

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF LEWIS COUNTY, WASHINGTON**

AN ORDINANCE OF THE COUNTY OF     )  
LEWIS ADOPTING AMENDMENTS TO     )           ORDINANCE NO. 1179 C  
TITLE 17 OF THE LEWIS COUNTY CODE)

WHEREAS, the Board of County Commissioners received recommendations from the Planning Commission concerning amendments to the Lewis County development regulations; and

WHEREAS, the Lewis County Planning Commission and Board of County Commissioners have held public hearings and work sessions; and

WHEREAS, the Board of County Commissioners have reviewed the recommendations of the Planning Commission and the environmental determination made together with such recommendations; NOW THEREFORE

BE IT ORDAINED by the Board of Lewis County Commissioners that:

1. Lewis County adopts the additions and changes to Chapter 17.30 of the Lewis County Code regarding Resource Lands, as shown in the legislative amendment/highlighted format in Exhibit A.

2. Lewis County adopts the findings of the Planning Commission in its Transmittal, dated May 6, 2003, included hereto at Attachment A, as their own, as an expression of important principles in the state mandated GMA program.

3. Lewis County adopts the DNS and Adoption of Existing SEPA Documents, development regulations amendments proceedings, included hereto at Attachment B, and dated May 7, 2003.

6. Lewis County adopts the "Report and Findings in Support of Compliance, Lewis County Development Regulations Amendments, June 2003", attached as Attachment C.

7. This Ordinance amends, repeals or supercedes only the referenced provisions of Title 17 LCC, adopted in Ordinance Nos. 1179, 1179 A or B, the remainder of which shall remain in full force and effect.

8. If any portion of the materials adopted herein is found invalid by a Board or Court of competent jurisdiction, the remainder of the provisions shall remain in full force and effect. Further, if such invalidated portion repeals and

existing rule or regulation, the replaced rule or regulations shall be reinstated until modified or replaced by the County Commissioners.

9. These amendments are in the public interest and shall take effect immediately upon adoption by the Board.

PASSED IN REGULAR SESSION THIS 2nd day of June, 2003, after a public hearing was held June 2, 2003, pursuant to Notice published on the 21<sup>st</sup> day of May, 2003 in both *The Chronicle* and the *East County Journal*.

ATTEST:



*Alison Roberts*  
Clerk of the Board

**BOARD OF COUNTY COMMISSIONERS  
LEWIS COUNTY, WASHINGTON**

*Tim Johnson* <sup>VOTED</sup> ~~(NO)~~  
Chairman

*Richard A. Baker*  
Member

APPROVED AS TO FORM:  
Jeremy Randolph, Prosecuting Attorney

*Jeremy Randolph*  
By: Deputy Prosecuting Attorney

*Dennis Hadaller*  
Member

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*Amended sections to Ch. 17.30 LCC:*

**Chapter 17.30  
RESOURCE LANDS**

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- 17.30.020 Purpose and goals.
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**Article I. General Provisions**

**17.30.010 Authority and title.**

This chapter is established pursuant to RCW 36.70A.060 and shall be known as the "Lewis County ~~Interim~~-Resource Lands Ordinance." [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 1.1, 1996]

**17.30.020 Purpose and goals.**

(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) This chapter is premised on a perceived community vision that calls for minimum resource lands designations and protection standards,

consistent with the requirements of Chapter 36.70A RCW.

(3) The intent of this chapter is facilitate the processing of relevant land use and development applications in a timely fashion with minimum intrusion on individual freedom, with a maximum of consistency and predictability. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 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 county-wide planning policies identified private property rights as the primary priority and all applications of this chapter shall be cognizant and consistent with private property rights.

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

(4) Mitigation Priorities.

