

**Title 19**

**ENVIRONMENTAL PROTECTION**

**Chapters:**

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- 19.15 Critical Areas**
- 19.20 Shoreline Management**
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## Chapter 19.11

### ENVIRONMENTAL POLICY

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#### Cross-references:

Chapter 43.21C RCW: State Environmental Policy Act.  
RCW 36.32.120(7): Adoption of statutes, etc., by reference.

Chapter 197-11 WAC: SEPA guidelines.

Codifier's note: Prior environmental policy enactments;  
Ord. 6128, 3-7-79; Ord. 4826, 9-8-76; Res. 3363, 12-7-73.

#### 19.11.010 Authority – Purpose.

A. Cowlitz County is required under RCW 43.21C.120 to adopt rules pertaining to the integration of the policies and procedures of the State Environmental Policy Act (SEPA) into the various programs within Cowlitz County's jurisdiction. The rules adopted by Cowlitz County must be consistent with the rules promulgated by the Department of Ecology, which are set forth in Chapter 197-11 WAC.

B. Cowlitz County is therefore adopting this chapter under RCW 43.21C.120 and WAC 197-11-904 to provide for the full implementation of SEPA in Cowlitz County. [Ord. 84-221, § 1, 10-1-84.]

#### 19.11.020 Adoption by reference.

Cowlitz County adopts and incorporates herein by this reference the SEPA rules promulgated by the Department of Ecology as set forth in Chapter 197-11 WAC, copies of which are on file with the

Clerk of the Board and available for inspection from the Department of Building and Planning and the Auditor. [Ord. 84-221, § 2, 10-1-84.]

#### 19.11.030 Responsible official.

A. Cowlitz County's "responsible official," for the purposes of Chapter 197-11 WAC and this chapter, shall be the Director of the Department of Building and Planning.

B. When any Cowlitz County department other than the Department of Building and Planning is consulted during any SEPA process, the Director of the consulted department shall be responsible for an appropriate response. If more than one department is consulted during a particular SEPA process, the responsible official may coordinate a county response. [Ord. 84-221, § 3, 10-1-84.]

#### 19.11.035 Complete application standards.

A complete application for a threshold determination consists of the following information:

A. All appropriate county application forms, completely filled in, dated and signed by the owner/applicant. Such forms require:

1. A complete description of the proposed action,
2. Site information including: property boundaries, site plans, vicinity maps,
3. Other information relating to land use and development ordinances;

B. A SEPA checklist completely filled in, dated and signed by the owner/applicant;

C. Additional information that is deemed necessary by the responsible official if, after review of the SEPA checklist, it is determined that there is insufficient information to make a threshold determination (WAC 197-11-335). Additional information will be required using any combination of the following methods:

1. The applicant provides more information, including professional studies, on subjects in the checklist,
2. The county makes its own further study including, but not limited to, on-site visits to perform site evaluations,
3. The county consults with other agencies, requesting information on the proposal's potential impacts which lie within those agencies' jurisdictions or expertise. [Ord. 93-125, § 2, 8-16-93; Ord. 84-221, 10-1-84.]

#### 19.11.040 Categorical exemptions.

A. WAC 197-11-800 identifies certain proposed actions that are categorically exempt from

threshold determination and EIS requirements, subject to the rules and limitations contained in WAC 197-11-305. Local governments are authorized to raise the exempt levels for minor new construction, based on local conditions.

B. Cowlitz County establishes the following exempt levels for minor new construction under WAC 197-11-800(l)(b), based on local conditions:

1. The construction or location of any residential structures of no more than:

a. Twenty dwelling units in areas classified in the County Comprehensive Plan or Zoning Code as one of the following:

Urban high density residential (UHD) or Multiple-family (MF)

b. Ten dwelling units in areas classified in the County Comprehensive Plan or Zoning Code as one of the following:

Urban low density residential (ULD)

Urban residential (UR)

Suburban residential (SR)

Rural residential-1 (RR-1)

Rural residential-2 (RR-2)

c. Four dwelling units in all other areas.

2. The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 30,000 square feet or less, when located in one of the following zoning code or Comprehensive Plan classifications:

Agriculture (AG)

Agriculture-38 (AG-38)

Forestry open space (F/O)

Forestry-recreation (FR)

Agriculture/industrial (AG-I)

Heavy industrial (MH)

Light manufacturing (ML)

Light industrial (ML)

In all other Zoning Code and Comprehensive Plan classifications the above exemption shall apply to such structures covering 10,000 square feet or less. In all areas the above exemption applies only if such structures are used only by the property owner or agent in the conduct of farming the property. This exemption shall not apply to feed lots.

3. The construction of an office, school, commercial, recreational, service or storage building with 8,000 square feet of gross floor area, and with associated parking facilities designed for 40 automobiles or less; provided, that in the following Zoning Code and Comprehensive Plan classifications the limits shall be 4,000 square feet and 20 parking spaces:

Rural residential-1 (RR-1)

Rural residential-2 (RR-2)

Suburban residential (SR)

Urban residential (UR)

Urban low density residential (ULD)

4. The construction of a parking lot designed for 40 automobiles or less; provided, that in the following Zoning Code and Comprehensive Plan classifications the limits shall be 20 parking spaces:

Rural residential-1 (RR-1)

Rural residential-2 (RR-2)

Suburban residential (SR)

Urban residential (UR)

Urban low density residential (ULD)

5. Any landfill or excavation of 500 cubic yards throughout the total lifetime of the fill or excavation; and any fill or excavation classified as a Class I, II or III forest practice under RCW 76.09.050 or regulations thereunder; provided, that in the following Zoning Code and Comprehensive Plan classifications the limit shall be 100 cubic yards throughout the total lifetime of the fill or excavation:

Rural residential-1 (RR-1)

Rural residential-2 (RR-2)

Suburban residential (SR)

Urban residential (UR)

Urban low density residential (ULD)

C. Where this section bases exempt levels on an area's classification under the Zoning Code and/or Comprehensive Plan, in all zoned areas the Zoning Code classification shall control; the Comprehensive Plan shall control only in unzoned areas.

