

## CHAPTER 18.16 CRITICAL AREAS

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**18.16.010 Statutory Authorization - Consistency.**

The legislature of the State of Washington has in Chapter 36.70A Code of Washington (RCW), mandated each county to:

- A. Designate critical areas.
- B. To adopt development regulations that protect critical areas designated pursuant to RCW 36.70A.170.
- C. These regulations must be consistent with the Comprehensive Plan of the County adopted pursuant to RCW 36.70.

**18.16.020 Purpose and Objectives.**

- A. The purpose of this chapter is to comply with the requirements of the Growth Management Act, RCW36.70A, by providing reasonable and effective regulations to protect the public health, safety and welfare by identifying and protecting critical areas. Lincoln County, in compliance with, Washington State growth management mandates, finds that the impact of development in, or adjacent to critical areas may pose certain threats to the public health, safety and welfare, to clean water, to fish and wildlife habitat. This chapter is enacted to help protect critical areas by regulating development within or adjacent to such areas, while providing property owners with reasonable economic use of their lands.
- B. The objectives of this chapter are to ensure compliance with the goals and objectives of the Growth Management Act, as required by the state, to help sustain the quality of life in the County and local communities.

**18.16.030 Applicability.**

This ordinance shall apply to all unincorporated areas of Lincoln County. No action shall be undertaken by any person that impacts critical areas and/or their buffer areas as defined in this ordinance, except in conformance with this ordinance. Lincoln County opted into the state voluntary stewardship program (VSP). Where applicable, see the VSP workplan for guidance.

**18.16.040 Definitions.**

“Agricultural lands” include those lands not already characterized by urban growth and are of long-term significance for the commercial production of horticultural, viticulture, floricultural, dairy, apiary, vegetable and animal products, or the food and fiber for consumption of livestock, or other products and processes normally associated with farming. In addition that definition specified in Chapter 84.33.020 RCW is adopted by reference.

*“Anadromous Fish”* means fish that spawn and rear in freshwater and mature in the marine environment. While Pacific salmon die after their first spawning, adult char (bull trout) can live for many years, moving in and out of saltwater and spawning each year. The life history of Pacific salmon and char contains critical periods of time when these

fish are more susceptible to environmental and physical damage than at other times. The life history of salmon, for example, contains the following stages: upstream migration of adults, spawning, inter-gravel incubation, rearing, smoltification (the time period needed for juveniles to adjust their body functions to live in the marine environment), downstream migration, and ocean rearing to adults.

*“Aquifer”* means a geological formation, group of formations or part of formation that is capable of yielding a significant amount of water to a well or spring.

*“Aquifer, confined”* An aquifer bounded above and below by beds of distinctly lower permeability than that of the aquifer itself and that contains ground water under sufficient pressure for the water to rise above the top of the aquifer.

*“Aquifer Recharge Areas”* Areas that, due to the presence of certain soils, geology, and surface water, act to recharge ground water by percolation.

*“Aquifer, Sole Source”* An area designated by the U.S. Environmental Protection Agency under the Safe Drinking Water Act of 1974, Section 1424(e). The aquifer(s) must supply fifty percent (50%) or more of the drinking water for an area without a sufficient replacement available.

*“Aquifer Susceptibility”* The ease with which contaminants can move from the land surface to the aquifer based solely on the types of surface and subsurface materials in the area. Susceptibility usually defines the rate at which a contaminant will reach an aquifer unimpeded by chemical interactions with the vadose zone media.

*“Aquifer, Unconfined”* An aquifer not bounded above by a bed of distinctly lower permeability than that of the aquifer itself and containing ground water under pressure approximately equal to that of the atmosphere. This term is synonymous with the term "water table aquifer."

*“Base Flood”* A flood event having a one percent (1%) chance of being equaled or exceeded in any given year, also referred to as the 100-year flood. Designations of base flood areas on flood insurance map(s) always include the letters A or V.

*“Best Available Science”* Current scientific information used in the process to designate, protect, or restore critical areas, that is derived from a valid scientific process as defined by WAC 365-195-900 through 925.

*“Best Management Practices”* means conservation practices or systems of practices and management measures that:

- A. Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxics, and sediment;
- B. Minimize adverse impacts to surface water and groundwater flow, circulation

patterns, and to the chemical, physical, and biological characteristics of hydrologically related critical areas.

*"Buffer"* usually means a vegetated area that separates land uses. Buffers may be associated with wetlands or be adjacent to riparian areas/streams or other critical areas with the intent of protecting these areas from adverse impacts.

*"Critical Areas"* include the following areas and ecosystems:

- A. Wetlands
- B. Aquifer Recharge Areas, which demonstrate a critical recharging effect on aquifers used for potable water
- C. Fish and Wildlife Habitat Conservation Areas
- D. Frequently Flooded Areas
- E. Geologically Hazardous Areas

*"Data Maps"* means the GIS maps maintained by Lincoln County for the purpose of graphically depicting the approximate location of resource lands and critical areas.

*"Districts"* means a portion of land specially set off or defined.

*"Existing and On-going Agriculture"* includes activities involved in the preparation, cultivation and production of crops, animal or fiber products, land registered in a federal or state conservation program and lands which have been approved by the County as Open Space Farm and Agricultural Conservation Land pursuant to RCW Chapter 84.34. Existing and ongoing activities include the operation and maintenance of farm and stock ponds, drainage ditches, irrigation ditches or systems including laterals or canals, changes between agricultural activities and the normal maintenance, repair or operation of existing serviceable structures, facilities or improved areas. An operation or activity ceases to be on-going when the area on which it was conducted is converted to a non-agricultural use or has lain idle for a period of longer than five years, unless the idle land is registered in a federal or state soils conservation program. Agriculture includes orchard or Christmas tree operations. Forest practice activities are not included in this definition.

*"Fish and Wildlife Habitat Conservation Areas"* Areas defined in WAC-365-190-080(5), or as amended. Fish and Wildlife Habitat Conservation means land management for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean cooperative and coordinated land use planning is critically important among counties and cities in a region.

*"Flood insurance rate map (FIRM)"* means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Floodway" means the regular channel of a river, stream, or other watercourse, plus the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"Forest Lands" include those lands not already characterized by urban growth and are of long-term significance for the commercial production of timber and other wood fiber normally associated with forestry practices.

"Frequently Flooded Areas" includes those flooded areas in the 100-year floodplain designation of the Federal Emergency Management Agency and the National Flood Insurance Program and other frequently flooded areas.

"Geologically Hazardous Area" means an area that is not suited for residential, commercial, or industrial development because of its susceptibility to erosion, sliding, earthquakes or other geological events hazardous to the public health or safety. Projects proposing to locate in such areas will be required to meet engineering safety standards.

"Hydraulic Project Approval (HPA)" means a permit issued by the state Department of Fish and Wildlife for modifications to waters of the state in accordance with Chapter 75.20 RCW.

"Isolated Wetlands" means those wetlands that are outside of and not contiguous to any 100-year flood plain of a lake, river or stream and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water.

"Landslide Hazard Areas" means those areas that are potentially subject to risk of mass movement due to a combination of geologic landslide resulting from a combination of geologic, topographic and hydrologic factors. These areas are typically susceptible to landslides because of a combination of factors including: bedrock, soil, slope gradient, slope aspect, geologic structure, ground water, or other factors.

"Long-Term Commercial Significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of land.

"Mine Hazard Areas" means areas that are underlain by, adjacent to, or affected by mine workings such as adits, gangways, tunnels, drifts, or airshafts and those areas of probable sink holes, gas releases or subsidence due to mine workings. Factors that should be considered include: Proximity to development, depth from ground surface to the mine working, and geologic material.

*“Mineral Resource Lands”* include those lands not already characterized by urban growth and are of long-term significance for the production or extraction of aggregate and other mineral substances, including: sand, gravel, and other valuable metals.

*“Mitigation”* means the use of any or all of the following actions listed in descending order of preference:

- A. Avoiding the impact altogether by not taking a certain action or parts of an action;
- B. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
- C. Rectifying the impact by repairing, rehabilitating or restoring the affected environment;
- D. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
- E. Compensating for the impact by replacing, enhancing or providing substitute resources or environments;
- D. Monitoring the impact and taking appropriate corrective measures.

*“Nonconforming structure”* means a structure which was legally constructed prior to June 6, 1994, the effective date of this chapter, but which would not be permitted as a new structure under the terms of this chapter because the structure is not in conformance with the applicable elevation and/or flood-proofing requirements.

*“Nonconforming use”* means a building, structure or land use which was lawfully established, existing and maintained at the effective date of provisions of this title but which, because of the application of this title to it, no longer conforms to the use or applicable elevation and/or flood-proofing requirements of this title and which would not be permitted as a new use under the terms of this title.

*“Ordinary High Water Mark (OHWM)”* means that mark which is found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in all ordinary years, that the soil has a character distinct from that of the abutting upland in respect to vegetation.

*“Priority Habitat and Species”* (PHS) means a habitat type with unique or significant value to many species or a fish and wildlife species requiring protective measures and/or management guidelines to ensure their perpetuation.

*“Qualified Professional”* means an accredited or licensed professional with a combination of education and experience in the discipline appropriate for the subject matter that is being commented on; someone who would qualify as an expert in their field.

“RCW” is an acronym for the Revised Code of Washington which is the codification and sectionalization of state legislative actions that have been signed into law by the governor.

“Resource Lands” include the following areas:

- A. Agricultural lands of long-term commercial significance.
- B. Forest Lands.
- C. Mineral Resource Lands.

“Riparian” refers to lands adjacent to a natural watercourse, such as a stream bank or lake shore.

“SEPA” means the State Environmental Policy Act, Chapter 43.21C, RCW.

“Special Flood Hazard Area” means the land in the floodplain identified by the Federal Emergency Management Agency that is subject to a one-percent or greater chance of flooding in any given year.

“Stream” means type 1, 2 or 3 waters contained within a channel in which fish may spawn, reside, or through which they may pass. Streams include natural watercourses modified by man. They do not include irrigation ditches, waste ways, drains, outfalls, operational spillways, canals, storm-water runoff facilities, or other artificial watercourses.

“Timber Lands” synonymous with forest land and means all land in any contiguous ownership of twenty or more acres, which is primarily devoted to and used for growing and harvesting timber, and means land only. (WAC 458-40-510) (RCW 84.33)

“Unique Forest Lands” means “old growth” timber areas and timber areas that contain rare species of trees.

“Urban Growth” refers to 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

“Vadose” means relating to, or being water and solutions in the earth’s crust above the permanent groundwater level.

“WAC” is an acronym for the Washington Administrative Code which is the codification of procedural criteria used to implement the RCWs. The criteria are developed by state agencies at the administrative level in a rule making process. A WAC is not a legislative action.



