forest Land to Urban and Suburban Areas and Rural Settlements. Forest lands of long-term commercial significance shall be located outside the urban and suburban areas and rural

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settlements. In addition to being located outside the UGAs, long-term forest lands should be far enough from urban areas that land use conflicts are minimized.

(6) Local Economic Conditions Which Affect the Ability to Manage Timber Lands for Long-Term Commercial Production. Economic conditions should be conducive to long-term timber management. In Lewis County, unfavorable economic conditions include locations with high administrative costs due to complaints from nearby landowners, locations requiring extensive security control efforts, and locations in which allowable forest practices such as burning and chemical applications will significantly interfere with other permitted land uses. Favorable economic conditions include Land Grade 2 and Land Grade 3 forest soils, which provide (in conjunction with large parcel sizes) the growth potential to manage timber lands for long-term commercial production.

(7) History of Land Development Permits Issued Nearby. For Lewis County, this means that recent residential development is an indicator of a pattern or direction of growth that may be encroaching on the forest land. The above criteria are applied throughout unincorporated Lewis County to designate those forest lands of long-term commercial significance. Those lands that currently meet the criteria are shown on map entitled Lewis County Forest Lands, March 1996. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.1, 1996]

17.30.430 Designation.

Lands of Lewis County meeting the classification criteria for forest resource lands are hereby designated as forest resource lands in the following categories:

(1) Forest Land of Long-Term Commercial Significance. Primary forest lands are those forest lands meeting the classification criteria within the minimum blocks of 5,000 contiguous acres and all federally owned lands managed for their forest resources.

(2) Forest Land of Local Importance. Forest lands of local importance are those forest lands meeting the criteria of LCC 17.30.420(1), (3), (4), (6) and (7) which fall outside a 5,000-contiguous-acre block and meet the following criteria:

> (a) Formal Designation ("Opt-In"). Forest lands of local importance shall only be designated by the board of county commissioners upon a petition for such designation by the landowner pursuant to the requirements of LCC17.30.560(2).
>
> (b) Minimum Acreage. Forest lands of local importance shall have a minimum parcel size of 20 acres. However, smaller parcel sizes shall be permitted for designation upon a showing of profitability in the form of a report from a qualified forester to provide a factual basis for designation as a forest land of local importance.
>
> (c) Minimum Period for Commitment to Designation. The landowner petitioning for designation as a forest land of local importance shall be required to commit the property to remain in that designation for 10 years. The designation may be renewed by the landowner at the end of the 10-

year period; provided, that renewal of the designation shall not be considered an amendment to the zoning regulations.

(d) Current Forest Land Use. The property is in open space or forest land classification pursuant to Chapter 84.33 or 84.34 RCW. [Ord. 1197 §2, 2007; Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.2, 1996]

17.30.440 Uses.

The intent and purpose of this section is to maintain and enhance resource-based industries, encourage the conservation of productive forest lands and discourage incompatible uses. Nothing in this section shall be construed in a manner inconsistent with the Washington State Forest Practices Act. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.3, 1996]

17.30.450 Primary uses.

(1) The growing and harvesting of timber, forest products, and associated management activities in accordance with the Washington Forest Practices Act of 1974 as amended, and regulations adopted pursuant thereto.

(2) Removal, harvesting, wholesaling, and retailing of vegetation from forest lands including, but not limited to, fuel wood, cones, Christmas trees, salal, berries, ferns, greenery, mistletoe, herbs, and mushrooms.

(3) Agriculture, floriculture, horticulture, general farming, dairy, the raising, feeding and sale or production of poultry, livestock, fur bearing animals, honeybees including feeding operations, Christmas trees, nursery stock and floral vegetation, and other agricultural activities and structures accessory to farming and animal husbandry.

(4) Extraction and processing of rock, gravel, coal, oil, gas, mineral, and geothermal resources. [Ord. 1197 §2, 2007; Ord. 1179M §1, 2007; Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.3(A), 1996]

17.30.460 Accessory uses.

Uses allowed outright where directly connected with and in aid of a forestry activity:

(1) One single-family dwelling unit or mobile home per lot, parcel, or tract;

(2) One accessory dwelling unit in conjunction with a single-family dwelling or mobile home. Kitchen facilities may not be provided in accessory dwelling units;

(3) Storage of explosives, fuels, and chemicals used for agriculture and forestry subject to all applicable local, state, and federal regulations;

(4) Forestry, environmental, and natural resource research;

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(5) Public and semi-public buildings, structures, and uses including but not limited to fire stations, utility substations, pump stations, wells, and transmission lines;

(6) Dispersed recreation and recreation facilities such as primitive campsites, trails, trailheads, snowparks, warming huts for climbers and cross-country skiers, recreational vehicle parks, boat launches, and accessory uses;

(7) Aircraft landing fields, heliports;

(8) Watershed management facilities, including but not limited to diversion devices, impoundments, dams for flood control, fire control, and stock watering. [Ord. 1197 §2, 2007; Ord. 1179M §1, 2007; Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.3(B), 1996]

17.30.470 Incidental uses.

Uses which may provide supplementary income without detracting from the overall productivity of the forestry activity. The listed uses below are allowed where the following elements are found:

(1) Required Elements.

(a) The use will not adversely affect the overall productivity of the forest nor affect more than five percent of the prime soils (15 percent as provided below in LCC 17.30.490(3)) on any forest resource lands (including all contiguous tracts or parcels in common ownership) on the date this chapter is effective.

(b) The use is secondary to the principal activity of forestry.

(c) The use is sited to avoid prime lands where feasible and otherwise to minimize impact on forest lands of long-term commercial significance.

(2) Uses Allowed as Incidental Activities.

(a) Residential subdivision consistent with the requirements of this chapter.

(b) Saw mills, shake and shingle mills, the production of green veneer and other products from wood residues, chippers, pole yards, log sorting and storage, debarking equipment, accessory uses including, but not limited to, scaling and weigh stations, temporary crew quarters, storage and maintenance facilities, residue storage areas, and other uses involved in the harvesting and commercial production of forest products.

(c) Treatment of wastewater or application of biosolids when not a forest practice regulated by the state.

(d) State correction work camps to supply labor for forest management related work projects and for forest fire control.

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(e) Plywood mills, particleboard plants, and drying kilns. [Ord. 1197 §2, 2007; Ord. 1179M §1, 2007; Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.3(C), 1996]

~~**17.30.480 Essential public facilities.**~~

~~[Reserved]. [Ord. 1197 §2, 2007; Ord. 1179M §1, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.3(D), 1996]~~

17.30.490 Maximum density and minimum lot area.

The minimum lot area for any new subdivision, short subdivision, large lot subdivision or exempt segregation of property shall be as follows, except for parcels to be used for uses and activities provided under LCC 17.30.440through 17.30.480:

(1) Primary Forest Land. The minimum lot area for subdivision of primary forest lands shall be 80 acres.

(2) Forest Land of Local Importance. The minimum lot area for subdivision of forest lands of local importance shall be 20 acres.

(3) Subdivision as an Incidental Use. A residential subdivision of land for sale or lease within primary or local forest lands, whether lots are over or under five acres in size, may be approved under the following circumstances:

(a) The total density, including existing dwellings, is not greater than one unit per 10 acres for resource lands, one unit per 20 acres for wetlands and areas mapped with hydric soils and steep slopes and flood hazard areas.

(b) Adequate water and provisions for septic capacity are in fact present.

(c) The project affects none of the prime soils on the contiguous holdings at the time of the adoption of this chapter, including all roads and accessory uses to serve the development; however, prime lands previously converted to nonforestry uses are not considered prime forest lands for purposes of this section.

(d) The plat shall set aside the balance of the parcel in a designated forest tract.

(e) The plat shall contain the note included in LCC 17.40.025~~covenants in LCC 17.30.540~~. [Ord. 1197 §2, 2007; Ord. 1179M §1, 2007; Ord. 1179C §1, 2003; Ord. 1179, 2002; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.4, 1996]

17.30.500 Setbacks.

(1) Within Lands Adjacent to or Abutting Primary Forest Resource Lands. All structures shall maintain a minimum setback of 150 feet from property lines, except for structures not requiring building permits, and 200 feet for all wells, and uses and activities provided under LCC 17.30.440 through 17.30.480; provided, however, the administrator may reduce the structure's setback where:

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(a) It is not reasonable to accomplish the setback given the topography, soils, or shape of the site.

(b) The owner requesting the administrative variance records a forestry easement for the benefit of the abutting primary forest resource lands, granting a right to all normal and customary forestry practices in accordance with best management practices.

(2) Within Land Adjacent to or Abutting Forest Resource Lands of Local Importance. All structures shall maintain a minimum setback of 150 feet from property lines, except for structures not requiring building permits, and 100 feet for all wells, and uses and activities provided under LCC 17.30.440 through 17.30.480; provided, however, that the 150-foot resource lands setback shall not be required where the owner of lands adjacent to or abutting forest lands of local importance records a forestry easement for the benefit of the abutting forest resource lands of local importance, granting a right to all normal and customary forestry practices in accordance with best management practices. [Ord. 1197 §2, 2007; Ord. 1179M §1, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.5(A), 1996; Ord. 1151A, 1997]

17.30.510 Water supply.

[Reserved]. [Ord. 1197 §2, 2007; Ord. 1179M §1, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.5(B), 1996]

17.30.520 Access.

No permit from Lewis County shall imply any permanent vehicular access to residential properties across nonowned land. [Ord. 1197 §2, 2007; Ord. 1179M §1, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.5(C), 1996]

17.30.530 Surveys.

Land surveys or other boundary line determinations shall be required in conjunction with the issuance of a building permit on property subject to the setback requirements set forth in LCC 17.30.500 to demonstrate compliance with the required setback. [Ord. 1197 §2, 2007; Ord. 1179M §1, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.5(D), 1996]

~~17.30.540 Notification of forest practices - Conflict mitigation.~~ MOVED TO 17.40

~~(1) Continued forest management by definition requires the eventual harvesting of the trees, site preparation, and replanting. It is important that people choosing to live within or adjacent to commercial forest land be aware of the inevitability of forest practices and understand the necessary management activities that are required to harvest and sustain a future commercial forest crop. The following language indicating proximity, within 500 feet, to designated forest land shall be required on all final plats, short plats, and binding site plans approved by Lewis County.~~~~NOTICE AND COVENANT: The subject property is within or near land designated for commercial forest management and subject to a variety of activities that may not be compatible with residential development for certain periods of limited duration. In addition to other activities these may include noise, dust, smoke, visual impacts, and odors resulting from harvesting.~~

~~planting, application of fertilizers, herbicides, and associated management activities. When performed in accordance with county, state, and federal law, these forest management activities are not subject to legal action or public nuisance.~~

~~(2) In addition, at the time of building permit issuance, applicants shall be required to sign and record with the county auditor a statement acknowledging that their property is located within 500 feet of designated forest land and subject to customary forest practices.~~

~~(3) The following language shall be required for both plats and building permits:~~

~~NOTICE AND COVENANT: The subject property is within or near land designated for commercial forest management and subject to a variety of activities that may not be compatible with residential development for certain periods of limited duration. In addition to other activities these may include noise, dust, smoke, visual impacts, and odors resulting from harvesting, planting, application of fertilizers, herbicides, and associated management activities. When performed in accordance with county, state, and federal law, these forest management activities are not subject to legal action or public nuisance.~~

~~(4) Where the approval is a plat pursuant to LCC 17.30.490(3), the notice shall be a covenant running with the land binding all lots within the subdivision. [Ord. 1197 §2, 2007; Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.5(E), 1996]~~

17.30.550 Application process for exclusion from designation as a forest resource land ("opt-out").
Repealed. [Ord. 1179, 2002]

17.30.560 Process for petitioning for designation as a forest land of local importance ("opt-in").
An "opt-in" provision is provided for the voluntary designation of properties as forest land of local importance by the property owner(s) upon the timely written notification to the administrator of their desire for such designation. Such application for designation shall be processed as ~~an~~ a Type V amendment to the comprehensive plan and development regulations. Such amendments are processed on a yearly basis, consistent with Chapter 17.12 LCC.

(1) Criteria for Approval of Applications for Voluntary Designation of Forest Lands of Local Importance. Lewis County shall approve applications for designation as forest land of local importance if the following criteria are met:

(a) The property meets the classification criteria set forth for forest lands of local importance in LCC 17.30.430(2); and

(b) The property owner, as part of the application, provides a notarized statement that he or she will voluntarily commit the subject property to the designation for a period of 10 years from the date of any approval of the application.

(2) Process for Approval of Applications for Designation as Forest Land of Local Importance.

(a) Designation of Forest Land of Local Importance shall be considered as a Type V application.

~~(a) Administrator's Action. The administrator shall determine if the application is complete. If additional information is necessary, the application shall be returned to the property owner, together with a list identifying the deficiencies. When the application is complete, the administrator shall consult with the persons or departments deemed necessary by the administrator to evaluate compliance with this chapter and section.~~

(b) ~~Planning Review and Recommendation. The Lewis County planning commission shall hold a public hearing to review all application requests, pursuant to this section. Notice of public hearing shall be made at least 30 days prior to the scheduled hearing date. Notice shall consist of publication of a legal notice in a newspaper of general circulation in Lewis County. Notice shall state the description of the property, and the purpose, date, time, and location of the hearing. Such notice shall also be mailed to all persons owning property within one-quarter mile of the subject property's boundaries. The administrator shall also post two or more notices in the vicinity of the subject property.~~

~~(c) Following the planning commission hearing, the planning commission shall make a recommendation. The administrator shall forward the recommendation to the board of county commissioners within five working days of the planning commission recommendation. The administrator shall also provide the applicant written notice of the planning commission recommendation.~~

~~(d) The Board Decision.~~ The board of county commissioners shall make a final decision following the receipt of the recommendation of the planning commission. The board shall hold a public hearing on the matter. The board shall make written findings for its decision and such findings shall be available to the public upon request. [Ord. 1197 §2, 2007; Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.8, 1996]

Article V. Agricultural Resource Lands

17.30.570 Farmland of local importance.

"Farmland of local importance" is an overlay district in which property owners who wish to protect large unbroken tracts of land may create an overlay zone in the RDD underlying districts that limits minimum lot size to large parcels and protects and encourages the preservation of larger farms and farm forests

where conflicts may arise between these activities and other forms of development allowed in the underlying zones.

The designation of farmlands of local importance is applied to those agricultural lands voluntarily nominated by the landowner which are not designated commercial farmland and meet the following criteria:

(1) Formal Designation ("Opt-In"). Farmlands of local importance shall only be designated by the board of county commissioners upon a voluntary petition for such designation by the landowner pursuant to the requirements of LCC 17.30.670. Such applications shall be processed as a Type V~~n~~ amendment to the county comprehensive plan and development regulations.

(2) Minimum Acreage. There is no minimum acreage requirement. Farmlands of local importance shall be designated upon a showing that the property meets the Consolidated Farm Services Agency, USDA, definition of commercial agriculture.

(3) Minimum Period for Commitment to Designation. The landowner petitioning for designation as a farmland of local importance shall be required to commit the property to remain in that designation for 10 years. The designation may be renewed by the landowner at the end of the 10-year period; provided, that renewal of the designation shall not be considered an amendment to the comprehensive plan or zoning regulations.

(4) Current Agricultural Land Use. The property is currently devoted to agricultural activities. [Ord. 1197 §2, 2007; Ord. 1179R §1, 2007; Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.3, 1996. Formerly 17.30.590]

17.30.580 Maps and inventory.

(1) This section shall apply to all lots, tracts, or parcels on designated agricultural resource land located within the jurisdiction of Lewis County. The approximate location and extent of farmlands of long-term commercial significance shall be displayed on assessor's maps marked with significant agricultural lands on file at Lewis County and in the database of the Lewis County Geographic Information System.

(2) In the event of a conflict between the information shown on the maps referred to above and the database and information shown as a result of field investigation, the latter shall prevail.

(3) In the event any farmland of long-term commercial significance shown on the maps referenced above and the database are in conflict with the criteria of this chapter the criteria of this chapter shall prevail. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.4, 1996. Formerly 17.30.600]

17.30.590 Use exceptions in ARL.

(1) This section is intended to provide relief for property owners in ARL where prime soils, as listed in the comprehensive plan, do not underlie the entire parcel. The special use process

(Chapter ~~17.115~~ 17.158 LCC) for residential, recreational, and other nonresource uses shall be used to determine if, and under what conditions, such uses shall be permitted. [Ord. 1197 §2, 2007]

17.30.600 Relief from errors in ARL designation.

(1) Property owners who believe a parcel has been included in agricultural resource land in error may request redesignation of that parcel as ~~pursuant to the comprehensive plan amendment provisions of LCC 17.165.040~~a Type V application per LCC Chapter 17.05.

(2) Property owners who claim a parcel was included in agricultural resource land in error due to incorrect mapping of prime soils, as listed in the land use element of the comprehensive plan, shall provide a written report by a certified soils scientist documenting the actual soils conditions on the parcel. The application shall be considered a Type V application per LCC Chapter 17.05. ~~fee for a comprehensive plan amendment set by LCC 17.165.020 shall be waived for property owners submitting a request for redesignation under this subsection (2)~~

(3) Property owners who claim a parcel was included in agricultural resource land in error because soils on the parcel are classified by the National Resources Conservation Service as “prime farmland if drained” and the soils are not drained; or “prime farmland if drained and either protected from flooding or not frequently flooded during the growing season” and the soils are not drained and are not protected from flooding or are subject to flooding during the growing season; or “prime farmland if irrigated” and the parcel is not irrigated due to lack of necessary water rights shall provide a written declaration documenting the drainage or irrigation status of the soils on the parcel. The reclassification will be considered a Type V application per LCC Chapter 17.05.~~comprehensive plan amendment set by LCC 17.165.020 and the fee shall be waived for property submitting a request under this subsection (3)~~

(4) Property owners who claim a parcel was included in agricultural resource land in error due to an incorrect assessment of the presence of a commercial, non-soil-dependent agricultural use shall provide a written declaration documenting the absence of such use thereby rendering the parcel no longer devoted to or capable of long-term commercial agriculture. The reclassification will be considered a Type V application per LCC Chapter 17.05.~~comprehensive plan amendment set by LCC17.165.020 and the fee shall be waived for property submitting a request under this subsection (4)~~. [Ord. 1207 §2 (Exh. D), 2009; Ord. 1197 §2, 2007]

17.30.605 Uses.

The intent and purpose of this section is to maintain and enhance resource-based industries, encourage the conservation of agricultural lands, and discourage incompatible uses. All primary and accessory uses shall be entitled to protection under the protective provisions of LCC 17.30.680.* [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.5, 1996. Formerly 17.30.610]

*Code reviser’s note: Ord. 1197 repealed LCC 17.30.680 and readopted the provisions of that section in LCC 17.40.050.

17.30.610 Primary uses.

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(1) Agriculture and agricultural activities including aquaculture, viticulture, floriculture, horticulture, general farming, dairy, the raising, feeding, and sale or production of poultry, livestock, fur-bearing animals, honeybees including feeding operations, Christmas trees, nursery stock, and floral vegetation, agricultural processing facilities, commercial greenhouse operations that are an integral part of a local soil-based commercial agricultural operation, wholesale nurseries, and other agricultural activities.

(2) Removal, harvesting, wholesaling, and retailing of vegetation from agricultural lands including, but not limited to, fuel wood, cones, Christmas trees, salal, berries, ferns, greenery, mistletoe, herbs, and mushrooms.

(3) One single-family dwelling unit or mobile home.

(4) Growing and harvesting of timber. [Ord. 1207 §2 (Exh. D), 2009; Ord. 1197 §2, 2007; Ord. 1179C §1, 2003; Ord. 1151 § 5.5(A), 1996. Formerly 17.30.620]

17.30.620 Accessory uses.
Uses allowed outright where directly connected with and in aid of an agricultural activity:

(1) Storage of explosives, fuels, and chemicals used for agriculture and forestry subject to all applicable local, state, and federal regulations;

(2) Structures accessory to farming, animal husbandry, and the growing and harvesting of timber;

(3) Agricultural, environmental, and natural resource research;

(4) Private aircraft landing fields, heliports;

(5) Watershed management facilities, including, but not limited to, diversion devices, impoundments, private dams for flood control, fire control, stock watering, and private hydroelectric generating facilities;

(6) Storage and application of agricultural waste;

(7) Disposal of farm-generated solid waste and application of biosolids;

(8) Agricultural storage, distribution, marketing and processing of regional agricultural products from one or more producers, agriculturally related experiences, or the production, marketing, and distribution of value-added agricultural products, including support services that facilitate these activities;

(9) Nonagricultural accessory uses and activities as long as they are consistent with the size, scale, and intensity of the existing agricultural use of the property and the existing buildings on the site. Nonagricultural accessory uses and activities, including new buildings, parking, or supportive uses, shall not be located outside the general area already developed for buildings and residential uses and shall not otherwise convert more than one acre of agricultural land to nonagricultural uses (RCW 36.70A.177);

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(10) Family day care and home businesses. [Ord. 1207 §2 (Exh. D), 2009; Ord. 1197 §2, 2007; Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.5(B), 1996. Formerly 17.30.630]

17.30.630 Incidental uses.

Uses which may provide supplementary income without detracting from the overall productivity of the farming activity. The listed uses below are allowed where the following elements are found:

(1) Required Elements.

(a) The use will not adversely affect the overall productivity of the farm nor affect any of the prime soils on any farm (including all contiguous tracts or parcels in common ownership) on the date this chapter is effective; provided, however, that prime lands previously converted to noncrop-related agricultural uses, including residential, farm and shop buildings, and associated yards, parking and staging areas, drives and roads, are not considered prime farmlands for purposes of this section.

(b) The use is secondary to the principal activity of agriculture.

(c) The use is sited to avoid prime lands and otherwise to minimize impact on farmlands of long-term commercial significance.

(2) Uses Allowed as Incidental Activities.

(a) Residential subdivision consistent with the requirements of this chapter;

(b) Saw mills, shake and shingle mills, and the production of other products from wood residues, chippers, pole yards, log sorting and storage, debarking equipment, accessory uses including, but not limited to, scaling and weigh stations, temporary crew quarters, storage and maintenance facilities, residue storage areas, and other uses involved in the harvesting and commercial production of forest products;

(c) Agribusiness such as but not limited to retail sales of agricultural products, veterinary clinics, auction yards, farm equipment sale and repair;

(d) Regulated treatment of wastewater;

(e) Composting where there is no net loss of soil, managed according to an approved nutrient management plan in conjunction with the local conservation district and NRCS standards and all applicable environmental, solid waste, access, and health regulations. [Ord. 1197 §2, 2007; Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.5(C), 1996. Formerly 17.30.640]

~~**17.30.640 Essential public facilities.**~~

~~[Reserved]. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.5(D), 1996. Formerly 17.30.650]~~

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17.30.650 Maximum density and minimum lot area.

The minimum lot area for any new subdivision, short subdivision, large lot subdivision or exempt segregation of property shall be as follows, except for parcels to be used for uses and activities provided under LCC 17.30.610 through 17.30.640:

(1) Development Standards - Division of Land for Sale or Lease. The minimum lot area for subdivision of agricultural resource lands shall be 20 acres; provided, however, that a residential subdivision of land for sale or lease, whether lots are over or under five acres in size, may be approved under the following circumstances:

(a) The total density of residential development on the entire contiguous ownership, including existing dwellings, is not more than one unit per 20 acres;

(b) Adequate water and provisions for septic capacity are in fact present;

(c) Development of the subdivision affects none of the prime soils on the contiguous holdings at the time of the adoption of the ordinance codified in this chapter, including all roads and accessory uses to serve the development;

(d) The plat shall set aside the balance of the prime farmlands in a designated agricultural tract;

(e) The plat shall contain the ~~covenants and protections set out in the following language~~note included in LCC 17.40.025.~~:~~

~~NOTICE AND COVENANT: The subject property is designated or within 1,320 feet of land designated for long-term commercially significant agricultural activities and subject to a variety of activities that may not be compatible with residential development for certain periods extending beyond the normal workday and/or work week. In addition to other activities these may include noise, dust, smoke, visual impacts, and odors resulting from harvesting, planting, application of fertilizers, pesticides, animal husbandry, and associated agricultural activities. When performed in accordance with best management practices, these agricultural activities are to be expected, consented to by the developers of this property, their heirs, successors, and assigns, and shall not be subject to legal action or public nuisance (Refer to the Lewis County Right to Farm Ordinance No. 1119).~~

[Ord. 1207 §2 (Exh. D), 2009; Ord. 1197 §2, 2007; Ord. 1179C §1, 2003; Ord. 1179, 2002; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 §5.6, 1996. Formerly 17.30.660]

17.30.660 Setbacks.

(1) For All Non-Farm-Related Development Within Agricultural Resource Areas or on Lands Adjacent to or Abutting Agricultural Resource Lands. All structures shall maintain a minimum setback of 100 feet and all wells shall be set back 200 feet from designated agricultural tracts or any tracts used for agricultural purposes within the past five years, except for structures, uses, and activities provided under LCC 17.30.610 through 17.30.650; provided, however, the administrator may reduce the setback where:

(a) It is not reasonable to accomplish the setback given the topography, soils, or shape of the site; and

(b) The owner requesting the administrative variance records an agricultural easement for the benefit of the abutting commercial lands of significance, granting a right to all normal and customary agricultural primary or accessory practices in accordance with recommended best management practices in Lewis County. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.7(A), 1996. Formerly 17.30.670]

17.30.670 Process for petitioning for designation as a farmland of local importance ("opt-in").
An "opt-in" provision is provided for the voluntary designation of properties as farmland of local importance by the property owner(s) upon the timely written notification to the administrator of their desire for such designation. Such application for designation shall be processed as ~~an~~ a Type V amendment to the comprehensive plan and development regulations. Such amendments are processed on a yearly basis, consistent with Chapter 17.12 LCC.