D. A proponent of an action thought to be categorically exempt may request a statement of exemption from the responsible official. Such a request shall be submitted in writing and shall contain sufficient detail and description of the proposed action from which to determine whether or not it is exempt. If the proposed action is determined to be exempt, a statement of exemption signed by the responsible official will be provided. [Ord. 84-221, § 4, 10-1-84.]

#### **19.11.050 Environmentally sensitive areas.**

A. WAC 197-11-908 authorizes local governments to designate "environmentally sensitive areas" and select certain categorical exemptions that will not apply in such areas. The environmentally sensitive areas designated by Cowlitz County are set forth in subsection B of this section. The categorical exemptions that will not apply in such areas are described in CCC 19.11.060.

B. In accordance with WAC 197-11-908, Cowlitz County designates the following as environmentally sensitive areas:

1. All “shorelines of the state” as defined in RCW 90.58.030;

2. All “floodplains” as established under Chapter 16.25 CCC;

3. a. All areas having soils with unstable slopes or geologic hazards as identified in the “Soil Survey of the Cowlitz Area, Washington,” prepared by the United States Department of Agriculture Soil Conservation Service,

b. Areas of historical or still active landslides as identified in “Slope Stability of the Longview-Kelso Urban Area, Cowlitz County,” prepared by the Division of Geology and Earth Resources, Department of Natural Resources;

4. Those areas designated and mapped by the Office of Archaeology and Historic Preservation as sites of archaeological and/or historical significance.

C. The location and extent of the environmentally sensitive areas designated above are indicated on maps kept at the Department of Building and Planning, where they are available for inspection. Such maps are adopted and incorporated herein by this reference. The responsible official shall update such maps as he deems necessary to reflect accurately the locations of environmentally sensitive areas designated above. [Ord. 84-221, § 5, 10-1-84.]

#### **19.11.060 Activities not exempt when in environmentally sensitive areas.**

The following actions are not categorically exempt when proposed in any environmentally sensitive area:

A. The construction or location of any residential structure of two or more dwelling units; provided, that in the areas identified in CCC 19.11.050 (B)(3) the construction or location of a residential structure of any number of residential structures shall not be categorically exempt.

B. The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 5,000 square feet or more.

C. The construction of an office, school, commercial, recreational, service or storage building with 1,000 square feet or more of gross floor area; provided, that in the areas identified in CCC 19.11.050(B)(3), the construction of such buildings of any size shall not be categorically exempt.

D. The construction of a parking lot designed for five or more automobiles.

E. All grading, excavating, and/or filling, including any fill or excavation classified as Class I, II or III forest practices under RCW 76.09.050 or regulations thereunder; provided, that categorical exemptions shall continue to apply to septic tank installation and landscaping necessary for any building or facility that does not exceed the limits established in this section. [Ord. 84-221, § 6, 10-1-84.]

#### **19.11.070 Timing of and requirements for environmental review.**

A. Upon receipt of an application and environmental checklist, the responsible official, in an expeditious manner, shall make a determination of completeness for the purpose of compliance with this chapter and shall:

1. Issue a threshold determination (determination of significance, determination of nonsignificance or mitigated determination of nonsignificance); or

2. Request, in writing, any additional information deemed necessary to determine whether the proposal is likely to have significant adverse environmental impacts.

B. The responsible official shall make the threshold determination within 90 days of receipt of a completed application.

C. In the event additional information is requested in order to meet the standards of a complete application, and upon receipt of a written response by the applicant to such request, either by providing the information or indicating an inability to provide it, the responsible official shall:

1. Issue a threshold determination within 90 days from the applicant’s response; or

2. If a determination of significance is likely, notify the applicant and indicate the areas of likely impact (WAC 197-11-350). A final threshold determination shall be made within 90 days of the receipt of the applicant’s first response to the county’s request for additional information.

D. The applicant may request, in writing, at any time during the 90-day period, an additional 30 days for the threshold determination to be made. The responsible official shall grant such extension if requested.

E. The determination of nonsignificance or final environmental impact statement for a nonexempt proposal shall accompany the staff recommendation to any advisory or decisionmaking body.

F. When Cowlitz County's only action on a proposal is a decision on a building permit or other license that requires detailed project plans and specifications, the responsible official shall provide an applicant with the opportunity for environmental review prior to requiring the applicant to submit such detailed plans and specifications. The amount of detail needed from an applicant for such early environmental review shall be determined by the responsible official on a case-by-case basis, consistent with WAC 197-11-100 and 197-11-335. [Ord. 93-125, § 1, 8-16-93; Ord. 84-221, § 7, 10-1-84.]

#### **19.11.080 Mitigated determination of nonsignificance.**

A. WAC 197-11-350 allows the responsible official to issue a determination of nonsignificance (DNS) based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of the proposal made by the applicant.

B. The applicant may submit a written request for a preliminary indication of whether a determination of significance is likely for the proposal. The responsible official shall respond in writing and shall indicate the general or specific area(s) of concern that are leading the county to consider a declaration of significance.