*“Water Types”* means the Water Typing System established by WAC 222-16-031 or as amended and implemented by Washington State Department of Natural Resources for classifying streams, lakes and ponds as Type S Water (Shoreline of the State), Type F Water (Fish), type Np Water (non-fish perennial), Ns (non-fish seasonal).

*“Wetlands”* Consistent with RCW 36.70A.030(21), “wetland” means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas created to mitigate conversion of wetlands.

*“Wetland, Farmed”* means wetlands which were both manipulated and cropped before December 23, 1985, but which continue to exhibit important wetland values. Specifically, farmed wetlands include cropped potholes, playas, and areas with 15 or more consecutive days (or 10 percent of the growing season, whichever is less) of inundation during the growing season.

*“Wildlife Habitat”* means areas which, because of climate, soils, vegetation, relationship to water and other physical properties have been identified as of critical importance to maintenance of wildlife species.

**18.16.050 Consistency review – Allowed Activities.**

A. The proponent of a proposed activity may request a consistency review from the planning director. The director shall review the proposal for compliance with the critical areas protection provisions of this chapter and if found in compliance and consistent, a letter shall be issued and a copy placed on file with Land Services. If the exemption is denied, the proponent may continue forward with the review and permitting process. Qualified exemptions do not give permission to degrade a critical area or buffer and reasonable methods to avoid potential impacts are required.

B. The following developments, activities and associated uses shall be considered an allowed use, and therefore exempt from the provisions of this chapter, provided that they are otherwise consistent with the intent and provisions of this chapter and other local, state and/or federal laws and requirements.

1. Operation, maintenance or repair of existing structures, infrastructure improvements, utilities, public or private roads, dikes, levees or drainage systems, that do not require construction permits, if the activity does not further alter or increase the impact to, or

encroach further within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed operation, maintenance, or repair.

2. Recreation, education and scientific research activities that do not degrade the critical area or buffer, including fishing and hunting, hiking, horseback riding, bird watching or other passive recreational activities.

3. Forest practices regulated and conducted in accordance with the provisions of RCW 76.09 and forest practices regulations, Title 222 WAC and those that are exempt from the County's jurisdiction, provided that forest practice conversions are not exempt.

4. Existing and ongoing agricultural activities including (but not limited to) farming, horticulture, aquaculture, irrigation or grazing of animals.

5. Legally constructed structures, in existence on the date this ordinance becomes effective, that do not meet the requirements of this chapter may be remodeled or reconstructed, provided that the new construction or related activity does not further encroach into the critical area(s) and County development requirements are met.

6. Normal and routine activities conducted by public agencies to control mosquitoes and pest throughout the area.

7. Removal of noxious weeds in compliance with state or local regulations is allowed in critical areas and their associated buffers and shall be undertaken in a manner that prevents or minimizes long-term adverse impacts to the functions and values of the critical area and buffer. Hand pulling of aquatic weeds to help promote stream viability is allowed.

8. Operation and maintenance of the Columbia Basin Project and related facilities by the Bureau of Reclamation.

9. Normal and routine maintenance of legally constructed irrigation ditches. State or federal permits may still be required.

10. Normal and routine maintenance of agricultural, livestock and private fish ponds, provided that such activities do not involve conversion of any regulated wetland or stream not used for such purpose on the effective date of this chapter.

101. Normal and routine maintenance of public streets/roads, state highways, public utilities and public park facilities. Maintenance and repair does not include any modification that changes the character, scope or size of the original structure, facility or improved areas, nor does it include construction of a maintenance road or the dumping of maintenance debris.

12. Artificial, non-agricultural structures intentionally constructed from upland areas for purposes of storm-water drainage or water quality control, or ornamental landscape ponds, which are not part of a mitigation plan.

13. Site work such as surveys, the marking of property lines or corners, activities necessary for land use applications, soil logs, percolation tests or other similar work are exempt provided that unavoidable impacts to critical areas and associated buffers shall be minimized and disturbed areas shall be restored to the maximum extent practical.

14. Renovation of historical structures.

Note: Other uses and activities not listed may be allowed or denied by the Director, subject to the purpose and intent of this ordinance.

**18.16.060 Exception - Public agency and utility.**

- A. An exception may be applied for, if the requirements of this chapter would prohibit or place unreasonable restrictions on a proposal submitted by a public agency or utility.
- B. Prior to approval, an application for a public agency and utility exception shall be made to the County and shall include a critical area report, including mitigation plan, if necessary and any other related project documents, such as permit applications to other agencies, special studies and environmental documents prepared, pursuant to the State Environmental Policy Act, RCW 43.21C.
- C. There is no other practical alternative to the proposed development with less impact on the critical area(s).
- D. The application of this chapter would unreasonably restrict the ability to provide utility services to the public.
- E. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

**18.16.70 Exception - Reasonable use.**

- A. If the application of this chapter would deny all reasonable use of the subject property; the property owner may apply for an exception pursuant to this section.
- B. An application for a reasonable use exception shall be made to the planning director and shall include a critical area checklist and critical area report, including mitigation plan, if necessary and any other related project documents, such as permit applications to other agencies, special studies and environmental documents prepared, pursuant to the State Environmental Policy Act, Chapter 43.21C RCW.
- C. The following criteria will be used for review and approval of reasonable use exceptions.
  - 1. The application of this chapter would deny all reasonable use of the property.
  - 2. No other reasonable use of the property has less impact on the critical area.
  - 3. Any alteration is the minimum necessary to allow for reasonable use of the property.
  - 4. The requested use or activity will not result in any damage to other property and will not threaten the public health, safety or welfare on or off the property;
  - 5. The inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant after the effective date of this chapter.
- D. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.
- E. A reasonable use exception does not provide an exemption from obtaining all necessary state and federal permits.

**18.16.075 Emergency Activities – Temporary Emergency Permit**

Emergency activities are those activities necessary to prevent an immediate threat to public health, safety or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventative action in a time frame too short to

allow for compliance with the requirements of this chapter. Emergency actions that create an impact to a critical area or its buffer shall use reasonable methods to address the emergency and in addition, they must have the least possible impact to the critical area or its buffer. The person or agency undertaking such action shall notify planning services within five (5) working days following commencement of the emergency activity. Within thirty (30) days, the director shall determine if the action taken was within the scope of the emergency actions allowed in this subsection. Conditions of a temporary emergency permit are:

1. Incorporate to the greatest extent practicable the standards and criteria required for non-emergency activities;
2. Be limited in duration to the time required to complete the authorized emergency activity, not to exceed ninety (90) days without re-application;
3. Contact Washington Department of Fish and Wildlife for an emergency Hydraulic Project Approval (HPA) if necessary; and
4. Require the restoration of any wetland, Fish and Wildlife Habitat Conservation Area or Geologically Hazardous Area altered as a result of the emergency activity within ninety (90) days following the emergency repair, or during the growing season after the emergency repair.

**18.16.077 Environmental Protection**

- A. All projects shall comply with RCW 43.21C, the Washington SEPA
- B. Applicants shall apply the following sequence of steps in order of priority to avoid or minimize significant adverse effects and significant ecological impacts (with 1 being top priority):
  1. Avoiding the impact altogether by not taking a certain action or parts of an action;
  2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
  3. Rectifying the impact by repairing, rehabilitating or restoring the affected environment;
  4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
  5. Compensating for the impact by replacing, enhancing or providing substitute resources or environments;
  6. Monitoring the impact and taking appropriate corrective measures.

**18.16.080 Administration.**

The Lincoln County planning director or designee is hereby declared the administrator of this chapter for the purpose of interpreting GIS maps/data and development requirements.

**18.16.090 Abrogation.**

It is not intended that this chapter repeals, abrogates or impairs any existing regulations, easements, covenants or deed restrictions. However, when this chapter imposes greater restrictions, the provisions of this chapter shall prevail.

**18.16.100 Interpretation.**

The provisions of this chapter shall be liberally construed to serve the purposes of this chapter.

**18.16.110 Identified critical areas.**

Lincoln County identifies the following as critical areas within the unincorporated areas of the County.

- A. Wetlands.
- B. Aquifer Recharge Area.
- C. Fish and Wildlife Habitat and Conservation Areas.
- D. Frequently Flooded Area.
- E. Geologically Hazardous Areas.

**18.16.120 Best available science.**

- A. RCW 36.70A.172 requires the County to include best available science in development regulations designating and protecting critical areas. WAC 365-195-900 outlines the procedural criteria for including best available science in Comprehensive Plans and development regulations.
- B. Critical area reports and decisions to alter critical areas shall rely on the best available science to protect the functions and values of critical areas and must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish and their habitat.
- C. The best available science is that scientific information that is consistent with criteria established in WAC 365-195-900 through WAC 365-195-925.

**18.16.130 Permit process - Provisions.**

- A. Applications for permits to conduct activities, which would impact critical areas, must identify the critical area(s) and make an estimate of the probable impact.
- B. Lincoln County may grant permits, which include mitigating measures, if those measures adequately provide for the public's health, safety and welfare and protects the critical area's functions and values.
- C. Lincoln County may deny requests for permits, which would result in activities degrading a wetland or fish and wildlife habitat conservation area, which would put people or property in a position of unacceptable risk with respect to floods or geological hazards or which would negatively impact critical aquifer recharging areas.
- D. Application materials and required fee(s) shall be submitted to Lincoln County planning services.
- E. If after review of the application, related materials, including a SEPA checklist (State

Environmental Policy Act, Chapter 43.21C, RCW) and/or a Lincoln County critical areas check list, a determination will be made, if sufficient information has been submitted or if additional information is needed and the type of evaluation and/or site-specific analysis that will be required in order for the application to be considered complete and for the review process to continue.

F. If after a site visit the planning director's analysis indicates that the project area is not within or adjacent to a critical area or buffer and that the proposed activity is unlikely to degrade the functions or values of a critical area, then the director shall rule that the critical area review is complete and note on the checklist the reasons that no further review is required

G. After the review of a completed application and site inspection, a determination will be made in regards to SEPA compliance.

H. If the director determines that there are critical areas within or adjacent to the project area, but that the proposed activity is unlikely to degrade the functions or values of the critical area, the director may waive the requirement for a critical area report. A waiver may be granted if there is substantial evidence that all of the following requirements will be met:

1. There will be no alteration of the critical area or buffer.
2. The development proposal will not impact the critical area in a manner contrary to the purpose, intent and requirements of this chapter.
3. The proposal is consistent with other applicable regulations and standards.

I. GIS data and maps and an on-site inspection, where determined necessary by the planning director, in conjunction with the landowner/applicant, will be used in determining whether or not the proposed activity is within or near a critical area or buffer.

J. A determination regarding the apparent absence of one or more critical areas by the planning director is not an expert certification regarding the presence of critical areas and the determination is subject to possible reconsideration and reopening if new information is received.

K. If the applicant wants greater assurance of the accuracy of the critical area review determination; the applicant may choose to hire a qualified professional to provide such assurances.