(1) Criteria for Approval of Applications for Voluntary Designation of Farmlands of Local Importance. Lewis County shall approve applications for designation as farmland of local importance if the following criteria are met:

(a) The property meets the classification criteria set forth for farmlands of local importance in LCC 17.30.570; and

(b) The property owner, as part of the application, provides a notarized statement that he or she will voluntarily commit the subject property to the designation for a period of not less than 10 years from the date of any approval of the application.

(2) Process for Approval of Applications for Designation as Farmland of Local Importance.

(a) ~~Administrator's Action. The administrator shall determine if the application is complete. If additional information is necessary, the application shall be returned to the property owner, together with a list identifying the deficiencies. When the application is complete, the administrator shall consult with the persons or departments deemed necessary by the administrator to evaluate compliance with this chapter and section.~~

~~(b) Planning Review and Recommendation.~~ Designation of Farmland of Local Importance shall be considered as a Type V application.

~~The Lewis County planning commission shall hold a public hearing to review all application requests, pursuant to this section. Notice of public hearing shall be made at least 30 days prior to the scheduled hearing date. Notice shall consist of publication of a legal notice in a newspaper of general circulation in Lewis County. Notice shall state the description of the property, and the purpose, date, time, and location of the hearing. Such notice shall also be mailed to all persons~~

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~~owning property within one-quarter mile of the subject property's boundaries. The administrator shall also post two or more notices in the vicinity of the subject property.~~

~~(c) Following the planning commission hearing, the planning commission shall make a recommendation. The administrator shall forward the recommendation to the board of county commissioners within five working days of the planning commission recommendation. The administrator shall also provide the applicant written notice of the planning commission recommendation.~~

(~~d~~b) ~~The Board Decision.~~ The board of county commissioners shall make a final decision following the receipt of the recommendation of the planning commission. The board shall hold a public hearing on the matter. The board shall make written findings for its decision and such findings shall be available to the public upon request. [Ord. 1197 §2, 2007; Ord. 1179C §1, 2003; Ord. 1179, 2002; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.10, 1996. Formerly 17.30.700]

17.30.680 Nonregulatory incentives.

(1) Assessment Relief.

(a) The Lewis County assessor shall consider the agricultural resource lands regulations contained in this chapter when determining the fair market value of land.

(b) Any owner of an agricultural resource land 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 designated agricultural resource land as identified by this section 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. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.10, 1996. Formerly 17.30.710]

Article VI. Mineral Resource Lands

17.30.720 Classification.

Mineral resource lands of Lewis County are classified according to the following:

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(1) Existing Permitted Surface Mining Operations. The contiguous ownership of existing permitted mining operations (including dormant operations) operating under authority of Chapter 78.44 RCW, the Washington State Surface Mining Act, where the remaining operation has extractive minerals valued in excess of $1,000,000.

(2) Areas Containing Mineral Deposits the Significance of Which Cannot Be Evaluated from Available Data.

(a) Areas where a qualified geologist can demonstrate a high likelihood for occurrence of mineral deposits. A qualified geologist shall provide adequate evidence, for the above, in the form of a report and any associated maps that would provide evidence of mineral resources sufficient to meet the following criteria:

(i) The site has extractive materials having a probable value in excess of $500,000 for valuable metallic substances and $1,000,000 for gravel, sand, coal, and other minerals; and

(ii) The site has the potential for economically viable production of extractive materials for the foreseeable future;

(b) Greater than 50 percent of the linear frontage of the perimeter of any proposed designated lands shall abut parcels that are equal to or greater than two and one-half acres in size. Abutting parcels with industrial or wholesale uses are exempt from this parcel size calculation but shall be included in the calculation of total linear frontage; and

(c) The site is outside any designated urban growth area at the time of application for redesignation.

(3) Mines of Local Importance. Mines not otherwise meeting the criteria noted above certified by a qualified geologist as having significant economic importance either due to their location or nature, quantity, or quality of mined product. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.1, 1996]

17.30.730 Designation.

(1) Lands of Lewis County meeting the classification criteria set forth in LCC 17.30.720(1) are designated as mineral resource lands of long-term commercial significance. Other lands may be designated pursuant to LCC 17.30.850 within 90 days of the effective date of the ordinance codified in this chapter upon a finding of meeting the classification criteria set forth in LCC 17.30.720(1) by the board of county commissioners.

Lands which have been erroneously designated as mineral resource lands of long-term commercial significance may petition for exclusion from that designation through the process set forth for such exclusion in LCC 17.30.840.

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(2) Other lands of Lewis County meeting the classification criteria set forth in LCC 17.30.720(2) or (3) are eligible for designation as mineral resource lands of long-term commercial significance subject to approval of a redesignation application pursuant to LCC 17.30.850.

Mineral resource land may be so designated upon initiation either of the county or a property owner or owners. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.2, 1996]

17.30.740 Maps and inventory.

(1) The sand and gravel and ledge rock testing inventory of the Washington State Department of Transportation (WSDOT) Materials Testing Laboratory ("Approved Source of Materials - Lewis County Pits") or any material to be tested in the future that meets WSDOT specifications.

(2) U.S. Department of the Interior, Geological Survey Bulletin 1053, 1958, "Geology and Coal Resources of the Centralia-Chehalis District, Washington."

(3) Washington Department of Natural Resources, Division of Geology and Earth Resources Bulletin 47, 1984, "Coal Reserves of Washington."

(4) Washington Department of Natural Resources, Division of Geology and Earth Resources, Map GM-22, 1978, "Mineral Resources of Washington."

(5) Washington Division of Mines and Geology Bulletin 37, "Inventory of Washington Minerals," Part I, "Nonmetallic Minerals," 1960; Part II, "Nonmetallic Minerals," 1956; and subsequent updates thereto. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.3, 1996]

17.30.750 Primary uses.

(1) Quarrying and mining of minerals or material, including, but not limited to, sand and gravel, sand, rock, clay, coal, and valuable metallic and nonmetallic substances.

(2) The exploitation, primary reduction, treatment, and processing of minerals or materials, together with the necessary buildings, structures, apparatus, or appurtenances on said property where at least one of the major mineral or material constituents being exploited is from said property, including, but not limited to, concrete hatching, asphalt mixing, brick, tile, terra cotta, and concrete products, manufacturing plants, and rock crushers and the use of accessory minerals and materials from other sources necessary to convert the minerals and materials to marketable products.

(3) Agricultural crops, open field growing, stock grazing, and the harvesting of any wild crop such as marsh hay, ferns, moss, berries, etc. which may coexist with mineral extraction activities within a common ownership.

(4) Existing surface mining operations, operating under the authority of the Washington State Surface Mining Act, Chapter 78.44 RCW.

(5) Mining-related activities and structures.

(6) The maintenance of gas, electric, water, communication, and public utility facilities.

(7) Residences existing at the time of adoption of the ordinance codified in this chapter and any accessory uses, including home occupations associated with such residences. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.4(A), 1996]

17.30.760 Accessory uses.
Uses allowed outright where directly connected with and in aid of a mining activity:

(1) One single-family dwelling or mobile home per contiguous ownership or one single-family dwelling or mobile home per 10-acre unit of that contiguous ownership, whichever is the lesser acreage;

(2) Home occupations associated only with the dwelling;

(3) Buildings accessory to a single-family dwelling or mobile home, such as garages, storerooms, woodsheds, laundry rooms, playhouses, greenhouses, hobby shops, animal or fowl shelters, or similar and related accessory uses;

(4) Storage of explosives, fuels, and chemicals used for agriculture, mining, and forestry subject to all applicable local, state, and federal regulations;

(5) Watershed management facilities including, but not limited to, diversion devices, impoundments, dams for flood control, fire control, stock watering, and hydroelectric generating facilities, when associated with a permitted use or structure. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.4(B), 1996]

17.30.770 Incidental uses.
Uses which may provide supplementary income without detracting from the overall productivity of the mining activity. The listed uses below are allowed where the following elements are found:

(1) Required Elements.

(a) The use will not adversely affect the overall productivity of the mining activity.

(b) The use is secondary to the principal activity of mining.

(c) The use is sited to avoid prime lands where feasible and otherwise to minimize impact on mineral lands of long-term commercial significance.

(2) Uses Allowed as Incidental Activities.

(a) The growing and harvesting of forest products, the operation of portable sawmills and chippers and activities and structures incidental to each, and accessory facilities including, but not limited to, scaling and weigh stations, temporary crew quarters, storage and maintenance facilities, residue

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storage and disposal areas, and other uses and facilities involved in the harvesting and commercial production of forest products which may coexist with mineral extraction activities within a common ownership.

(b) Public and semipublic buildings, structures, and uses including, but not limited to, fire stations, utility substations, pump stations, and wells.

(c) Commercial extraction and processing of oil, gas, and geothermal resources.

(d) Permanent saw mills, shake and shingle mills, plywood mills, green veneer plants, particle board plants and other products from wood residues, chippers, pole yards, log sorting and storage, buildings for debarking, and drying kilns and equipment.

(e) Structures for agriculture, floriculture, horticulture, general farming, dairy, the raising, feeding and sale or production of poultry, livestock, fur-bearing animals, honeybees including feeding operations, Christmas trees, nursery stock, and floral vegetation and other agricultural structures accessory to farming and animal husbandry.

(f) Forestry, environmental, and natural resource research facilities.

(g) Telecommunication facilities and electrical transmission lines. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.4(C), 1996]

~~17.30.780 Essential public facilities.~~ ADDED PHRASE TO INCLUDE IN 17.125

~~Essential public or regulated facilities, such as roads, bridges, pipelines, and other utility transmission facilities, are facilities which by their nature are commonly located outside of urban areas and may need large areas of accessible land. Such areas are permitted where:~~

~~(1) Identified in the comprehensive plan of a public agency or regulated utility.~~

~~(2) The potential impact on mineral lands is specifically considered in the siting process. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.4(D), 1996]~~

17.30.790 Standards for existing permits.

All mining sites for which state or federal mining permits are required and which are subject to this chapter shall be subject to the conditions of those permits. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.5(A), 1996]

17.30.800 Lot size/density.

Prior to full utilization of a designated mineral resource land's mineral resource potential, subdivisions, short subdivisions, and large lot segregations below 10 acres are prohibited. Exceptions may be made, if it is found by Lewis County to be a necessary part of or accessory to mining operations. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.5(B), 1996]

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17.30.810 Setbacks - Buffers.

(1) Within Designated Mineral Resource Lands. Mining operations which are operating under valid state or federal surface mining permits shall use the setback and/or buffer standards contained within any reclamation plan required pursuant to the state or federal laws pertaining to mining land reclamation.

(2) Within Lands Abutting Mineral Resource Lands. Structures requiring a building permit shall maintain a minimum 50-foot setback from the boundary of any designated mineral resource land; provided, however, the administrator may reduce the setback where:

(a) It is not reasonable to accomplish the setback given the topography, soils, or shape of the site.

(b) The owner requesting the administrative variance records a mineral resources easement for the benefit of the abutting commercial lands of significance, granting a right to all normal and customary mineral extraction and processing practices in accordance with best management practices. [Ord. 1197 §2, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.5(C), 1996]

~~**17.30.820 Preferential right to manage resources - Right to mine.**~~ **MOVED TO LCC 17.40**

~~(1) Applicability. Within designated mineral resource lands in Lewis County, there is established a preferential right to mine.~~

~~(2) Description of Preferential Rights.~~

~~(a) No resource use or any of its appurtenances shall be, be adjudged to be, or become a nuisance, public or private, by any changed conditions in or about the locality thereof after the same has been in operation for more than one year, when such operation was not a nuisance at the time the operation began; provided, that the provisions of this subsection shall not apply whenever a nuisance results from the negligent or improper operation of any such operation or its appurtenances.~~

~~(b) A resource operation shall not be found to be a public or private nuisance if the operation conforms to local, state, and federal law.~~

~~(c) This chapter shall supersede any and all ordinances, or portions of ordinances, as the case may be, of the county now in effect or hereafter adopted that would otherwise make the operation of any such resource operation or its appurtenances a nuisance; provided, however, that the provisions of this subsection shall not apply whenever a nuisance results from the neglect or improper operation of any such resource operation or any of its appurtenances. [Ord. 1197 §2, 2007; Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.5(D), 1996]~~

~~**17.30.830 Mining use notices.**~~ **SIMILAR TO 17.115.030. MOVED TO 17.40.025(3)**

~~(1) For Properties Designated Mineral Resource Land Pursuant to the Application of the Property Owner under LCC 17.30.850. Within two weeks of designation as mineral resource land, pursuant to LCC 17.30.850, the property owner(s) of said land shall submit to the administrator, or the administrator~~

~~may thereafter submit, for recording with the county auditor a written notice of designation. This notice shall be in a form authorized by the administrator and shall include the following:~~

~~(a) The legal description of the property subject to the designation.~~

~~(b) The sixteenth section or sections in which lie the following:~~

~~(i) The designated property; and~~

~~(ii) Any other property within one-quarter mile of the boundary of the designated property.~~

~~(c) The following statement:~~

~~The property described herein is adjacent to or within one-quarter mile of land managed for commercial mining. Mining operations may be carried out now or in the future. Lewis County has established designated Mineral Resource Land that sets as a priority the use of these lands for mining and allows commercial forest management and agriculture. The normal and usual practices associated with said operations when performed in accordance with county, state, and federal law, shall not be subject to legal action as a public or private nuisance.~~

~~(2) For Properties Designated Mineral Resource Land Pursuant to LCC 17.30.730(1). Within four months of the effective date of the ordinance codified in this chapter, the administrator shall submit to the county auditor for recording a written notice of all designated mineral resource lands. This notice shall be in a form similar to subsection (1) of this section.~~

~~The administrator shall execute and acknowledge the notice, and no affected property owner shall be charged a fee for recording the notice.~~

~~(3) For All Properties Within One-Quarter Mile of Designated Mineral Resource Land. All plats, short plats, binding site plans, and building permits issued by Lewis County after the effective date of the ordinance codified in this chapter for development activities on any property designated as mineral resource land or within one-quarter mile thereof shall contain a notice as specified in subsection (1)(c) of this section, which shall be recorded with the Lewis County auditor. With any plat approval, the notice shall be a covenant running with the land, binding all lots within the subdivision. [Ord. 1197 §2, 2007; Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.5(E), 1996]~~

17.30.840 Process for petitioning for exclusion from designation as a mineral resource land ("opt-out").

Repealed. [Ord. 1179C §1, 2003]

17.30.850 Process for petitioning for designation as a mineral resource land ("opt-in").

An "opt-in" provision is provided for the voluntary designation of properties as mineral resource land by the property owner(s) upon the provision of written notification to the administrator of their desire for such designation. Such application for designation shall be processed as a Type V ~~n~~ amendment to the

comprehensive plan and development regulations. Such amendments are processed on a yearly basis, consistent with Chapter 17.12 LCC.

(1) Criteria for Approval of Applications for Voluntary Designation of Mineral Resource Land. Lewis County shall approve applications for designation of mineral resource land if the following criteria are met:

(a) The property meets the classification criteria for mineral resource lands set forth in LCC 17.30.720; and

(b) The property owner, as part of the application, provides a notarized statement that lie or she will voluntarily commit the subject property to the designation for a period until full utilization of the mineral resource potential occurs.

(2) Process for Approval of Applications for Voluntary Designation as Mineral Resource Land.

(a) Voluntary designations of mineral resource lands shall be processed as a Type V application per LCC Chapter 17.05.

~~Administrator's Action. The administrator shall determine if the application is complete. If additional information is necessary, the application shall be returned to the property owner, together with a list identifying the deficiencies. When the application is complete, the administrator shall consult with the persons or departments deemed necessary by the administrator to evaluate compliance with this chapter and section.~~

~~(b) Planning Commission Review and Recommendation. The Lewis County planning commission shall hold a public hearing to review all application requests, pursuant to this section. Notice of public hearing shall be made at least 30 days prior to the scheduled hearing date. Notice shall consist of publication of a legal notice in a newspaper of general circulation stating the description of the property, and the purpose, date, time, and location of the hearing. Such notice shall also be mailed to all persons owning property within one-quarter mile of the subject property's boundaries. The administrator shall also post two or more notices in the vicinity of the subject property.~~

~~Following the planning commission hearing, the planning commission shall make a recommendation. The administrator shall forward the recommendation to the board of county commissioners within 15 working days of the planning commission recommendation. The administrator shall also provide the applicant written notice of the planning commission recommendation.~~

(~~c~~b) Board Decision. The board of county commissioners shall make a final decision following the receipt of the recommendation of the planning commission. The board may hold a public hearing on the matter. The board shall make written findings for its decision available to the public upon request. [Ord. 1197 §2, 2007; Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.7, 1996]

Chapter 17.35
CRITICAL AREAS*

*ENTIRE CHAPTER NOT SHOWN DUE TO LENGTH

17.35.460 Application requirements.

No separate "application" or permit is required for this chapter 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]

17.35.480 Appeals.

Any decision made in the administration of this chapter may be appealed in accordance with the appeal provisions provided for the underlying permit per LCC Chapter 17.05.

~~**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.~~

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~~(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;~~

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~~(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]~~

Chapter 17.35A
CRITICAL AREAS*

***ENTIRE CHAPTER NOT SHOWN DUE TO LENGTH**

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17.35A.460 Application requirements.

No separate "application" or permit is required for this chapter 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~~made in the administration of this chapter may be appealed in accordance with the appeal provisions provided ~~in~~ for the underlying permit per LCC Chapter 17.05. ~~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).~~

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~~(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]~~

Chapter 17.40
RIGHT TO FARM, MINE AND HARVEST

Sections:

17.40.010 Title.
17.40.020 Purpose.
17.40.030 Definitions.
17.40.040 Policy on agricultural nuisances.
17.40.050 Disclosure.
17.40.060 Recommended practices.

17.40.010 Title.

This chapter shall be cited as the Lewis County right to farm, mine and harvest chapter. [Ord. 1197 §3, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1119 § 1, 1991]

17.40.020 Purpose.

~~It is t~~The purpose of this chapter to promote and protect agriculture, forestry and mining activities on designated resource lands in Lewis County. ~~and farm forestry in the Agricultural Resource Lands (ARL), Forest Resource Lands (FRL), and Rural Development District (RDD) zones through the enhancement, protection and perpetuation of the ability of farmers to conduct farming and forestry in accordance with RCW 7.48.305.~~

(1) Where nonresource land uses extend into natural resource areas or exist side-by-side, natural resource management operations are frequently the subjects of nuisance complaints and on occasion have been forced to cease or curtail operations. Such nuisance complaints discourage investments in natural resource land improvements to the detriment of adjacent natural resource land uses and the economic viability of the county's resource industry as a whole. It is the purpose and intent of this chapter to reduce the loss of its natural resource lands by limiting and defining the circumstances under which natural resource lands management operations may be considered a nuisance. This chapter is not to be construed as in any way modifying or abridging county, state or federal laws; rather it is only to be utilized in the interpretation and enforcement of the provisions of this code and county regulations.

(2) An additional purpose of this chapter is to promote a good neighbor policy between natural resource lands and nonresource land property owners by advising purchasers, developers and users of property adjacent to or near natural resource land management operations of the inherent potential problems associated with such purchase of the property~~r residence~~, including, but not limited to, the use of

chemicals, or from spraying, pruning, harvesting, or mineral extraction with associated activities, which occasionally generates traffic, dust, smoke, noise, odor and the hours of operation that may accompany natural resource land management operations. It is intended that through mandatory disclosures purchasers and users will better understand the impact of living near natural resource lands and be prepared to accept attendant conditions as the natural result of living in or near natural resource lands and rural areas.

(3) An additional purpose of this chapter is to provide notice, through a disclosure statement, ~~a~~ of the potential incompatibilities, inconveniences and discomforts that may arise from natural resource land management activities.

17.40.025 Notification of proximity to natural resource lands – conflict mitigation

(~~4~~1) Property within 1,320 feet of agricultural resource lands shall be noticed as follows: ~~The following language indicating proximity, within 1,320 feet, to designated agricultural land shall be required on all final plats, short plats, large lot subdivisions, and binding site plans or building permits approved by Lewis County within the agricultural resource areas.~~

~~(5)* In addition, at the time of building permit issuance, applicants shall be required to sign and record with the county auditor a statement acknowledging that their property is located within 1,320 feet of designated agricultural area and that if consistent with good and generally accepted agricultural and management practices and established prior to surrounding activities, are presumed to be reasonable and shall not be found to constitute a nuisance unless the activity has a substantial adverse effect on the public health and safety.~~

(~~6~~a)~~*~~ ~~The language required is as follows:~~

NOTICE ~~AND COVENANT~~: The subject property is within or near land designated for long-term commercially significant agricultural activities and subject to a variety of activities that may not be compatible with residential development for certain periods extending beyond the normal workday and/or work week. In addition to other activities these may include noise, dust, smoke, visual impacts, and odors resulting from harvesting, planting, application of fertilizers, pesticides, animal husbandry, and associated agricultural activities. When performed in accordance with best management practices, these agricultural activities are to be expected, consented to by the developers of this property, their heirs, successors, and assigns, and shall not be subject to legal action or public nuisance (Refer to the Lewis County Right-to-Farm Ordinance No. 1119).

(b) For building or development permits, the notice shall be provided as a condition of permit approval.

(c) Where the approval is a subdivision or binding site plan, the notice shall be recorded on the face of the plat.

(2) Lands within 500 feet of forest resource lands shall be noticed as follows:

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(a) NOTICE: The subject property is within or near land designated for commercial forest management and subject to a variety of activities that may not be compatible with residential development for certain periods of limited duration. In addition to other activities these may include noise, dust, smoke, visual impacts, and odors resulting from harvesting, planting, application of fertilizers, herbicides, and associated management activities. When performed in accordance with county, state, and federal law, these forest management activities are not subject to legal action or public nuisance.

(b) For building or development permits, the notice shall be provided as a condition of permit approval.

(c) Where the approval is a subdivision or binding site plan, the notice shall be a recorded on the face of the plat. [Ord. 1197 §2, 2007; Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.5(E), 1996]

(3) Lands within 1,320 feet of designated mineral resource land shall be noticed as follows:

(a) NOTICE. The property described herein is adjacent to or within one-quarter mile of land managed for commercial mining. Mining operations may be carried out now or in the future. Lewis County has established designated Mineral Resource Land that sets as a priority the use of these lands for mining and allows commercial forest management and agriculture. The normal and usual practices associated with said operations when performed in accordance with county, state, and federal law, shall not be subject to legal action as a public or private nuisance.

(b) For building permits, the notice shall be provided as a condition of permit approval.

(c) Where the approval is a subdivision or binding site plan, the notice shall be recorded on the face of the plat.

. [Ord. 1197 §2, 2007; Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.5(E), 1996]

~~(7) Where the approval is a plat pursuant to LCC 17.30.660(1), the notice shall be a covenant running with the land binding all lots within the subdivision. [Ord. 1197 §3, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1119 § 2, 1991]~~

~~*Code reviser's note: Ord. 1197 adopted these provisions as well as duplicate provisions in LCC 17.40.050 without reference to each other.~~

~~**17.40.030 Definitions.**~~

~~Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.~~

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~~(1) "Agricultural activity" means a condition or activity which occurs on a farm in connection with the commercial production of farm and timber products and includes, but is not limited to, marketed produce at roadside stands or farm markets; noise; odors; dust; fumes; smoke; operation of machinery and pumps; movement, including but not limited to use of current county roads and ditches, streams, rivers, canals, and drains, and use of water for agricultural activities; ground and aerial application of seed, fertilizers, conditioners and plant protection products; employment and use of labor; roadway movement of equipment and livestock; protection from damage by wildlife; prevention of trespass; construction and maintenance of buildings, fences, roads, bridges, ponds, drains, waterways and similar features and maintenance of stream banks and watercourses; and conversion from one agricultural activity to another.~~

~~(2) "Farm" means the land, buildings, manure lagoons, ponds, freshwater culturing and growing facilities, and machinery used in commercial production of farm products.~~

~~(3) "Farmland" means land or freshwater ponds devoted primarily to the production, for commercial purposes, of livestock, freshwater aquaculture or other agricultural commodities.~~

~~(4) "Farm product" means those plants and animals (and the products thereof) useful to human beings which are produced on farms and include, but are not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, livestock including breeding, grazing and feed lots, fruits, vegetables, flowers, seeds, grasses, nursery products, trees and forest products including Christmas trees and timber, freshwater fish and fish products, rabbits, apiaries, equine and similar products, or any other product which incorporates the use of food, feed, fiber or fur.~~

~~(5) "Generally accepted agricultural and management practices" or "best management practices" means sound, economically feasible farming techniques and practices as defined and/or recommended by the American Society of Agronomy, United States Department of Agriculture Soil Conservation Service, Washington State Cooperative Extension Service, and other professional or industrial agricultural organizations.~~

~~(6) "Person" means an individual, firm, copartnership, association, corporation, or other legal entity, including any federal, state, or local municipal corporation, agency, or special purpose district. [Ord. 1197 §3, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1119 § 3, 1991]~~

17.40.040 ~~Policy on agricultural nuisances~~Right to Farm.