C. Any mitigation measures (clarifications, changes or conditions) proposed by the applicant must be in writing and must be specific. For example, proposals to "control noise" or "prevent stormwater runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct 200-foot stormwater retention pond at Y location" are adequate. Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval if the permit is approved and may be enforced in the same manner as any term or condition of the permit. [Ord. 84-221, § 8, 10-1-84.]

#### **19.11.090 Public notice.**

A. Under the SEPA rules (Chapter 197-11 WAC), the public is to be notified when certain determinations are made, when certain environmental documents are issued, and when public hearings are held. WAC 197-11-510(2) requires the county to specify its method of giving public notice.

B. Whenever public notice is required during the environmental review process it shall be provided as follows:

1. If public notice is required for the proposal under some other statute, ordinance, or regulation, such notice shall include the status of environmental review of the proposal, including whether a

DNS or DS has been issued; when comments are due; scoping procedure (if any); and the availability of environmental documents;

2. If public notice is not required for the proposal under some other statute, ordinance, or regulation, it shall be given by posting at the county SEPA information center located at the Department of Building and Planning and by at least one of the following methods:

a. Posting the property, for site-specific proposals,

b. Publishing notice in a newspaper of general circulation in the county or general area where the proposal is located,

c. Notifying public or private groups with known interest in a certain proposal or type of proposal being considered,

d. Notifying the news media,

e. Placing notices in stores, schools, or other appropriate regional or neighborhood meeting places,

f. Notifying neighbors by mail. [Ord. 84-221, § 9, 10-1-84.]

#### **19.11.100 Environmental impact statement procedures.**

Whenever an EIS is required to be prepared, the responsible official shall determine whether it will be prepared by the applicant, county staff, or a consultant. In all cases, however, the EIS will be prepared at the applicant's expense. The responsible official shall bill the applicant for all costs incurred by the county when the EIS is prepared by county staff or by a consultant under contract with the county. The responsible official may require the applicant to post bond or other security to ensure payment of costs incurred by the county in preparing an EIS. The responsible official shall have final authority and responsibility with respect to every EIS, as provided in WAC 197-11-420. [Ord. 84-221, § 10, 10-1-84.]

#### **19.11.110 Substantive authority.**

A. Under RCW 43.21C.060 and WAC 197-11-660, Cowlitz County is allowed to condition or deny proposals if such decision is based upon policies that have been identified and incorporated into regulations, plans, or codes formerly designated as possible bases for the exercise of substantive authority under SEPA. Cowlitz County hereby designates the policies set forth and/or adopted by reference in subsection B of this section as possible bases for the exercise of substantive authority under SEPA.

B. Cowlitz County designates and adopts by reference the following policies as the basis for Cowlitz County's exercise of authority pursuant to this section.

1. Cowlitz County shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs and resources to the end that the state and its citizens may:

a. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

b. Assure for all people of Cowlitz County safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

c. Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

d. Preserve important historic, cultural, and natural aspects of our national heritage;

e. Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

f. Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities;

g. Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

2. Cowlitz County recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

3. The policies in the following Cowlitz County codes, ordinances, and plans are adopted and incorporated herein by this reference:

- a. Land Use Codes.
  - i. Cowlitz County Comprehensive Plan,
  - ii. Mobile Home Park Code – Chapter 18.42 CCC,
  - iii. Rural Subdivision Code – Chapter 18.50 CCC,
  - iv. Short Subdivision Code – Chapter 18.34 CCC,
  - v. Planned Unit Development Code – Chapter 18.30 CCC,
  - vi. Urban Subdivision Code – Chapter 18.32 CCC,
  - vii. Wrecking Yard Ordinance – Chapter 18.16 CCC,

viii. Zoning Code – Chapter 18.10 CCC;

b. Building Codes.
 

- i. Building Code – Chapter 16.05 CCC,

ii. Energy Code – Chapter 16.05 CCC,

iii. Fire Code – Chapter 16.05 CCC,

iv. Plumbing Code – Chapter 16.05 CCC,

v. Mechanical Code – Chapter 16.05 CCC;

c. Environmental Codes.
 

- i. Air Pollution Control Authority – Chapter 19.30 CCC,

ii. Floodplain Management Code – Chapter 16.25 CCC,

iii. Building in Drainage Courses Code – Chapter 16.20 CCC,

iv. Surface Mining Code – Chapter 16.35 CCC\*,

v. Shoreline Management Code – Chapter 19.20 CCC,

vi. Shoreline Management Master Program,

vii. Solid Waste Code – Chapter 15.30 CCC,

viii. Solid Waste Plan,

ix. Nuisance Noise Code – Chapter 10.25 CCC.