L. All proposals must be in compliance and consistent with all Lincoln County codes and regulations.

M. Approval of a permit or development proposal, pursuant to the provisions of this chapter, does not discharge the obligation of the applicant to comply with the provisions of this chapter.

**18.16.140 Critical areas report - Qualified professional.**

A. If determined necessary pursuant to 18.16.130 the applicant shall submit a critical area report prepared by a qualified professional.

B. The critical area report shall use scientifically valid methods and studies in the analysis of critical area data and field reconnaissance and reference the source of science used. The critical area report shall evaluate the proposal and likely impacts to critical areas in accordance with the provisions of this chapter.

C. At a minimum, the report shall contain the following:

1. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;
2. A copy of the site plan for the development proposal showing:
  - a) Identified critical areas, buffers, and the development proposal with dimensions;
  - b) Limits of any areas to be cleared; and
  - c) If applicable, a description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations;
3. The dates, names and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site, including field data sheets, function assessments, baseline hydrologic data, and methodologies used to conduct the fieldwork;
4. Identification and characterization of all critical areas, wetlands, water bodies, and buffers adjacent to the proposed project area;
5. A statement specifying the accuracy of the report and all assumptions made and relied upon;
6. An assessment of the probable cumulative impacts to critical areas resulting from the proposed development;
7. An analysis of site development alternatives;
8. A description of reasonable efforts made to apply mitigation sequencing and plans for adequate mitigation.
9. A discussion of the performance standards applicable to the critical area and proposed activity;

D. Unless otherwise provided, a critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the planning director.

**18.16.150 GIS maps - Development standards.**

A. Lincoln County recognizes the importance of accurate information regarding critical areas. This data is compiled from the various resource agencies and maintained on the geographical information system located at the Land Services office. These maps contain the best graphic-information available for critical areas and will be continuously updated as funds and new information become available. These maps are for information and illustrative purposes only. The maps are not regulatory in nature

- B. The indication of a possible critical area on the maps may result in the need for further information prior to a development application being deemed complete.
- C. Approximate critical areas locations indicated on the GIS maps are presumed to exist and are protected under all the provisions of this chapter. If after review of the proposal and determined applicable by the planning director, a delineation of the critical areas shall be determined by a qualified professional using the definitions and methodology pursuant to this chapter
- D. All development applications are required to include accurate scaled drawing of the boundary(s) of any critical areas within the proposal area prior to the development application being considered complete

**18.16.160 Critical areas permits.**

The following activities shall require a critical areas permit if they are not already approved through a more general permit and in which the applicant has indicated, on the application, a possible impact on a critical area.

- A. In Wetlands: The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter or material of any kind; the dumping, discharging, or filling with any material; the draining, flooding, or disturbing of the water level or water table; the driving of piling; the placing of obstructions; the construction, reconstruction, demolition or expansion of any structure; the destruction or alteration of wetlands vegetation through clearing, harvesting, shading, intentional burning or planting of vegetation that would alter the character of a regulated wetland, provided that these activities are not part of a forest practice proposal governed under Chapter 76.09 RCW and its rules; or activities that result in a significant change of physical or chemical characteristics of wetland water sources, including quantity or the introduction of pollutants.
- B. In Critical Aquifer Recharge Areas: Any land use, or other activity, as determined by the County after reviewing the proposal materials and mitigation measures, that would contaminate the water.
- C. In Fish and Wildlife Habitat Conservation Areas: Any land use or other activity, as determined by the County, after reviewing proposal materials and mitigation measures, that would significantly impact habitat and/or fish and wildlife.
- D. In Frequently Flooded Areas: Any land use or other activity that contributes to a significant impact to the public's health, safety and general welfare or property damage.
- E. In Geologically Hazardous Areas: Any land use or other activity likely to contribute to a significant increase of geological hazards to public health, safety, and general welfare and adjacent properties.



**18.16.170 Non-conforming activities.**

Regulated activities that were approved prior to the passage of this chapter, but does not conform to this chapter may be continued subject to the following:

- A. No such activity shall be expanded, changed, enlarged or altered in any way that increases the extent of its non-conformity without a permit issued, pursuant to the provisions of this chapter.
- B. Except for cases of discontinuance as part of normal agriculture practices, if a non-conforming activity is discontinued for 12 consecutive months any resumption of the activity shall conform to this chapter.
- C. If a non-conforming use or activity is destroyed by human activities or natural causes, it shall not be resumed, except in conformity with the provisions of this chapter.

**18.16.180 Appeals.**

- A. Recourse from any decision made under this chapter shall be made timely to a court of competent jurisdiction, pursuant to Chapter 36.70C, RCW or other applicable state provisions.

**18.16.190 Penalties.**

- A. The violation of any provisions of this title is designated as a Class 1 civil infraction pursuant to Chapter 7.80 RCW, "Civil Infractions". Each violation shall be a separate and distinct and in the case of continuing violation, each day's continuance shall be a separate and distinct violation.

**18.16.200 Severability.**

- A. If any clause, sentence, paragraph, section or part of this chapter or the application thereof to any person or circumstances shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgement shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any part thereof to any other person or circumstances and to this end the provisions of each clause, sentence, paragraph, section or part of this law are hereby declared to be severable.

**18.16.210 Wetland Goals.**

The following wetland goals are consistent with the Lincoln County Comprehensive Plan

- A. Ensure no net loss of wetland functions, value and quantity as a result of land use activities.
- B. Protect wetlands so that they are able to perform their natural functions and maintain their beneficial values;
- C. Support the co-existence of wetlands and agriculture through the Voluntary Stewardship Program (VSP)

**18.16.220 Wetland ratings categories.**

Wetlands shall be rated according to the Washington Department of Ecology Wetland Rating System, as set forth in the *Washington State Wetland Rating System for Eastern Washington* (Ecology Publication XXXXXX, or as revised and approved by Ecology), which contains the definitions and methods for determining whether the criteria below are met.

**Category I.** Category I wetlands are: 1) alkali wetlands; 2) wetlands that are identified by scientists of the Washington Natural Heritage Program/DNR as high quality wetlands; 3) bogs; 4) mature and old-growth forested wetlands over ¼ acre with slow-growing trees; 5) forests with stands of aspen; and 6) wetlands that perform many functions very well (scores of 22-27 points).

These wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of function.

**Category II.** Category II wetlands are: 1) forested wetlands in the floodplains of rivers; 2) mature and old-growth forested wetlands over ¼ acre with fast-growing trees; 3) vernal pools; and 4) wetlands that perform functions well (scores between 19-21 points).

These wetlands are difficult, though not impossible, to replace, and provide high levels of some functions.

**Category III.** Category III wetlands are 1) vernal pools that are isolated, and 2) wetlands with a moderate level of functions (scores between 16-18 points).

**Category IV.** Category IV wetlands have the lowest level of functions (scores 9-15 points) and are often heavily disturbed. These are wetlands that we should be able to replace, and in some cases be able to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions and also need to be protected.

E. Wetland rating categories shall be applied as the wetland exists on the date of adoption of the rating system by the County, as the wetland naturally changes thereafter, or as the wetland changes in accordance with permitted activities. Wetland rating categories shall not change due to illegal modifications.

F. Mapping. The approximate location and extent of wetlands are shown on the draft critical area maps. County draft critical areas maps and the *National Wetlands Inventory* are hereby adopted as a guide for the County, project applicants and/or property owners and may be continuously updated as resources allow and new critical areas are identified. They are a reference and do not provide a final critical area designation. The actual presence and exact location of a wetland's boundary shall be determined through the performance of a wetland delineation by a qualified professional applying the approved federal wetland delineation manual and applicable regional supplements. All

areas within the County meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this Chapter. Wetland delineations are valid for five years; after such date the County shall determine whether a revision or additional assessment is necessary.

**18.16.230 Reserved**

**18.16.240 Development standards and buffers.**

A. Wetlands shall be protected, based on their quality established from the rating system and from alterations, which may create adverse impacts. The greatest protection shall be provided to category I and II wetlands. Alteration shall not mean best management practices for agriculture, which by design could be considered a change in land use, including but not limited to, tillage practices, improved chemical application or practices which are intended to improve crop production and enhance the areas adjacent to wetlands.

B. The County will coordinate wetland preservation strategies and efforts with appropriate county, state and federal agencies and private conservation organizations to take advantage of both technical and financial assistance and to avoid duplication of efforts.

C. Level of Impact table

Level of Impact from Proposed Change in Land Use	Types of Land Use Based on Common Zoning Designations
High	<ul style="list-style-type: none"> <li>• Commercial</li> <li>• Urban</li> <li>• Industrial</li> <li>• Institutional</li> <li>• Retail sales</li> <li>• Residential (more than one unit/acre)</li> <li>• High-intensity recreation (e.g., golf courses and ball field)</li> </ul>
Moderate	<ul style="list-style-type: none"> <li>• Residential (1 unit/acre or less)</li> <li>• Moderate-intensity open space (e.g., parks with biking and jogging)</li> <li>• Paved driveways and gravel driveways serving three or more residences</li> <li>• Paved trails</li> </ul>
Low	<ul style="list-style-type: none"> <li>• Low-intensity open space (e.g., hiking, bird-watching, and preservation of natural resources)</li> <li>• Timber management</li> <li>• Gravel driveways serving two or fewer residences</li> <li>• Unpaved trails</li> </ul>

	<ul style="list-style-type: none"> <li>Utility corridor without a maintenance road and little or no vegetation management</li> </ul>
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#### D. Buffers

Wetland Characteristics	Buffer Width by Impact of Proposed Land Use	Other Measures Recommended for Protection
<b>Category IV Wetlands (For wetlands scoring less than 16 points for all functions)</b>		
Score for all 3 basic functions is less than 16 points	Low – 25 feet Moderate – 40 feet High – 50 feet	No recommendations at this time
<b>Category III Wetlands (For wetlands scoring 16 to 18 points or more for all functions)</b>		
Moderate level of function for habitat (score for habitat 5 to 7 points) *If wetland scores 8 to 9 habitat points, use Category II buffers	Low – 75 feet Moderate – 110 feet High – 150 feet	No recommendations at this time
Score habitat for 3 to 4 points	Low – 40 feet Moderate – 60 feet High – 80 feet	No recommendations at this time
<b>Category II Wetlands (For wetlands that score 19 to 21 points or more for all functions or having the "Special Characteristics" identified in the rating system)</b>		
High level of function for habitat (score for habitat 8 to 9 points)	Low – 100 feet Moderate – 150 feet High – 200 feet	Maintain connections to other habitat areas.
Moderate level of function for habitat (score for habitat 5 to 7 points)	Low – 75 feet Moderate – 110 feet High – 150 feet	No recommendations at this time
High level of function for water quality improvement and low for habitat (score for water quality 8 to 9 points; habitat less than 5 points)	Low – 50 feet Moderate – 75 feet High – 100 feet	No additional surface discharges of untreated runoff
Riparian forest	Buffer width to be based on score for habitat functions or water quality functions	Riparian forest wetlands need to be protected at a watershed or sub basin scale  Other protection based on needs to protect habitat and/or water quality functions