(a) Avoid the impact altogether by not taking a certain action or parts of any action where reasonable 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. 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. 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 36.70A RCW. [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. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 1.7, 1996]

**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. 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. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

**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

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

**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. 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. 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. 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. 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. 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 LCC 17.30.580(1) and shall be as identified in the map unit descriptions contained in the soil survey of Lewis County Area. Washington, USDA, Soil Conservation Service, May, 1987. [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. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

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**17.30.180 Immediate family members.**

"Immediate family members" means the parents, spouse, child(ren), siblings, grandparents, and those members of the same household who have assumed rights and duties commonly associated with a family and who hold themselves out as a family unit. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

**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. 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. 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. 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. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

**17.30.230 Primary agricultural crops.**

The "primary agricultural crops" for long-term commercially significant agriculture in Lewis County may include, but are not limited to, peas, sweet corn, blueberries, strawberries, small grains,

bulbs, horticultural activities such as greenhouses and nurseries, silage/pasture/hay, and Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

**17.30.240 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. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

**17.30.250 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. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

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

**17.30.270 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. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

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**17.30.280 Wetlands delineation.**

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

**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. 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. 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 on-going agricultural activities on lands designated as resource lands on the effective date of the ordinance codified in this chapter;

(2) Normal and routine maintenance and operation of existing irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, landscape amenities, farm ponds, fish ponds, manure lagoons, and livestock water ponds; provided, that such activities do not involve conversion of any 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:



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(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. 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. 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. 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. 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 penalties in LCC 1.20.020.

(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.

(a) 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 120.040.

(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

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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 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. 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 ~~one-family~~ 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. 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;

(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 quality;

(g) That the proposed activities comply with all state, local, and federal laws,

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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 affect upon the health, safety, or welfare of persons within or outside of the property; and

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

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

(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

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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. 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. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.11, 1996]

**17.30.400 Judicial or legislative modification.**

Should the Growth Management Act (Chapter 36.70A RCW) or the implementing regulations (Chapter 360-190 WAC) be challenged or modified by a court of competent jurisdiction or modified by the Legislature in any way affecting this chapter, this chapter shall be brought before the board of county commissioners, not less than 30 days after such action is final, to determine what, if any, changes may be required by reason of such action. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 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. 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
	118 – 135 feet	2
	99 – 117 feet	3
	84 – 98 feet	4
	under 84 feet	5

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Western Hemlock	136 feet and over	1
	116 – 135 feet	2
	98 – 115 feet	3
	83 – 87 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

( 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 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. 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 LCC 17.30.560(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.

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(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 ~~not less than~~ 10 years. The designation may be renewed by the landowner at the end of the 10-year period, ~~("Opt-out")~~ provided that renewal of the designation shall not be considered an amendment to the comprehensive plan and development 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. 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. 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. 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 ~~living-dwelling~~ unit in conjunction with a single-family dwelling or mobile home. Kitchen facilities may ~~not~~ be provided in accessory ~~living-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;

(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. 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

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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) Telecommunication facilities.

(d) The erection, construction, alteration, and maintenance of gas, electric, water, or communication and public utility facilities, ~~including dams for hydroelectric generating facilities.~~

(e) Treatment of waste water or application of biosolids when not a forest practice regulated by the state.

~~(f) Public and privately developed recreational facilities including, but not limited to, parks, playgrounds, campgrounds, lodges, cabins, destination resorts, golf courses, youth camps, and accessory uses such as restaurants, lounges, recreational facilities, and commercial services.~~

~~(g) Sanitary landfills, recycling facilities, incineration facilities, and inert waste and demolition waste disposal sites.~~

(hf) State correction work camps to supply labor for forest management

related work projects and for forest fire control.

(ig) Plywood mills, particle board plants, and drying kilns.

[Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.3(C), 1996]

**17.30.480 Essential public facilities.**

Essential public or regulated facilities, such as roads, bridges, pipelines, utility facilities, schools, shops, prisons, and airports are facilities which by their nature are commonly located outside of urban areas and may need large areas of accessible land. Such areas are allowed where:

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

(2) The potential impact on forestry lands and steps to minimize impacts to commercial forestry are specifically considered in the siting process. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.3(D), 1996]

**17.30.490 ~~Minimum~~ 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 17.30.440 through 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 ~~more~~ greater than one unit per ~~20-80~~ acres, for forest land of long-term commercial importance, and

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**one unit per 20 acres for forestlands of local importance.**

(b) The units are clustered on lot sizes consistent with Lewis County board of health rules for wells and septic.