4. Cowlitz County hereby adopts the following additional policies:

a. Erosion Control. Road building, site preparation, general construction, and other activities can contribute to erosion with subsequent loss of land and degradation of water quality from increased silt in lakes, rivers and streams. Cowlitz County may condition or deny proposals in order to reduce or prevent such adverse impacts. Mitigation measures may include, but are not limited to, requiring installation of silt fences, silt traps, riprap or vegetative cover.

b. Noise Control. Inadequately controlled noise may adversely affect the health, safety and welfare of the public, the value of property and the quality of the environment. Cowlitz County may condition or deny proposals in order to reduce or prevent such adverse impacts. Mitigation measures may include, but are not limited to, requiring compliance with the standards of Chapter 70.107 RCW and with any regulations thereunder, including Chapter 173-60 WAC.

c. Light and Glare. Sources of light and glare may create safety hazards and/or be aesthetically offensive from public roadways or surround-

ing property. Cowlitz County may condition or deny proposals in order to reduce or prevent such adverse impacts. Mitigation measures may include, but are not limited to, requiring deflective devices on lights, vegetative buffer strips, fencing, etc.

d. Road Design and Signing. Roads that are inadequately designed and/or signed may create traffic hazards and otherwise disrupt the regular flow of traffic. Private road intersections with public roads can be particularly dangerous if not properly designed. Cowlitz County may condition or deny approvals in order to reduce or prevent such adverse impacts. Mitigation measures may include, but are not limited to:

i. Requiring compliance with the “Cowlitz County Road and Street Design Standards” adopted by the Board of County Commissioners in Resolution No. 80-203, June 23, 1980;

ii. Requiring certain standards for road intersections, such as adequate site distance, adequate approach width, etc.; and

iii. Requiring compliance with the current edition of the Federal Highway Administration’s Manual on Uniform Traffic Control Devices for Streets and Highways.

e. Debris on Roads. Some proposals create the potential for soil, rock, and other debris to fall or be dragged onto public roads. Cowlitz County may condition approvals to reduce or prevent such adverse impacts. Mitigation measures include, but are not limited to, requiring compliance with the provisions of RCW 46.61.645 and 46.61.655.

f. Aesthetics. Some proposals may obstruct public views or create an aesthetically offensive site open to public view, particularly if located in residential or recreational areas or adjacent to public roadways. Cowlitz County may condition or deny proposals to reduce or prevent such adverse impacts. Mitigation measures may include, but are not limited to, requiring screening (vegetative buffer strips, fences, walls, etc.), or other suitable measures.

g. Safety. Many proposals have the potential to create safety hazards. Examples include the storage of chemicals at an industrial site, a sharp curve, a deep hole created by surface mining, etc. Cowlitz County may condition or deny proposals in order to reduce or prevent such adverse impacts. Mitigation measures may include, but are not limited to, requiring installation of protective coverings, fences, guardrails, etc.

h. State and Federal Regulations. Proposals must often comply with state and federal stat-

utes and regulations as well as local codes and ordinances. Many state and federal regulations are designed to protect the health, safety and welfare of the public and the quality of the environment. Enforcement of state and federal permit requirements and permit conditions may be facilitated by incorporating such requirements and conditions into local approvals. In order to reduce or eliminate adverse environmental impacts, Cowlitz County may condition approvals on the applicant’s compliance with particular state and/or federal statutes, regulations, agreements and/or permit conditions. [Ord. 89-184, § 16, 10-30-89; Ord. 84-221, § 11, 10-1-84.]

\*Chapter 16.35 was repealed by Ord. 95-166. Provisions for surface mines are found within Chapter 18.10 CCC, the Land Use Ordinance.

### **19.11.120 Administrative appeal.**

A. An administrative appeal along with an appropriate fee is allowed on a SEPA issue as set forth in RCW 43.21C.060. The appeal of a decision by the responsible official conditioning or denying a proposal under authority of SEPA is to the Board of Commissioners. The procedure for an appeal is set forth in subsections B and C of this section.

B. 1. Appeals under subsection A of this section shall be made to the Board of Commissioners within 20 calendar days of the decision being appealed. The 20-day period shall commence on the day following the date the decision being appealed is issued in writing.

2. The appeal must be perfected by delivering written notice thereof to the responsible official within the 20-day period identified in subsection (B)(1) of this section. Delivery shall be complete when the written notice is received in the office of the Responsible Official, as indicated by its “date received” stamp.

3. If the decision being appealed is also appealed on non-SEPA grounds, a consolidated hearing shall be held on all appeals.

4. The proceedings at the hearing on any appeal shall be recorded verbatim by a court reporter or an electronic recording device. The Board of Commissioners shall issue a written decision of the appeal, and shall include therein its findings and conclusions.

C. 1. Upon the filing of an appeal with appropriate fee, the Board shall set the time and place for a public hearing on the matter.

2. Notice of the time, date, and place of the hearing shall be sent to the appellant and the per-

mittee by first class mail prior to the public hearing. Legal notice of the hearing shall be published in a newspaper of general circulation and the subject property shall be posted with said notice not less than 10 calendar days prior to the public notice.

3. Within 10 calendar days after the public hearing, the Board shall issue its written decision. Such written decision shall be available to the appellant and the public upon request. [Ord. 95-033, § 9, 3-13-95; Ord. 84-221, § 12, 10-1-84.]

#### **19.11.130 Fees.**

A. Fees for administrative actions, appeals authorized, and public notice required under this chapter shall be from time to time established by resolution by the Board of County Commissioners.

B. The responsible official may charge any person for copies of any document prepared under this chapter, and for mailing the document, in a manner provided by Chapter 42.17 RCW. [Ord. 95-033, § 8, 3-13-95; Ord. 84-221, § 13, 10-1-84.]

#### **19.11.140 Severability.**

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances shall not be affected. [Ord. 84-221, § 14, 10-1-84.]

## **Chapter 19.15**

### **CRITICAL AREAS**

#### Sections:

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- 19.15.030 Purpose and intent.
- 19.15.040 Authority and administration.
- 19.15.050 Definitions.
- 19.15.060 Applicability/regulated activities.
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- 19.15.080 Optional incentives for nondevelopment of critical areas.
- 19.15.090 Critical areas permits – Applications and approvals.
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- 19.15.190 Appeals.
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- 19.15.220 Liability for damages.
- 19.15.230 Severability.
- 19.15.240 Effective date.
- Appendix A Geotechnical Assessments.
- Appendix B Erosion Hazard Assessments.
- Appendix C Geotechnical Report.
- Appendix D Wetland Assessment.
- Appendix E Habitat Management Plan Requirements.
- Appendix F Hydrogeologic Testing and Site Evaluation.