No agricultural activity, operation, facility or appurtenances thereof, as defined in RCW 7.48.310, shall be or become a nuisance as defined in Chapter 1.22 LCC, regardless of past or future changes in the surrounding area's land use or zoning designation, when conducted or maintained: for commercial purposes, ~~and~~ in a manner consistent with current best management practices, and in a manner not superseding local, state or federal regulations. ~~and involving uses allowed under the Agriculture Resource Land (ARL) and Rural Development District (RDD) zones. (2) A farm or farm operation shall not be found to be a public or private nuisance if the farm or farm operation conforms to generally accepted agricultural and~~ This policy recognizes that best management practices~~, recognizing that those practices~~ may be

subject to varying conditions including, but not limited to, geographic location, weather, soil types and conditions, type of crop or livestock, and management systems. ~~[Ord. 1197 §3, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1119 § 5, 1991. Formerly 17.40.050]~~

(1) Notwithstanding any other provision in this chapter, agricultural activities conducted on ARL or RDD farmlands, if consistent with good and generally accepted agricultural and management practices and established prior to surrounding activities, are presumed to be reasonable and shall not be found to constitute a nuisance unless the activity has a substantial adverse effect on the public health and safety.

(2) If that agricultural activity is undertaken in conformity with generally accepted agricultural and management practices and with federal, state and local laws and regulations and health department guidelines, ~~it~~ the activity is presumed to be good agriculture practice and not adversely ~~effecting~~ affecting the public health and safety.

(3) A farm operation shall not be restricted in its activities to time of day or days of the week, but shall be conducted according to generally accepted agricultural and management practices. [Ord. 1197 §3, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1119 § 4, 1991]

17.30.820 ~~Preferential right to manage resources -~~ Right to mine. FROM 17.30.820

(1) Applicability. Within designated mineral resource lands in Lewis County, there is established a preferential right to mine.

(2) Description of Preferential Rights.

(a) No resource use or any of its appurtenances shall be, be adjudged to be, or become a nuisance, public or private, by any changed conditions in or about the locality thereof after the same has been in operation for more than one year, when such operation was not a nuisance at the time the operation began; provided, that the provisions of this subsection shall not apply whenever a nuisance results from the negligent or improper operation of any such operation or its appurtenances.

(b) A resource operation shall not be found to be a public or private nuisance if the operation conforms to local, state, and federal law.

(c) This chapter shall supersede any and all ordinances, or portions of ordinances, as the case may be, of the county now in effect or hereafter adopted that would otherwise make the operation of any such resource operation or its appurtenances a nuisance; provided, however, that the provisions of this subsection shall not apply whenever a nuisance results from the neglect or improper operation of any such resource operation or any of its appurtenances. [Ord. 1197 §2, 2007; Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.5(D), 1996]

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~~17.40.050 Disclosure.~~

~~(1) The statement set forth in subsection (2) of this section shall be used under the following circumstances and in the following manners:~~

~~(a) Lewis County shall mail a copy of the disclosure, with an explanatory informational attachment, to all landowners whose parcel(s) lie within an area or within 500 feet of an area designated as a natural resource land beginning in the year 1999 and every three years thereafter; provided, that no liability shall attach to Lewis County for any actions or omissions under this subsection.~~

~~(b) Upon transfer of real property by sale, exchange, gift, real estate contract, lease with an option to purchase, any other option to purchase, ground lease coupled with improvements, or any other means, the seller shall be required to record with the county auditor a statement containing the language set forth in subsection (3) of this section in conjunction with the deed conveying the real property; provided, however, that the real property is located within one mile of the Agriculture Resource Land (ARL) or Rural Development District (RDD) zones in compliance with RCW 7.48.305 and64.06.022, the Washington Right to Farm Act.~~

~~(c) The following shall constitute the disclosure required by this section:~~

~~It is important that people choosing to live within or adjacent to agricultural land be aware of the inevitability of agricultural activities and understand the necessary activities that are required to sustain agricultural use of the land. The following language indicating proximity, within 1,320 feet, to designated agricultural land shall be required on all final plats, short plats, large lot subdivisions, and binding site plans or building permits approved by Lewis County within the agricultural resource areas.~~

~~(2)* In addition, at the time of building permit issuance, applicants shall be required to sign and record with the county auditor a statement acknowledging that their property is located within 1,320 feet of designated agricultural area and that if consistent with good and generally accepted agricultural and management practices and established prior to surrounding activities, are presumed to be reasonable and shall not be found to constitute a nuisance unless the activity has a substantial adverse effect on the public health and safety.~~

~~(3)* The language required is as follows:~~

~~NOTICE AND COVENANT: The subject property is within or near land designated for long-term commercially significant agricultural activities and subject to a variety of activities that may not be compatible with residential development for certain periods extending beyond the normal workday and/or work week. In addition to other activities these may include noise, dust, smoke, visual impacts, and odors resulting from harvesting, planting, application of fertilizers, pesticides, animal husbandry, and associated agricultural activities. When performed in accordance with best management practices,~~

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these agricultural activities are to be expected, consented to by the developers of this property, their heirs, successors, and assigns, and shall not be subject to legal action or public nuisance (Refer to the Lewis County Right-to-Farm Ordinance No. 1119).

(4) Where the approval is a plat pursuant to LCC 17.30.660(1), the notice shall be a covenant running with the land binding all lots within the subdivision.

(5)** Notwithstanding any other provision in this chapter, agricultural activities conducted on ARL or RDD farmlands, if consistent with good and generally accepted agricultural and management practices and established prior to surrounding activities, are presumed to be reasonable and shall not be found to constitute a nuisance unless the activity has a substantial adverse effect on the public health and safety.

(6)** If that agricultural activity is undertaken in conformity with generally accepted agricultural and management practices and with federal, state and local laws and regulations and health department guidelines, it is presumed to be good agriculture practice and not adversely effecting the public health and safety.

(7)** A farm operation shall not be restricted in its activities to time of day or days of the week, but shall be conducted according to generally accepted agricultural and management practices. [Ord. 1197 §3, 2007]

*Code reviser's note: Ord. 1197 adopted these provisions as well as duplicate provisions in LCC 17.40.020 without reference to each other.

**See also LCC 17.40.040.

17.40.060 Recommended practices.

(1) To minimize possible adverse environmental effects, those engaged in agricultural activities shall apply chemical products in accordance with all label instructions and shall abide by all applicable state and federal laws and regulations as well as with generally accepted agricultural and management practices.

(2) A farm or farm operation shall not be found to be a public or private nuisance if the farm or farm operation conforms to generally accepted agricultural and management practices, recognizing that those practices may be subject to varying conditions including, but not limited to, geographic location, weather, soil types and conditions, type of crop or livestock, and management systems. [Ord. 1197 §3, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1119 § 5, 1991. Formerly 17.40.050]

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Chapter 17.42
RURAL AREA ZONING SUMMARY

Sections:

17.42.010 Purpose.
17.42.015 Conflicts.
17.42.020 General conditions.
17.42.030 Land use summary – Local areas of more intensive rural development.
17.42.040 Land use summary – Rural lands.

17.42.010 Purpose.

Rural lands are divided into a number of zoning districts. The uses permitted in each of the zoning districts are set forth on a zoning chart which is intended to identify uses and limitations. [Ord. 1197 §4, 2007; Ord. 1179, 2002]

17.42.015 Conflicts.

Where there are conflicts between the text and the zoning summary charts at LCC 17.42.030 and 17.42.040, said charts shall prevail. [Ord. 1197 §4, 2007; Ord. 1179, 2002]

17.42.020 General conditions.

In order to assure protection of the elements of rural character defined in state law, Lewis County has identified a four-tier system of uses in rural lands. The four tiers are as follows:

Tier I:	Permitted uses commonly found in rural areas of Lewis County.
Tier II:	Administrative review and special use permits to assure that the project is consistent with development regulations and meets the rural cluster standards for Lewis County.
Tier III:	Uses commonly found in and appropriate for rural areas, but limited in number, reflecting the need to avoid undue proliferation so as to protect rural character.
Tier IV	Master planned resorts, fully-contained communities, and major industrial sites which may be located in rural areas if they meet the statutory criteria for siting.

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[Ord. 1197 §4, 2007; Ord. 1179, 2002]

17.42.030 Land use summary – Local areas of more intensive rural development.
See Table 1 of this section. [Ord. 1197 §4, 2007; Ord. 1179, 2002]

TABLE 1: Rural Area Land Use
– LAMIRDS Zoning Summary

Use Tier	Uses of Rural Area Lands	17.45 Small Town Mixed Use	17.50 Small Town Residential	17.55 Small Town Industrial	17.60 Crossroad Commercial	17.65 Freeway Commercial	17.95 Rural Residential Center/ Shoreline Residential
I II	Sales service (nonresource use)	P - to 10,000 ft.^{2} SUP- >10,000ft^2	X	P - related to industrial or resource use	P - < 5,000ft^2 (small scale)	P - to 10,000 ft.^{2} per use	X
I II	Retail sales (nonresource use)	P - to 10,000 ft.^{2} SUP- >10,000ft^2	X	P - related to industrial or resource use	P- < 5,000ft^2 (primarily serve local)	P - to 10,000 ft.^{2} per use	X
I	Professional services (includes offices) (nonresource use)	P	X	P	P- < 5,000 ft^2	P	X
II n/a	Essential public facilities – Local Major	SUP Amend CP	SUP Amend CP	SUP Amend CP	SUP Amend CP	SUP Amend CP	SUP Amend CP
I	Public facilities, public services, and utilities	P	P	P	P	P	P
I	Schools, cemeteries, religious, community centers	P	P	X	P	P	P
I	Recreation, hospitality, and tourist:	~~P~~	~~P~~	~~X~~	~~P~~	~~P~~	~~P~~

TABLE 1: Rural Area Land Use
– LAMIRDS Zoning Summary

Use Tier	Uses of Rural Area Lands	17.45 Small Town Mixed Use	17.50 Small Town Residential	17.55 Small Town Industrial	17.60 Crossroad Commercial	17.65 Freeway Commercial	17.95 Rural Residential Center/ Shoreline Residential
	Bed and breakfast (up to 10 guest suites);	P	P	X	P	P	P
	Motels (100 units);	P	X	X	X	P	X
	Restaurants (150 seats)	P	X	X	X	P	X
I	Residential single family, 4 units/acre	P	P	X	P on existing lots	X (except caretaker)	n/a
I	Residential centers	n/a	n/a	n/a	n/a	n/a	Density set on map
I	Residential: duplex, multifamily, 6 units/acre	P	P	X	P on existing lots	X	X
I	Retirement, boarding, convalescent home (not state licensed) 6 persons (in addition to owner's family)	P	P	X	P on existing lots	X	P
II	> 6 persons	SUP	SUP	X	SUP	SUP	SUP
II	Group homes (applies to all state-licensed facilities)	SUP	SUP	X	X	X	SUP
II	Animal kennels	SUP	X	SUP	SUP	SUP	X
I	Home occupations (cottage industries) A. In existing residence or associated outbuildings, by owner-	P	P	P	P	P	P

TABLE 1: Rural Area Land Use
– LAMIRDS Zoning Summary

Use Tier	Uses of Rural Area Lands	17.45 Small Town Mixed Use	17.50 Small Town Residential	17.55 Small Town Industrial	17.60 Crossroad Commercial	17.65 Freeway Commercial	17.95 Rural Residential Center/ Shoreline Residential
	occupant, plus 2 nonresident FTE. No exterior appearance of the business except a small sign. No vehicles used off-site for the business; okay to park vehicles overnight.						
II	B. Businesses with up to 5 on-site nonresident FTE plus owner-occupant. May include new structures up to 5,000 ft.^{2}.	A	A	A	A	A	X
II	C. Uses permitted through the special use permit process, Up to 10,000 ft.^{2} with up to 10 nonresident FTE on site.	SUP	SUP	SUP	SUP	SUP	X
II	Manufacturing, assembly, and process of goods	SUP- to 5,000ft^2	X	P to 20,000ft^2 SUP >20,000 ft^2	X	SUP- to 10,000ft^2	X
II	Storage, transportation & handling of goods	SUP- to 5,000ft^2	X	P to 20,000ft^2 (via Tier I) SUP >20,000 ft^2	X	SUP- to 10,000ft^2	X

TABLE 1: Rural Area Land Use
– LAMIRDS Zoning Summary

Use Tier	Uses of Rural Area Lands	17.45 Small Town Mixed Use	17.50 Small Town Residential	17.55 Small Town Industrial	17.60 Crossroad Commercial	17.65 Freeway Commercial	17.95 Rural Residential Center/ Shoreline Residential
II	Shoreline uses from (SMP) Shoreline Master Program – Permit exempt	P (Use density, DRs, or SMP, whichever is more restrictive)	P (Use density, DRs, SMP, whichever is more restrictive)	P (Use density, DRs, or SMP, whichever is more restrictive)	X	n/a	P (Use density, DRs, or SMP whichever is more restrictive)
II	Shoreline permit also required for non-exempt activity within 200 ft. of shoreline						
I	On-site treatment/ storage of hazardous waste	P - accessory	P- accessory	P - accessory	P - accessory	P - accessory	P - accessory

KEY P = Permitted Use SUP = Special Use Permit

A = Administrative Review X = Prohibited

n/a = not applicable

17.42.040 Rural area land use zoning summary.

See Table 2 of this section. [Ord. 1210 §1 (Exh. 1, Att. C), 2009; Ord. 1197 §4, 2007; Ord. 1179, 2002].

Table 2: Rural Area Land Use Zoning Summary

Tier	Use	R 1-5	R 1-10	R 1-20
I	Single family residential	P	P	P
I	Additional residential	Family member unit limited	Family member unit limited	Family member unit limited
I	Family member unit Additional accessory use	P P	P P	P P
III	Clustering: -Location: No more than 24 new cluster subdivision units in any 1/2 mile radius; provided such limit does not apply where there is a physical barrier visually separating the facilities -Size: [Most rural developments are 6 due to water right limitations] Cluster Subdivision - up to 6 Cluster Subdivision >6	 P SUP	 P SUP	 P SUP
I	Cemeteries	P	P	P
	Churches:			
I	up to 6,000 sq.ft., 5 acres developed	P	P	P
II	up to 10,000 sq.ft., on 10 acres	A	A	A
I	Schools – in or within 5 miles of a small town	P	P	P
	Community centers, grange halls, buildings of public assembly			
I	up to 6,000 sq.ft., 5 acres developed	P	P	P
II	up to 10,000 sq.ft., on 10 acres	A	A	A
II	Group homes (applies to all state-licensed facilities)	SUP	SUP	SUP
III	Retirement, convalescent homes, and similar uses not requiring state licensing. ~~Number: Up to two per subarea;~~ up to 6 persons; 7 - 20 persons	 P SUP	 P SUP	 P SUP
II	Utilities, roads, support facilities; and public facilities, public services, including parks	A	A	A
	Essential public facilities			
II	Local	SUP	SUP	SUP

Table 2: Rural Area Land Use Zoning Summary

Tier	Use	R 1-5	R 1-10	R 1-20
n/a	Regional	Amend CP	Amend CP	Amend CP
I	Home-Based Business (cottage industries) A. In an existing residence or associated outbuilding, by the occupant and 2 FTE employee(s), for a total of 3, where there is no outward manifestation of the business other than a small sign, or vehicles used off site for business purposes. Overnight parking of vehicles and off site okay.	P	P	P
II	B. Businesses which have up to 5 FTE working on site, in addition to the owners and their family, and may include new structures up to 5,000 sq.ft.	A	A	A
III	C. Uses permitted through the special use permit process. Such uses may be up to 10,000 sq.ft. and may have up to 10 FTE on site. ~~Special use – no more than 10 per subarea in planning.~~	SUP	SUP	SUP
III	Isolated Small Business (Nonresource) A. Businesses which have up to 5 FTE working on site, in addition to the owners and their family, and may include new structures up to 5,000 sq.ft. ~~-Number: No more than 20 per subarea~~	A	A	A
III	B. Uses permitted through the special use permit process. Such uses may be up to 10,000 sq.ft. and may have up to 10 FTE on site. ~~-Number: No more than 20 per subarea~~	SUP	SUP	SUP
	Section 1			
III	A. Bed and Breakfast -Location: existing or new residential construction -Size: up to 10 rooms for rent ~~-Number: 2 new per subarea outside identified recreation area~~	P	P	P
III	B. Motels/Inns, up to 30 rooms -Location: arterial or state highway -Size: 5 acres or less ~~-Number: 2 new units per subarea outside identified recreation areas~~	SUP	SUP	X
III	C. Country Inn	X	SUP	SUP

Table 2: Rural Area Land Use Zoning Summary

Tier	Use	R 1-5	R 1-10	R 1-20
	-Location: Recreation areas -Size: 10-acre minimum lot size ~~-Number: Two per subarea outside recreation area (no more than five total per subarea)~~			
III	D. Food service establishments~~, up to 50 seats~~ -Location: arterial or state highway -Size: 5 acres or less ~~-Number: 2 per subarea outside identified recreation areas~~	SUP	SUP	X
III	E. Recreation service retail not to exceed 5,000 sf (Boat shop, boat & tackle shop, camping supplies, limited grocery and sundries, including storage) -Location: State highway or direct access to recreation area -Size: 2 acres or less, not to exceed 5,000 sq. ft. per building ~~-Number: 4 new per subarea outside identified recreation areas~~	A	A	A
III IV	F. Campgrounds and Recreation Facilities -Location: Recreation areas -Size: Up to 100 sites and/or up to 10 acres Over 100 sites and/or up to 40 acres Over 100 sites and/or more than 40 acres	 SUP RMP MPR	 SUP RMP MPR	 SUP RMP MPR
IV	~~Over 100 sites and/or more than 40 acres~~	~~MPR~~	~~MPR~~	~~MPR~~
III	G. New regional auctioneering facility and supporting uses on sites not less than 80 acres nor greater than 240 acres ~~-Number: 2 new per subarea~~	SUP	SUP	SUP
III IV	H. RV parks -Location: recreation areas or 2 miles from state~~.~~ hwy. -Size: Up to 100 sites and/or up to 10 acres Over 100 sites and/or up to 40 acres Over 100 sites and/or more than 40 acres	 SUP RMP MPR	 SUP RMP MPR	 SUP RMP MPR
III	I. Convenience grocery or fuels -Location: on state highway or arterial -Size: one acre or less developed portion ~~-Number: 2 new per subarea outside recreation areas~~ (Also ~~P~~permitted as accessory use to “E” above.)	P	P	P

Table 2: Rural Area Land Use Zoning Summary

Tier	Use	R 1-5	R 1-10	R 1-20
II	J. Shoreline permitted/conditional uses per shoreline master program and critical area requirements -SMA-exempt activities must be consistent with shoreline master program	A	A	A
II	SMA non-exempt activities -Residential uses must comply with zoning limits	Substantial dev. permit	Substantial dev. permit	Substantial dev. permit
III	K. Tourist/rest stops -Freeway, a cluster of uses -Location: on lots which have a portion within 500 ft. of an Interstate 5 on/off-ramp -Uses: A-D, G above -Size limits: double A-E, I above	A	A	A
III	L. Rural Resorts (replaces stand-alone resorts) -Location: recreation areas -Size: < 75,000 sq. ft. developed floor area and/or 15 acres impervious surface ~~-Number: Two per subarea outside recreation areas (limit of five)~~	SUP	SUP	SUP
IV	Larger Projects	MPR	MPR	MPR

Table 2: Rural Area Land Use Zoning Summary

Tier	Use	R 1-5	R 1-10	R 1-20
	Section 2*			
II	A. New equestrian facilities with events up to 100 participants (up to 6 events per year may draw larger (e.g., 4H or similar) shows)	SUP	SUP	SUP
IV	Larger new facilities	MPR	MPR	MPR
II	B. Motor sports up to 20 acres developed	X	SUP	SUP
IV	Larger facilities	MPR	MPR	MPR
II	C. New or non-exempt commercial sport facilities (e.g., including but not limited to soccer, baseball, track and field)	SUP	SUP	SUP

Table 2: Rural Area Land Use Zoning Summary

Tier	Use	R 1-5	R 1-10	R 1-20
I	Isolated commercial events (no permit facilities required) (e.g., soccer tournament)	P	P	P
II	D. New, outdoor pistol, rifle, skeet, and other related facilities	X	SUP	SUP
II	Indoor pistol, rifle, skeet, and other related facilities	A	A	A
	E. New golf courses, driving ranges, and related facilities			
II	200 acres or less	SUP	SUP	SUP
IV	>200 acres -accessory uses must meet rural criteria	MPR	MPR	MPR
II	F. Special purpose subdivisions (such as water ski lakes, air parks, and equestrian subdivisions) -Location: In special subdivisions; requires subdivision approval	A	A	A
	Section 3			
I	Animal hospital/boarding	P	P	P
II	New private aviation facilities, 9 or fewer permanently-based aircraft, or a private aviation subdivision	SUP	SUP	SUP
II	New public aviation facilities, 10 or more permanently-based aircraft (see LCC 17.~~115~~158.030(6)) ~~[Essential Public Facility]~~	SUP	SUP	SUP
~~II~~	~~Expansion of existing, lawful nonconforming use~~ ~~A. Only on developed legal lot~~	~~A~~	~~A~~	~~A~~
~~II~~	~~B. Nonconforming uses may be changed to new nonconforming use, but new use must meet current critical area, road, stormwater, well, and septic criteria~~	~~SUP~~	~~SUP~~	~~SUP~~
I II	Mineral resource use Below DNR threshold New or expansion of existing approved mine area	 P SUP	 P SUP	 P SUP
I II	Forestry uses listed in LCC 17.30.450(1) and (2) Forest resource accessory use, mills, log yards A. Temporary (less than 1 year/portable) B. Permanent (fixed installation or more than 1 year)	P P P/SUP over 20 acres	P P P/SUP over 20 acres	P P P/SUP over 20 acres
I	Agricultural uses as listed in LCC in LCC 17.30.610,17.30.620 and 17.30.630**	P	P	P

Table 2: Rural Area Land Use Zoning Summary

Tier	Use	R 1-5	R 1-10	R 1-20

KEY: P = Permitted Use

A = Administrative Review

X = Prohibited

SUP = Special Use Permit

RMP = Rural Master Plan

MPR = Master Planned Resort (county and state planning requirements)

MIP = Major Industrial Park (county and state planning requirements)

* [Section 2] Exempt Activities: Facilities used for personal or limited activities - no charge or cover costs.

** The following agricultural uses require special use permits through the hearing examiner:

- Agricultural processing facilities.
- Commercial greenhouse operations.
- Wholesale nurseries.
- Watershed management facilities, including, but not limited to, diversion devices, impoundments, private dams for flood control, fire control, stock watering, and private hydroelectric generating facilities.
- Storage and application of agricultural waste.
- Disposal of farm-generated solid waste and application of biosolids.
- Regulated treatment of wastewater.
- Composting managed according to an approved nutrient management plan in conduction with the local conservation district and NRCS standards and all applicable environmental, solid waste, access, and health regulations.
- Confined animal feeding operations.
- Storage of explosives, fuels, and chemicals used for agriculture and forestry, subject to all local, state, and federal regulations.
- Private aircraft landing fields, heliports.
- Agricultural storage and processing.

Chapter 17.80
PACKWOOD AIRPORT OBSTRUCTION ZONING (RA-P)

Sections:

17.80.010 Short title.
17.80.020 Definitions.

17.80.030 Airport zones.
17.80.040 Airport zone height limitations.
17.80.050 Use restrictions.
17.80.060 Nonconforming uses.
17.80.070 Permits - Future uses.
17.80.080 Permits - Existing uses.
17.80.090 Permits - Nonconforming uses abandoned or destroyed.
17.80.100 Variances.
17.80.110 Obstruction marking and lighting.
17.80.120 Special use permit.
17.80.130 Fees.
17.80.140 Appeals - Procedure.
17.80.150 Appeal from the examiner.
17.80.160 Hearing notice.
17.80.170 Recessed hearings.
17.80.180 Enforcement.
17.80.190 Violation - Penalties.
17.80.200 Conflicting regulations.

17.80.010 Short title.

This chapter shall be known and may be cited as the Packwood Airport obstruction zoning chapter. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1129 § 1, 1993]

17.80.020 Definitions.

As used in this chapter, unless the context or subject matter clearly requires otherwise, the following words and phrases shall be given the meaning attributed to them by this section. The term “shall” is always mandatory and the word “may” indicates a use of discretion.

(1) “Airport” means the Packwood Airport.

(2) “Airport elevation” means the highest point of an airport’s usable landing area measured in feet from sea level. This is 1,053 feet above mean sea level for the Packwood Airport.