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

(d) The project affects ~~15 percent or less~~ of the prime forest soils on the contiguous holdings at the time of the adoption of this chapter, including all roads and accessory uses to serve the development, provided, however, that prime lands previously converted to non-forestry uses are not considered prime forest lands for purposes of this section.

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

(f) The plat shall contain the covenants in LCC 17.30.540. [Ord. 1179, 2002; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.4, 1996]

**(g) Any subdivision shall meet the cluster subdivision requirements of LCC 17.115.030 (010).**

**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:

(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 one hundred and fifty (150) feet from property lines, except for structures not requiring building permits, and one hundred feet for all well, 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:

(a) 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. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.5(A), 1996; Ord. 1151A, 1997]

**17.30.510 Water supply.**

(1) When residential dwellings, other structures, or any other use intended to be supplied with water from off-site sources, an easement and right running with the land shall be recorded from the property owners supplying the water prior to final plat approval, building permit issuance, or regulated use approval.

(2) Due to the potential to interfere or disrupt forest practices on forest lands, new residential or recreational public water supplies shall comply with state standards and shall not be located within 100 feet of classified forest lands without an easement from the adjacent or abutting forest land property owner. [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. 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



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requirements set forth in LCC 17.30.500 to demonstrate compliance with the required setback. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.5(D), 1996]

**17.30.540 Notification of forest practices - Conflict mitigation.**

(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.

(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. 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 amendment to the Comprehensive Plan and development regulations. Such amendments are processed on a yearly basis, consistent with LCC 17.12.

(1) ~~Criteria~~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) 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

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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 5 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.

~~Repealed {Ord. 1179, 2002}~~

**Article V. Agricultural Resource Lands**

**17.30.570 Classification.**

Agricultural resource lands of Lewis County are classified according to the following: Land Capability Classification System of the U.S. Department of

Agriculture Handbook No. 210. This system of classification and identification for long-term commercially significant agricultural resource lands is based upon identified prime farmland derived from the land capability classification system of the United States Department of Agriculture Handbook No. 210. The classes of agricultural lands are based upon consideration of growing capacity, productivity, and soil composition. In further defining categories of agricultural lands of long-term commercial significance, the reference standard is the use of the classification of prime and unique farmland soils as mapped by the Natural Resource Conservation Service (NRCS), USDA.

(1) Prime Farm Lands of Long-Term Commercial Significance. For Lewis County prime agricultural soils in land capability Classes I, IIe, IIw, IIs, IIIe, IIIw, IVe, and Vw are used for this designation. Prime farmland soils commonly get an adequate and dependable supply of moisture from precipitation and/or irrigation. These soils are identified as follows:

Map Unit No.	Prime Farmland Soil Description	Land Capability
1	Alvor silty clay loam	IIIw
21	21 Boistfort clay loam, 0-8% slopes	IIIe
42	Centralia loam, 0-8% slopes	IIe
45	Centralia Variant loam, 0-8% slopes	IIe
47	Chehalis silt loam	IIw
48	Chehalis silty clay	IIw
49	Cinebar silt loam, 0-8% slopes	IIe
61	Cloquato silt loam	IIw
84	Doty silt loam	IIs
86	Ferteg silt loam, 0-8% slopes	IIe
89	Galvin silt loam, 0-8% slopes	IIIw
91	Glenoma very cindery loam	IIs
116	Klaber silt loam	IIIw