<b>Wetland Characteristics</b>	<b>Buffer Width by Impact of Proposed Land Use</b>	<b>Other Measures Recommended for Protection</b>
Not meeting above characteristic	Low – 50 feet Moderate – 75 feet High – 100 feet	No recommendations at this time
Vernal pool	Low - 100 feet Moderate - 150 feet High - 200 feet  Or develop a regional plan to protect the most important vernal pool complexes – buffers of vernal pools outside protection zones can then be reduced to: Low – 40 feet Moderate - 60 feet High – 80 feet	No intensive grazing or tilling of wetland
<b>Category I Wetlands (For wetlands that score 22 points or more for all functions or having the “Special Characteristics” identified in the rating system)</b>		
Wetlands of High Conservation Value	Low – 125 feet Moderate – 190 feet High – 250 feet	No additional surface discharges to wetland or its tributaries. No septic systems within 300 feet of wetland. Restore degraded parts of buffer.
High level of function for habitat (score for habitat 8 to 9 points)	Low – 100 feet Moderate – 150 feet High – 200 feet	Restore degraded parts of buffer. Maintain connections to other habitat areas
Moderate level of function for habitat (score for habitat 5 to 7 points)	Low – 75 feet Moderate – 110 feet High – 150 feet	No recommendations at this time
High level of function for water quality improvement (8 to 9 points) and low for habitat (less than 5 points)	Low – 50 feet Moderate – 75 feet High – 100 feet	No additional surface discharges of untreated runoff
Not meeting above characteristics	Low – 50 feet Moderate – 75 feet High – 100 feet	No recommendations at this time

1. Buffer Width Averaging. The width of a buffer for Category I, Category II, or Category III wetlands may be averaged, thereby reducing the width of a portion of the buffer and increasing the width of another portion, if all of the following requirements are met:

- a) Buffer averaging is necessary to avoid hardship to the person seeking this option, which is caused by circumstances peculiar to the property, is necessary to accomplish the purposes of the proposed development or land use activity, and no reasonable alternative is available;
  - b) The wetland contains variation in sensitivity due to existing physical characteristics, as confirmed in a Critical Areas Report, and the reduction from standard buffer widths will occur only contiguous to the area of the wetland determined to be least sensitive;
  - c) Buffer width averaging will not adversely impact wetland functions and values;
  - d) The total area contained within the wetland buffer after averaging is not less than the total area of the buffer, which would have been required if buffer averaging was not allowed; and
  - e) No part of the buffer is reduced by more than 50 percent of the standard buffer width or 25 feet, whichever is greater.
2. Buffer Width Measurement. Wetland buffers shall be measured horizontally in a landward direction from the wetland edge, as delineated in the field, pursuant to the requirements of LCC 18.16.140. Where a wetland is located within 25 feet of the toe of slopes of 25 percent or greater, the buffer shall be increased to include such sloping areas and the tops of slopes determined to be Erosion Hazard Areas as defined in LCC 18.16.610 (A).
  3. Restored Wetlands. Any wetland created, restored, or enhanced as compensation for approved wetland alterations shall also include the standard buffer required for the category of the created, restored, or enhanced wetland.
  4. Temporary Buffer Alterations. Buffers shall not be disturbed. However, where temporary buffer disturbance has or will occur in conjunction with approved permitted activities, restoration, including replanting with adapted species as recommended by Ecology and/WDFW, shall be required.
  5. Demonstration of Buffer Sufficiency. If an applicant proposes to decrease or alter a required buffer or alter a wetland, the applicant shall demonstrate why such buffer and/or wetland modification, together with such alternative mitigation proposed in the wetland area assessment, is sufficient to adequately protect the wetland functions and values.
  6. Roads, bridges, and utilities. Road, bridge, and utility maintenance, repair, and construction may be permitted across wetland buffers under the following conditions:

- a) It is demonstrated to the Director that there are no alternative routes that can be reasonably used to achieve the proposed development;
  - b) The activity will have minimum adverse impact to the wetland area;
  - c) The activity will not significantly degrade surface or groundwater; and
  - d) Road maintenance, repair, and construction shall be the minimum necessary to provide safe traveling surfaces.
  - e) In making such determination, the Director may solicit and may consider comments and recommendations provided by Ecology, and WDFW, and any Technical Interdisciplinary Team participating in review for the proposed development.
7. Allowed uses in buffers: Low-impact uses and activities, which are consistent with the purpose and function of the habitat buffer and do not detract from its integrity, may be permitted within the buffer depending on the sensitivity of the habitat involved, provided that such activity shall not result in a decrease in wetland functions and values and shall not prevent or inhibit the buffer's recovery to at least pre-altered condition or function. Examples of uses and activities, which may be permitted in appropriate cases, as long as the activity does not retard the overall recovery of the buffer, include removal of noxious vegetation, pedestrian trails, and viewing platforms.
- a) Trails. Public and private trails may be allowed within wetland buffers where it can be demonstrated in a Critical Areas Report that the wetland and wetland buffer functions and values will not be degraded by trail construction or use. Trail planning, construction, and maintenance shall adhere to the following criteria:
    - i. Permeable surface trail alignment shall be located only in the outer 25 percent of a wetland buffer width, except as needed to access viewing platforms or to cross the wetland. Private trails shall be a maximum of 5 feet wide, but public trails may be as wide as 7 feet, if they are part of a regional trail network. Trails may be placed on existing levees, railroad grades, or road grades where those features exist in any part of a wetland buffer and may occupy the full width of the levee, railroad grade, or road grade;
    - ii. Trails and associated viewing platforms shall be constructed of pervious materials, unless impervious surfaces are necessary for conformance to the ADA. The trail surface shall meet all other requirements, including water quality standards set forth in the

Stormwater Management Manual for Eastern Washington  
(September 2004), or as revised;

- iii. Trail alignment shall avoid trees in excess of 6 inches in diameter of any tree trunk at a height of 4.5 feet above the ground on the upslope side of the tree, where feasible;
  - iv. Trail construction and maintenance shall follow the U.S. Forest Service Trails Management Handbook (FSH 2309.18, April 1993) and Standard Specifications for Construction and Maintenance of Trails (EM-7720-103, September 1996, or as revised);
  - v. Access trails to viewing platforms within the wetland may be provided. Trail access and platforms shall be aligned and constructed to minimize disturbance to valuable functions of the wetland or its buffer and other habitat elements, and still provide enjoyment of the resource; and
  - vi. Buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas.
8. Utilities. The criteria for alignment, construction, and maintenance within the wetland buffers shall apply to utility corridors within stream buffers. In addition, corridors shall not be aligned parallel with any stream channel, unless the corridor is outside the buffer, and crossings shall be minimized. Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the waterbody where feasible. Crossings shall be contained within the existing footprint of an existing or new road or utility crossing where possible. Otherwise, crossings shall be at an angle greater than 60 degrees to the centerline of the channel. The criteria for stream crossings shall also apply.
9. Stormwater Management Facilities. Stormwater management facilities are limited to stormwater dispersion outfalls and bioswales. They may be allowed within the outer 25 percent of the buffer of Category III or IV wetlands only, provided that:
1. No other location is feasible; and
  2. The location of such facilities will not degrade the functions or values of the wetland.

Stormwater management facilities are not allowed in buffers of Category I or II wetlands.

E. The ultimate width of the buffer shall be based upon the functioning and sensitivity of the wetland, the characteristics of the existing buffer, the potential impacts associated



with adjacent and proposed land use and other existing regulations which may control the proposed activity.

F. Buffer widths assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is un-vegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.”

G. Fertilizer, pesticides and herbicides should be used in required buffers only according to appropriate and specific labeling and directions, as provided by state and federal law.

H. A building setback of 10 feet shall be required from the outermost edge of a wetland buffer. The building setback is intended to provide construction access without impacting the buffer.

I. Activities or uses, which would strip the shoreline of vegetative cover, cause substantial erosion or sedimentation or adversely affect aquatic life shall -not be allowed.

J. Construction of structural shoreline stabilization and flood control work shall be minimized. New developments shall be designed to preclude the need for such works and shall be compatible with shoreline characteristics and limitations.

K. Mitigation

1. Mitigation Plan. Where mitigation is required, the applicant shall prepare a Mitigation Plan. The Mitigation Plan shall follow the general requirements described herein below, and Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1), Washington Department of Ecology Publication #06-06-011b), March 2006. The following items at a minimum are required as part of a mitigation plan:
  - a) Description of project or activity, including a detailed narrative describing the project or activity, its relationship to the wetland, and its potential impact to the wetland; and
  - b) Any proposed mitigation, including a discussion of how the project has been designed to avoid and minimize adverse impacts to wetlands, as well as the necessary monitoring and contingency actions for the continued maintenance of the wetland and its associated buffer.
  - c) A report, which includes:
    - i. Location maps;
    - ii. A site map prepared at a scale no smaller than 1 inch equals 200 feet, indicating the: boundaries of the identified wetlands; the width and length of all existing and proposed structures, utilities, roads, easements; wastewater and stormwater management facilities; and

adjacent land uses, zoning districts, and comprehensive plan designations;

- iii. A description of the vegetation in the wetland, on the overall project site, and adjacent to the site;
  - iv. A discussion of any federal, state, or local management recommendations, which have been developed for the area;
  - v. A discussion of the following mitigation alternatives as they relate to the proposal:
    - vi. Avoiding the impact altogether by not taking a certain action or parts of an action;
    - vii. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
    - viii. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment; and
    - ix. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.
    - x. A detailed discussion of ongoing management and monitoring practices, which will protect the wetland after the project site has been fully developed, including proposed monitoring, contingency, maintenance and surety programs; and
    - xi. Proposed mitigation ratios, including a discussion of functions and values of and the variety of habitats provided by the proposed replacement wetland. Proposed mitigation ratios less than the standard ratios shall include full justification thereof.
2. General Provisions. As a condition of any permit or other approval allowing alteration, which results in the loss or degradation of a regulated wetland, mitigation shall be required to offset impacts resulting from the actions of the applicant or any violator of the LCC 18.02. The following shall apply to all mitigation:
- a) Mitigation shall follow an approved Mitigation Plan pursuant to LCC 18.16.240 (K)(1) and reflect the ratios specified in the 18.16.240 (K) (5);
  - b) Mitigation shall be “on-site” and “in-kind”, except that “off-site” mitigation may be provided pursuant to LCC 18.16.240 (K)(6) and (7);