(3) “Approach surface” means a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in LCC 17.80.040. The perimeter of the approach surface coincides with the perimeter of the approach zone.

(4) “Approach, transitional, horizontal, and conical zones” are set forth in LCC 17.80.030.

(5) “Conical surface” means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet.

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(6) “Hazard to air navigation” means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

(7) “Height” means, for the purpose of determining the height limits in all zones set forth in this chapter and shown on the approach and clear zone map, the datum shall be mean sea level elevation unless otherwise specified.

(8) “Horizontal surface” means a horizontal plane 150 feet above the established airport elevation, the perimeter of which in plane coincides with the perimeter of the horizontal zone. This is 1,203 feet above mean sea level for the Packwood Airport.

(9) “Nonconforming use” means any preexisting structure, object of natural growth, or use of land which is inconsistent with the provisions of this chapter or an amendment thereto.

(10) “Obstruction” means any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in LCC 17.80.040.

(11) “Person” means an individual, firm, copartnership, association, corporation, or other legal entity, including any federal, state, or local municipal corporation, agency, or special purpose district.

(12) “Primary surface” means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in LCC 17.80.030. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

(13) “Runway” means a defined area on an airport prepared for landing and takeoff of aircraft along its length.

(14) “Structure” means an object, including a mobile object, constructed or installed by persons, including but without limitation buildings, towers, cranes, smokestacks, earth formations, and overhead transmission lines.

(15) “Transitional surfaces” means those surfaces that extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal surface.

(16) “Tree” means any object of natural growth.

(17) “Utility runway” means a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

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(18) “Visual runway” means a runway intended solely for the operation of aircraft using visual approach procedures. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1129 § 2, 1993]

17.80.030 Airport zones.

(1) General. In order to carry out the provisions of this chapter, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Packwood Airport. Such zones are shown on the Packwood Airport approach and clear zone map, which will be made a part of this chapter. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

(a) Visual Runway Visual Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide for Runway 1/19. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(b) Transitional Zones. The transitional zones are the areas beneath the transitional surfaces.

(c) Horizontal Zone. The horizontal zone is established by swinging arcs of 5,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

(d) Conical Zone. The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward and upward at 20:1 therefrom for a horizontal distance of 4,000 feet. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1129 §3, 1993]

17.80.040 Airport zone height limitations

(1) General. Except as otherwise provided in this chapter, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this chapter to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

(a) Visual Runway Visual Approach Zone. Slopes 20 feet outward for each foot upward (20:1) beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

(b) Transitional Zones. Slopes seven feet outward for each foot upward (7:1) beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation. The airport elevation is 1,053 feet above mean sea level.

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(c) Horizontal Zone. Established at 150 feet above the airport elevation or at a height of 1.203 feet above mean sea level.

(d) Conical Zone. Slopes 20 feet outward for each foot upward (20:1) for 4,000 feet beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1129 § 4, 1993]

17.80.050 Use restrictions.

(1) Notwithstanding any other provisions of this chapter, no use may be made of land or water within any zone established by this chapter in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

(2) Uses within the mapped areas (see Map 82 at LCC 17.200.020(82)) shall be consistent with RCW 36.70A.547 to discourage the siting of incompatible uses adjacent to public aviation airports.

(a) The mapped area is the minimum area necessary to protect general airport activities.

(b) Incompatible uses shall include residential uses, places of public assembly, and medical facilities involving the care of people or animals. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1129 § 5, 1993]

17.80.060 Nonconforming uses.

(1) Regulations Not Retroactive. The regulations prescribed by this chapter shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of the ordinance codified in this chapter, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of the ordinance codified in this chapter, and is diligently prosecuted. However, before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit must be secured from the Administrator under the procedures specified in LCC 17.80.070 through 17.80.130. No permit shall be granted that would permit a nonconforming tree to become higher or a nonconforming structure to be made or become a greater hazard to air navigation than it was when the applicable regulation was adopted or than it is when application for a permit is made.

(2) Marking and Lighting. Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the airport owner to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction.

Such markers and lights shall be installed, operated, and maintained at the expense of the airport owner. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1129 § 6, 1993]

17.80.070 Permits - future uses.

(1) Except as specifically provided in subsections (2) and (3) of this section, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this chapter shall be granted unless a variance has been approved in accordance with LCC 17.80.100.

(2) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones;

(3) In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limits prescribed for such approach zones;

(4) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any height limits established by this chapter. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1129 § 8, 1993]

17.80.080 Permits - Existing uses.

No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of the ordinance codified in this chapter or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1129 § 8, 1993]

17.80.090 Permits –Nonconforming uses abandoned or destroyed.

Whenever the Administrator determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1129 § 8, 1993]

17.80.100 Variances.

~~(1)~~ Variances from the standards of this chapter shall be processed in accordance with LCC 17.162.010.

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~~**The Lewis County hearing examiner shall hear and decide requests for variances from any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this chapter.**~~

~~**(2) Application for a variance request shall be submitted to the Administrator and shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe and efficient use of navigable airspace.**~~

~~**(3) Standards of Review. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in practical difficulty or unnecessary hardship and the relief granted will not create a hazard to air navigation and will not be contrary to the public interest, but will do substantial justice, and will be in accordance within the spirit of this chapter.**~~

~~**(4) Conditions of Approval. Any variance granted may be subject to any reasonable conditions that the hearing examiner may deem necessary to effectuate the purposes of this chapter.**~~

~~**(5) Review of Variance Request by the Packwood Airport Board. No application for variance to the requirements of this chapter may be considered by the hearing examiner unless a copy of the application has been furnished to the Packwood Airport board for advice as to the aeronautical effects of the variance. If the airport board does not respond within 15 days after receipt, the hearing examiner may act on his/her own to grant or deny said application. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1129 § 8, 1993]**~~

17.80.110 Obstruction marking and lighting.

Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this chapter and be reasonable in the circumstance, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the planning commission, this condition may be modified to require the owner to permit the airport owner, at its own expense, to install, operate, and maintain the necessary markings and lights. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1129 § 8, 1993]

17.80.120 Special use permit.

Any proposed use ~~allowed under any other zoning ordinance which will be~~ located in an approach zone shall be treated as a Type III special use- application, per LCC Chapter 17.05.~~under that ordinance and shall be subject to all provisions and procedures required for special uses under that ordinance~~. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1129 § 8, 1993]

~~**17.80.130 Fees.**~~

~~The fees for this chapter are set forth in Chapter 17.165 LCC. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1129 § 12, 1993]~~

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~~17.80.140 Appeals - Procedure.~~

~~(1) Any person aggrieved, or taxpayer affected, by any decision of the Administrator made in his/her administration of airport zoning regulations adopted by this chapter may appeal the decision to the hearing examiner in accordance with Chapter 2.25 LCC to hear and decide such appeals. Similarly, if the board of county commissioners is of the opinion that a decision of the Administrator is an improper application of airport zoning regulations of concern to the board of county commissioners, the board of county commissioners may appeal to the hearing examiner to hear and decide such appeals.~~

~~(2) All appeals taken must be taken within 10 days after the Administrator has rendered his/her decision.~~

~~(3) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Administrator certifies to the hearing examiner, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by order of the hearing examiner or notice to the Administrator on due cause shown.~~

~~(4) The hearing examiner shall fix a reasonable time for the hearing of appeals within 45 days after the filing of the appeal, unless the examiner notices the parties with a written finding that a specific amount of additional time is needed for the hearing of an appeal. Public notice shall be given by publication of notice in the official newspaper of Lewis County not less than 10 days prior to the hearing. Following hearing the hearing examiner shall render its decisions within a reasonable time. Upon hearing, any party may appear in person or by agent or by attorney.~~

~~(5) The hearing examiner may, in conformity with the provisions of this chapter, reverse or affirm wholly or partly, or modify, the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the Administrator. [Ord. 1174A §4, 2001; Ord. 1174 §5, 2000; Ord. 1170B, 2000; Ord. 1157, 1998;Ord. 1129 §10, 1993]~~

~~17.80.150 Appeal from the examiner.~~

~~A final decision from an appeal to the examiner may be appealed to that superior court of Lewis County, Washington, by means of a land use petition under Chapter 36.70C RCW for "land use decisions" as therein defined. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1129 § 11, 1993]~~

~~17.80.160 Hearing notice.~~

~~Each notice of hearing authorized by this chapter shall be published in the official newspaper at least 10 days prior to the date of hearing.~~

~~(1) In addition, a notice of hearing on a variance or an amendment to the approach and clear zone map or text shall be mailed to all taxpayers of record whose lands are located within 500 feet of the lands for which the variance or map amendment has been requested. The mailing shall be to that address employed by the Lewis County treasurer for the mailing of property tax statements.~~

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~~(2) The failure of a person to receive the notice prescribed in this section is not jurisdictional and shall not impair the validity of the hearing.~~

~~(3) The notice provisions of this section shall not restrict the giving of notice by other means, including mail, the posting of property, or the use of radio and television. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1129 § 13, 1993]~~

~~17.80.170 Recessed hearings.~~

~~Any hearing authorized or required by this chapter may be recessed to a later time or date in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1129 § 13, 1993]~~

~~17.80.180 Enforcement.~~

~~It shall be the duty of the administrator to administer and enforce the regulations prescribed herein. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1129 § 9, 1993]~~

~~17.80.190 Violation - Penalties.~~

~~(1) Each violation of this chapter or of any regulation, order, or ruling promulgated hereunder, shall be subject to the enforcement provisions in Chapter 17.07 LCC.~~

~~(2) In addition 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 airport zoning regulations adopted under authority of this chapter or Chapter 14.12 RCW, 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. 1192 §2, 2006; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1129 § 14, 1993]~~

~~17.80.200 Conflicting regulations.~~

~~Where there exists a conflict between any of the regulations or limitations prescribed in this chapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structure or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1129 § 15, 1993]~~

Chapter 17.85
ED CARLSON MEMORIAL FIELD AIRPORT OBSTRUCTION ZONING

Sections:

17.85.010 Short title.
17.85.020 Definitions.
17.85.030 Airport zones.

17.85.040 Airport zone height limitations.
17.85.050 Use restrictions.
17.85.060 Nonconforming uses.
17.85.070 Permits - Future uses.
17.85.080 Permits - Existing uses.
17.85.090 Permits - Nonconforming uses abandoned or destroyed.
17.85.100 Variances.
17.85.110 Obstruction marking and lighting.
17.85.120 Special use permit.
17.85.130 Fees.
17.85.140 Appeals - Procedure.
17.85.150 Appeal from the examiner.
17.85.160 Hearing notice.
17.85.170 Recessed hearings.
17.85.180 Enforcement.
17.85.190 Violation - Penalty.
17.85.200 Conflicting regulations.

17.85.010 Short title.

This chapter shall be known and may be cited as the "Ed Carlson Memorial Field Airport Obstruction Zoning Ordinance." [Ord. 1179, 2002; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1148 Art. 1, 1996]

17.85.020 Definitions.

As used in this chapter, unless the context or subject matter clearly requires otherwise, the following words and phrases shall be given the meaning attributed to them by this section. The term "shall" is always mandatory and the word "may" indicates a use of discretion.

(1) "Airport" means the Ed Carlson Memorial Field.

(2) "Airport elevation" means the highest point of an airport's usable landing area measured in feet from sea level. This is 375 feet above mean sea level for the Ed Carlson Memorial Field Airport.

(3) "Approach surface" means a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in LCC 17.85.040. The perimeter of the approach surface coincides with the perimeter of the approach zone.

(4) Approach, Transitional, Horizontal, and Conical Zones. These zones are set forth in LCC 17.85.030.

(5) "Conical surface" means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet.

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(6) “Hazard to air navigation” means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

(7) Height. For the purpose of determining the height limits in all zones set forth in this chapter and shown on the approach and clear zone map, the datum shall be mean sea level elevation unless otherwise specified.

(8) “Horizontal surface” means a horizontal plane 150 feet above the established airport elevation, the perimeter of which in plane coincides with the perimeter of the horizontal zone. This is 525 feet above mean sea level for the Ed Carlson Memorial Field Airport.

(9) “Nonconforming use” means any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this chapter or an amendment thereto.

(10) “Obstruction” means any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in LCC 17.85.040.

(11) “Person” means an individual, firm, co-partnership, association, corporation or other legal entity, including any federal, state, or local municipal corporation, agency, or special purpose district.

(12) “Primary surface” means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in LCC 17.85.030. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

(13) “Runway” means a defined area on an airport prepared for landing and takeoff of aircraft along its length.

(14) “Structure” means an object, including a mobile object, constructed or installed by persons, including but without limitation, buildings, towers, cranes, smokestacks, earth formations, and overhead transmission lines.

(15) Transitional Surfaces. These surfaces extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal surface.

(16) “Tree” means any object of natural growth.

(17) “Utility runway” means a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

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(18) “Visual runway” means a runway intended solely for the operation of aircraft using visual approach procedures. [Ord. 1179, 2002; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1148 Art. 2, 1996]

17.85.030 Airport zones.

(1) General. In order to carry out the provisions of this chapter, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Ed Carlson Memorial Field Airport. Such zones are shown on the Ed Carlson Memorial Field approach and clear zone map, which will be made a part of this chapter. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows.

(2) Establishment and Definition of Airport Zones.

(a) Visual Runway Visual Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide for Runway 5/23. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(b) Transitional Zones. The transitional zones are the areas beneath the transitional surfaces.

(c) Horizontal Zone. The horizontal zone is established by swinging arcs of 5,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

(d) Conical Zone. The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward and upward at 34:1 therefrom for a horizontal distance of 4,000 feet. [Ord. 1179, 2002; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1148 Art. 3, 1996]

17.85.040 Airport zone height limitations.

(1) General. Except as otherwise provided in this chapter, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this chapter to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows.

(2) Establishment of Height Limitations.

(a) Visual Runway Visual Approach Zone. Slopes 34 feet outward for each foot upward (34:1) beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

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(b) Transitional Zones. Slope seven feet outward for each foot upward (7:1) beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation. The airport elevation is 375 feet above mean sea level.

(c) Horizontal Zone. Established at 150 feet above the airport elevation or at a height of 525 feet above mean sea level.

(d) Conical Zone. Slopes 34 feet outward for each foot upward (34:1) for 4,000 feet beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1148 Art. 4, 1996]

17.85.050 Use restrictions.

Notwithstanding any other provisions of this chapter, no use may be made of land or water within any zone established by this chapter in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1148 Art. 5, 1996]

17.85.060 Nonconforming uses.

(1) Regulations Not Retroactive. The regulations prescribed by this chapter shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of the ordinance codified in this chapter, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of the ordinance codified in this chapter, and is diligently prosecuted. However, before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit must be secured from the county Administrator under the procedures specified in LCC 17.85.070 through 17.85.130. No permit shall be granted that would permit a nonconforming tree to become higher or a nonconforming structure to be made or become a greater hazard to air navigation than it was when the applicable regulation was adopted or than it is when application for a permit is made.

(2) Marking and Lighting. Notwithstanding the preceding provision of the section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the airport owner to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the airport owner. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1148 Art. 6, 1996]

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17.85.070 Permits - Future uses.

(1) Except as specifically provided in sub-sections (2) and (3) of this section, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this chapter shall be granted unless a variance has been approved in accordance with LCC 17.85.100.

(2) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

(3) In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limits prescribed for such approach zones.

(4) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any height limits established by this chapter. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1148 § 7.01, 1996]

17.85.080 Permits - Existing uses.

No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of the ordinance or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1148 § 7.02, 1996]

17.85.090 Permits - Nonconforming uses abandoned or destroyed.

Whenever the Lewis County administrator determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1148 § 7.03, 1996]

17.85.100 Variances.

Variances from the standards of this chapter shall be processed in accordance with LCC 17.162.010.

~~(1) The Lewis County hearing examiner shall hear and decide requests for variances from any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this chapter.~~

~~(2) Application for a variance request shall be submitted to the Lewis County administrator and shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe and efficient use of navigable airspace.~~

~~(3) Standards of Review. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in practical difficulty or unnecessary hardship and the relief granted will not create a hazard to air navigation and will not be contrary to the public interest, but will do substantial justice, and will be in accordance within the spirit of this chapter.~~

~~(4) Conditions of Approval. Any variance granted may be subject to any reasonable conditions that the hearing examiner may deem necessary to effectuate the purposes of this chapter.~~

~~(5) Review of Variance Request by the Ed Carlson Memorial Field Board. No application for variance to the requirements of this chapter may be considered by the hearing examiner unless a copy of the application has been furnished to the Ed Carlson Memorial Field board for advice as to the aeronautical effects of the variance. If the airport board does not respond within 15 days after receipt, the hearing examiner may act on his own to grant or deny said application. [Ord. 1179, 2002; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1148 § 7.04, 1996]~~

17.85.110 Obstruction marking and lighting.

Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this chapter and be reasonable in the circumstance, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the planning commission, this condition may be modified to require the owner to permit the airport owner, at its own expense, to install, operate, and maintain the necessary markings and lights. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1148 § 7.05, 1996]

17.85.120 Special use permit.

Any proposed use located in an approach zone shall be treated as a Type III special use application, per LCC Chapter 17.05. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1129 § 8, 1993]

~~Any use allowed under any other zoning ordinance which will be located in an approach zone shall be treated as a special use under that ordinance and shall be subject to all provisions and procedures required for special uses under that ordinance. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1148 § 7.06, 1996]~~

~~**17.85.130 Fees.**~~

~~The fees for this chapter are set forth in Chapter 17.165 LCC for each permit application, application to amend a permit, or variance application. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1148 § 7.07, 1996]~~

~~**17.85.140 Appeals - Procedure.**~~

~~(1) Any person aggrieved, or taxpayer affected, by any decision of the administrator made in his administration of airport zoning regulations adopted by this chapter may appeal the decision to the~~

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~~hearing examiner in accordance with Chapter 2.25 LCC to hear and decide such appeals. Similarly, if the board of county commissioners is of the opinion that a decision of the administrator is an improper application of airport zoning regulations of concern to the board of county commissioners, the board of county commissioners may appeal to the hearing examiner to hear and decide such appeals.~~

~~(2) All appeals taken must be taken within ten days after the administrator has rendered his decision.~~

~~(3) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrator certifies to the hearing examiner, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by order of the hearing examiner or notice to the administrator on due cause shown.~~

~~(4) The hearing examiner shall fix a reasonable time for the hearing of appeals within 45 days after the filing of the appeal, unless the examiner notices the parties with a written finding that a specific amount of additional time is needed for the hearing of an appeal. Public notice shall be given by publication of notice in the official newspaper of Lewis County not less than ten days prior to the hearing. Following hearing the hearing examiner shall render its decisions within a reasonable time. Upon hearing, any party may appear in person or by agent or by attorney.~~

~~(5) The hearing examiner may, in conformity with the provisions of this chapter, reverse or affirm wholly or partly, or modify, the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the administrator. [Ord. 1174A §5, 2001; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1148 § 8.01, 1996]~~

~~17.85.150 Appeal from the examiner.~~

~~A final decision from an appeal to the examiner may be appealed to that superior court of Lewis County, Washington, by means of a land use petition under Chapter 36.70C RCW for land use decisions as therein defined. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1148 § 8.02, 1996]~~

~~17.85.160 Hearing notice.~~

~~Each notice of hearing authorized by this chapter shall be published in the official newspaper at least 10 days prior to the date of hearing.~~

~~(1) In addition, a notice of hearing on a variance or an amendment to the approach and clear zone map or text shall be mailed to all taxpayers of record whose lands are located within 300 feet of the lands for which the variance or map amendment has been requested. The mailing shall be to that address employed by the Lewis County treasurer for the mailing of property tax statements.~~

~~(2) The failure of a person to receive the notice prescribed in this section is not jurisdictional and shall not impair the validity of the hearing.~~

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~~(3) The notice provisions of this section shall not restrict the giving of notice by other means, including mail, the posting of property, or the use of radio and television. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1148 § 9.01, 1996]~~

~~17.85.170 Recessed hearings.~~

~~Any hearing authorized or required by this chapter may be recessed to a later time or date in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1148 § 9.02, 1996]~~

~~17.85.180 Enforcement.~~

~~It shall be the duty of the county administrator to administer and enforce the regulations prescribed in this chapter. County planning staff shall have the duty to administer and approve permits. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1148 § 10.01, 1996]~~

~~17.85.190 Violation - Penalty.~~

~~(1) Each violation of this chapter or of any regulation, order, or ruling promulgated hereunder shall be subject to the enforcement provisions in Chapter 17.07 LCC.~~

~~(2) In addition 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 airport zoning regulations adopted under authority of this chapter or Chapter 14.12 RCW, 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. 1192 §3, 2006; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1148 § 10.02, 1996]~~

~~17.85.200 Conflicting regulations.~~

~~Where there exists a conflict between any of the regulations or limitations prescribed in this chapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structure or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1148 Art. 11, 1996]~~

Chapter 17.90
CHEHALIS-CENTRALIA AIRPORT OBSTRUCTION ZONING

Sections:

17.90.010 Short title.
17.90.020 Definitions.
17.90.030 Airport zones.
17.90.040 Airport zone height limitations.
17.90.050 Use restrictions.

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17.90.060 Nonconforming uses.
17.90.070 Permits - Future uses.
17.90.080 Permits - Existing uses.
17.90.090 Permits - Nonconforming uses abandoned or destroyed.
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17.90.120 Special use permit.
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17.90.200 Conflicting regulations.

17.90.010 Short title.

This chapter shall be known and may be cited as the "Chehalis-Centralia Airport Obstruction Zoning Ordinance." [Ord. 1170B, 2000]

17.90.020 Definitions.

As used in this chapter, unless the context or subject matter clearly requires otherwise, the following words and phrases shall be given the meaning attributed to them by this section. The term "shall" is always mandatory and the word "may" indicates a use of discretion.

(1) "Airport" means the Chehalis-Centralia Airport.

(2) "Airport elevation" means the highest point of an airport's usable landing area measured in feet from sea level. This is 174 feet above mean sea level for the Chehalis-Centralia Airport.

(3) "Approach surface" means a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in LCC 17.90.040. The perimeter of the approach surface coincides with the perimeter of the approach zone.

(4) Approach, Transitional, Horizontal, and Conical Zones. These zones are set forth in LCC 17.90.030.

(5) "Conical surface" means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 34:1 for a horizontal distance of 4,000 feet.

(6) "Hazard to air navigation" means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

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(7) Height. For the purpose of determining the height limits in all zones set forth in this chapter and shown on the approach and clear zone map, the datum shall be mean sea level elevation unless otherwise specified.

(8) “Horizontal surface” means a horizontal plane 150 feet above the established airport elevation, the perimeter of which in plane coincides with the perimeter of the horizontal zone. This is 324 feet above mean sea level for the Chehalis-Centralia Airport.

(9) “Larger than utility runway” means a runway that is constructed for and intended to be used by propeller-driven aircraft of greater than 12,500 pounds maximum gross weight and jet-powered aircraft.

(10) “Nonconforming use” means any preexisting structure, object of natural growth, or use of land which is inconsistent with the provisions of this chapter or an amendment thereto.

(11) “Nonprecision instrument runway” means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

(12) “Obstruction” means any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in LCC 17.90.040.

(13) “Person” means an individual, firm, copartnership, association, corporation, or other legal entity, including any federal, state, or local municipal corporation, agency, or special purpose district.

(14) “Primary surface” means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is set forth in LCC 17.90.030. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

(15) “Runway” means a defined area on an airport prepared for landing and takeoff of aircraft along its length.

(16) “Structure” means an object, including a mobile object, constructed or installed by persons, including but without limitation buildings, towers, cranes, smokestacks, earth formations, and overhead transmission lines.

(18) Transitional Surfaces. These surfaces extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal surface.

(19) “Tree” means any object of natural growth.

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(20) “Utility runway” means a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

(21) “Visual runway” means a runway intended solely for the operation of aircraft using visual approach procedures. [Ord. 1170B, 2000]

17.90.030 Airport zones.

(1) General. In order to carry out the provisions of this chapter, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Chehalis-Centralia Airport. Such zones are shown on the Chehalis-Centralia Airport Imaginary Surfaces Drawings, prepared in conjunction with the Airport Master Plan (2000), Map 85 at 17.200.020, which will be made a part of this chapter. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows.

(2) Establishment and Definition of Airport Zones.

(a) Larger Than Utility With a Visibility Minimum Greater Than 3/4 Mile Nonprecision Instrument Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(b) Transitional Zones. The transitional zones are the areas beneath the transitional surfaces.

(c) Horizontal Zone. The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

(d) Conical Zone. The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward and upward at 34:1 therefrom for a horizontal distance of 4,000 feet. [Ord. 1170B, 2000]

17.90.040 Airport zone height limitations.

(1) General. Except as otherwise provided in this chapter, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this chapter to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows.

(2) Establishment of Height Limitations.

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(a) Larger Than Utility With a Visibility Minimum Greater Than 3/4 Mile Nonprecision Instrument Approach Zone. Slopes 34 feet outward for each foot upward (34:1) beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

(b) Transitional Zones. Slope seven feet outward for each foot upward (7:1) beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation. The airport elevation is 174 feet above mean sea level.