#### **19.15.010 Title.**

This chapter shall be known and may be cited as the “Cowlitz County Critical Areas Protection Ordinance.” [Ord. 96-104, § 1, 6-24-96.]

#### **19.15.020 Preamble.**

Cowlitz County is responding to the state mandates contained in the Growth Management Act, RCW 36.70A.060, by developing and adopting the ordinance codified in this chapter which classifies, designates and protects critical areas. Cowlitz County believes it important to strike a balance

between critical land protection, private property rights and the need for economic development and diversification. Consequently, the ordinance codified in this chapter has been designed to encourage landowners to protect critical areas by offering a range of incentives intended to provide equitably for such protection. In addition, it is the intent of Cowlitz County to actively and constructively assist the applicant in the preparation and processing of permits/approvals/plans/requirements or procedures. The ultimate responsibility for providing complete and accurate application material and/or required information falls on the applicant.

A limited amount of scientific data is available to address all critical areas within Cowlitz County. As more information becomes available, it will be incorporated. [Ord. 96-104, § 2, 6-24-96.]

### **19.15.030 Purpose and intent.**

The Growth Management Act requires Cowlitz County to designate critical areas and adopt development regulations to assure the conservation of such areas. In compliance with this mandate, the county finds that certain portions of the county are characterized by critical areas. These critical areas include: wetlands, aquifer recharge areas, geologically hazardous areas, fish and wildlife habitat, and frequently flooded areas. These areas contain valuable natural resources, provide natural scenic qualities important to the character of the community, perform important ecological functions and processes, or present a hazard to life and property. Identification, management and protection of these lands and areas is, therefore, necessary to protect the public health, safety and general welfare of Cowlitz County's citizens.

With respect to particular critical areas, the county finds as follows:

A. Wetlands provide numerous valuable functions, including but not limited to providing wildlife and fish habitat, water quality enhancement, flood and erosion control, aquifer recharge and discharge, shoreline stabilization, research and education opportunities, and recreation.

B. Geologic hazards pose a risk to public and private property and to the natural systems that make up the county's environment. These lands are susceptible to landslides, erosion, seismic, volcanic and mining hazards. Building and development practices should consider topographical and geological features. Future development should be directed to more geologically stable areas and restricted on unsuitable ground. Regulating these lands, and avoiding or minimizing alteration of

geologic hazards, is necessary to protect the health, safety and general welfare.

C. Aquifer recharge areas perform many important biological and physical functions that benefit the county and its residents, including but not limited to: storing and conveying groundwater. Protection of aquifer recharge areas is, therefore, necessary to protect the public health, safety and general welfare.

D. Fish and wildlife habitat conservation areas perform many important physical and biological functions that benefit the county and its residents. These functions include but are not limited to: providing opportunities for food, cover, nesting, breeding and movement for fish and wildlife; maintaining and promoting diversity of species and habitat; helping to maintain air and water quality; controlling erosion, serving as areas for recreation, education and scientific study and aesthetic appreciation; and providing neighborhood separation and visual diversity within urban areas.

E. Frequently flooded areas pose a risk to public and private property and public health. Regulation of these lands will promote efficient use of the land and water resources by allocating frequently flooded areas to the uses for which they are best suited and to discourage obstructions to flood-flows or uses which pollute or deteriorate natural waters and watercourses.

It is the intent of this chapter to:

1. Implement the goals, objectives and policies of the natural resources element of the Cowlitz County Comprehensive Plan;
2. Comply with the requirements of the Growth Management Act (Chapter 36.70A RCW) and implementing rules and guidelines;
3. Coordinate Cowlitz County's critical area protection activities and programs with those of other jurisdictions;
4. Coordinate environmental review and permitting of proposals to avoid duplication and delay;
5. Assist landowners by providing incentives for critical area protection. [Ord. 98-023, § 2, 2-9-98; Ord. 96-104, § 3, 6-24-96.]

### **19.15.040 Authority and administration.**

The ordinance codified in this chapter is adopted under the authority of Chapter 36.70A RCW. All applications under this chapter shall be made to the Department. It shall be the duty of the Director or his/her designee to administer the provisions of this chapter, including preparation of application forms, administrative guidelines, interpretations and other

actions as appropriate. [Ord. 98-023, § 1, 2-9-98; Ord. 96-104, § 4, 6-24-96.]

### **19.15.050 Definitions.**

For the purposes of this chapter, the following definitions shall apply unless the context clearly requires otherwise.

“Agricultural activities (existing and ongoing)” means those activities conducted on lands defined in RCW 84.34.020(2), Open Space, Agricultural, and Timber Lands – Current Use Assessment – Conservation Futures, and those activities involved in the production of crops and livestock, including but not limited to operation and maintenance of existing farm and stock ponds or drainage systems, irrigation systems, changes between agricultural activities, and maintenance or repair of existing serviceable structures and facilities. Activities which significantly impact a previously undisturbed critical area are not part of an ongoing activity. An activity ceases to be ongoing when the area on which it was conducted has been converted to a nonagricultural use, or has been unattended for five years. Forest practices are not included in this definition.