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117	Klaber Variant silty clay loam	IIIw
118	Lacamas silt loam, 0-3% slopes	IIIw
119	Lacamas silt loam, 3-8% slopes	IIIw
130	Melbourne loam, 0-8% slopes	Ile
133	Mossyrock silt loam	I
135	National cindery sandy loam, 0-8% slopes	IIIe
136	Nesika loam, 2-5% slopes	Ile
145	Newaukum gravelly silt loam, 5-15% slopes	IIIe
148	Newberg fine sandy loam	IIw
152	Olequa silt loam, 0-5% slopes	Ile
155	Olympic silty clay loam, 0-8% slopes	Ile
167	Prather silty clay loam, 0-5% slopes	IIw
170	Puget silt loam	IIw
171	Puyallup fine sandy loam	IIw
172	Reed silty clay loam	IIIw
173	Reed silty clay loam, channeled (if drained and protected from flooding)	Vw
187	Salkum silty clay loam, 0-5% slopes	Ile
191	Sauvola, silty clay loam, 0-8% slopes	Ile
193	Scamman silty clay loam, 0-5% slopes	IIIw
204	Schooley silt loam	IIIw
205	Semiahmoomuck (if drained)	Vw
206	Siler fine sandy loam	IIw
207	Siler silt loam	IIw
240	Wilkeson loam, 0-8% slopes	Ile
242	Winston loam, 0-8% slopes	IVe
243	Winston gravelly loam, 0-8% slopes	IIIe
244	Winston gravelly loam, 8-15% slopes	IIIe

(2) Unique Farmlands. Unique farmlands were considered, but not designated.

(3) Farmlands of Local Significance. In Lewis County many of the ~~farmlands~~ floodplains of the major rivers are farmed extensively and provide a critical mass in supporting local agriculture industry, even though not always on prime farm soils. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.1, 1996]

**17.30.580 Identification.**

In mapping of long-term commercially significant agricultural resource lands growing capacity, productivity, economic viability, proximity to populated areas, and the possibility of more intense uses of the land as indicated by one or more of the following are considered:

(1) Growing Capacity and Productivity.

(a) Land Capability. Soils shall be in Capability Classes I, II, and IIIe. Soils with limitations in the following areas shall not be considered for purposes of identification:

- (i) Moderately steep slopes (greater than eight percent);
- (ii) High susceptibility to water or wind erosion or severe adverse effects of erosion;
- (iii) Frequent overflow accompanied by serious crop damage;
- (iv) Very slow permeability of the subsoil;
- (v) Wetness or some continuing waterlogging after drainage;
- (vi) Shallow depths to bedrock, hardpan, fragipan, or claypan that limit the rooting zone and water storage;
- (vii) Low moisture holding capacity;
- (viii) Low fertility not easily corrected;
- (ix) Moderate climatic limitations.

(b) Availability of Water. Sufficient irrigation capability, including precipitation and water rights, to grow the primary agricultural crops produced in Lewis County.

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(2) **Predominant Parcel Size.** Predominant parcel sizes of 20 acres or larger, which provide (in combination with soil type) the economic conditions to manage agricultural land for long-term commercial significance. However, parcels of less than 20 acres can be commercially significant in the long-term if they meet the Consolidated Farm Services Agency, USDA definition of "commercial" agriculture.

(3) **Tax Status.** Property enrolled in the open space agricultural tax program may be an indicator that the existing land use is commercial agriculture.

(4) **Availability of Public Facilities and Services.** The extension of public facilities and services conducive to the conversion of agricultural land is not provided. Lands within this designation will be located outside interim urban growth areas as defined by the incorporated cities and towns and Lewis County.

(5) **Relationship or Proximity to Urban Growth Areas.** Designated agricultural resource lands shall be located outside adopted interim urban growth areas or areas characterized by urban development and not near enough to such areas to develop potential conflicts with agricultural activities.

(6) **Land Use Settlement Patterns and Their Compatibility with Agricultural Practices.** Residential development should be minimal. Predominant uses are compatible with agricultural uses. Compatible land uses within and adjacent to designated agricultural resource land include, but are not limited to, forestry, mining, parks and preserves, and open space.

(7) **Intensity of Nearby Land Uses.** Residential development should be minimal and at rural densities (an average of one dwelling unit per five acres) and no greater than rural density.

(8) **History of Land Development Permits Issued Nearby.** Regulated subdivision activity has not occurred adjacent to or nearby.

(9) **Floodplain Limitations Under Alternative Uses.** Use of the property for

nonagricultural related activities is limited because it is in the 100-year floodplain.

(10) **Proximity of Markets.** Local or regional markets are available. The property has road, rail, or air transportation routes to markets.