(c) Horizontal Zone. Established at 150 feet above the airport elevation or at a height of 324 feet above mean sea level.

(d) Conical Zone. Slopes 34 feet outward for each foot upward (34:1) for 4,000 feet beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation. [Ord. 1170B, 2000]

17.90.050 Use restrictions.

(1) Notwithstanding any other provisions of this chapter, no use may be made of land or water within any zone established by this chapter in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

(2) Uses within the mapped areas (see Map 84 at LCC 17.200.020(84)) shall be consistent with RCW 36.70A.547 to discourage the siting of incompatible uses adjacent to public aviation airports.

(a) The mapped area is the minimum area necessary to protect general airport activities.

(b) Incompatible uses shall include residential uses, places of public assembly, and medical facilities involving the care of people or animals. [Ord. 1170B, 2000]

17.90.060 Nonconforming uses.

(1) Regulations Not Retroactive. The regulations prescribed by this chapter shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of the ordinance codified in this chapter, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of the ordinance codified in this chapter, and is diligently prosecuted. However, before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit must be secured from the Administrator under the procedures specified in LCC 17.90.070 through 17.90.130. No permit shall be granted that would permit a

nonconforming tree to become higher or a nonconforming structure to be made or become a greater hazard to air navigation than it was when the applicable regulation was adopted or than it is when application for a permit is made.

(2) Marking and Lighting. Notwithstanding the preceding provision of the section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the airport owner to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the airport owner. [Ord. 1170B, 2000]

17.90.070 Permits - Future uses.

(1) Except as specifically provided in subsections (2) and (3) of this section, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this chapter shall be granted unless a variance has been approved in accordance with LCC 17.90.100.

(2) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

(3) In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limits prescribed for such approach zones.

(4) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any height limits established by this chapter. [Ord. 1170B, 2000]

17.90.080 Permits - Existing uses.

No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of the ordinance codified in this chapter or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted. [Ord. 1170B, 2000]

17.90.090 Permits - Nonconforming uses abandoned or destroyed.

Whenever the Administrator determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations. [Ord. 1170B, 2000]

17.90.100 Variances.

Variances from the standards of this chapter shall be processed in accordance with LCC 17.162.010.

~~(1) The Lewis County hearing examiner shall hear and decide requests for variances from any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this chapter.~~

~~(2) Application for a variance request shall be submitted to the Administrator and shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe and efficient use of navigable airspace.~~

~~(3) Standards of Review. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in practical difficulty or unnecessary hardship and the relief granted will not create a hazard to air navigation and will not be contrary to the public interest, but will do substantial justice, and will be in accordance within the spirit of this chapter.~~

~~(4) Conditions of Approval. Any variance granted may be subject to any reasonable conditions that the hearing examiner may deem necessary to effectuate the purposes of this chapter.~~

~~(5) Review of Variance Request by the Chehalis-Centralia Airport Board. No application for variance to the requirements of this chapter may be considered by the hearing examiner unless a copy of the application has been furnished to the Chehalis-Centralia Airport board for advice as to the aeronautical effects of the variance. If the airport board does not respond within 15 days after receipt, the hearing examiner may act on his/her own to grant or deny said application. [Ord. 1170B, 2000]~~

17.90.110 Obstruction marking and lighting.

Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this chapter and be reasonable in the circumstance, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the planning commission, this condition may be modified to require the owner to permit the airport owner, at its own expense, to install, operate, and maintain the necessary markings and lights. [Ord. 1170B, 2000]

17.90.120 Special use permit.

Any proposed use located in an approach zone shall be treated as a Type III special use application, per LCC Chapter 17.05. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1129 § 8, 1993]

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~~Any use allowed under any other zoning ordinance which will be located in an approach zone shall be treated as a special use under that ordinance and shall be subject to all provisions and procedures required for special uses under that ordinance. [Ord. 1170B, 2000]~~

~~17.90.130 Fees.~~

~~The fees for this chapter are set forth in Chapter 17.165 LCC. [Ord. 1170B, 2000]~~

~~17.90.140 Appeals - Procedure.~~

~~(1) Any person aggrieved, or taxpayer affected, by any decision of the administrator made in his/her administration of airport zoning regulations adopted by this chapter may appeal the decision to the hearing examiner in accordance with Chapter 2.25 LCC to hear and decide such appeals. Similarly, if the board of county commissioners is of the opinion that a decision of the administrator is an improper application of airport zoning regulations of concern to the board of county commissioners, the board of county commissioners may appeal to the hearing examiner to hear and decide such appeals.~~

~~(2) All appeals taken must be taken within 10 days after the administrator has rendered his/her decision.~~

~~(3) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrator certifies to the hearing examiner, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by order of the hearing examiner or notice to the administrator on due cause shown.~~

~~(4) The hearing examiner shall fix a reasonable time for the hearing of appeals within 45 days after the filing of the appeal, unless the examiner notices the parties, unless the examiner notices the parties by written finding that an extended hearing date setting is needed. Public notice shall be given by publication of notice in the official newspaper of Lewis County not less than 10 days prior to the hearing. Following hearing the hearing examiner shall render its decisions within a reasonable time. Upon hearing, any party may appear in person or by agent or by attorney.~~

~~(5) The hearing examiner may, in conformity with the provisions of this chapter, reverse or affirm wholly or partly, or modify, the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the administrator. [Ord. 1174A §6, 2001; Ord. 1174 §6, 2000; Ord. 1170B, 2000]~~

~~17.90.150 Appeal from the examiner.~~

~~A final decision from an appeal to the examiner may be appealed to that superior court of Lewis County, Washington, by means of a land use petition under Chapter 36.70C RCW for land use decisions as therein defined. [Ord. 1170B, 2000]~~

~~17.90.160 Hearing notice.~~

~~Each notice of hearing authorized by this chapter shall be published in the official newspaper at least 10 days prior to the date of hearing.~~

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~~(1) In addition, a notice of hearing on a variance or an amendment to the approach and clear zone map or text shall be mailed to all taxpayers of record whose lands are located within 500 feet of the lands for which the variance or map amendment has been requested. The mailing shall be to that address employed by the Lewis County treasurer for the mailing of property tax statements.~~

~~(2) The failure of a person to receive the notice prescribed in this section is not jurisdictional and shall not impair the validity of the hearing.~~

~~(3) The notice provisions of this section shall not restrict the giving of notice by other means, including mail, the posting of property, or the use of radio and television. [Ord. 1170B, 2000]~~

~~17.90.170 Recessed hearings.~~

~~Any hearing authorized or required by this chapter may be recessed to a later time or date in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced. [Ord. 1170B, 2000]~~

~~17.90.180 Enforcement.~~

~~It shall be the duty of the administrator to administer and enforce the regulations prescribed in this chapter. [Ord. 1170B, 2000]~~

~~17.90.190 Violation - Penalty.~~

~~(1) Each violation of this chapter or of any regulation, order, or ruling promulgated hereunder shall be subject to the enforcement provisions in Chapter 17.07 LCC.~~

~~(2) In addition 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 airport zoning regulations adopted under authority of this chapter or Chapter 14.12 RCW, 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. 1192 §4, 2006; Ord. 1170B, 2000]~~

~~17.90.200 Conflicting regulations.~~

~~Where there exists a conflict between any of the regulations or limitations prescribed in this chapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structure or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail. [Ord. 1170B, 2000]~~

~~GENERAL ADMINISTRATION~~

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~~Chapter 17.114~~
~~FOREST PRACTICES~~
~~DEVELOPMENT MORATORIA*~~

PREVIOUSLY REPEALED. NO LONGER NECESSARY TO BE IN CODE

~~Sections:~~

~~17.114.010 Authority.~~
~~17.114.020 Interpretation and conflict.~~
~~17.114.030 Purpose.~~
~~17.114.040 Definitions.~~
~~17.114.050 Exemptions.~~
~~17.114.060 Administration.~~
~~17.114.070 Development moratoria.~~
~~17.114.080 Request for removal of development moratoria.~~
~~17.114.090 Request for single-family dwelling exception.~~
~~17.114.100 Fees.~~
~~17.114.110 Reconsideration and appeals.~~

~~*[Note: Ord. 1195 repealed this chapter as to forest practices development moratoria approved by the county after July 22, 2007, the effective date of RCW 76.09.240. Moratoria approved prior to this date are grandfathered and subject to this chapter.]~~

~~17.114.010 Authority.~~

~~This chapter was established pursuant to Chapter 76.09 RCW. [Ord. 1195 § 2, 2007]~~

~~17.114.020 Interpretation and conflict.~~

~~In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for development regulation. In the event that forest practices regulated lands are overlaid by shoreline management jurisdiction, Endangered Species Act jurisdiction, or any other local state or federal regulation, the most restrictive regulations shall apply. [Ord. 1195 § 2, 2007]~~

~~17.114.030 Purpose.~~

~~As of July 27, 1997, all property on which a Class II, III or IV special forest practice approval has been issued (per Chapter 76.09 RCW), or where the timber harvesting takes place with an application, are subject to a six-year moratorium on development approvals. Lewis County is required to deny all development permits, including building permits and subdivision applications, on these properties. This is required by state law, RCW 76.09.060. However, the state law also provides for the county to adopt a process by which the moratorium can be waived or removed. This chapter provides a waiver process by which the applicant may obtain the necessary permits to build a single-family home and/or outbuildings on an existing lot during the six-year moratorium. The chapter also provides a moratorium removal process by which an applicant may have the six-year moratorium on development removed, although conditions may be placed on that removal. [Ord. 1195 § 2, 2007]~~

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~~17.114.040 Definitions.~~

~~(1) In addition to the following definitions, this chapter shall rely upon existing definitions contained within the Washington State Forest Practices Act (Chapter 76.09 RCW), Rules for the Washington State Forest Practices Act (Chapter 222-16 WAC), and Chapters 17.05 and 17.10 LCC.~~

~~(2) In the event of a conflict between the definitions provided in RCW, WAC or other LCC sections and the definitions provided in this section, the definitions in this section shall govern.~~

~~(a) "Administrator" means the director of the community development department of his/her designee.~~

~~(b) "Applicant" means the person, party, firm, corporation, legal entity, or agent thereof that proposes forest practices on property in Lewis County for the property owner.~~

~~(c) "Christmas trees" means any evergreen trees or the top thereof, commonly known as Christmas trees, with limbs and branches, with or without roots, including fir, pine, spruce, cedar, and other coniferous species. (RCW76.48.020(1))~~

~~(d) "Classes of forest practices" means the four classifications of forest practices activities described in WAC 222-16-050. The class of forest practices is determined by considering several factors including but not limited to the type of activity proposed (e.g., harvesting, thinning, etc.), its scale, the affected environment, and the future use of the site. The description of the classes of forest practices paraphrased below are intended to summarize the classifications and do not supersede the specific definitions described in Chapter 222-16 WAC and Chapter 76.09 RCW:~~

~~(i) Class I are those minor forest practices that have no direct potential for damaging a public resource. Examples of Class I forest practices include timber harvests on parcels where contiguous ownership is less than two acres in size that are not within a shoreline designation or UGA, and none of the operation takes place within the riparian management zone of a Type 2 or 3 Water, or within the ordinary high water mark of a Type 4 Water or flowing Type 5 Water (see Chapter 222-16 WAC for definitions of water types); the culture and harvest of Christmas trees and seedlings; tree planting and seeding; and cutting and/or removal of less than 5,000 board feet of timber for personal use (e.g., firewood, fence post, etc.) in any consecutive 12-month period. Class I forest practices do not require approval of a permit by DNR.~~

~~(ii) Class II are those forest practices which have less than an ordinary potential for damaging a public resource. Examples of Class II forest practices include the construction of advance fire trails; timber harvests of less than 40 acres; and the partial cutting of 40 percent or less of the live timber volume on a site. Class II forest practices require notification to DNR prior to being conducted; they do not require an application. Property logged pursuant to a Class II permit must be reforested and is intended to remain in timber production.~~

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~~(iii) Class III are those forest practices not listed under Class I, II, and IV. Class III forest practices require permit approval by the DNR. Property logged pursuant to a Class III permit must be reforested and is intended to remain in timber production.~~

~~(iv) Class IV forest practices are divided into two categories as follows:~~

~~(A) Class IV-General are those forest practices occurring on lands within UGAs; lands platted after January 1, 1960, or on lands which are being converted to a use other than commercial timber production. Examples of Class IV-General forest practices include harvest of timber and conversion of land to residential or commercial uses. Reforestation is not required under a Class IV-General forest practices permit as the property subject to the permit is being converted to a nonforestry use. All Class IV-General forest practices are considered conversion forest practices.~~

~~(B) Class IV-Special are those forest practices which have the potential to result in a substantial impact to the environment. Examples of Class IV-Special forest practices include forest practices conducted on lands designated as critical wildlife habitat for threatened or endangered wildlife species; timber harvest in national, state or local parks; and forest practices involving the filling or draining of more than 0.5 acres of wetland. Class IV-Special forest practices include two subcategories: conversion and nonconversion. Class IV-Special conversion forest practices include those practices which result in the conversion of timberland to a non-forestry use, such as residential, commercial or industrial. Class IV-Special nonconversion forest practices include those practices that will result in uses of the property consistent with timber growing.~~

~~(e) "Comprehensive plan" means the current comprehensive plan for Lewis County.~~

~~(f) "County" means Lewis County.~~

~~(g) "Critical areas" means wetlands, flood hazard areas, fish and wildlife habitat areas, aquifer recharge areas, and geologically hazardous areas as regulated under Chapter 17.35 LCC.~~

~~(h) "Department" means the Lewis County community development department.~~

~~(i) "Development" means any activity that requires federal, state, or local approval for the use or modification of land or its resource. These activities include, but are not limited to, subdivision, short subdivision, and large lot subdivisions; binding site plans; planned unit developments; variances; shoreline substantial development; clearing activity; excavation and grading; embankment; activity conditionally allowed; building or construction; revocable encroachment permits; and septic approval.~~

~~(j) "Diseased tree" shall mean a tree that in the opinion of the department or an expert approved by Lewis County (such as but not limited to an experienced forester or landscape architect) has a~~

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~~strong likelihood of infecting other trees or brush in the area or becoming dangerous as a result of the disease.~~

~~(k) "Forest land" as defined in the Washington State Forest Practice Act means all land which is capable of supporting a merchantable stand of timber and is not actively used for a use which is incompatible with timber growing.~~

~~(l) "Forest practice" means any activity conducted on or directly pertaining to forest land and relating to the growing, harvesting, or processing of timber, including but not limited to: road and trail construction; harvesting, final and intermediate; precommercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control.~~

~~(m) "Forest practices application or notification" means the application or notification required to be submitted to the Washington State Department of Natural Resources or Lewis County for the conduct of forest practices.~~

~~(n) "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.~~

~~(o) "Hearing examiner" means the Lewis County hearing examiner as established by Chapter 2.25 LCC.~~

~~(p) "Nonconversion" means any Class II, Class III, or Class IV-Special Forest Practice as defined by WAC 222-16-050 where land is being retained for uses consistent with timber growing. Examples include but are not limited to the cutting and removal of trees and the replanting for commercial forest production.~~

~~(q) "Nonforestry use" means an active use of land which is incompatible with timber growing.~~

~~(r) "Owner" means any person or persons having a legal or equitable property right or interest, whether they may be legal or equitable in character, including a fee owner, contract purchaser or seller, mortgagor or mortgagee, option or optionee, and beneficiary or grantor of a trust and deed of trust.~~

~~(s) "Professional forester" means a person with a college degree in forestry or the equivalent in post-secondary education and work experience in forestry. This may include arborists certified by the International Society of Arboriculture, foresters with a degree in forestry from a SAF accredited forestry school, or urban foresters with a degree in urban forestry. [Ord. 1195 § 2, 2007]~~

~~17.114.050 Exemptions.~~

~~(1) The following activities are exempted from the provisions of this chapter:~~

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~~(a) Class I forest practices located outside of UGAs are exempt unless:~~

~~(i) It involves a conversion to a nonforestry use; or~~

~~(ii) It occurs on lands platted after January 1, 1960.~~

~~(b) Class I forest practices located within UGAs that do not involve road construction or timber harvesting.~~

~~(c) Forest practices on lands in a UGA where the landowner submits a 10-year statement of nonconversion to the Department of Natural Resources (reforestation agreement) together with either an acceptable 10-year forest management plan or proof that the land is currently enrolled in current use assessment-timber lands, under the provisions of Chapter 84.33 RCW.~~

~~(d) The division of land into lots, each of which is one thirty-second of a section of land or larger, or 20 acres or larger; provided, the proposed division meets the minimum lot size or density requirements in LCC Title 17.~~

~~(e) Repair or remodeling within the existing footprint of existing structures.~~

~~(f) Reconstruction of a structure damaged or destroyed due to fire, explosion, wind, flood, earthquake, or other similar calamity.~~

~~(g) Hazard Tree Removal:~~

~~(i) Tree cutting shall be authorized only when it is demonstrated to the satisfaction of the department that an imminent threat exists to public health or safety, or the safety of private or public property. In these cases, the landowner shall be required to submit a report from a registered landscape architect, professional forester, or other expert approved by Lewis County which demonstrates that an imminent threat exists and the specific actions which must occur to abate the threat.~~

~~(ii) Tree cutting shall be limited to the topping or trimming of trees, unless total removal is justified by the landowner's expert. All vegetation removed (tree stems, branches, tops, etc.) shall remain within the open space or buffer area. [Ord. 1195 § 2, 2007]~~

~~17.114.060 Administration.~~

~~(1) Approvals Required. An approval pursuant to this chapter must be obtained from Lewis County for the following:~~

~~(a) Request for Removal of Development Moratorium. An approved request for removal of development moratorium shall be required prior to the approval of any development permits by Lewis County for land which is subject to a development moratorium except for the construction of one single-family residence.~~

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~~(b) Request for Single-Family Dwelling Exception. An approved request for single-family dwelling exception shall be required prior to the construction of a single-family residence or related improvements on land which is subject to a development moratorium.~~

~~(2) Application Requirements.~~

~~(a) Preliminary review. The provisions for conducting a preliminary review of the completeness of any application filed pursuant to this chapter are set forth in LCC 17.05.045(2).~~

~~(b) Application Filing. An application shall be required for all approvals pursuant to this chapter.~~

~~(c) Application Site Plan. All applications shall include a site plan of the proposal that includes the following, if applicable:~~

~~(i) Drafted at a scale no smaller than one inch to 200 hundred feet with the scale being shown on the drawing;~~

~~(ii) Harvest boundaries and tree retention areas;~~

~~(iii) North arrow;~~

~~(iv) The approximate location of any structures;~~

~~(v) The location of all existing and proposed streets, rights-of-way, easements, landings within the proposal;~~

~~(vi) The location of future land development, including stormwater management facilities, and vegetation to be retained for site landscaping, open space, wildlife habitat, screening, and/or buffers;~~

~~(vii) Critical areas and critical area buffers;~~

~~(3) Public Notice Requirements for the Request for Removal of Development Moratoria.~~

~~(a) Public notice provisions for notice of application and threshold determination shall be as set forth in LCC 17.110.170.~~

~~(b) Notice of Public Hearing. The administrator shall give notices of a public hearing before the hearing examiner as follows:~~

~~(i) By arranging for publication of notice of hearing in a newspaper of general circulation within the county not less than 10 days prior to the hearing date.~~

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~~(ii) Through the U.S. Mail, postmarked at least 10 days prior to the date of the hearing to neighboring property owners within 300 feet of the property for the moratorium removal has been requested.~~

~~(4) Review.~~

~~(a) Initial Review. The department shall conduct an initial review of any application in accordance with the provisions outlined in LCC 17.05.045.~~

~~(b) Any property owner subject to a moratorium may request release from the six-year moratorium concurrently with or prior to an application for a permit for a development proposal. To the extent possible, the request for release should be processed concurrently with the applicable development permit.~~

~~(c) Review Responsibilities.~~

~~(i) The department is responsible for administration, circulation, review and approval of an application for single-family dwelling exceptions.~~

~~(ii) The hearing examiner shall be the decision authority for requests to remove a development moratorium and administrative appeals.~~

~~(iii) Other county departments and state agencies, as determined by the department, may review an application and forward their respective recommendations to the administrator or examiner as appropriate.~~

~~(d) Compliance with Other Codes. An application filed pursuant to this chapter shall also comply with the following titles of the Lewis County Code, as now existing or hereafter amended:~~

~~(i) LCC Title 17, Land Use and Development Regulations;~~

~~(ii) LCC Title 16, Subdivisions;~~

~~(iii) LCC Title 15, Buildings and Construction;~~

~~(iv) The Lewis County comprehensive plan; and~~

~~(v) The Lewis County shoreline master program.~~

~~(e) Burden or Proof. The applicant has the burden of proving that the proposed application complies with the standards set forth in this chapter.~~

~~(f) Denial. The administrator or hearing examiner as applicable shall deny an application that does not meet all of the provisions in this chapter. [Ord. 1195 § 2, 2007]~~

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~~**17.114.070 Development moratoria.**~~

~~(1) General Requirements.~~

~~(a) All development moratoria established pursuant to this chapter shall be mandatory.~~

~~(b) Development applications and project construction for any development activity shall be prohibited for a term of six years on a site subject to a moratorium.~~

~~(2) Actions That Result in a Development Moratorium. The following actions shall result in a six-year development moratorium being imposed:~~

~~(a) The notification by DNR of Class II forest practices.~~

~~(b) The approval by DNR of a Class III or IV-Special forest practices permit.~~

~~(c) The violation Class IV-General forest practices permit.~~

~~(d) Activity that meets the definition of Class II forest practices on a parcel without an approved forest practices notification.~~

~~(e) Activity that meets the definition of Class III or IV forest practices on a parcel without an approved forest practices application.~~

~~(3) Consequences of a Development Moratorium.~~

~~(a) Lewis County shall terminate review of any application for development of land which is found to be subject to a six-year development moratorium.~~

~~(b) A new application shall be required for development of the site after the six-year moratorium expires.~~

~~(c) Lewis County shall not accept applications for any development of land which is subject to a six-year moratorium; except as provided for in LCC 17.114.060(2).~~

~~(d) Per RCW 76.09.060, all development moratoria imposed by Lewis County shall apply to the entire parcel.~~

~~(e) Prior to any development permit application, the property owner shall be required to submit a Class IV-General permit application on land that was cleared without a required forest practices application or notification, or in violation of a Class II, Class III, or Class IV-Special permit.~~

~~(f) Lewis County shall notify the appropriate state agency if a forest practices activity that meets the definition of a Class II, III, or IV-Special forest practices has been initiated on a parcel without an approved forest practices application or notification.~~

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~~(4) Effective Date of a Moratorium.~~

~~(a) The six-year development moratorium shall be imposed from the effective date of the applicable Class II notification, Class III or Class IV-Special forest practices permit.~~

~~(b) If forest practices occur on a site without the appropriate permit, a six-year development moratorium shall be imposed from the date the unpermitted forest practices were documented by Lewis County or DNR.~~

~~(c) Where a site is subject to an approved Class II notification, or Class III or IV-Special forest practices permit, forest practices occurring at the site which are outside the scope of the approved permit shall be considered unpermitted forest practices for moratorium purposes. In these cases, a six-year development moratorium shall be imposed from the date the unpermitted forest practices were documented. [Ord. 1195 § 2, 2007]~~

~~17.114.080 Request for removal of development moratoria.~~

~~(1) Any development moratorium established pursuant to LCC 17.114.070 may be considered for removal by the hearing examiner when the following requirements are met:~~

~~(a) Public Hearing Required.~~

~~(i) The department shall set a date for public hearing before the examiner after all the requests for additional information or plan correction, as set forth in LCC 17.114.060(3), have been satisfied, and either a determination of nonsignificance or a mitigated determination of nonsignificance (DNS or MDNS) or environmental impact statement (FEIS or FSEIS), if required, has been issued.~~

~~(ii) The public hearing shall follow the public notice and hearings procedures set forth in LCC 17.114.060(3)(b) and Chapter 2.25 LCC.~~

~~(b) Review Criteria. The examiner shall consider the removal of a development moratorium established pursuant to this chapter when the following criteria are met:~~

~~(i) The forest practices conducted on the site meet the standards set forth in WAC Title 222.~~

~~(ii) Corrective actions are implemented which would bring the forest practices into compliance with WAC Title 222.~~

~~(iii) If critical areas or critical area buffers have been damaged, the examiner may impose increased critical area buffer standards together with additional requirements to mitigate the damage.~~

~~(iv) The entire site shall have been reforested in accordance with the requirements set forth in Chapter 222-34 WAC.~~

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~~(c) Approval.~~

~~(i) The hearing examiner shall review all requests for removal of a development moratorium, any comments received, and applicable county regulations or policies, and may inspect the property prior to rendering a decision.~~

~~(ii) The hearing examiner may approve an application for a request to remove a development moratorium, approve the application with conditions, require modification of the proposal to comply with specified requirements or local conditions, or deny the application if it fails to comply with requirements of this chapter.~~

~~(d) Required Written Findings and Determinations. Removal of a development moratorium may be approved by the examiner if the following findings can be made regarding the proposal and are supported by the record:~~