- c) Enhancement of existing wetlands, other than Category I and Category II wetlands, may be considered for compensation by doubling the ratios in the mitigation table below.
  - d) Compensation shall be completed prior to, or concurrently with, wetland alteration, or, in the case of an enforcement action, prior to further development of the site;
  - e) Mitigation must be conducted on property that will be protected and managed to avoid further development or degradation. The applicant shall provide for long-term preservation of the mitigation area; and
  - f) The applicant shall demonstrate sufficient scientific expertise, supervisory capability, and financial resources to carry out the project. The applicant shall demonstrate sufficient capability for monitoring the site and making corrections if the project fails to meet projected goals.
3. On-Site Mitigation. Any alteration of wetlands pursuant to LCC 18.16.240 shall be mitigated by creating or restoring new wetlands at the standard mitigation ratios shown in Table 18.16.240 (K) (5). The ratios apply to creation or restoration, which is in-kind (i.e., the same type of wetland), on-site, and is accomplished prior to or concurrently with loss. The first number specifies the acreage of new wetlands to be restored or created and the second specifies the acreage of wetlands altered.
4. The standard mitigation ratios may be increased or decreased by the Director on a case-by-case, site-specific basis. The determination shall be based on the most current, accurate, and complete scientific or technical information available and on-site, specific, and project-related conditions as described in the approved Mitigation Plan. In making such determination, the Director shall consider the functions and values of and the variety of habitats provided by the proposed replacement wetland and may solicit and may consider comments and recommendations provided by Ecology, WDFW, and any Technical Interdisciplinary Team participating in review for the proposed development.
5. Mitigation Ratios for Eastern Washington

Category and Type of Wetland Impacts	Re-establishment or Creation	Rehabilitation Only <sup>1</sup>	Re-establishment or Creation and Rehabilitation <sup>1</sup>	Re-establishment or Creation and Enhancement <sup>1</sup>	Enhancement Only <sup>1</sup>
All Category IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1
All Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1

All other Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
Category I based on score for functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category I Natural Heritage Site	Not considered possible <sup>2</sup>	6:1 Rehabilitation of a Natural Heritage Site	R/C Not considered possible <sup>2</sup>	R/C Not considered possible <sup>2</sup>	Case-by-case

Notes

1 = These ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement.

2 = Natural Heritage sites, alkali wetland, and bogs are considered irreplaceable wetlands because they perform some functions that cannot be replaced through compensatory mitigation. Impacts to such wetlands would, therefore, result in a net loss of some functions no matter what kind of compensation is proposed.

Reference:

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

R/C = Re-establishment or Creation

RH = Rehabilitation

E = Enhancement

6. Off-Site Mitigation. Off-site mitigation allows replacement of wetlands away from the site on which the wetland has been impacted by a regulated activity. Off-site mitigation shall be conducted by creating or restoring new wetlands at the ratios shown in Table 18.16.240 (K) (5), for on-site mitigation pursuant to LCC 18.16.240 (K)(3), and by selecting mitigation sites pursuant to LCC 18.16.240 (K)(7). Off-site compensation shall occur within the same drainage basin of the same watershed where the wetland loss occurs. Off-site compensation will be allowed only when the applicant demonstrates to the satisfaction of the Director that one or more of the following circumstances applies:
  - a) On-site mitigation is not feasible due to hydrology, soils, or other factors;
  - b) On-site mitigation is not practical due to probable adverse impacts from surrounding land uses or would conflict with a federal, state or local public safety directive;
  - c) Potential functions and values at the site of the proposed restoration are greater than the lost wetland functions and values; or
  - d) When the wetland to be altered is of low function and value mitigation shall be of the wetland community types needed most in the location of

mitigation and those most likely to succeed with the highest function and value possible.

- e) In making such determination, the Director may solicit and may consider comments and recommendations provided by Ecology, WDFW, and any Technical Interdisciplinary Team participating in review for the proposed development.
7. Selecting Off-Site Mitigation Sites. Applicants shall pursue locations for off-site mitigation in the following order of preference:
- a) Filled, drained, or cleared sites that were formerly wetlands and where appropriate hydrology exists; and
  - b) Upland sites, adjacent to wetlands, if the upland is significantly disturbed and does not contain a mature community of native species, and where the appropriate natural hydrology exists.
8. Mitigation Timing. Construction of mitigation projects shall be timed to reduce impacts to existing wildlife and plants. Construction shall be timed to ensure that grading and soil movement occurs during those periods determined by the Director to be most advantageous to the needs of the species present.
9. Alternative Mitigation Projects. The Director may encourage, facilitate, and approve innovative wetland mitigation projects. Advance compensation or mitigation banking are examples of alternative mitigation projects allowed under the provisions of this chapter wherein one or more applicant(s), or an organization with demonstrated capability, may undertake a mitigation project together if it is demonstrated to the satisfaction of the Director that all of the following circumstances exist:
- a) Creation of one or several larger wetlands may be preferable to many small wetlands;
  - b) The group demonstrates the organizational and fiscal capability to act cooperatively;
  - c) The group demonstrates that long-term maintenance and management of the mitigation area will be provided;
  - d) There is a clear potential for success of the proposed mitigation at the identified mitigation site;
  - e) Conducting mitigation as part of a cooperative process does not reduce or eliminate the required replacement ratios outlined in LCC 18.16.240 (K)(5);

- f) Permits and approvals are obtained from all other agencies having regulatory jurisdiction; and
- g) Wetland mitigation banking programs are consistent with the provisions of RCW 90.84 and any Ecology guidelines implementing provisions of RCW 90.84, regarding wetland mitigation banking.

In making such determination, the Director may solicit and may consider comments and recommendations provided by Ecology, WDFW, and any Technical Interdisciplinary Team participating in review for the proposed development.

L. A drainage plan shall be submitted to the County and approved by the planning director to ensure that runoff caused by, but not limited to, such things as impervious surfaces are avoided from entering into the wetland system.

M. Proposals for restoration, creating or enhancement shall be coordinated with appropriate resource agencies to ensure adequate design consistency with other regulatory requirements.

N. Wetlands, which are impacted by activities of a temporary nature, shall have restoration begin immediately upon completion. Monitoring of such wetland, as defined by the mitigation plan, shall be submitted to the County to ensure the completion of appropriate wetland restoration activities.

O. In-kind replacement of functional values shall be provided whenever possible. Where in-kind replacement is not feasible or practical due to the characteristics of the existing wetland, substitute resources of equal functional value shall be provided.

P. On-site replacement of functional values shall be provided whenever practical. Where on-site replacement is not feasible or practical due to characteristics of the existing location, replacement should occur within the same watershed and proximity. If necessary, wetlands artificially created and banked voluntarily may be used as such mitigation.

Q. Mitigation shall begin prior to use or occupancy of the activity, or a performance bond or cash deposit shall be submitted equal to 1.25 times the value of the replacement, restoration, creation, or enhancement, as determined by a qualified individual, shall be submitted to the County in a form acceptable to the county attorney, prior to wetland alteration.

### **18.16.300 Critical aquifer recharge areas.**

A. The following goals are consistent with the Lincoln County Comprehensive Plan:

1. Prevent degradation of groundwater quality in Lincoln County.
2. Secure adequate water quantity for the residents of Lincoln County.
3. Provide public information programs for land users to demonstrate how to protect critical aquifer recharge areas from degradation.

B. These areas include the following:

1. Wellhead protection areas: Wellhead protection areas may be defined by the boundaries of the ten-year time of ground water travel or boundaries established using alternate criteria approved by the Department of Health in those settings where ground water time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290-135.
2. Sole source aquifers are areas designated by the U.S. Environmental Protection Agency pursuant to the Federal Safe Drinking Water Act.
3. Susceptible ground water management areas: susceptible ground water management areas are areas that have been designated as moderately, or highly vulnerable or susceptible in an adopted ground water management program developed pursuant to Chapters 173-100 WAC.
4. Special protection areas: defined pursuant to WAC 173-200-090.
5. Moderately, highly vulnerable or highly susceptible aquifer recharge areas: Aquifer recharge areas that are moderately, highly vulnerable or highly susceptible to degradation or depletion due to hydrogeologic characteristics are those areas delineated by a hydrogeologic study prepared in accordance with the state Department of Ecology guidelines or meeting the criteria established by the Department of Ecology.

**18.16.310 Aquifer recharge definitions.**

The draft aquifer recharge maps have four categories listed.

- A. High: areas of soils with high recharge (percolation) rates that are underlain by no basalt of a depth of 0-99 feet;
- B. Intermediate: areas of soils with high recharge (percolation) rates that are underlain by basalts 200-399 or more feet in depth;
- C. Nominal: areas of soils with high recharge (percolation) rates that are underlain by basalts 400 or more feet in depth;
- D. Water: areas that hold perennial water such as lakes and rivers.

**18.16.320 Designation - Intent.**

- A. Critical Aquifer Recharge Areas are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). Critical Area Recharge Areas have prevailing geologic conditions associated with infiltration rates that create high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water.
- B. Lincoln County designates all lands within its boundaries having an intermediate recharge potential or greater rating as an aquifer recharge area and subject to its aquifer recharge areas development standards.
- C. It is not the intent of these development standards to prohibit development, but to help guide development to more suitable areas and/or mitigate impacts.
- D. If a parcel lies within two or more susceptibility rating designations, the higher susceptibility rating designation shall apply to the whole parcel.
- E. Designated wellhead protection areas are treated as high-susceptibility areas.

### **18.16.330 Mapping of Critical Recharge Areas.**

A. The approximate location and extent of critical aquifer recharge areas are shown on the draft CARA maps. These maps are for information and illustrative purposes only and may assist landowners and developers in the assessment and permitting process. The maps will be continuously updated as resources become available and new areas are identified. They are a reference and do not provide a final CARA designation. Performance standards set forth herein will be used as guidelines for development. The maps will be completed and amended as more information and resources becomes available to the County.