(11) **Agricultural Diversity.** A diversity of agricultural activities exists or the area is capable of supporting a diversity of agricultural activities. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.2, 1996]

**17.30.590 Designation.**

Lands of Lewis County meeting the classification and identification criteria for agricultural resource lands are:

(1) **Class A Farmland of Long-Term Commercial Significance.** Farmland of long-term commercial significance shall be those areas having the following characteristics:

(a) Not subject to frequent overflow during the growing season accompanied by serious crop damage; and

(b) Has prime farmland soil or soils as identified in LCC 17.30.580(1)(a); and

(c) Has sufficient irrigation capability; and

~~(d) Is currently devoted to agricultural activities; and~~ **Is primarily devoted to commercial agricultural production; and**

**(e)** Has a minimum parcel size of 20 acres; and

~~(ff) Is not located within an adopted interim-urban growth area.~~

(2) **Class B Farmlands of Long-Term Commercial Significance.** Flood hazard areas associated with Type I and Type II streams provide pasture, forage, hay, crop, and other essential agricultural activities and shall be designated as lands of long-term commercial significance where:

(a) More than 100 yards wide;

(b) Larger than 20 contiguous acres; and

(c) Not within an urban growth boundary.

(3) **Farmland of Local Importance.** The designation of farmlands of local importance is applied to those agricultural lands voluntarily nominated by the landowner

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which are not designated commercial farmland and meet the following criteria:

(a) 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 17.30.700. Such applications shall be processed as an amendment to the County Comprehensive Plan and development regulations.

(b) 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.

(c) 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 ~~not less than~~ 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 development regulations.

(d) Current Agricultural Land Use. The property is currently devoted to agricultural activities. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.3, 1996]

**17.30.600 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 farm lands 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 farm land 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. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.4, 1996]

**17.30.610 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. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.5, 1996]

**17.30.620 Primary uses.**

1) Agriculture, 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, other agricultural activities.

(2) Removal, harvesting, wholesaling, and retailing of vegetation from **forest 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 per lot, parcel, or tract, and the following farm housing:

- (a) Farm employee housing; or
- (b) Farm housing for immediate family members.

(4) Active mineral resource activities, including mining, processing, storage, and sales. [Ord. 1151 § 5.5(A), 1996]

**17.30.630 Accessory uses.**

Uses allowed outright where directly connected with and in aid of an agricultural activity:

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(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 and processing.

~~(8) Power generation dams and facilities.~~  
[Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.5(B), 1996]

**17.30.640 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 ~~more than five percent~~ any of the prime soils ~~(15 percent as provided below)~~ 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 non crop related agricultural uses, including residential, farm and shop buildings and associated yards, parking and staging areas, drives and roads, are not considered prime farm lands 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 where feasible~~ and otherwise to minimize impact on farm lands of long-term commercial significance.

(2) Uses Allowed as Incidental Activities.

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

(b) Telecommunication facilities;

(c) Public and semipublic buildings, structures, and uses including, but not limited to, ~~recreation fields~~, fire stations, utility substations, pump stations, wells, and transmission lines;

(d) 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;

~~(e) Public and privately developed recreational facilities including, but not limited to, parks, playgrounds, campgrounds, lodges, cabins, destination resorts, golf courses, youth camps, and accessory uses such as restaurants, lounges, recreational facilities, and commercial services;~~

~~(fe) Sanitary landfills, sewage treatment facilities, recycling facilities, incineration facilities, and inert waste and demolition waste disposal sites;~~

~~(g) Explosive manufacture and storage;~~

(he) Home based industries/business subject to the same size requirements, development conditions, and procedures and processes as home based businesses authorized under LCC 17.42.40;

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

(jg) Regulated treatment of waste water.  
[Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.5(C), 1996]

**17.30.650 Essential public facilities.**

Essential public or regulated facilities, such as roads, bridges, pipelines, utility facilities, schools, shops, prisons, and airports, are facilities which by their nature are commonly located outside of urban areas and may need large areas of accessible land. Such uses are allowed where:

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

(2) The potential impact on farmed lands and steps to minimize impacts to commercial agriculture are specifically considered in the siting process. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.5(D), 1996]

**17.30.660 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 17.30.650:

(1) Development Standards - Division of Land for Sale or Lease. The minimum lot area for subdivision of commercial farmland 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 ~~10~~ 20 acres.