~~(i) The removal of the six-year development moratorium will not be detrimental to the public health, safety, and general welfare.~~

~~(ii) The removal of the six-year development moratorium will not be injurious to the property or improvements adjacent to and in the vicinity of the proposal.~~

~~(iii) The removal of the six-year development moratorium will not result in significant adverse environmental impacts.~~

~~(iv) The removal of the six-year developmental moratorium is consistent with the review criteria in LCC 17.114.080(1)(b).~~

~~(v) The removal of the six-year development moratorium is consistent with the goals, objectives, and policies of the comprehensive plan and the provisions of this chapter. [Ord. 1195 § 2, 2007]~~

~~17.114.090 Request for single-family dwelling exception.~~

~~(1) The administrator may grant an exception to the mandatory six-year development moratorium to allow the construction of one single-family dwelling unit and associated accessory structures pursuant to the following standards:~~

~~(a) General Requirements.~~

~~(i) The area that is permitted to be developed pursuant to this administrative exception shall not exceed two acres in size;~~

~~(ii) Upon approval of a single-family dwelling unit exception, a memorandum of agreement (MOA) shall be recorded with the Lewis County auditor by the landowner which includes a site plan depicting the area of the parcel to be dedicated for the single-family dwelling, yard area,~~

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~~permitted accessory structures, and access road. The MOA shall identify the actions to be taken by the landowner to correct any violations of county ordinances or regulations;~~

~~(iii) The development moratorium shall remain in effect for all other non-forestry uses of the site.~~

~~(b) Review Criteria. One single-family dwelling, permitted accessory structures, lawn and landscaped area, and access road may be constructed together with site development activities necessary to construct the dwelling on land subject to a development moratorium; provided, that:~~

~~(i) The construction of the single-family dwelling, lawn and landscaping area, accessory structures, and access road are in compliance with all applicable county regulations;~~

~~(ii) The landowner corrects any violations of critical area and resource lands if any have occurred on the parcel;~~

~~(iii) Reforestation of the site has occurred if required pursuant to Chapter 222-34 WAC.~~

~~(c) Required Written Findings and Determinations. A single family dwelling unit exception may be approved by the administrator on a site that is subject to a six-year development moratorium, only if of the following written findings can be made regarding the proposal and are supported by the record:~~

~~(i) The single-family exception to the six-year development moratorium will not be detrimental to the public health, safety, and general welfare.~~

~~(ii) The single-family exception to the six-year development moratorium will not be injurious to the property or improvements adjacent to and in the vicinity of the proposal.~~

~~(iii) The single-family exception to the six-year development moratorium will not result in significant adverse environmental impacts.~~

~~(iv) The granting of the single-family exception to the six-year development moratorium is consistent with the review criteria in LCC 17.114.090(1)(b).~~

~~(v) The single-family exception to the six-year development moratorium is consistent and compatible with the goals, objectives, and policies of the comprehensive plan and the provisions of this chapter. [Ord. 1195 § 2, 2007]~~

~~17.114.100 Fees.~~

~~Fees for permits, approvals, modifications and appeals under this chapter shall be as set forth in the LCC Title 18 and the Lewis County schedule of fees. The schedule of fees is established by local resolution on file with the board of county commissioners and referenced under LCC Title 18. [Ord. 1195 § 2, 2007]~~

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~~17.114.110 Reconsideration and appeals.~~

~~Procedures for appeal of any administrative decision and procedures for reconsideration or appeal of a hearing examiner decision issued pursuant to this chapter are set forth in Chapter 2.25 LCC. [Ord. 1195 § 2, 2007]~~

~~Chapter 17.115~~
~~SPECIAL USE PERMITS~~

MOVED TO 17.158 AND COMBINED WITH SPECIAL USE PROVISIONS IN 17.160

~~Sections:~~

~~17.115.010 Purpose.~~
~~17.115.020 General criteria.~~
~~17.115.030 Special uses.~~
~~17.115.040 Application.~~
~~17.115.050 Hearing examiner review.~~
~~17.115.060 Special proceedings.~~

~~17.115.010 Purpose.~~

~~The purpose of this chapter is to identify the criteria by which special uses are to be considered by the hearings examiner. [Ord. 1170B, 2000]~~

~~17.115.020 General criteria.~~

~~The county adopts the following criteria as general criteria which shall be required as part of every special use permit issued by the County.~~

~~(1) The maximum environmental noise levels established by Chapter 173-60 WAC and incorporated herein by reference, together with any adjustments authorized therein.~~

~~(2) The air quality standards adopted by the Southwest Washington Air Pollution Control authority and any SWAPCA permit issued for a project.~~

~~(3) The terms of any permit issued for a project by a resource agency, including Washington State Department of Fish and Wildlife, HPA, water quality permit, Chapter 90.48 RCW, shoreline permit, Chapter 90.58 RCW, or permit issued by the U.S. Army Corps of Engineers.~~

~~(4) Conditions imposed in any final environmental determination, Mitigated Determination of Nonsignificance or Final Environmental Impact Statement under Chapter 43.21C RCW.~~

~~(5) Adequate provision must be made for potable water, waste disposal, parking, transportation, and storm water control.~~

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~~(6) The general criteria shall be applied to all special uses and shall be the criteria for those uses not specifically identified below.~~

~~(7) No special use permit shall be approved in any subarea or location where the limits identified in LCC 17.42.040 for projects have been reached. [Ord. 1179, 2002; 1170B, 2000]~~

~~**17.115.030 Special uses.**~~

~~The following special uses shall be reviewed as provided in this chapter and shall be subject to the general criteria and the special criteria identified below.~~

~~(1) Group homes and other state-licensed residential care facilities. The hearings examiner shall make a written finding that all terms of the state license which govern location and physical development of the facility are met by the application.~~

~~(2) Rural resorts as identified in Tables 1 and 2, LCC 17.42.030 and 17.42.040.~~

~~(a) Special Conditions.~~

~~(i) Uses which propose development on more than 40 acres must be processed as a master plan pursuant to Chapter 17.120 LCC.~~

~~(ii) All permanent access roads and permanent parking areas shall be hard surface to reduce mud and dust.~~

~~(3) Recreation and camping facilities such as mining camps, river camps, and hunting and hiking camps which provide necessary facilities to permit use and enjoyment of the Lewis County out of doors.~~

~~(a) Special Conditions.~~

~~(i) All permanent access roads and permanent parking areas shall be hard surface to reduce mud and dust.~~

~~(4) Sports facilities and clubs including golf courses, playing fields for outdoor sports and other facilities, as identified in Tables 1 & 2, LCC 17.42.030 and -.040:~~

~~(a) Special conditions:~~

~~(i) Uses which are larger than 40 acres must be processed as a master plan pursuant to Chapter 17.120 LCC.~~

~~(ii) All permanent access roads and permanent parking areas shall be hard surface to reduce mud and dust.~~

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~~(iii) As to pistol, rifle, skeet, and other shooting facilities which encourage education and training in the safe use of lawful firearms, the application shall include noise and range safety evaluation for property within one half mile of the proposed range. The hearing examiner must specifically find that the range does not pose a safety hazard to any resident within the study area.~~

~~(5) Private aviation facilities (facilities providing landing surface and takeoff for aircraft or heliports used by nine or fewer aircraft).~~

~~(a) Special conditions.~~

~~(i) All landing strips shall be so designed and the runways and facilities so oriented, that the incidents of aircraft passing directly over dwellings during their landing or taking off patters is minimized. They shall be located so that traffic shall not constitute nuisance to neighboring uses. The hearing examiner shall find, in writing, that the applicant has secured easements and other rights necessary to implement runway protection zones and other safety regulations required by the FAA consistent with the proposed aviation use.~~

~~(ii) The proponents shall show that adequate controls or measures will be taken to prevent offensive noise, vibrations, dust, or bright lights.~~

~~(iii) New private use landing strips and heliports shall be allowed in a rural or resource zone by a special use permit, with standards set forth in FAA regulations in effect on the date of application* and subject to the same notice requirements of subsection (6)(v) of this section.~~

~~(iv) For purposes of this section, an ultra light aircraft for personal use does not require a permit under this section and shall be considered an accessory use for any residential site in excess of five acres.~~

~~(6) Public aviation facilities (facilities providing landing surface and takeoff for 10 or more general aviation aircraft) (aircraft based at those landing areas are owned or controlled by the landowner or tenant and subject to any limitations deemed necessary by the hearing examiner)~~

~~(a) Special conditions.~~

~~(i) The minimum lot size shall be 60 acres.~~

~~(ii) The centerline of any such landing area shall not be located within 500 feet of any property line, building, or structure; except that a legal affidavit from adjacent property owner(s) allowing all, or a portion, of that 500 feet as a recorded easement on their property, presented as part of a special use permit application, shall be acceptable.~~

~~(iii) The field shall comply with the standards set forth in FAA regulations in effect on the date of application*.~~

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~~(iv) Fuels and lubricants associated with the operation of personal use aircraft will be stored and handled in accordance with pertinent state and county codes. All aircraft and pilots must comply with all current Federal Aviation Regulations for the maintenance and operation of aircraft.~~

~~(v) Notification of special use permit application hearing shall go, by first class mail, to residents within 1,000 feet from any point on a proposed aircraft landing area.~~

~~This notification requirement is in addition to all other notification requirements for special use permit applications found in LCC 17.05.100, and those appropriate notification requirements of this chapter. In addition to public notice designed to meet the requirements of Chapter 17.12 LCC, recognizing the initial hearing will be before the Lewis County hearing examiner rather than before the planning commission. Notification for hearing examiner public hearings shall be published at least 10 days prior to any public hearing and such notice of hearing shall be published in the newspaper of record and in the newspaper of widest circulation in the area affected.~~

~~(vi) In addition to the requirements for a special use permit, the requirements of RCW 36.70.547 shall be met.~~

~~(vii) Such facilities shall be located on parcels where the aircraft allowed are at least 500 feet off of the ground prior to crossing a property line on takeoff or landing.~~

~~(viii) No residential structure shall be closer than 1,000 feet to the proposed air facility,~~

~~(ix) No place of public assembly shall be located within one half mile of the end of any such facility.~~

~~(x) The hearing examiner shall find, in writing, that the applicant has secured easements and other rights necessary to implement runway protection zones and other safety regulations required by the FAA consistent with the proposed aviation use.~~

~~(7) Residential, recreational, and other non-resource uses permitted under Chapter 17.30 LCC, Resource Lands.~~ REMOVE. ADDRESS THROUGH 17.30 ALONE

~~(a) Special condition: Such uses shall demonstrate that the use does not adversely affect the overall productivity of the total resource parcel for the intended resource use by reason of the nonresource activity proposed.~~

~~(8) Home based businesses and isolated small businesses.~~

~~(a) Special conditions.~~

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~~(i) Any new facilities shall be located more than 200 feet from lands designated as critical areas, and shall be required to identify and take steps to protect resource activities where such activities occur nearby.~~

~~(ii) All home occupation facilities must be located on property contiguous to the parcel upon which the owner or manager resides.~~

~~(iii) A permit granted under this section is applicable to the facilities approved, so long as all criteria for home based industries are met. Where an owner desires to move and to move the business as a home based industry, a new permit will be required for the new location.~~

~~(iv) The cumulative affect of similar uses in the neighborhood must be identified to assure that the land is capable of accommodating the use without creating the need for new services or facilities which are not rural in nature.~~

~~(9) Expansion of existing nonconforming commercial or industrial uses. (See also the requirements at 17.155)~~ REMOVE ADDRESS THROUGH 17.155 ALONE

~~(a) Special conditions.~~

~~(i) Use must have existed before July 26, 1999.~~

~~(ii) The new structure must not exceed 10,000 square feet.~~

~~(10) Cluster subdivisions greater than six units.~~

~~(a) Special conditions.~~

~~(i) Must be on properties 40 acres and larger.~~

~~(ii) No more than 24 cluster subdivision units in any 1/2-mile radius, except where separated by a visual geographic barrier.~~

~~(iii) The hearing examiner shall examine the existing and proposed development within a one-mile radius of the perimeter of the proposed site to protect rural character and shall:~~

~~(A) Determine the nature of existing development and availability of adequate facilities.~~

~~(B) Determine the likelihood of probably future cluster development.~~

~~(C) Determine the cumulative effect of such existing and probable future development.~~

~~(iv) The hearing examiner shall make written findings that the area in which the cluster is located is within the population targets of Table 4.3, p. 4-63 of the Lewis County comprehensive plan.~~

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(v) The hearing examiner shall identify necessary conditions, including caps or specific limitations to assure that urban development defined in RCW 36.70A.030(17) as prohibited outside urban growth areas by RCW36.70A.110 does not occur, and that the rural character identified in the comprehensive plan and RCW 36.70A.030(16) and RCW 36.70A.070(5)(b) is protected, and to achieve the specific requirements of RCW36.70A.070(5)(c).

(11) Essential public facilities–local. All facilities identified as essential public facilities–local. (Essential public facilities – major, such as a solid waste disposal facility or hydroelectric project, must be sited and approved as a comprehensive plan amendment.)

(a) Special conditions.

(i) The use is located in accordance with the criteria identified in a comprehensive plan adopted by the service provider.

(ii) If outside a UGA, the use can be accommodated without requiring urban services or promoting urban growth in rural areas.

(12)(A) Small towns–mixed use/commercial buildings in excess of 5,000 sq.ft. Projects in small towns–mixed use/commercial exceeding 5,000 square feet.

(B) Small towns–industrial uses in excess of 20,000 sq.ft. Projects in small towns-industrial exceeding 20,000 square feet.

(a) Special conditions.

(i) The facility contains uses of a type and scale found in small towns.

(ii) That off-street parking is sized to accommodate the intended uses.

(iii) That the adequacy and rural facility tests of Chapters 17.130 and 17.150 LCC are met.

(13) Recreational vehicle park. A recreational vehicle park is a facility for the short- or long-term use of recreational vehicles, as distinguished from mobile homes or camp sites approved under other sections of this Code.

(a) Special conditions.

(i) Recreational vehicle parks shall conform to the requirements of the recreational vehicle park ordinance set forth in Title 16 of this Code. Per Tables 1 & 2, at LCC 17.42.030 and .040, RV Parks up to 100 sites or up to 10 acres are processed through a Special Use Permit; those over 100 sites and up to 40 acres go through a Rural Master Plan process, and those having more than 100 sites and larger than 40 acres go through as a Master Plan Resort.

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~~(14) Creation of new surface mining areas or the expansion of the surface mining areas.~~

~~(a) Applicability. This section applies to the creation of new surface mining areas or the expansion of lawfully permitted activities beyond the approved DNR reclamation plan area in effect on July 26, 1999; provided, however, this does not cover any mining activity which is less than three acres in size and less than 5,000 yards per year.~~

~~(b) Mine development standards. All permits issued pursuant to this section shall require the following minimum standards. The hearing examiner may increase buffers and mitigation where good cause is shown.~~

~~(i) Setbacks/Screening.~~

~~(A) A fifty (50) foot setback from the mine property and from all abutting property, consistent with and subject to the reduction provisions of Section 17.30.810 LCC, shall be maintained for areas of direct cut or fill connected with resource extraction operations. For mining operations, setbacks may be increased when necessary to protect lateral support of abutting properties or public rights of way.~~

~~(B) A twenty-five (25) foot screen within the fifty (50) foot setback on the mine property, consisting of site obscuring vegetation, berms, or other methods to conceal the mine from public rights of way or property used for residential purposes as approved by Lewis County shall be maintained.~~

~~(C) Any direct extraction operation areas within a public utility right of way shall be subject to the written conditions of approval from the affected utility, which shall be incorporated into the permit.~~

~~(D) A two hundred (200) foot setback shall be maintained between any mining activity and any existing structure occupied for sleeping or eating purposes but not including accessory structures such as barns or out buildings, existing at the date of application.~~

~~(ii) Road use–In order to assure maintenance and development of adequate county roadways, owners of surface mining operations may be required to enter into a haul route agreement with the County Engineer upon adoption and implementation of a Haul Route Agreement Program. The haul route agreement shall address impacts immediately attributable to project use.~~

~~(iii) Traffic safety–The operator may be required to install traffic improvement, control, and warning signs to assure adequate access and traffic safety.~~

~~(iv) Noise/Bright lights~~

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~~(A) No development or activity shall exceed the maximum environmental noise levels established by Chapter 173-60 WAC.~~

~~(B) Bright lights shall be shaded or shielded from adjoining residential properties.~~

~~(v) Surface mining operation with critical aquifer recharge areas–The purpose of this section is to protect critical aquifer recharge areas as required by RCW 36.70A.060(2). Any surface mining operation within a critical aquifer recharge area (as designated in Chapter 17.35 LCC) shall meet the following standards:~~

~~(A) Fuel tanks and oil drums shall be double containment construction and protected by bermed areas having adequate capacity to accommodate, contain, and allow the removal of petroleum spills. Fuel nozzles shall not contain locking devices. Fuel storage shall be above ground. Fueling of mobile equipment shall be located at least twenty feet above the seasonal high ground water level or within lined and bermed areas with adequate capacity to accommodate, contain, and allow the removal of petroleum spills. Where the nature of the operation is such that the machinery cannot be moved for fueling, or the aquifer is less than twenty (20) feet from the surface, the Hearings Examiner may approve an alternative fueling plan which accomplishes aquifer protection.~~

~~(B) All operations shall maintain a fuels/hazardous waste management plan maintained by the operator and available on the site at all times.~~

~~(C) Surface mines shall not use any noxious, toxic, flammable, compactable, or combustible materials not specifically authorized by Lewis County Department of Health for backfill or reclamation. Non-contaminated process water used for gravel washing shall be routed to settling ponds to minimize off-site discharges. A general permit from the Department of Ecology for process and storm water discharge may substitute for these requirements.~~

~~(D) On-site truck and equipment wash runoff shall be routed to retention facilities equipped with an oil-water separator prior to its release to settling ponds.~~

~~(E) Use of chemicals, petroleum or hazardous products, and disposal of such products, in concrete or asphalt plant operations within critical aquifer recharge areas shall meet all the standards set forth in Chapters90.48 RCW and 173.303 WAC.~~

~~(vi) Public safety–Owners of surface mines shall ensure their operation(s) will not be hazardous to neighboring uses. Blasting activities shall be conducted so that ground vibrations comply with all state laws about peak particle velocity, air pressure, and other state requirements, including but not limited to Chapter 9 of the Blasting Guidance Manual identified below. All fly-rock shall be contained within the site. All activities shall comply with the~~

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~~standards set forth in official guidelines, including but not limited to Office of Surface Mining U.S. Department of Interior, Blasting Guidance Manual, 1987 ed., Explosives: WAC 296-52-493, Part F.~~

~~(vii) Surface water permit–WDOE NPDES Sand and Gravel General Permit or individual permit, as appropriate, shall be a condition of approval and incorporated herein by reference.~~

~~(viii) Hours of operation–Regular hours of operation shall be between the hours of six-thirty (6:30) o'clock AM and seven (7) o'clock PM; blasting shall only occur during the time period between ten (10) o'clock AM and four (4) o'clock PM. Prior to any blast, twenty-four (24) hours notice shall be given to all property owners or residences within five hundred (500) feet of any mine property line. If a blast does not occur as scheduled in a notification, twenty-four (24) hour renotification shall be required. The Hearings Examiner may inquire into the proposed hours of operation and set additional limits when deemed necessary to protect quiet enjoyment of neighboring residential properties. The Hearing Examiner may include provisions for exceptions from established regular hours of operation. Extended hours may be requested and approved under conditions set by the hearings examiner, particularly for work on public works contracts where an emergency may require work outside regular hours.~~

~~(c) Preferential right to manage resources and resource use notice. For those land owners of designated Mineral Resource Lands who choose to use their property for resource management, the provision of "Right to Mine" shall fully apply.~~

~~(d) Mining use notices–Designated Mineral Resource Lands.~~

~~(i) For properties designated Mineral Resource Land in the comprehensive plan and development regulations, the property owner(s) of said land shall submit to the County, for recording with the County Auditor, a written notice of the designation. This notice shall be in a form authorized by the Director of the Community Development Department and shall include:~~

~~(A) The legal description of the property subject to the designation~~

~~(B) The 1/16 section or sections which lie adjacent to the property designated in (A) above and any other property within 500 feet of the boundary of the designated property.~~

~~(C) The following statement:~~

~~NOTIFICATION~~

~~This notification is to inform property owners that the property described herein is adjacent to or within 500 feet of the property line of land managed for mining. Mining operations may be carried out now or in the future. Lewis County has established designated Mineral Resource Land that sets as a priority the use of these lands for mining. The normal and usual practices associated with said operations when~~

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~~performed in accordance with county, state, and federal law, shall not be subject to legal action as a public nuisance.~~

~~The mineral right owner/operator shall execute and acknowledge the notice, and pay the fee to the County for recording the notice.~~

~~(ii) For properties designated Mineral Resource Land pursuant to the comprehensive plan and development regulations, the Director of the Community Development Department shall submit to the County Auditor for recording, a written notice of all Designated Mineral Resource Lands. This notice shall be in a form similar to the NOTIFICATION just prior above. The Director of the Community Development Department shall execute and acknowledge the notice, and no affected property owner shall be charged a fee for recording the notice.~~

~~(iii) For all properties within 500 feet of the property line of a parcel which includes designated Mineral Resource Lands, all plats, short subdivisions, large lot subdivisions, development permits and building permits issued by Lewis County after the effective date of this Chapter for development activities within 500 feet of property designated Mineral Resource Land, or within 500 feet thereof, shall contain a notice as specified in the NOTIFICATION just prior above.~~

~~(e) Project notification.~~

~~(i) Posted by the applicant on the county road nearest the proposed entrance, 4' x 4' sign identifying the time, place, and purpose of the proceedings~~

~~(ii) Mailed to property owners of record within 500 feet of the boundary of property on which the mine is to be located, but not greater than 1/4 section, so long as the proposed mine is less than 80 acres in size.~~

~~(f) Exceptions--This permit process shall not be applicable to mines regulated under federal mining laws.~~

~~(15) Auctioneering Facilities. Auctioneering facilities to serve the equipment needs of the transportation, industrial and agricultural industries (including the local and regional markets) are permitted as a special use. These facilities are deemed to be consistent with the rural character and development patterns of Lewis County as long as the following conditions are met:~~

~~(a) Site Characteristics.~~

~~(i) The site shall be at least 80 gross acres but shall not exceed 240 gross acres.~~

~~(ii) The building area on the site shall not exceed 80,000 gross square feet.~~

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~~(iii) The site shall be located within one mile measured horizontally from a major transportation corridor.~~

~~(b) Services. The use does not require urban services.~~

~~(c) Preservation of Rural Areas.~~

~~(i) Critical areas on the site shall be preserved with their buffers.~~

~~(ii) No critical areas variances shall be granted except as needed to provide access and/or necessary utilities to the site.~~

~~(d) Off-Site Impacts. The special use shall adequately mitigate potential off-site impacts, including, but not limited to, parking, noise, lighting, fumes and dust. [Ord. 1210 §1 (Exh. 1, Att. C), 2009; Ord. 1179B Ex. B, 2003; Ord. 1170B, 2000]~~

~~*[Codifier's Note: FAA regulations referenced are FAR Title 14, Part 157, Section 157.3, and as thereafter amended.]~~

~~17.115.040 Application.~~

~~The application shall include a special report to be prepared in connection with the environmental checklist which shall identify:~~

~~(1) The owner or owners of the property to be mined; a copy of the lease if the applicant is the tenant on a site.~~

~~(2) The legal description of the property to be mined--the entire parcel to be included in the special use approval, which may be less than the entire ownership, together with each separate ownership within the development area~~

~~(3) The application shall identify all uses proposed for the site, including direct or accessory uses. No use shall be permitted on a mineral site which is not shown on the map approved by the hearings examiner.~~

~~(4) A map or series of maps at a scale of 1" = 100 feet, which shows:~~

~~(a) Boundaries of the designated area~~

~~(b) Boundaries of individual ownerships, or leasehold interests if the mine is confined to a leasehold area~~

~~(c) Dedicated rights of ways or easements over, across, or under the property to be reviewed for approval~~

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~~(d) Existing roads, highways, and driveways abutting the site and within 500 feet of the site, and the principal access from the site to the nearest arterial or state highway~~

~~(e) Property ownerships within 500 feet of the site.~~

~~(f) Wells within the development area or within 500 feet of the boundary of the site which are used for domestic use or identified through well log or water right records.~~

~~(g) A general identification and location of critical areas on the site or within 500 feet of the site and the identification of all Type 1, 2, and 3 streams under WDF&W criteria, and any streams or water bodies subject to jurisdiction under Chapter 90.58 RCW, the State Shoreline Management Act.~~

~~(h) For mineral extraction special use permits only: A mine plan consistent with DNR reclamation requirements, together with a proposed phasing plan.~~

~~(i) An environmental checklist. The environmental checklist shall specifically address:~~

~~(i) On-site and off-site critical areas, issues, protection, and mitigation.~~

~~(ii) Transportation--Present facilities and upgrades if required, new facilities, and phasing impact and mitigation required.~~

~~(iii) Stormwater, including facilities in place, facilities necessary to serve the new development by phase, and potential impact on off-site facilities, critical areas, or water resources, and all Type 4 and 5 streams affected by mines or accessory activities.~~

~~(iv) For mineral extraction special use permits only: Blasting, if applicable, and potential risks and mitigation.~~

~~(v) Water source and uses and affect on neighboring properties. [Ord. 1170B, 2000]~~

~~17.115.050 Hearing examiner review.~~

~~(1) All special use permits shall be heard by the hearings examiner. The hearings examiner shall approve the special use permit upon written findings that:~~

~~(a) The plan is consistent with and promotes the goals of the comprehensive plan and the general and special conditions of the special use;~~

~~(b) Adequate provision is made for public services and facilities concurrent with the development;~~

~~(c) Adequate protection is given adjacent properties from the impacts of safety, noise, fugitive dust, odor, and runoff;~~

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(d) Where state law establishes specific standards for operations (e.g. noise), such standards are to be specifically referenced in any permit; and

(e) Adequate protection is given critical areas, including surface and ground water consistent with the critical areas requirements of Chapter 17.35 LCC.