“Alluvial fan” means a low, outspread, relatively flat to gently sloping mass of loose alluvium, shaped like an open fan, deposited by a stream where it issues from a narrow valley, or where a tributary stream issues into the main stream, or wherever a constriction in a valley abruptly ceases or the gradient of the stream suddenly decreases; it is steepest near the mouth of the valley where its apex points upstream, and it slopes gently and convexly outward with gradually decreasing gradient.

“Alteration” means a human-induced action which materially affects a regulated critical area or associated buffer, such as a physical change to the existing condition of land or improvements including but not limited to: construction, clearing, filling and grading.

“Applicant” means the person, party, firm, corporation, Indian tribe or federal, state or local government, or any other entity that proposes any activity that could affect a critical area.

“Aquifer recharge area” means areas where water infiltrates the soil, and percolates through it and surface rocks, to the groundwater.

“Best management practices” means systems of practices and management measures that: (1) control soil loss and reduce water quality degradation caused by nutrients, animal waste, and toxins; (2) control the movement of sediment and erosion caused by land alteration activities; (3) minimize adverse impacts to surface and ground water qual-

ity, flow and circulation patterns; and (4) minimize adverse impacts to the chemical, physical and biological characteristics of a critical area.

“Board” means the Cowlitz County Board of Commissioners.

“Buffer” or “buffer area” means an area established to protect the integrity or functions and values of a critical area from potential adverse impacts.

“Clearing” means the removal of trees, brush, grass, groundcover, or other vegetative matter from a site.

“Conservation easement” mean an interest or right of use over a property, less than fee simple, to protect, preserve, maintain, improve, restore, limit the future use of, or conserve for open space purposes, any land or improvement on the land.

“Critical area” includes the following areas and ecosystems: (a) wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas (RCW 36.70A.030).

“Critical areas permit” means a written authorization issued by the Department via letter or other instrument, including issuance of a building permit, declaring that identified development or regulated activity complies with the provisions of this chapter and/or specifying the conditions with which such development or regulated activity must comply.

“Department” means the Department of Building and Planning.

“Development” means a construction project involving property improvement or a change of physical character within the site; the act of using land for building or extractive purposes. “Development” shall include, but shall not be limited to, the activities identified in CCC 19.15.060.

“Director” means the Director of the Department of Building and Planning.

“Enhancement” means actions performed to improve the condition or functions and values of an existing viable wetland or buffer, or fish and wildlife habitat area or buffer. Enhancement actions include but are not limited to increasing plant diversity, increasing fish and wildlife habitat, installing environmentally compatible erosion controls, removing invasive plant species such as milfoil and loosestrife.

Erosion Hazard Area. See “geologic hazard areas.”

“Excavation” means the mechanical removal of earth material.

Existing and Ongoing Agricultural Activities. See “agricultural activities.”

“Feasible alternative” means an alternative that is available and reasonably capable of being accomplished after taking into consideration cost, existing technology and logistics in light of overall project purposes. It may include an area not owned by the applicant which could reasonably have been or be obtained, utilized, expanded or managed in order to fulfill the basic purpose of the proposed activity.

“Filling” means the act of placing fill material (on any critical area) including temporary stockpiling of fill material.

“Fill material” means a deposit of earth or other natural or manmade material placed by artificial means.

“Fish and wildlife habitat conservation areas” means those areas identified as being of critical importance to maintenance of fish and wildlife.

“Frequently flooded areas” means lands in the floodplain subject to a one percent or greater chance of flooding in any given year. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands and the like. (WAC 365-190-030)

“Geologic hazard areas” means areas susceptible to erosion, sliding, earthquake or other geologic events (see CCC 19.15.150 for classification).

“Geologist” means a person who has a bachelor of science degree in geologic sciences from an accredited college or university and has a minimum of five years’ experience under the supervision of a practicing, professional geologist, or is registered as a professional geologist in any state, or is a member of the American Institute of Professional Geologists.

“Geotechnical assessment” means an assessment prepared by a geologist or geotechnical engineer licensed by the State of Washington as a civil engineer, which evaluates the site conditions and the effects of a proposal, and identifies mitigating measures to ensure that the risks associated with geologic hazards will be substantially reduced.

“Grading” means an excavating and/or filling of the earth’s surface or combination thereof.

“Hydrologic unit” means an area of land above or upstream from a specific point on a stream, which is enclosed by a topographic divide such that direct surface runoff from precipitation normally drains by gravity into the stream or the area above the specified point on a stream.

“Indigenous” means any native species of plant or wildlife that occurs naturally on a particular site or area.

“Lake” means a naturally existing or artificially created body of standing water, including reservoirs, 20 acres or greater in size, which exist on a year-round basis and occurs in a depression of land or expanded part of a stream.

“Landfill” means a disposal facility or part of a facility at which solid waste is placed in or on land.

“Landslide” means abrupt downslope movement of a mass of soil or rock.

Landslide Hazard Area. See “geologic hazard areas.”

“Liquefaction” is a process in which soil loses strength, and behaves like a liquid.

“Mitigation” means action designed to replace project-induced critical area losses or impacts; including, but not limited to, restoration, creation or enhancement. Mitigation in order of preference:

1. Avoiding the impact altogether by not taking a certain action or parts of actions;
2. Minimizing impacts by limiting the degree or magnitude of an action and its implementation;
3. Rectifying impacts by repairing, rehabilitating or restoring the affected environment;
4. Compensating for an impact by replacing or providing substitute resources or environments;
5. Reducing or eliminating an impact over time by preservation and maintenance operations during the life of the action.