(b) The units are clustered on lot sizes of ~~one acre or less~~, consistent with Lewis County board of health rules for wells and septic.

(c) Adequate water and septic capacity provisions for septic to serve the development are in fact present.

(d) The project affects ~~15 percent or less~~ 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, provided, however, that prime lands previously converted to non crop related agricultural uses, including residential, farm and shop buildings and associated yards, parking and staging areas, drives and roads, are not considered prime farm lands for purposes of this section.

(e) The plat shall set aside the balance of the prime farm lands in a designated agricultural tract.

(f) The plat shall contain the covenants and protections in LCC 17.30.680.

(g) Any subdivision shall meet the cluster subdivision requirements of LCC 17.115.030 (010).

~~(2) Permit Processing - Division of Land for Sale or Lease. The division shall be presented to the administrator prior to recording, who shall make written findings that adequate facilities are available to serve the proposed division (the standard shall be the same as required for plats or short plats processed under Chapter 58.17 RCW) and that the requirements of this chapter are met. If the division proposes a lot less than five acres in size, the application shall be processed as a short or long plat, as appropriate, and the same findings shall be required. [Ord. 1179, 2002; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 §5.6, 1996]~~

**17.30.670 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:

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(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. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.7(A), 1996]

**17.30.680 Notification of agricultural activities – Conflict mitigation.**

(1) 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 ~~subject to temporary nuisances from activities, that if consistent with good and generally accepted agricultural and management practices and established prior to surrounding activities, such agricultural 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, 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. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.7(B), 1996]

**17.30.690 Application process for exclusion from designated commercial farmland (“Opt-out”).**

Repealed. [Ord. 1179, 2002]

**17.30.700 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 farm 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 amendment to the Comprehensive Plan and development regulations. Such amendments are processed on a yearly basis, consistent with LCC 17.12.

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

(a) The property meets the classification criteria set forth for



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farmlands of local importance in LCC 17.30.590(3); 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 Farm Land 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. 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 5 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.

~~Repealed [Ord. 1179, 2002]~~

17.30.710 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. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.10, 1996]

**Article VI. Mineral Resource Lands**

**17.30.720 Classification.**

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

(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 its location or nature, quantity, or quality of mined product. [Ord. 1170B, § 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.

(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. 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. 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 batching, 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. 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. 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.

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(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 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. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.4(C), 1996]

**17.30.780 Essential public facilities.**

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. 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. 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. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.5(B), 1996]

**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

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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. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.5(C), 1996]

**17.30.820 Preferential right to manage resources - “Right-to-mine”.**

(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. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.5(D), 1996]

**17.30.830 Mining use notices.**

(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 (1/4) mile of the boundary of the designated property.

(c) The following statement:

The property described herein is adjacent to or within 1/4 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

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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. 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").**

~~An "Opt-out" provision is hereby provided for exclusions from designation as mineral resource land pursuant to this section. Under this provision property owners are required to provide timely written notification to the administrator if they wish their property to be excluded from such designation.~~

~~(1) Criteria for Approval of Applications for Exclusion. Lewis County shall approve applications for exclusion if the following criteria are met:~~

~~(a) For reasons beyond the control of the applicant, or his predecessors in ownership, the property did not meet the classification criteria for mineral resource land as set forth in LCC 17.30.720 and 17.30.730 at the time of application.~~

~~(b) Where property originally met the criteria and circumstances have changed with respect to mining practices or markets, rendering the economic potential of the mineral resource such that over a 10-year period of time it is not reasonable to expect a reasonable rate of return to land, labor, and capital invested in a commercial mining activity.~~

~~(2) Process for Approval of Applications for Exclusion. The process for approving applications for exclusion shall be the same as that specified in LCC 17.30.850(2) for the designation of mineral resource lands. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.6, 1996]~~

**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 an amendment to the Comprehensive Plan and development regulations. Such amendments are processed on a yearly basis, consistent with LCC 17.12.

(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 he 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) 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

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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) Board Decision. The board of county commissioners shall make a final decision ~~within 30 days~~ 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. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.7, 1996]