### **18.16.340 Aquifer Recharge Areas Development Standards.**

- A. Protection Standards
1. Prohibited activities. The following activities are prohibited in aquifer recharge areas due to the probability and/or potential magnitude of their adverse effects on groundwater, unless any significant adverse impacts can be mitigated by conditions of approval. Such conditions shall be based on a hydrogeological evaluation that demonstrates that the proposed development or land use will not degrade groundwater, and that hydrogeological conditions do not facilitate degradation:
    - a) Land application of sewage sludge from sewage treatment works;
    - b) Underground storage of fuel in excess of 1,100 gallons for consumptive use on the parcel where stored;
    - c) Underground storage of hazardous materials;
    - d) Commercial and industrial facilities that store, use, handle or produce hazardous substances or waste products;
    - e) Petroleum pipelines for other than single-family use;
    - f) All uses where repetitive pesticide and fertilizer application are required or where any toxic substance is disseminated;
    - g) Creosote manufacturing or treatment;
    - h) Chemical manufacture or reprocessing of any extremely hazardous waste as defined by RCW 70.105.010(6) and listed in Chapter 173-303 WAC; and
    - i) Class V injection wells, including:
      - i. Agricultural drainage wells;
      - ii. Untreated sewage waste disposal wells;
      - iii. Cesspools;
      - iv. Industrial process water and disposal wells; and
      - v. Radioactive waste disposal.
  2. All development within Lincoln County must be in compliance with all of the following requirements:
    - a) Any and all applicable ground water management areas (GWMA) regulations, as designated by the State of Washington (including Chapter 173-100 WAC, Chapter 173-124 WAC, and Chapter 173-128A WAC, Chapter 173-130A WAC, Chapter 173-134A WAC, as well as other sources;



- b) State requirements regarding protection of upper aquifer zones and groundwater quality (Chapter 173-154 WAC and Chapter 173-200 WAC, respectively);
  - c) Any and all applicable regulations set forth by any irrigation districts regulated by the U.S. Department of Interior, Bureau of Reclamation; and
  - d) Any and all regulations set forth by the Washington State Department of Health, the Lincoln County Health Department, and the Washington State Department of Ecology.
3. Residential Development Standards: All residential development applications (except for single-family residential building permits) on parcels of land within designated aquifer recharge areas are subject to the following provisions:
- a) Lots in new land divisions outside of town limits shall require a minimum net land area of 1 acre but not less than the minimum area required to meet the Lincoln County Health Department's requirements for on-site septic systems, when on-site septic systems are proposed;
  - b) Lots in new land divisions within towns shall be required to connect to municipal or sewer district sewage collection and treatment systems, if available within 200 feet of the proposed development;
  - c) Lots in new land divisions shall require a stormwater collection, treatment, and disposal system designed by a Professional Engineer and approved by the County or Town Engineer, except for short subdivisions where each lot is at least 1 acre in size.
4. Non-residential Development Standards: An applicant seeking the following types of new construction activities on parcels of land within designated aquifer recharge areas shall prepare and submit to the Director a site assessment report:
- a) Industrial and commercial agricultural facilities applying fertilizers or pesticides in excess of agronomic rates;
  - b) Golf courses or other recreational or institutional facilities that involve extensive turf cultivation or maintenance;
  - c) Aboveground storage tanks, except for water tanks;
  - d) Industrial or commercial facilities that, when completed, will use, store, or handle dangerous wastes in quantities in excess of 5 gallons or 25 pounds or more of any one substance, or in aggregate quantities of 20 gallons or 100 pounds or more of all dangerous waste;
  - e) Fossil fuel exploration or development; and
  - f) Commercial underground storage tanks in excess of 1,100 gallons.
5. Agricultural uses shall employ best management practices in the application, storage, and disposal of pesticides, herbicides, sterilants, fumigants, and fertilizers, including livestock wastes.

B. Mitigation

1. The Planning Department, Health Department, and the jurisdictional agency for any affected Wellhead Protection Area shall review development proposals to assess aquifer(s) vulnerability and establish needed mitigation. Where determined to be necessary through the site assessment process, development approvals shall include conditions designed to prevent significant degradation of water quality or reduction in water quantity in aquifer recharge areas. Where a wellhead protection plan that addresses the project area exists, the Director shall use the recommendations contained in the wellhead protection plan as a basis for formulating mitigation. In the absence of such a mitigation plan, the Planning Department and/or Health Department shall contact the Public Water System Water Purveyor and jointly develop mitigation, a summary of which shall be signed by the applicant and recorded with the applicant's property title.

**18.16.350 - 390      Reserved.**

**18.16.400      Fish and Wildlife Habitat Conservation Areas.**

A. Fish and Wildlife Conservation Area goals

1. Protect, maintain, and improve critical fish and wildlife habitat conservation areas and habitats of local importance through a variety of methods.

B. Identification and Designation:

1. Fish and Wildlife Habitat Conservation Areas (HCA) shall include:
  - a) Areas with which state or federally designated, endangered, threatened, and sensitive species have primary association;
  - b) Areas associated with State Priority Habitat & Species as identified by WDFW;

	Species/ Habitats	State Status	Federal Status
Habitat	Aspen Stands		
	Biodiversity Areas & Corridors		
	Inland Dunes		
	Old-Growth/Mature Forest		
	Shrub-Steppe		
	Riparian		
	Freshwater Wetlands & Fresh Deepwater		
	Instream		
	Caves		
	Cliffs		
	Snags and Logs		
	Talus		
Fishes	White Sturgeon		
	Bull Trout/ Dolly Varden	<a href="#">Candidate *</a>	<a href="#">Threatened *</a>
	Kokanee		
	Rainbow Trout/ Steelhead/ Inland Redband Trout	<a href="#">Candidate **</a>	<a href="#">Threatened **</a>
	Westslope Cutthroat		
Amphibians	Columbia Spotted Frog	Candidate	
	Western Toad	Candidate	Species of Concern
Reptiles	Striped Whipsnake	Candidate	
	Sagebrush Lizard	Candidate	Species of Concern
Birds	American White Pelican	Endangered	
	Western grebe	Candidate	
	E WA breeding concentrations of: Grebes, Cormorants		
	E WA breeding: Terns		
	Black-crowned Night-heron		
	Great Blue Heron		
	Cavity-nesting ducks: Wood Duck, Barrow's Goldeneye, Common Goldeneye, Bufflehead, Hooded Merganser		
	Tundra Swan		
	Waterfowl Concentrations		
	Bald Eagle	Sensitive	Species of Concern
	Ferruginous Hawk	Threatened	Species of Concern
	Golden Eagle	Candidate	
	Peregrine Falcon	Sensitive	Species of Concern
	Prairie Falcon		
	Dusky Grouse		
	Ring-necked Pheasant		
	Greater Sage-grouse	Threatened	Candidate
	Sharp-tailed Grouse	Threatened	Species of Concern
	Sandhill Crane	Endangered	
	Upland Sandpiper	Endangered	
	E WA breeding occurrences of: Phalaropes, Stilts and Avocets		
	Burrowing Owl	Candidate	Species of Concern
	Flammulated Owl	Candidate	
	Vaux's Swift	Candidate	
	Black-backed Woodpecker	Candidate	
	Lewis' Woodpecker	Candidate	
	Pileated Woodpecker	Candidate	
White-headed Woodpecker	Candidate		
Loggerhead Shrike	Candidate		
Sage Sparrow	Candidate		
Sage Thrasher	Candidate		
Mammals	Merriam's Shrew	Candidate	
	Preble's Shrew	Candidate	Species of Concern
	Roosting Concentrations of: Big-brown Bat, Myotis bats, Pallid Bat		
	Townsend's Big-eared Bat	Candidate	Species of Concern
	Black-tailed Jackrabbit	Candidate	
	White-tailed Jackrabbit	Candidate	
	Washington Ground Squirrel	Candidate	Candidate
	Bighorn Sheep		
	Northwest White-tailed Deer		
Elk			
Rocky Mountain Mule Deer			
Invertebrates	California Floater	Candidate	Species of Concern
		* Bull Trout only	
		** Steelhead only	

- c) Naturally occurring ponds less than 20 acres and their submerged aquatic beds that provide fish or wildlife habitat. These do not include ponds deliberately designed and created from dry sites such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds of less than 3 years duration, and landscape amenities. Naturally occurring ponds may include those artificial ponds intentionally created from dry areas in order to mitigate conversion of ponds, if permitted by a regulatory authority;
  - d) Waters of the state as defined by WAC 222-16;
  - e) Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;
  - f) Areas with which anadromous fish species have a primary association; and
  - g) State natural area preserves and natural resources conservation areas.
2. In addition to the HCAs identified in LCC 18.16.400 (B)(1), additional species and habitats of local importance may be designated by the Director based on declining populations, sensitivity to habitat manipulation, or special value. These include a seasonal range or habitat element with which a given species has a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. These might include:
- a) Areas of high relative density or species richness, breeding and rearing habitat, winter range, and movement and/or migration corridors; and
  - b) Habitats that are of limited availability or high vulnerability to alteration such as cliffs, caves, talus, shrub steppe, aspen stands, in-stream gravel deposits (salmon spawning beds), and wetlands riparian areas.
3. In order to nominate an area or a species to the category of Habitats and Species of Local Importance, an individual or organization must:
- a) Demonstrate a need for special consideration based on:
    - i. Declining population;
    - ii. Sensitivity to habitat manipulation; or
    - iii. Commercial or game value or other special value, such as public appeal.
  - b) Propose relevant management strategies considered effective and within the scope of this chapter;

- c) Provide species habitat location(s) on a map. Submitted proposals will be reviewed by the Director and forwarded to the WDFW, DNR, and/or other local and state agencies or experts for comments and recommendations regarding accuracy of data and effectiveness of proposed management strategies; and
  - d) Lincoln County, will hold a public hearing before the appropriate governing body per LCC 18.02.700, Roles and Responsibilities, for proposals found to be complete, accurate, potentially effective, and within the scope of this chapter. If a proposal is approved, the habitat/species will become designated "Habitats/Species of Local Importance" and will be subject to the provisions of this chapter.
4. The following important habitat areas, which are not based on use by a specific species, include those areas protected by their conservation ownership or management status and are not subject to the protection standards within this chapter:
- a) National Wildlife Refuges, National Parks, Natural Area Preserves, or any preserve or reserve designated under WAC 332-30-151;
  - b) State Natural Area Preserves or Natural Resource Conservation Areas identified by state law and managed by the DNR; and
  - c) Areas with recognized wildlife habitat value owned by the Bureau of Land Management or the Nature Conservancy.

B. Maps and References:

1. In addition to the Critical Areas Checklist prepared by the applicant and any site reconnaissance conducted by the County, the Director shall use the following maps and references to assist in making a Preliminary Determination:
- a) WDFW Priority Habitat and Species maps current and as amended;
  - b) Wetlands mapped under the National Wetland Inventory by the U.S. Department of Interior and U.S. Fish and Wildlife Service;
  - c) WDFW, DNR, Washington Rivers Inventory System maps;
  - d) U.S. Department of the Interior, Spokane District Resource Management Plan; and

C. Fish/Wildlife Habitat Assessment and Identification:

1. If it is determined through the process identified herein that a Habitat Conservation Area exists on a site that is the subject of a development permit application, a fish/wildlife habitat boundary survey and evaluation shall be conducted by a professional biologist, as appropriate, who is knowledgeable of fish and wildlife habitat within the region. The fish and wildlife habitat boundary shall be field staked, as necessary, by the biologist and identified on all final plats, maps, or similar document.
2. The fish/wildlife habitat boundary and any associated buffer shall be identified on all plats, maps, plans, and specifications submitted for the project.