“Mitigation plan” means a plan that outlines the activities that will be undertaken to alleviate project impacts. The plan generally contains: a site and project description; an environmental assessment of the functions and values that will be impacted; a description of the proposed mitigation; the goals and objectives of the proposed mitigation; the performance standards against which success will be measured; monitoring of and reporting on the success of the mitigation; and a contingency plan in case of failure.

1. “In-kind mitigation” means replacement of wetlands or surface water systems with substitute wetlands or surface water systems whose characteristics and functions and values closely approximate those destroyed or degraded by a regulated activity.

2. “Out-of-kind mitigation” means replacement of surface water systems or wetlands with substitute surface water systems or wetlands whose characteristics do not closely approximate those destroyed or degraded by a regulated activity.

“Noxious weeds” means any plant which, when established, is highly destructive, competitive or difficult to control. The county maintains a noxious weed list.

“Open space” means land satisfying the definition for “open space land” in Cowlitz County Ordinance No. 95-078, Section 3, and eligible for tax assessment at its current use value as authorized by Chapter 84.34 RCW.

“Pond” means a naturally existing or artificially created body of standing water under 20 acres, which exists on a year-round basis and occurs in a depression of land or expanded part of a stream.

“Priority species” means fish and wildlife species requiring protective measures and/or management guidelines to ensure their perpetuation, as determined by the Washington Department of Fish and Wildlife’s priority habitats and species list, as now exists or is hereafter amended.

“Qualified expert” for the purposes of these regulations, means a person who has received a degree from an accredited college or university in a field necessary to identify and evaluate a particular critical area, and/or a person who is professionally trained and/or certified in such field(s). Areas of technical expertise shall generally be as follows: wetlands biology or ecology (for wetlands); stream and/or fisheries biology or ecology (for streams); wildlife biology or ecology (for critical habitat); or a practicing geologist, hydrogeologist or engineering geologist (for geologic hazard areas). When a landscape or planting plan is required by these regulations, a qualified expert is one who has demonstrated expertise in the use of indigenous plant species, slope stabilization, and arboricultural practices.

“Regulated activity” means activities occurring in a critical area or associated buffer that are subject to the provisions of this chapter. Regulated activities generally include but are not limited to any filling, dredging, dumping or stockpiling, draining, excavation, flooding, construction or reconstruction, driving pilings, obstructing, shading, clearing or harvesting.

“Restoration” means efforts performed to re-establish functional values and characteristics of a critical area that have been destroyed or degraded by past alterations (e.g., filling or grading).

“Site” means any parcel or combination of contiguous parcels, or right-of-way, or combination of contiguous rights-of-way under the applicant’s ownership or control where the proposed project occurs.

“Slope” means an inclined earth surface, the inclination of which is expressed as the ratio of horizontal distance to vertical distance. In these regulations, slopes are generally expressed as a percentage; percentage of slope refers to a given rise in elevation over a given run in distance. A 40 percent slope, for example, refers to a 40-foot rise in elevation over a distance of 100 feet. A 100 percent slope equals a 45-degree angle.

“Snag” means any dead, partially dead, or defective (cull) tree at least 10 feet tall and 12 inches in diameter at breast height.

“Snag-rich areas” means areas with 10 or more snags per acre.

“Soil with severe erosion hazard” means any soil type indicated as having a degree of hazard or limitation of severe or very severe according to Table 3 of the Soil Survey of Cowlitz Area, Washington, issued February, 1974, by the U.S. Department of Agriculture, Soil Conservation Service.

“Talus slope” means a slope formed by the accumulation of rock debris at the bottom of steep slopes or cliffs.

“Undisturbed buffer” means a protective area left in its natural state, except for any access and/or utility crossings approved by the Director, between land development and a critical area.

“Utility line” means pipe, conduit, cable or other similar facility by which services are conveyed to the public or individual recipients. Such services shall include, but are not limited to water supply, electric power, natural gas, communications and sanitary sewer.

“Wetland” means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street or highway. Wetlands include artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands. The three general types of wetlands are emergent, forested and scrub-shrub. The Washington State Wetlands

Identification and Delineation Manual will be used to delineate wetland boundaries.

“Wetland evaluation technique” means the joint Federal Highway Administration and U.S. Army Corps of Engineers’ procedure for objectively assessing and quantifying both the development and wetland mitigation site to determine their relative wetland functions and values.

“Wetland functions” are determined by physical, chemical and biological characteristics and include but are not limited to: fish and wildlife habitat, aquifer recharge and discharge, water quality, shoreline stabilization, and flood and erosion control. [Ord. 98-023, § 3, 2-9-98; Ord. 96-104, § 5, 6-24-96.]

#### **19.15.060 Applicability/regulated activities.**

All persons proposing development in critical areas or their buffers shall first obtain a critical areas permit pursuant to this chapter, except as exempted pursuant to CCC 19.15.070. Development activities shall include, but are not limited to the following:

A. Removing, clearing, grading, excavating, disturbing or dredging soil, sand, gravel, minerals, organic matter or materials of any kind;

B. Dumping, discharging or filling with any material;

C. Subdivisions, short subdivisions, planned unit developments (PUDs), mobile home parks and RV parks;

D. Construction, reconstruction, demolition or alteration of the size of any structure or infrastructure;

E. Construction of any new public or private road or driveway;

F. Destroying, planting or altering vegetation through clearing, harvesting, cutting, intentional burning, shading, or planting non-native species where these activities would alter the character of a critical area, or its buffer;

G. Draining, flooding or disturbing the water level or water table;

H. Activities causing significant adverse changes in water temperature, physical or chemical changes of water sources to wetlands or surface water systems;

I. Application of pesticides, fertilizers and/or other chemicals in amounts or at times demonstrated as harmful to wetland habitat, riparian corridors associated with surface water systems, or wildlife or fish life. [Ord. 96-104, § 6, 6-24-96.]