(f) Access to public streets is consistent with county standards.

(g) The provisions of Chapter 17.145 LCC have been met.

(2) The hearings examiner may condition such special use permit based on written recommendations in environmental documents, and as otherwise necessary to comply with the requirements of this chapter, the County Comprehensive Plan, development regulations, and environmental regulations.

(3) The hearing examiner shall hold an open record hearing and shall issue a decision which shall be final for County purposes. Any party aggrieved by the decision of the hearing examiner, with standing as provided by Chapter36.70C RCW, LUPA, may appeal such decision pursuant to LCC 2.25.140, with further appeal to Superior Court pursuant to Chapter 2.25 LCC. [Ord. 1179, 2002; 1170B, 2000]

17.115.060 Special proceedings.

In addition to other remedies available under the laws of the State of Washington:

(1) For mine sites only: The hearings examiner shall, upon the request of the County or the petition of one or more property owners within one-half mile of a mine site, conduct a public hearing to determine:

(a) The extent of lawfully permitted mining activity on July 26, 1999

(b) Whether the current mining operation is operating within the boundaries of a lawful pre-existing mine site

(c) Whether a special use permit is required to continue mining operations.

(2) For any special use permit: The hearings examiner shall, upon the request of the County or petition of one or more residents within one-half mile of a special use permit site, conduct a public hearing to determine whether the terms of the permit are being followed. If the hearings examiner finds the conditions of the permit are not followed, the examiner may require modification of the permit to solve the problem. Where offsite damage has occurred, the examiner may suspend the permit until all necessary corrections are made, or when uncompensated damages have occurred attributable to mine operations, the examiner may condition reopening of permit upon payment of any damages caused by mining operations, including but not limited to replacing potable water supplies. Payment may be made under protest, or bond posted if the operator wishes to proceed and appeal the determination under LCC 2.25.130.

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~~(3) Upon receipt of a petition under either (1) or (2) above, the County shall notify all property owners abutting or within 500 feet of the property which is the subject of the special use permit, to notify them of the proceeding and of their right to participate. The notice of the proceeding shall also be published in the newspaper of record.~~

~~(4) For mine sites only: Variances may be granted to a special use permit holder for the "Hours of Operation" provisions noted in LCC 17.115.030(19)(b)(viii) if findings are made that immediate compliance with any requirements cannot be achieved because of special circumstances rendering immediate compliance unreasonable in light of economic or physical factors requiring operations beyond such limitations. Any variance or renewal thereof shall be granted only for the minimum time period found to be necessary under the facts and circumstances, and shall otherwise comply with all other applicable regulations. Variances shall be reviewed and administratively issued by the Director of Community Development or his/her designee only upon application in writing and after being provided such information as may be requested. No variance shall be issued for a time period to exceed twenty-one (21) days, except upon due notice to the public and a public hearing before the hearings examiner, and no more than one variance in any 90-day period shall be issued without such notice and hearing on any subsequent variance request. [Ord. 1170B, 2000]~~

Chapter 17.120
MASTER PLANS–RURAL AREA USES

Sections:

17.120.010 Purpose.
17.120.020 Application.
17.120.030 Complete application–vesting.
17.120.040 Process.

17.120.010 Purpose.

The purpose of the master plan process is to identify a means of planning development for an entire property as a prerequisite for development on any portion of the property. ~~The master plan process is required for Tourist Services Area development under Chapter 17.70 LCC and for Rural Area Industrial development under Chapter 17.75 LCC. [Ord. 1170B, 2000]~~

17.120.020 Application.

~~The proponent of any~~ A master plan for rural area uses shall be processed as a Type III application. Where the division of land is sought as part of the application, the applicant may submit a binding site plan for the proposal, instead of a master plan, so long as the site plan addresses the requirements included within this chapter. ~~specific proposal shall submit an application with the information required below.~~ The application must be signed by the owners of at least 50~~%~~ percent of the property subject to the plan. ~~The application shall identify:~~

~~(1) The owner or owners of the property to be planned, which shall be the entire parcel designated in the comprehensive plan.~~

~~(2) The legal description of the property to be planned-the entire designated parcel, together with each separate ownership within the development area.~~

~~(3) A map or series of maps at a scale of 1" = 500 feet, or as approved by the Administrator as necessary to adequately illustrate the proposed development, which shows:~~

~~(a) Boundaries of the designated area.~~

~~(b) Boundaries of individual ownerships.~~

~~(c) Dedicated rights of ways or easements over, across, or under the property.~~

~~(d) Existing roads, highways, and driveways abutting the site and within one-half mile of the site.~~

~~(e) Property ownerships within one-half mile of the site.~~

~~(f) Wells within the development area or within 1,000 feet of the boundary of the site which are used for domestic use or identified through well log or water right records.~~

~~(g) A general identification and location of all critical areas on the site or within 1,000 feet of the site and the specific identification of all Type 1, 2, and 3 streams under WDF&W criteria, and any streams or water bodies subject to jurisdiction under Chapter 90.58 RCW, the State Shoreline Management Act.~~

~~(h) A land use plan map showing planned land use categories and areas, circulation, critical area buffers, and open space.~~

~~(4) A phasing plan which shows the proposed phases for development and how the phases are designed to assure the overall coordinated development of the site and its integration into the surrounding community.~~

~~(5) An environmental checklist or a request to proceed directly to scoping under SEPA. Any environmental review shall provide special studies which address:~~

~~(a) On-site and off-site critical areas, issues, protection, and mitigation.~~

~~(b) Transportation—Present facilities and upgrades if required, new facilities and phasing, on-site and off-site impact and mitigation required.~~

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~~(c) Water, Wastewater Stormwater—Facilities in place, facilities necessary to serve the new development by phase, and potential impact on off-site facilities, critical areas, or water resources. [Ord. 1170B, 2000]~~

~~**17.120.030 Complete application–vesting.**~~

~~Upon receipt of an application and the payment of the prescribed fee in the County fee schedule, the County shall, within 28 days, issue a letter of completeness or identify the specific information required for a complete application. If no letter is sent, the application shall be deemed complete upon the 29th day after receipt of the application. If a letter is sent, the application shall be deemed complete upon receipt of the information identified in the letter. If the applicant does not submit the necessary information in writing to complete an application within a 90-day period, the County shall make findings and issue a decision that the application is rejected. If the County rejects an application, all vesting rights are lost. [Ord. 1170B, 2000]~~

17.120.030 Master Plan Required.

The master plan process is required for Tourist Services Area development under Chapter 17.70 LCC and for Rural Area Industrial development under Chapter 17.75 LCC. [Ord. 1170B, 2000]

17.120.040 Process.

Master plans must identify compliance with the comprehensive plan and detail the source and adequacy of water, waste water treatment, fire control, transportation, storm water treatment, surface and ground water protection, critical areas and protection, and mitigation of adjacent properties from direct impacts from noise, fugitive dust, odor, and runoff.

(1) The hearings examiner shall review the master plan and make written findings on the following issues:

(a) The plan is consistent with and promotes the goals of the comprehensive plan and the implementing development regulations.

(b) Adequate provision is made for public services and facilities concurrent with the development~~, provided that uses approved within the master plan shall not require the provision of municipal sewers~~.

(c) On site public services or facilities are limited to the project area and not available to spur growth outside the master plan area.

(d) Adequate provision is given adjacent properties from the impacts of noise, fugitive dust, odor, and runoff.

(e) Adequate protection is given critical areas, including surface and ground water.

(f) County standards are met as provided in Chapter 17.145 LCC.

(2) The hearings examiner may condition such master plan based on written recommendations in environmental documents, the comprehensive plan, and as otherwise necessary to comply with the requirements of this ordinance.

~~(3) The hearings examiner shall hold an open record hearing and shall issue a final decision.~~

~~(4) A master plan under this chapter is a quasi-judicial process to enable development of the subject property consistent with the guidelines and standards of this chapter. A final decision shall be final unless appealed pursuant to Chapter 36.70C RCW. [Ord. 1170B, 2000]~~

Chapter 17.125
ESSENTIAL PUBLIC FACILITIES

Sections:

17.125.010 Purpose.
17.125.020 Definitions.
17.125.030 Procedure.

17.125.010 Purpose.

The purpose of this chapter is to identify means of siting essential public facilities within the rural zones of Lewis County. Within incorporated IUGAs [UGA's*] city criteria shall prevail. [Ord. 1170B, 2000]

~~17.125.020 Definitions.~~ ALREADY IN DEFINITION SECTION

~~(1) "Essential public facilities–major" means those facilities which are not required to be located in Lewis County, but which may be designated for Lewis County by the appropriate agency and which have the potential for material local impact. Such facilities include state prisons and correctional facilities administered by the Washington State Department of Corrections, regional or international airports operated by authorities not located in Lewis County, energy facilities proposed by a utility not headquartered in Lewis County.~~

~~(2) "Essential public facilities–local" means transportation, utility, and education facilities; special needs facilities; solid waste facilities; port facilities administered by ports; juvenile detention facilities; community jail and other facilities all administered by an agency or entity headquartered in Lewis County. Local general aviation airports owned and/or operated by municipal authorities shall be an essential public facility. [Ord. 1170B, 2000]~~

17.125.030 Procedure.

(1) Essential public facilities–major. All ~~such~~ major essential facilities may be considered ~~for Lewis County~~ through a Type V comprehensive plan amendment and rezone per LCC Chapter 17.05~~.~~ The sponsoring agency may request such an amendment ~~and such request shall be considered by the Lewis County Planning Commission, which shall make a recommendation to the Lewis County Board of County~~

~~Commissioners~~. Areas of specific consideration shall include the need for the facility, the ability of the community to provide adequate public facilities and ~~to~~ meet ~~adequacy~~concurrency requirements, the impact on designated resource lands,; and the ability of the community to adequately mitigate, or compensate, where appropriate, local residences significantly impacted by the project.

(2) ~~The comprehensive plan amendment shall include a master plan which may deal with all development related issues on the site. In such event the comprehensive plan amendment shall include both a rezone and a master plan approval which, if approved, would permit immediate development of the facility. Alternatively, the proponent may request a two-phase application in which the initial comprehensive plan designation would be a request for the land, together with guiding development criteria, and~~When consistent with Comprehensive Plan and zoning requirements, future development of essential public facilities ~~plans~~ ~~would~~ may be considered as part of a Type III ~~site wide~~ master plan submitted pursuant to Chapter 17.120 LCC.

(3) Essential public facilities–local. All facilities identified as essential public facilities–local shall be processed as a Type III application per LCC 17.05~~are considered allowed uses through the special use permit process identified in Chapter 17.115 LCC~~. [Ord. 1179, 2002; Ord. 1170B, 2000]

~~*[Note: interim UGA's have been supplanted by UGA's, as set forth in the Comprehensive Plan]~~

Chapter 17.155
NONCONFORMING USES AND PARCELS

Sections:

17.155.010 Continuation.
17.155.020 Expansion of nonconforming use.
17.155.030 Zone district change - continuation.
17.155.040 Change to another nonconforming use.
17.155.050 Damage or destruction - rebuilding permitted.
17.155.060 Lots of record.
17.155.065 Nonconforming lots of record.

17.155.010 Continuation.

Except as otherwise provided in this chapter, the lawful use of any building or structure (whether or not covered by UBC or L&I), building, land, or premises, existing on the effective date of adoption or amendment of this ordinance, may be continued although such use does not conform to the provisions hereof. If such nonconforming use is discontinued for a period of 36 months or more, any future use of said building, land, or premises shall be consistent with the provisions of Title 17. [Ord. 1170B, 2000]

17.155.020 Expansion of nonconforming use.

Nonconforming uses may be extended throughout any building or structure (whether or not covered by UBC or L&I) partially occupied by such use at the time of passage of this ordinance. The expansion of a nonconforming use by addition or enlargement shall be ~~conditionally permitted, as provided in LCC~~

~~17.160.020-.030~~reviewed as a Type III application per LCC 17.05. The expansion must be on the lot of record as it existed at the time the use became nonconforming and the use shall not expand on adjacent lots. The expansion shall be approved if it is consistent with the applicable zoning regulations except the use restrictions and complies with Chapter 17.160 LCC. [Ord. 1170B, 2000]

17.155.030 Zone district change - continuation.

When a zone district is changed, existing nonconforming uses may be continued consistent with the provisions of this title. [Ord. 1170B, 2000]

17.155.040 Change to another nonconforming use.

The change of a nonconforming use to another type of a nonconforming use shall be ~~conditionally permitted, as provided in LCC 17.160.020-.030~~processed as a Type III application per LCC 17,05. The change of nonconforming use shall be approved if it is consistent with the applicable zoning regulations, except the use restrictions, and complies with LCC 17.158~~17.160.030(2) to (6)~~, providing such change does not require the provision of water and sewer utility services at a level greater than that currently available to the subject property, and that the new nonconforming use does not result in greater impacts upon surrounding properties than did the original nonconforming use. [Ord. 1170B, 2000]

17.155.050 Damage or destruction - rebuilding permitted.

If a nonconforming use or physical feature of a building or structure or group of buildings or structures on one site is damaged or destroyed by any means, that use shall be permitted to be rebuilt equal to the square footage of damaged or destroyed building(s), and for the same use and location on the site. Any such rebuilding shall meet current building codes in Title 15 LCC in effect at the time of the application for reconstruction. Rebuilding shall be timely if application for development is filed within 36 months of such damage. [Ord. 1170B, 2000]

17.155.060 Lots of record.

Lots of record shall be as defined in LCC 16.02.050. [Ord. 1170B, 2000]

17.155.065 Nonconforming lots of record.

Any permitted use or structure is allowed on legal lots of record which do not meet the minimum lot size or width requirements of the zone, provided setback requirements and all other applicable requirements conform to Lewis County regulations. [Ord. 1253, 2014]

Chapter 17.158
SPECIAL USE PERMITS (COMBINATION OF 17.115 AND 17.160)

Sections:

17.158.010 Purpose.

17.158.012 Special Use Permits
17.158.020 General criteria.
17.158.024 Special use criteria
17.158.030 Special uses.
17.158.040 Revisions to special use permits

17.158.010 Purpose.

Special use permits may be allowed as set forth in this chapter. Special use permits shall be reviewed as a Type III application.

17.158.012 Special use permits. FROM 17.160.020

Special use permits shall run with the land and be binding on all parties with an interest in the land to which the permit attaches. [Ord. 1170B, 2000]

17.158.020 General criteria.

The county adopts the following criteria as general criteria which shall be required as part of every special use permit issued by the County.

(1) The maximum environmental noise levels established by Chapter 173-60 WAC and incorporated herein by reference, together with any adjustments authorized therein.

(2) The air quality standards adopted by the Southwest Washington Air Pollution Control authority and any SWAPCA permit issued for a project.

(3) The terms of any permit issued for a project by a resource agency, including Washington State Department of Fish and Wildlife, HPA, water quality permit, Chapter 90.48 RCW, shoreline permit, Chapter 90.58 RCW, or permit issued by the U.S. Army Corps of Engineers.

(4) Conditions imposed in any final environmental determination, Mitigated Determination of Nonsignificance or Final Environmental Impact Statement under Chapter 43.21C RCW.

17.158.024 Special use criteria. FROM 17.160.030

Beyond the general criteria noted above, the hearing examiner shall ensure that any specific standards of the use district defining the special use are fulfilled, and shall find adequate evidence showing that the proposed special use at the proposed location:

(1) Will be harmonious and in accordance with the general and specific objectives of the Lewis County comprehensive plan and zoning regulations.

(2) Will be adequately served by essential public facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and waste disposal, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.

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(3) Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community.

(4) Will not involve uses, activities, processes, materials, equipment, or conditions of operation that will be detrimental to any persons, property, or the general welfare by reasons of excessive production of traffic, noise, smoke, fumes, glare, or odors.

(5) Will have vehicular approaches to the property designed as to not create an interference with traffic on surrounding public streets.

(6) Will not result in the destruction, loss, or damage of any natural, scenic, or historic feature of major importance. [Ord. 1170B, 2000]

(7) Will ensure adequate protection is given critical areas, including surface and ground water consistent with the critical areas requirements of Chapter 17.35 or 17.35A LCC.

The hearings examiner may condition such special use permit based on written recommendations in environmental documents, and as otherwise necessary to comply with the requirements of this chapter, the County Comprehensive Plan, development regulations, and environmental regulations.

17.158.030 Special uses.

The following special uses shall be reviewed as provided in this chapter:

(1) Group homes and other state-licensed residential care facilities. The hearings examiner shall make a written finding that all terms of the state license which govern location and physical development of the facility are met by the application.

(2) Rural resorts as identified in Tables 1 and 2, LCC 17.42.030 and 17.42.040.

(a) Special Conditions.

(i) Uses which propose development on more than 40 acres must be processed as a master plan pursuant to Chapter 17.120 LCC.

(ii) All permanent access roads and permanent parking areas shall be hard surface to reduce mud and dust.

(3) Recreation and camping facilities subject to a special use permit such as mining camps, river camps, and hunting and hiking camps which provide necessary facilities to permit use and enjoyment of the Lewis County out of doors.

(a) Special Conditions.

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(i) All permanent access roads and permanent parking areas shall be hard surface to reduce mud and dust.

(4) Sports facilities and clubs including golf courses, playing fields for outdoor sports and other facilities, as identified in Tables 1 & 2, LCC 17.42.030 and -.040:

(a) Special conditions:

(i) Uses which are larger than 40 acres must be processed as a master plan pursuant to Chapter 17.120 LCC.

(ii) All permanent access roads and permanent parking areas shall be hard surface to reduce mud and dust.

(iii) As to pistol, rifle, skeet, and other shooting facilities which encourage education and training in the safe use of lawful firearms, the application shall include noise and range safety evaluation for property within one half mile of the proposed range. The hearing examiner must specifically find that the range does not pose a safety hazard to any resident within the study area.

(5) Private aviation facilities (facilities providing landing surface and takeoff for aircraft or heliports used by nine or fewer aircraft).

(a) Special conditions.

(i) All landing strips shall be so designed and the runways and facilities so oriented, that the incidents of aircraft passing directly over dwellings during their landing or taking off patters is minimized. They shall be located so that traffic shall not constitute nuisance to neighboring uses. The hearing examiner shall find, in writing, that the applicant has secured easements and other rights necessary to implement runway protection zones and other safety regulations required by the FAA consistent with the proposed aviation use.

(ii) The proponents shall show that adequate controls or measures will be taken to prevent offensive noise, vibrations, dust, or bright lights.

(iii) New private use landing strips and heliports shall be allowed in a rural or resource zone by a special use permit, with standards set forth in FAA regulations in effect on the date of application* and subject to the same notice requirements of subsection (6)(v) of this section.

(iv) For purposes of this section, an ultra light aircraft for personal use does not require a permit under this section and shall be considered an accessory use for any residential site in excess of five acres.

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(6) Public aviation facilities (facilities providing landing surface and takeoff for 10 or more general aviation aircraft) (aircraft based at those landing areas are owned or controlled by the landowner or tenant and subject to any limitations deemed necessary by the hearing examiner)

(a) Special conditions.

(i) The minimum lot size shall be 60 acres.

(ii) The centerline of any such landing area shall not be located within 500 feet of any property line, building, or structure; except that a legal affidavit from adjacent property owner(s) allowing all, or a portion, of that 500 feet as a recorded easement on their property, presented as part of a special use permit application, shall be acceptable.

(iii) The field shall comply with the standards set forth in FAA regulations in effect on the date of application*.

(iv) Fuels and lubricants associated with the operation of personal use aircraft will be stored and handled in accordance with pertinent state and county codes. All aircraft and pilots must comply with all current Federal Aviation Regulations for the maintenance and operation of aircraft.

(v) Notification of special use permit application hearing shall go, by first class mail, to residents within 1,000 feet from any point on a proposed aircraft landing area.

This notification requirement is in addition to all other notification requirements for special use permit applications found in LCC Chapter 17.05, and those appropriate notification requirements of this chapter. Notice of hearing shall be published in the newspaper of record and in the newspaper of widest circulation in the area affected.

(vi) In addition to the requirements for a special use permit, the requirements of RCW 36.70.547 shall be met.

(vii) Such facilities shall be located on parcels where the aircraft allowed are at least 500 feet off of the ground prior to crossing a property line on takeoff or landing.

(viii) No residential structure shall be closer than 1,000 feet to the proposed air facility,

(ix) No place of public assembly shall be located within one half mile of the end of any such facility.

(x) The hearing examiner shall find, in writing, that the applicant has secured easements and other rights necessary to implement runway protection zones and other safety regulations required by the FAA consistent with the proposed aviation use.

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(7) Home based businesses and isolated small businesses that require a special use permit.

(a) Special conditions.

(i) Any new facilities shall be located more than 200 feet from lands designated as critical areas, and shall be required to identify and take steps to protect resource activities where such activities occur nearby.

(ii) All home occupation facilities must be located on property contiguous to the parcel upon which the owner or manager resides.

(iii) A permit granted under this section is applicable to the facilities approved, so long as all criteria for home based industries are met. Where an owner desires to move and to move the business as a home based industry, a new permit will be required for the new location.

(iv) The cumulative effect of similar uses in the neighborhood must be identified to assure that the land is capable of accommodating the use without creating the need for new services or facilities which are not rural in nature.

(8) Cluster subdivisions greater than six units.

(a) Special conditions.

(i) Must be on properties 40 acres and larger.

(ii) No more than 24 cluster subdivision units in any 1/2-mile radius, except where separated by a visual geographic barrier.

(iii) The hearing examiner shall examine the existing and proposed development within a one-mile radius of the perimeter of the proposed site to protect rural character and shall:

(A) Determine the nature of existing development and availability of adequate facilities.

(B) Determine the likelihood of probably future cluster development.

(C) Determine the cumulative effect of such existing and probable future development.

(iv) The hearing examiner shall identify necessary conditions, including caps or specific limitations to assure that urban development defined in RCW 36.70A.030(17) as prohibited outside urban growth areas by RCW 36.70A.110 does not occur, and that the rural character identified in the comprehensive plan and RCW 36.70A.030(16) and RCW 36.70A.070(5)(b) is protected, and to achieve the specific requirements of RCW36.70A.070(5)(c).

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(9) Essential public facilities–local. All facilities identified as essential public facilities–local. (Essential public facilities – major, such as a solid waste disposal facility or hydroelectric project, must be sited and approved as a comprehensive plan amendment.)

(a) Special conditions.

(i) The use is located in accordance with the criteria identified in a comprehensive plan adopted by the service provider.

(ii) If outside a UGA, the use can be accommodated without requiring urban services or promoting urban growth in rural areas.

(10)(A) Small towns–mixed use/commercial buildings in excess of 10,000 sq.ft. Projects in small towns–mixed use/commercial exceeding 10,000 square feet.

(B) Small towns–industrial uses in excess of 20,000 sq.ft. Projects in small towns-industrial exceeding 20,000 square feet.

(a) Special conditions.

(i) The facility contains uses of a type and scale found in small towns.

(ii) That off-street parking is sized to accommodate the intended uses.

(iii) That the adequacy and rural facility tests of Chapters 17.130 and 17.150 LCC are met.

(11) Recreational vehicle park. A recreational vehicle park is a facility for the short- or long-term use of recreational vehicles, as distinguished from mobile homes or camp sites approved under other sections of this Code.

(a) Special conditions.

(i) Recreational vehicle parks shall conform to the requirements of the recreational vehicle park ordinance set forth in Title 16 of this Code. Per Tables 1 & 2, at LCC 17.42.030 and .040, RV Parks up to 100 sites or up to 10 acres are processed through a Special Use Permit; those over 100 sites and up to 40 acres go through a Rural Master Plan process, and those having more than 100 sites and larger than 40 acres go through as a Master Plan Resort.

(12) Creation of new surface mining areas or the expansion of the surface mining areas.

(a) Applicability. This section applies to the creation of new surface mining areas or the expansion of lawfully permitted activities beyond the approved DNR reclamation plan area in effect on July 26, 1999; provided, however, this does not cover any mining activity which is less than three acres in size and less than 5,000 yards per year.

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(b) Mine development standards. All permits issued pursuant to this section shall require the following minimum standards. The hearing examiner may increase buffers and mitigation where good cause is shown.