D. Critical Area Report and Fish/Wildlife Habitat Management and Mitigation Plan:

1. A Fish/Wildlife Habitat Management and Mitigation Plan is required for all proposed developments determined to be within a HCA.
2. When required, a Fish/Wildlife Habitat Management and Mitigation Plan shall be prepared by a professional biologist who is knowledgeable of fish and wildlife habitat within the region.
3. The Fish/Wildlife Habitat Management and Mitigation Plan shall demonstrate, when implemented, that the net loss of ecological function of habitat requirement is met.
4. Based on the most current scientific and technical information, the Fish/Wildlife Habitat Management and Mitigation Plan shall identify how impacts from the proposed project shall be mitigated, as well as the necessary monitoring and contingency actions for the continued maintenance of the habitat conservation area and any associated buffers.
5. The Fish/Wildlife Habitat Management and Mitigation Plan shall include maps and narrative descriptions that address the mitigation sequencing per LCC 18.16.077.
6. A plan by the applicant that explains how any adverse impacts created by the proposed development will be mitigated, including but not limited to the following techniques:
  - a) Use of any federal, state, or local management recommendations, which are current and have been developed for the species or habitats in the area;
  - b) Application of appropriate and adequate buffers (see LCC 18.16.240 (D));
  - c) Preservation of critically important plants and trees;
  - d) Limitation of access to the habitat conservation area;

- e) Seasonal restriction of construction activities; and
- f) Establishment of a timetable for periodic review of the plan.

7. A detailed discussion of on-going management practices, which will protect the habitat conservation area after the project site has been fully developed, including proposed monitoring, contingency, maintenance and surety programs.

E. Protection Standards:

1. No development permit or approval pursuant to this chapter shall be granted unless adverse effects to Fish and Wildlife Habitat Conservation Areas resulting from proposed development activities located inside of or within 300 feet of a designated HCA are mitigated pursuant to LCC 18.16.400.

2. HCAs shall be protected in accordance with the Director's determination of appropriate conditions and site-specific information supplied by the applicant. In making such determination, the Director may solicit and may consider comments and recommendations provided by Ecology, WDFW, and any Technical Interdisciplinary Team participating in review for the proposed development. Possible conditions may include the following:

- a) Establishment of buffer zones;
- b) Preservation of critically important vegetation;
- c) Limitation of access to the HCA; and
- d) Seasonal restriction of construction activities.

3. Special Provisions – Anadromous Salmonids:

- a) Activities, uses, and alterations proposed to be located in waterbodies used by anadromous salmonids, or in areas that affect such waterbodies, shall give special consideration to the preservation and enhancement of anadromous salmonid habitat, including, but not limited to, the following:
  - i. Activities shall be timed to occur only during the allowable work window as designated by the WDFW;
  - ii. An alternative alignment or location for the activity is not feasible;
  - iii. The activity is designed so that it will minimize the degradation of the functions or values of the fish habitat or other critical areas; and

- iv. Any impact on the functions and values of the habitat conservation area are mitigated in accordance with an approved Critical Areas Report.
  - b) Structures that prevent the migration of anadromous salmonids shall not be allowed in the portion of waterbodies currently used by salmonids. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and shall prevent juveniles migrating downstream from being trapped or harmed.
  - c) Fills water ward of the OHWM, when authorized, shall minimize the adverse impacts on anadromous salmonids and their habitat, shall mitigate any unavoidable impacts, and shall only be allowed for water-dependent uses or for uses that enable public access or recreation for significant numbers of the public.
4. Special provisions – Wildlife. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292).
  5. Special Provisions – Wetland Habitats. All proposed activities within or adjacent to habitat conservation areas containing wetlands shall, at a minimum, conform to the wetland development performance standards set forth in LCC 18.16.240, in addition to meeting the habitat conservation area standards in this chapter.
  6. Special Provisions – Riparian Habitat Areas. Unless otherwise allowed in this chapter, all structures and activities shall be located outside of the riparian habitat buffers.
    - a) Establishment of riparian habitat buffers. Buffers shall be established for habitats that include aquatic systems;
    - b) Buffer widths.

Riparian buffer areas shall be established from the bankfull width for Types S, F, and N Water. Water bodies classified by the Water Typing System (WAC-222-16-031) have the following buffer area requirements:

Water Type, General Description (see WAC-222-16-031)	Buffer
Type <b>S</b> Water, Shorelines of the State	250 feet
Type <b>F</b> Water, Fish	100 feet
Type <b>Np</b> Water (Non-Fish Perennial)	75 feet
Type <b>Ns</b> Water (Non-Fish Seasonal)	25 feet



- c) Additional setbacks for structures or other facilities of 10 feet from the edge of the buffer, would be added on to identified buffer width;
  - d) Buffers in conjunction with other critical areas. Where other critical areas defined in this chapter fall within the waterbody buffer, the buffer area shall be the most beneficial of the buffers applicable to any applicable critical area; and
  - e) Buffers shall be accompanied by stormwater management measures consistent with the Stormwater Management Manual for Eastern Washington (September 2004) or as revised.
8. Proposed developments or land use activities located within 300 feet of a designated HCA shall be reviewed for potential habitat impacts, considering the recommendations provided by Ecology, WDFW, and any Technical Interdisciplinary Team participating in review for the proposed development.
9. Allowed Uses in Fish and Wildlife Habitat Conservation Areas and Stream Buffers:
- a) Roads, bridges, and utilities. Road, bridge, and utility maintenance, repair, and construction may be permitted across a Fish and Wildlife Habitat Conservation Area and/or buffers under the following conditions:
    - i. It is demonstrated to the Director that there are no alternative routes that can be reasonably used to achieve the proposed development;
    - ii. The activity will have minimum adverse impact to the Fish and Wildlife Habitat Conservation Area;
    - iii. The activity will not significantly degrade surface or groundwater; and
    - iv. The intrusion into the Fish and Wildlife Habitat Conservation Area and its buffers is fully mitigated to achieve no net loss of ecological functions.
  - b) Limited park or recreational access to a Fish and Wildlife Habitat Conservation Area and/or stream buffers, provided that all of the following are satisfied:
    - i. The access is part of a public park or a recreational resort development that is dependent on the access for its location and recreational function;
    - ii. The access is limited to the minimum necessary to accomplish the recreational function; and

- iii. The intrusion is fully mitigated to achieve no net loss of ecological functions.
- c) Low-impact uses and activities that are consistent with the purpose and function of the stream setback and do not detract from its integrity. Examples of low-impact uses and activities include removal of noxious vegetation and stormwater management facilities such as grass-lined swales.
10. Temporary and permanent erosion and sedimentation controls shall be provided to prevent the introduction of sediments or pollutants to waterbodies or watercourses within the HCA.
11. Clearing and grading shall be limited to that necessary for establishment of the use or development and shall be conducted so as to avoid significant adverse impacts and to minimize the alteration of the volume, rate, or temperature of freshwater flows to or within the HCA and any buffer required by this chapter.
12. The proposed development shall not discharge hazardous substances to the HCA.
13. Stream flows shall be protected from changes to the normal flow, temperature, turbidity, and discharge to the maximum extent practicable.
14. Septic drainfields and any required replacement drainfield area shall be at least 100 feet from the edge of any HCA per the County's Health and located per Safety regulations in LCC 8.33, Sewage Disposal Systems.
15. Exceptions to the above protection standards may be allowed by the Director based on a special report prepared by a Qualified Biological Professional that demonstrates that such exception would not adversely impact the habitat system, functions, and values of the HCA.
16. Activities may only be permitted in a stream or stream buffer if the applicant can show that the proposed activity will not degrade the functions and values of the stream, stream buffer, or other critical area.
17. Stream Crossings. Stream crossings shall be minimized, but when necessary they shall conform to the applicable provisions of this Ordinance and other laws (see WDFW or Ecology).
18. Stormwater conveyance facilities. Stormwater conveyance facilities may be permitted, provided they are only located in the buffer when no practicable alternative exists outside the buffer. Stormwater facilities shall be planted with native plantings where feasible to provide habitat and/or less intrusive facilities should be used.

19. Floodway-dependent Structures. Floodway-dependent structures or installations may be permitted within streams or their buffers if allowed or approved by other ordinances or other agencies with jurisdiction. See LCC 18.16.500, Frequently Flooded Areas, for more information on allowed uses and activities within flood hazard areas.

20. Trails. The criteria for alignment, construction, and maintenance of trails within wetlands and their buffers shall apply to trails within stream buffers. Outer buffer trails may not exceed 10 feet in width and may be constructed with impermeable surface materials if on-site infiltration is utilized.

21. Utilities. The criteria for alignment, construction, and maintenance within the wetland buffers and LCC 18.16.240 (D) (8) Utilities, shall apply to utility corridors within stream buffers. In addition, corridors shall not be aligned parallel with any stream channel unless the corridor is outside the buffer, and crossings shall be minimized. Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the waterbody where feasible. Crossings shall be contained within the existing footprint of an existing or new road or utility crossing where possible. Otherwise, crossings shall be at an angle greater than 60 degrees to the centerline of the channel. The criteria for stream crossings shall also apply.

22. Native vegetation landscaping schemes shall be provided that do not require application of herbicides, pesticides, or fertilizer to maintain robust growth.

23. No net effective impervious surfaces may be created in the outer buffer area, beyond what is otherwise permitted.

24. No structures or related improvements, including buildings or decks, shall be permitted within the stream buffer except as otherwise allowed in LCC 18.16.

F. Mitigation:

1. Mitigation shall be required for loss of area or function and value of fish and wildlife habitat regulated under this subsection. The applicant shall mitigate to achieve no net loss of ecological functions. If it is determined by the Director that a proposed development will likely have a significant adverse impact on a HCA, the applicant shall prepare and implement a Habitat Management and Mitigation Plan in accordance with LCC 18.16.400 (D).

2. Where impacts cannot be avoided, the applicant shall seek to implement other appropriate mitigation actions in compliance with the intent, standards, and criteria of this chapter. In an individual case, these actions may include consideration of alternative site plans and layouts and reductions in the density or scope of the proposed development.

**18.16.440 - 480        Reserved.**

**18.16.500        Frequently flooded areas designation.**

Those areas designated as frequently flooded areas (areas within the 100 year floodplain) are shown on the most current countywide federal flood insurance rate maps (September 1988) and are hereby adopted along with any updated version of said maps as they are made available. Copies of the maps are on file at Lincoln County planning services.

**18.16.510        Development standards - Policies.**

Development standards are defined in LCC 15.16, Flood Damage Prevention. It is not the intent of those policies to prohibit development, but to ensure that development takes place in a manner that:

- A.        Reduces danger to health by protecting surface and ground water supplies from impediments, which result from incompatible land uses by providing safe and sanitary drainage.
- B.        Reduces the financial burdens imposed both on the community and the individuals by frequent floods.
- C.        Encourages planned development land uses, which will not impede the flow of floodwater or cause danger to life or property. This includes, but is not limited to, filling, dumping, storage of materials, structures, buildings, and any other works which, when acting alone or in combination with other existing or future uses, would cause damaging flood heights and velocities by obstructing flows.
- D.        Permits and encourages land uses compatible with the preservation of the natural vegetation which is a principal factor in the maintenance of constant rates of water flow through the year and which sustain many species of wildlife and plant growth.
- E.        Avoids fast runoff of surface waters from developed areas to prevent pollution materials such as motor oils, paper, sand, salt and other debris, garbage, and foreign materials from being carried directly into the nearest natural stream, lake, or other public waters.
- F.        Prevents the development of structures in areas unfit for human usage by reason of danger from flooding, unsanitary conditions, or other hazards.