(i) Setbacks/Screening.

(A) A fifty (50) foot setback from the mine property and from all abutting property, consistent with and subject to the reduction provisions of Section 17.30.810 LCC, shall be maintained for areas of direct cut or fill connected with resource extraction operations. For mining operations, setbacks may be increased when necessary to protect lateral support of abutting properties or public rights of way.

(B) A twenty-five (25) foot screen within the fifty (50) foot setback on the mine property, consisting of site obscuring vegetation, berms, or other methods to conceal the mine from public rights of way or property used for residential purposes as approved by Lewis County shall be maintained.

(C) Any direct extraction operation areas within a public utility right of way shall be subject to the written conditions of approval from the affected utility, which shall be incorporated into the permit.

(D) A two hundred (200) foot setback shall be maintained between any mining activity and any existing structure occupied for sleeping or eating purposes but not including accessory structures such as barns or out buildings, existing at the date of application.

(ii) Road use–In order to assure maintenance and development of adequate county roadways, owners of surface mining operations may be required to enter into a haul route agreement with the County Engineer upon adoption and implementation of a Haul Route Agreement Program. The haul route agreement shall address impacts immediately attributable to project use.

(iii) Traffic safety–The operator may be required to install traffic improvement, control, and warning signs to assure adequate access and traffic safety.

(iv) Noise/Bright lights

(A) No development or activity shall exceed the maximum environmental noise levels established by Chapter 173-60 WAC.

(B) Bright lights shall be shaded or shielded from adjoining residential properties.

(v) Surface mining operation with critical aquifer recharge areas–The purpose of this section is to protect critical aquifer recharge areas as required by RCW 36.70A.060(2). Any surface

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mining operation within a critical aquifer recharge area (as designated in Chapter 17.35A LCC) shall meet the following standards:

(A) Fuel tanks and oil drums shall be double containment construction and protected by bermed areas having adequate capacity to accommodate, contain, and allow the removal of petroleum spills. Fuel nozzles shall not contain locking devices. Fuel storage shall be above ground. Fueling of mobile equipment shall be located at least twenty feet above the seasonal high ground water level or within lined and bermed areas with adequate capacity to accommodate, contain, and allow the removal of petroleum spills. Where the nature of the operation is such that the machinery cannot be moved for fueling, or the aquifer is less than twenty (20) feet from the surface, the Hearings Examiner may approve an alternative fueling plan which accomplishes aquifer protection.

(B) All operations shall maintain a fuels/hazardous waste management plan maintained by the operator and available on the site at all times.

(C) Surface mines shall not use any noxious, toxic, flammable, compactable, or combustible materials not specifically authorized by Lewis County Department of Health for backfill or reclamation. Non-contaminated process water used for gravel washing shall be routed to settling ponds to minimize off-site discharges. A general permit from the Department of Ecology for process and storm water discharge may substitute for these requirements.

(D) On-site truck and equipment wash runoff shall be routed to retention facilities equipped with an oil-water separator prior to its release to settling ponds.

(E) Use of chemicals, petroleum or hazardous products, and disposal of such products, in concrete or asphalt plant operations within critical aquifer recharge areas shall meet all the standards set forth in Chapters 90.48 RCW and 173.303 WAC.

(vi) Public safety–Owners of surface mines shall ensure their operation(s) will not be hazardous to neighboring uses. Blasting activities shall be conducted so that ground vibrations comply with all state laws about peak particle velocity, air pressure, and other state requirements, including but not limited to Chapter 9 of the Blasting Guidance Manual identified below. All fly-rock shall be contained within the site. All activities shall comply with the standards set forth in official guidelines, including but not limited to Office of Surface Mining U.S. Department of Interior, Blasting Guidance Manual, 1987 ed., Explosives: WAC 296-52-493, Part F.

(vii) Surface water permit–WDOE NPDES Sand and Gravel General Permit or individual permit, as appropriate, shall be a condition of approval and incorporated herein by reference.

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(viii) Hours of operation–Regular hours of operation shall be between the hours of six-thirty (6:30) o'clock AM and seven (7) o'clock PM; blasting shall only occur during the time period between ten (10) o'clock AM and four (4) o'clock PM. Prior to any blast, twenty-four (24) hour notice shall be given to all property owners or residences within five hundred (500) feet of any mine property line. If a blast does not occur as scheduled in a notification, twenty-four (24) hour renotification shall be required. The Hearings Examiner may inquire into the proposed hours of operation and set additional limits when deemed necessary to protect quiet enjoyment of neighboring residential properties. The Hearing Examiner may include provisions for exceptions from established regular hours of operation. Extended hours may be requested and approved under conditions set by the hearings examiner, particularly for work on public works contracts where an emergency may require work outside regular hours.

(c) Exceptions--This permit process shall not be applicable to mines regulated under federal mining laws.

(13) Auctioneering Facilities. Auctioneering facilities to serve the equipment needs of the transportation, industrial and agricultural industries (including the local and regional markets) are permitted as a special use. These facilities are deemed to be consistent with the rural character and development patterns of Lewis County as long as the following conditions are met:

(a) Site Characteristics.

(i) The site shall be at least 80 gross acres but shall not exceed 240 gross acres.

(ii) The building area on the site shall not exceed 80,000 gross square feet.

(iii) The site shall be located within one mile measured horizontally from a major transportation corridor.

(b) Services. The use does not require urban services.

(c) Preservation of Rural Areas.

(i) Critical areas on the site shall be preserved with their buffers.

(ii) No critical areas variances shall be granted except as needed to provide access and/or necessary utilities to the site.

(d) Off-Site Impacts. The special use shall adequately mitigate potential off-site impacts, including, but not limited to, parking, noise, lighting, fumes and dust. [Ord. 1210 §1 (Exh. 1, Att. C), 2009; Ord. 1179B Ex. B, 2003; Ord. 1170B, 2000]

*[Codifier's Note: FAA regulations referenced are FAR Title 14, Part 157, Section 157.3, and as thereafter amended.]

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[Ord. 1179, 2002; 1170B, 2000]

17.158.040 Revisions to special use permits. FROM 17.160.040

Revisions to special use permits may be processed as a Type I application; provided that the proposed changes are within the scope and intent of the original permit. "Within the scope and intent of the original permit" shall means the following:

(1) Lot coverage and height may be increased a maximum of 10 percent from the provisions of the original permit; provided that revisions involving new structures not shown on the original site plan shall require a new permit; and provided further that any revisions authorized under this paragraph shall not exceed height, lot coverage, setback, or any other requirements of the regulations for the area in which the project is located.

(2) Landscaping may be added to a project without necessitating an application for a new permit; provided that the landscaping is consistent with conditions (if any) attached to the original permit and is consistent with the regulations for the area in which the project is located.

(3) The use authorized pursuant to the original permit is not changed.

(4) No additional over-water construction will be involved for shoreline conditional use permits.

(5) No substantial increase in adverse environmental impacts will be caused by the project revision. [Ord. 1170B, 2000]

Revisions beyond the scope and intent of the original permit shall be processed as a Type III application.

Chapter 17.160
PROCEDURES FOR ~~VARIANCES,~~ ADMINISTRATIVE APPROVALS AND ~~,~~ ADMINISTRATIVE REDUCTIONS~~, SPECIAL USES, AND APPEALS~~

Sections:

17.160.010 Process for administrative approval and administrative reduction.~~Variances.~~

~~17.160.020 Special use permits.~~

~~17.160.030 Special use criteria.~~

~~17.160.040 Revisions to special use permits.~~

17.160.050 Conditions for ~~A~~administrative approval uses.

~~17.160.055 Process for administrative approval and administrative reduction.~~

~~17.160.060 Appeals.~~

~~17.160.070 Fees.~~

~~17.160.080 Date of expiration.~~

~~17.160.010 Variances.~~

~~(1) The hearing examiner shall have authority to grant a variance from the provisions of this title when, in the opinion of the hearing examiner, the conditions set forth in LCC 17.160.010(2) herein have been found to exist. In such cases, a variance may be granted which is in harmony with the general purpose and intent of this title so that the spirit of this title shall be observed; provided that no variance shall be granted which authorizes a use which is not permitted by the underlying zoning.~~

~~(2) Before any variance may be granted, it shall be shown that the following circumstances are found to apply:~~

> ~~(a) That any variance granted shall not constitute a grant of special privilege, be based upon reasons of hardship caused by previous actions of the property owner, nor be granted for pecuniary reasons alone.~~
>
> ~~(b) Because of special circumstances applicable to the subject property, including size, shape, topography, location, or surrounding, the strict application of this title is found to cause a hardship and deprive the subject property of a reasonable use or improvement generally allowed in the zone classification. Aesthetic considerations or design preferences without reference to restrictions based upon the physical characteristics of the property do not constitute sufficient hardship under this section.~~
>
> ~~(c) That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the vicinity. [Ord. 1179, 2002; Ord. 1170B, 2000]~~

~~17.160.020 Special use permits.~~

~~Upon application, the hearing examiner may grant special use permits for such uses as set forth in this ordinance. Special use permits shall run with the land and be binding on all parties with an interest in the land to which the permit attaches. [Ord. 1170B, 2000]~~

~~17.160.030 Special use criteria.~~

~~Before approving an application for a special use permit, the hearing examiner shall ensure that any specific standards of the use district defining the special use are fulfilled, and shall find adequate evidence showing that the proposed special use at the proposed location:~~

~~(1) Will be harmonious and in accordance with the general and specific objectives of the Lewis County comprehensive plan and zoning regulations.~~

~~(2) Will be adequately served by essential public facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and waste disposal, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.~~

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~~(3) Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community.~~

~~(4) Will not involve uses, activities, processes, materials, equipment, or conditions of operation that will be detrimental to any persons, property, or the general welfare by reasons of excessive production of traffic, noise, smoke, fumes, glare, or odors.~~

~~(5) Will have vehicular approaches to the property designed as to not create an interference with traffic on surrounding public streets.~~

~~(6) Will not result in the destruction, loss, or damage of any natural, scenic, or historic feature of major importance. [Ord. 1170B, 2000]~~

~~**17.160.040 Revisions to special use permits.**~~

~~The hearing examiner may approve revisions to special use permits; provided that the proposed changes are within the scope and intent of the original permit. "Within the scope and intent of the original permit" shall means the following:~~

~~(1) Lot coverage and height may be increased a maximum of 10 percent from the provisions of the original permit; provided that revisions involving new structures not shown on the original site plan shall require a new permit; and provided further that any revisions authorized under this paragraph shall not exceed height, lot coverage, setback, or any other requirements of the regulations for the area in which the project is located.~~

~~(2) Landscaping may be added to a project without necessitating an application for a new permit; provided that the landscaping is consistent with conditions (if any) attached to the original permit and is consistent with the regulations for the area in which the project is located.~~

~~(3) The use authorized pursuant to the original permit is not changed.~~

~~(4) No additional over-water construction will be involved for shoreline conditional use permits.~~

~~(5) No substantial increase in adverse environmental impacts will be caused by the project revision. [Ord. 1170B, 2000]~~

17.160.010 Process for administrative approval and administrative reduction. *MOVED FROM 17.160.055*

An application for an administrative approval and administrative reduction shall be processed as a Type II application.

17.160.050 Conditions for certain ~~Administrative~~ administrative approval uses.

(1) Home occupation.

(a) No more than two persons, other than family residing on the premises, shall be engaged in such occupation.

(b) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants.

(c) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation, other than one sign, not exceeding four square feet in area, nonilluminated and mounted on the property; except day care facilities with 10 children or less may use yard areas for recreation.

(d) No traffic shall be generated by such home occupations in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall meet the off-street parking requirements as specified in this ordinance and shall not be located in a required front yard.

(e) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lots, if the occupation is conducted in a single-family residence or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuation in line voltage off the premises.

(2) Temporary second dwelling.

(a) A temporary second dwelling unit of no more than 1,248 square feet in area, in the form of a manufactured home, a fully serviced travel trailer or motor home, to provide:

(i) A temporary dwelling space for family members who, due to professionally documented physical or mental disorders or disabilities, or risks of such disorders or disabilities, require daily supervision and care where such care is provided by members of the family who reside on the property; or

(ii) A temporary dwelling space for a person providing care for the resident owner of the subject property when said owner needs daily supervision and care as described in (a) above.

(b) Approval Requirements: Administrative approval for temporary second dwelling units shall be approved if it is determined that the proposal meets the following requirements:

(i) Temporary second dwelling units shall only be permitted on fully serviced parcels on which the applicant can meet setback, ingress, egress, height restrictions, and lot coverage requirements.

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(ii) The size of the temporary dwelling shall be appropriate to the use and size of the parcel and shall be limited so as to comply with the standards set forth in (i) above.

(iii) The temporary home shall also be approved by the Lewis County Health Officer as a medical hardship placement.

(iv) When daily supervision and care is no longer necessary, this approval shall automatically lapse, without further notice, and the temporary home shall be immediately removed or converted to a conforming use.

(v) The permit shall be valid for one year. The permittee may apply for renewal on a yearly basis; provided that supporting documentation from a licensed medical doctor is furnished by the permittee affirming that the circumstances supporting the original permit remain in effect, and that the permit continues to satisfy standards established by the Lewis County Health Officer for medical hardship placements.

(vi) A covenant shall be filed that restricts lease, sale or transfer of the property while the temporary dwelling is in place.

(vii) The use will not be hazardous or disturbing to existing or future neighboring uses.

(viii) Evidence of adequate off-street parking space shall be provided.

(ix) There shall be no occupancy of the temporary dwelling outside the conditions under which the temporary dwelling is permitted pursuant to this section.

(c) Penalties: False statements or false supporting documentation submitted with the application or failure to comply with any of the approval requirements shall be cause for revocation of the permit and may result in criminal prosecution. [Ord. 1253, 2014; Ord. 1170B, 2000]

~~**17.160.055 Process for administrative approval and administrative reduction.**~~

~~(1) The application for an administrative approval and administrative reduction shall include the application together with appropriate documentation of compliance with approval requirements.~~

~~(a) The filing fee;~~

~~(b) Stamped and addressed envelopes for all property owners within 500 feet of the external boundaries of the subject property or the nearest resident property owner adjacent to the subject property, but only within 1,500 feet of the project site;~~

~~(c) Three copies of a site plan at an appropriate scale showing:~~

~~(i) Locations of property boundaries;~~

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~~(ii) Locations and sizes of structures;~~

~~(iii) Access and parking areas;~~

~~(iv) Locations and types of water and sewer services; and~~

~~(v) Locations and types of structures on adjacent properties.~~

~~(2) Upon receipt of application materials, the community development department shall:~~

~~(a) Send a notice of the proposal to all owners of property as identified in subsection (1)(b) of this section at least 10 days prior to the decision date.~~

~~(b) The applicant shall also post public notices of the proposal on all road frontages of the subject property so as to be visible to adjacent property owners and to passing motorists.~~

~~(c) Said notices shall be provided to the applicant by the community development department and shall remain in place for at least 10 days prior to the decision.~~

~~(d) An affidavit of posting that shall be signed and returned at least one week prior to the decision shall also be provided at the time of application.~~

~~(3) The community development department shall approve or deny all applications that do not require a public hearing.~~

~~(4) Property owners who have been notified of the proposal may submit to the community development department a written request for a public hearing.~~

~~(a) The request must be submitted within 10 days from the date printed on the mailed notice or 10 days from the posting of notice on the property, whichever is later.~~

~~(b) The request shall document valid grounds for holding a hearing, specifying how the proposal adversely impacts him or her.~~

~~(c) The community development department will submit the application to the hearing examiner, who shall hold a public hearing and approve or deny the administrative approval application.~~

~~(d) The hearing examiner shall base a decision upon compliance with the criteria established for the proposal and the requirements of this section.~~

~~(5) If the permit is denied, the applicant shall be notified in writing. The grounds for denial and the applicant's right to appeal shall be set forth in this notification.~~

~~(6) Any party of record may appeal the decision.~~

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~~(a) Parties of record shall be defined as the applicant, the owner of the property, any person who has submitted a written response to the proposal, and any person who has testified at a required hearing.~~

~~(b) Each application for appeal of an administrative approval shall be accompanied by a fee. [Ord. 1253, 2014]~~

~~17.160.060 Appeals.~~

~~The hearing examiner shall have the authority to hear and decide, in conformity with this title, appeals from any order, requirements, permit decision, or decision made by an administrative official in the administration or enforcement of this title where more than one interpretation is possible; provided that such appeal shall be filed in writing within fourteen (14) days of the action being appealed. [Ord. 1170B, 2000]~~

~~17.160.070 Fees.~~

~~Fees for variances, special uses, administrative approval uses, administrative reductions, and appeals shall be as set forth in the Lewis County fee schedule in LCC Title 18. [Ord. 1253, 2014; Ord. 1170B, 2000]~~

~~17.160.080 Date of expiration.~~

~~The hearing examiner shall have the authority to fix a date of expiration for any or all approvals, conditions attached to special use permits, variances, or expansions of nonconforming uses. [Ord. 1170B, 2000]~~

Chapter 17.162
PROCEDURES FOR VARIANCES (FROM 17.116.010 AND 17.80, 17.85, 17.90)

Sections:

17.162.010 Variances

17.162.010 Variances.

Variances shall be processed as a Type III application per LCC Chapter 17.05. Variances may be granted that are in harmony with the general purposes and intent of this title; provided that no variance shall be granted which authorizes a use which is not permitted by the underlying zoning.

(1) Conditions for Variances from General Zoning Regulations

Before any variance may be granted, it shall be shown that the following circumstances are found to apply:

(a) That any variance granted shall not constitute a grant of special privilege, be based upon reasons of hardship caused by previous actions of the property owner, nor be granted for pecuniary reasons alone.

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(b) Because of special circumstances applicable to the subject property, including size, shape, topography, location, or surrounding, the strict application of this title is found to cause a hardship and deprive the subject property of a reasonable use or improvement generally allowed in the zone classification. Aesthetic considerations or design preferences without reference to restrictions based upon the physical characteristics of the property do not constitute sufficient hardship under this section.

(c) That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the vicinity. [Ord. 1179, 2002; Ord. 1170B, 2000]

(2) Conditions for Airport Variances

(a) Variances shall be required for any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed within an airport overlay zone established in LCC 17.80, 17.85 or 17.90.

(b) Application for a variance request shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe and efficient use of navigable airspace.

(c) Standards of Review. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in practical difficulty or unnecessary hardship and the relief granted will not create a hazard to air navigation and will not be contrary to the public interest, but will do substantial justice, and will be in accordance within the spirit of this chapter.

(5) Conditions of Approval. Any variance granted may be subject to any reasonable conditions that the hearing examiner may deem necessary to effectuate the purposes of this chapter.

(6) Review of Variance Request by Airport Board. No application for a variance to the requirements of this chapter may be considered by the hearing examiner unless a copy of the application has been furnished to the respective airport board for advice as to the aeronautical effects of the variance. If the airport board does not respond within 15 days after receipt, the hearing examiner may act on his/her own to grant or deny said application. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1129 § 8, 1993]

~~Chapter 17.165~~
~~AMENDMENTS AND FEES~~

~~Sections:~~

~~17.165.010 Amendments.~~
~~17.165.020 Fees.~~

~~17.165.030 Refund of permit fees.~~
~~17.165.040 Comprehensive plan amendments~~

~~17.165.010 Amendments.~~

~~(1) Upon referral by the county commission or by its own initiation, the planning commission may recommend amendments to the provisions of LCC Title 17 as per state statute.~~

~~(2) Upon petition of 50 percent of the owners of the land of any area or district hereafter regulated under the provisions of this title, the planning commission shall consider any changes affecting such district or area and, after holding such public hearing or hearings as the size and character of the district is believed to warrant, shall report its findings to the county commission with its recommendations.~~

~~(3) Amendments affecting or changing zone district boundaries or regulations of land uses previously affected by the ordinance shall be accompanied by a detailed map showing any and all of such proposed changes. [Ord. 1170B, 2000]~~

~~17.165.020 Fees.~~

~~The Lewis County Schedule of Fees is established by local Resolution on file with the Board of County Commissioners and codified under Title 18 LCC. [Ord. 1170B, 2000]~~

~~17.165.030 Refund of permit fees.~~

~~(1) The application may be withdrawn within 30 days of submittal by the owner or agent of the owner. A request for a refund shall be in writing.~~

~~(2) A full refund may be granted where no work shall have commenced on the project for which such application has been made.~~

~~(3) A partial refund may be granted where work has commenced on the project, based on work actually done.~~

~~(4) At the election of the Administrator or his/her designee, a site inspection may be conducted prior to any refund to verify item (2) and to assure that such withdrawal is in the public interest. Such inspections shall be reported back in writing to the Administrator or his/her designee.~~

~~(5) No refunds shall be made for projects/applications which are requested withdrawn when the refund would draw on county funds in a budget year other than the one in which the application and fees were collected.~~

~~(6) Withdrawal of an application shall constitute full surrender of any express or implied rights inherent in an application which has been perfected and accepted by the community development department or its designees. [Ord. 1170B, 2000]~~

~~17.165.040 Comprehensive plan amendments.~~

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~~(1) Purpose. The purpose of this section is to promote coordinated review of comprehensive plan amendments and assure that both individual and cumulative affects of proposed changes may be evaluated.~~

~~(2) Schedule.~~

~~(a) The county shall publish a notice of the schedule in September of each years to permit people to plan and organize proposed amendments.~~

~~(b) The county shall accept recommendations for change through the last business day of December of each year. Applicants shall identify the specific change requested and identify the property or properties affected by the change; and if the change is parcel-specific, the owners of the property affected and the owners of property within 500 feet of the proposed change will be notified.~~

~~(c) The county staff will present the requested changes to the Planning Commission at its first meeting in February and the Planning Commission will identify the proposals consistent with county policies and appropriate for consideration for change.~~

~~(d) The Planning Commission will recommend specific comprehensive plan changes to be scheduled for public hearing at its first meeting in March, will hold public hearings in April, and will make recommendations to the Board of County Commissioners by the Board of County Commissioner's first meeting in May. The timing of the process are targets and will be followed consistent with the needs of notice and public participation.~~

~~(e) The Board of County Commissioners may take such steps as it deems appropriate, but if changes are to be made, the target for action is July of each year to permit changes to be incorporated into county capital facility plans and budgets.~~

~~(f) The Board of County Commissioners may adjust this schedule by resolution where GMA proceedings adversely affect the County's ability to adhere to this schedule. [Ord. 1179, 2002; Ord. 1175 § 2, 2000]~~

Chapter 17.200
MAPS

Sections:

17.200.010 Purpose.
17.200.020 Interpretation and conflict between zoning boundaries
17.200.030 List of adopted maps.

17.200.010 Purpose.

The purpose of this chapter is to identify the maps which are incorporated into the Lewis County development regulations which delineate zoning districts. Where a conflict exists between the map and

the text, the text shall prevail. The zoning districts may be refined from time to time by adoption of amendments (rezones) to the zoning map, in accordance with this text and Chapters36.70 and 36.70A RCW and Chapter 1.05 LCC. Regardless of copies, the official zoning map shall be located in the board of county commissioners (BOCC) office. The community development department shall be the final authority as to the current boundaries of the zoning districts. [Ord. 1223 §1 (Exh. A), 2011; Ord. 1179, 2002; Ord. 1170B, 2000]

17.200.020 Interpretation and conflict between zoning boundaries *FROM 17.05.030*

In interpreting and applying the provisions of this title, they shall be held to be the minimum requirements for development. In the event that uncertainty is deemed to exist on the official Lewis County zoning map, zoning district boundaries shall be on section lines; lot lines; the center lines of highways, streets, alleys, railroad rights of way or such lines extended; municipal corporation lines; natural boundary lines, such as streams and topography; the ordinary high water mark (OHWM) of lakes and streams subject to Shoreline Management Program jurisdiction; or other lines to be determined by the use of scales shown on said map. Where a zoning district line purposely divides a land parcel, such parcel shall be subject to the procedures and requirements of the respective districts as applied. In the event that districts are overlaid by Shoreline Management Program designation(s), the most restrictive regulations of either the Shoreline Management Program or the official Lewis County Zoning Ordinance shall apply. [Ord. 1170B, 2000]

17.200.03~~2~~0 List of adopted maps.

~~**SUBGROUP I - PURPOSE AND GUIDELINES**~~

(1) Official Lewis County Zoning Map

[Ord. 1241 (Att. B), 2012; Ord. 1238 (Att. A), 2012; Ord. 1230 §2 (Att. B), 2011; Ord. 1228 §2 (Exh. A), 2011; Ord. 1223 §1 (Exh. A), 2011; Ord. 1219 §§2-5, 2010; Ord. 1210 §§2, 3, 2009; Ord. 1207 §1, 2009; Ord. 1205 §1, 2009; Ord. 1203 §1, 2008; Ord. 1201 §1, 2008; Ord. 1198 §1, 2007; Ord. 1197 §1, 2007; Ord. 1179N §§1, 2, 2007; Ord. 1179I §§1-3, 2004; Ord. 1179H §2, 2004; Ord. 1179E §1, 2003; Ord. 1179B §3, 2003; Ord. 1179, 2002; 1170B, 2000]

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