**18.16.520 - 580        RESERVED**

**18.16.600        Geologically Hazardous Areas.**

According to WAC 365-190-030, geologically hazardous areas are “areas that because of their susceptibility to erosion, sliding, earthquake or other geological events are not suited to siting commercial, residential and/or industrial development consistent with public health or safety concerns”. Hazards of concern that should be considered within this definition include:

A. Erosion Hazard - areas that, at a minimum, include areas identified by the United States department of agriculture (USDA) natural resource conservation service (NRCS) as having a “severe” rill and inter-rill erosion hazard.

B. Landslide Hazard - areas potentially subject to landslides based on a combination of geologic, topographic and hydrological factors. They include any areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Examples of these may include, but are not limited to, the following:

1. Areas of historic failing such as areas delineated by USDA/NRCS as having a “severe” limitation for building site development.
2. Areas mapped as class “u” (unstable), “uos” (unstable old slides), and “urs” (unstable recent slides) in the department of ecology coastal zone atlas.
3. Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published as the United States geological survey or department of natural resources division of geology and earth sciences.
4. Areas with all three of the following characteristics: slopes greater than 15 percent, steep hillsides intersecting geologic contacts with a relative permeable sediment or bedrock; and springs or groundwater seepage.
5. Areas that have shown movement during the Holocene epoch (from 10,000 years ago to the present) or which are underlain or covered by mass wastage debris of that epoch.
6. Slopes that are parallel to sub-parallel to planes of weakness (such as bedding planes, joint systems and fault planes) in subsurface materials.
7. Slopes having gradients greater than 80 percent subject to rock-fall during seismic shaking.
8. Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action.
9. Areas that show evidence of, or are at risk from, snow avalanches.
10. Areas located in a canyon or on an active alluvial fan, presently or potentially subject or inundation by debris flows or catastrophic flooding.
11. Any area with a slope of 40 percent or greater and a vertical relief of 10 or more feet, except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least 10 - foot vertical relief.

C. Seismic Hazard - areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, or surface faulting. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is primarily affected by;

1. The magnitude of the earthquake;
2. The distance from the source of the earthquake;
3. The type of thickness of the geologic material at the surface; and
4. The type of subsurface geologic structure.

D. Settlement and soil liquefaction conditions occur in areas underlain by non-cohesive soils of low density typically in association with a shallow groundwater table.

E. Other Geological Events.

1. Volcanic Hazard Areas - shall include areas subject to pyroclastic flows, lava flows, debris, avalanche, inundation by debris flows, mudflows or related flooding from volcanic activity.
2. Mine Hazard Areas - are those areas underlain by, adjacent to, or affected by mine workings such as adits, gangway, tunnels, drifts, or airshafts. Factors which should be considered include; proximity to development; depth from ground surface to mine working; and geological material.

**18.16.610 Designation.**

The process for designation depends on the type of geologic hazard (suspected or known). Some types, such as severe rill and inter-rill erosion, can be assessed by examining a paper inventory contained within the Lincoln County Soil Survey to determine the properties and/or functions of the soils located at a site. Also, the County has developed draft GIS slope feature coverage that will be used in conjunction with on-site inspection for proposed project analysis.

A. Erosion Hazards - Are hereby designated as those areas that were identified by the U.S. Department of Agriculture Soil Conservation Service as having “severe” rill and inter-rill erosion hazard. Erosion hazard areas are also those areas impacted by shore land and/or stream bank erosion and those areas within a river or stream’s channel migration zone. Erosion hazard areas are those that contain all three of the following characteristics:

1. A slope of 30 percent or greater;
2. Soils identified by the Soil Conservation Service as unstable and having a high potential for erosion; and
3. Areas that are exposed to the erosion effects of wind or water.

B. Landslide Hazards - All areas within the boundary of Lincoln County having slopes of 15 percent or greater that are underlain by weak, fine grained unconsolidated sediments, jointed or bedded bedrock, or landslide deposits, including the top and toe of such areas are hereby designated as landslide hazards. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Landslide hazard areas are those that may contain any of the following circumstances:

1. All areas that have historically been prone to landsliding;
2. All areas containing soil types identified by the Natural Resource Conservation Service (NRCS) as unstable and prone to landslide hazard;
3. All areas that show evidence of or are at risk from snow avalanches; or

4. All areas that are potential unstable as a result of rapid stream incision or stream bank erosion.

Special Note: Areas adjacent to Lake Roosevelt may be potentially unstable as a result of shoreline erosion, over steepened banks, fluctuating water levels.

C. Seismic Hazards

Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface faulting. Settlement and soil liquefaction conditions occur in areas underlain by cohesionless, loose, or soft-saturated soils of low density, typically in association with a shallow ground water table. Seismic hazards shall be as identified in the Washington State Department of Natural Resources seismic hazard susceptibility maps for Eastern Washington and other geologic resources.

- D. Faults – The Washington State Department of Natural Resources open file report #80-2, which measures faults three miles or longer, records no known faults in Lincoln County.
- E. Earthquakes -The Washington State Department of Natural Resources Information Circulars #84 and #85 show that only shallow earthquakes occur in Eastern Washington and that these do not attain the depths reached by hypocenter in Western Washington. They show that any earthquake in Lincoln County (possibly 3) registered  $1.8 < M_c < 3.0$ .

Based upon the above data, no seismic hazard areas are designated within Lincoln County.

- F. Volcanic Hazards - Volcanic hazard areas are areas subject to pyroclastic flows, lava flows, debris avalanche, and inundation by debris flows, lahars, mudflows, or related flooding resulting from volcanic activity. There are no volcanic hazards within Lincoln County. Therefore no volcanic hazard areas are designated.
- G. Mine Hazards - Mine hazard areas are those areas underlain by or affected by mine workings such as adits, gangways, tunnels, drifts, or airshafts, and those areas of probable sink holes, gas releases, or subsidence due to mine workings. Factors that should be considered include: proximity to development, depth from ground surface to the mine working, and geologic material. Mining operations will conform to all applicable County development codes, state and federal laws. It is the intent of the County to protect the public from any known mine hazard and all complaints relating to any known or suspected mine hazard, within the County, will be investigated.

**18.16.620 Development Standards.**

- A. Proposed projects for which the County assumes lead agency status during the SEPA environmental review process; or permit applications for construction; or short plat and regular subdivision reviews will be assessed to establish:
  1. Whether the project is to be located in a geologically hazardous area.

2. The potential for impact the project may have on the geological hazard.
  3. The potential for impact the geological hazard (s) may have on the project and public safety.
- B. All proposed projects located in a geologically hazardous area, or that would have the potential to adversely affect the stability of one of these areas, may be required to provide any of the following information during the application process:
1. A technical study conducted by a qualified authority that evaluates the geological condition(s) upon which the hazard is based. This study may entail a site history, which includes a description of the geology of the area, surface reconnaissance of the site and adjoining areas, subsurface exploration of the site, and a hydrological analysis, which addresses slope and/or soil stability.
  2. An evaluation of safety concerns that may be generated by the project.
  3. A report on the construction practices, monitoring programs or other mitigation techniques, by which all relevant hazards will be overcome or reduced to acceptable levels. Erosion control and site reclamation plans, if applicable, shall also be included.
- C. Approval, denial, or conditioning of a permit application shall be dependent on the degree to which significant geologic hazards can be avoided, reduced, or eliminated.
- D. Projects proposed within geologic hazard areas may require submittal of a letter from the geo-technical engineer and/or geologist who prepared the required technical study, stating that the risk of damage from the project, both on-site and off-site, is minimal, the proposal will not increase the risk of occurrence of the hazard, and the proposal has incorporated mitigating measures to eliminate or reduce the risk of damage due to the hazard.
- E. The following protection measures shall be considered during the review process of proposals for construction in geologically hazardous areas:
1. Construction methods shall be used that minimize risks to structures and do not increase risks to the site or adjacent properties and their structures.
  2. Site planning shall minimize disruption of existing topography and vegetation, and should incorporate opportunity for phased clearing.
  3. Impervious surface coverage shall be minimized.
  4. Areas of disturbed land shall be replanted as soon as feasible, in accordance with an approved reclamation plan, where appropriate.
  5. The clearing and grading schedule shall be devised in recognition of the limitations imposed by seasonal weather conditions.
  6. Temporary erosion and sedimentation controls shall be implemented, where appropriate.
  7. Conceptual and detailed drainage plans shall be prepared for projects that influence large areas characterized as geologically hazardous, with stormwater detention and conveyance standards required to conform to site-specific conditions identified in the technical study.
  8. Any limitations to site disturbance, such as clearing restrictions imposed as a condition of development approval, shall be marked in the field and approved by the County prior to the undertaking of the project.



9. Monitoring procedures shall be conducted for construction activities, which occur in geologically hazardous areas.
  10. Development shall not increase instability, or create a hazard, to the site or adjacent properties or induce a significant increase in sedimentation or erosion.
  11. Excessive grading shall be discouraged on lands being developed for residential, commercial, or industrial use.
- F. All applications for development within a geological hazard area or its buffer shall include preliminary information to assist the County in determining the need for any specialized reports from a geologist or geo-technical engineer. The following review criteria are established and shall be considered by the County when making said determination.
1. Project name, type and nature.
  2. Location and size of the area, and the general setting with respect to major or regional geographic and geological features.
  3. Location map
  4. Expected project cost.
  5. Purpose and scope of the report and geological investigation, including the proposed use of the site, and level of study (e.g., feasibility, preliminary and final).
  6. Brief description of the proposed site development, grading, structures, and utilities.
  7. Finished floor grades and excavation levels.
  8. Known soils in and around project area.
  9. Slopes, maximum and minimum slopes in percent, and average slope gradient.
  10. Water courses and drainages.
  11. Topography and drainage within or affecting the area.
  12. General nature and distribution of exposures of earth materials within the area (regional and local geology).
  13. Disclosure of known or suspected geological hazards affecting the area, including a statement regarding past performance of existing facilities (such as buildings or utilities) in the immediate vicinity. A history of slope failures, rockslides, debris torrents, and seismic activity should be included.
  14. Locations of test holes and excavations (drill holes, water wells, test pits, and trenches) shown on maps and sections and described in text of the report. The actual bore logs, data, or processed data upon which interpretations are based, should be included in the report to permit technical reviewers to make their own assessments regarding reliability and interpretation.
  15. Additional information may be required as needed.
- G. Any new residential subdivisions or short subdivision, that are determined to be in a geologically hazardous area, shall have a note placed on the face of the plat stating that the hazard is present.

**18.16.630 - 690 Reserved.**