#### **19.15.070 Exemptions.**

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

A. The policies, regulations and procedures of this chapter do not apply to those activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, Chapter 76.09 RCW and WAC Title 222, where state law specifically limits local authority, except with regard to developments and conversions requiring local approval, when the county is the lead agency for environmental review;

B. Existing and ongoing agricultural activities as defined in this chapter;

C. Development occurring within a seismic hazard area as described in CCC 19.15.150(E) and containing no other critical area as defined by this chapter;

D. Development occurring within a volcanic hazard area as described in CCC 19.15.150(1) and containing no other critical area as defined by this chapter;

E. Development occurring within frequently flooded areas and containing no other critical area as defined by this ordinance, provided the development meets the requirements of Chapter 16.25 CCC, the Cowlitz County Floodplain Ordinance;

F. Maintenance, operation, reconstruction of existing public and private roads, streets, driveways, utility lines, and existing structures, provided that reconstruction of any such facilities does not extend outside the previously disturbed area;

G. Installation, construction or replacement of utility lines in improved county right-of-way, not including electric substations;

H. The removal or control of noxious weeds;

I. Maintenance of groundcover or other vegetation in a critical area or buffer area that was disturbed prior to July 24, 1996, provided that no further disturbance is created;

J. Minimal site investigative work required by a city, state or federal agency, or any other applicant such as surveys, soil logs, percolation tests, and other related activities provided impacts on environmentally critical areas are minimized and disturbed areas are restored to the pre-existing level of function and value within one year after tests are concluded;

K. Passive recreational uses, sport fishing or hunting, scientific or educational review, or similar minimum impact, nondevelopment activities;

L. Maintenance of intentionally created artificial wetlands or surface water systems including irrigation and drainage ditches, grass-lined swales

and canals, detention facilities, farm ponds, and landscape or ornamental amenities. Wetlands, streams, lakes or ponds created as mitigation for approved land use activities or that provide critical habitat are not exempt and shall be regulated according to the mitigation plan;

M. Activities occurring in nonregulated wetlands. Shoreline, state, and federal regulations may apply to wetlands not regulated under this chapter;

N. Emergency actions which must be undertaken immediately or for which there is insufficient time for full compliance with this chapter when it is necessary to:

1. Prevent an imminent threat to public health or safety, or
2. Prevent imminent danger to public or private property, or
3. Prevent an imminent threat of serious environmental degradation,
4. In the event a person or emergency agency determines that the need to take emergency action is so urgent that there is insufficient time for review by the Department, such emergency action may be taken immediately,
5. The person or agency undertaking such action shall notify the Department within one working day following the commencement of the emergency activity. Following such notification the Department shall determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the Department determines that the action taken or part of the action taken is beyond the scope of allowed emergency actions, enforcement action is authorized, as outlined in CCC 19.15.200. [Ord. 96-104, § 7, 6-24-96.]

**19.15.080 Optional incentives for nondevelopment of critical areas.**

A. Introduction. This section describes the alternatives available to property owners and incentives they may pursue in lieu of developing or altering their property under the terms and standards of this chapter. The incentives and options listed allow property owners to utilize the options that best suit their needs.

B. Open Space. Any person who owns an identified critical area as defined by this chapter may apply for current use assessment pursuant to Chapter 18.52 CCC, the Cowlitz County Open Space Ordinance, and Chapter 84.34 RCW, Open Space, Agriculture, and Timber Lands – Current Use Assessment – Conservation Futures. The Open Space Tax Act allows Cowlitz County to designate lands which should be taxed at their current use

value. The county has programs for agricultural lands, small forest lands less than 20 acres in size, and other open spaces. Cowlitz County has adopted a Public Benefit Rating System which classifies properties on the basis of their relative importance of natural and cultural resources, the availability of public access, and the presence of a conservation easement. These features are given a point value, and the total point value determines the property tax reduction. The open space program has property tax reductions of 50, 70 or 90 percent. Lands with wetlands, an important habitat or species would commonly qualify for this voluntary program. Applications are approved by the Board at a public meeting.

C. Conservation Easement. Any person who owns an identified critical area as defined by this chapter shall be entitled to place a conservation easement over that portion of the property designated a critical area by naming the county or its qualified designee under RCW 64.04.130, Interests in land for purposes of conservation, protection, preservation, etc. – Ownership by certain entities – Conveyances, as beneficiary of the conservation easement. The purpose of the conservation easement shall be to protect, preserve, maintain, restore, limit the future use of, or conserve for open space purposes the land designated as critical area(s), in accordance with RCW 64.04.130. Details governing easement restrictions shall be negotiated between the property owners and the county.

D. Bonus Density Points (Planned Unit Development – PUDs). The county shall allow transfer of density for residential uses from lands containing critical areas, as defined by this chapter, when developed pursuant to the County Planned Unit Development Ordinance (Chapter 18.30 CCC). Residential density may only be transferred from a critical area to an area on the same site which is not a critical area.

E. Density Credits. For development proposals (other than PUDs) on lands determined to contain critical areas as defined by this chapter, Cowlitz County shall determine allowable dwelling units for residential development proposals based on the formula below.

Percentage of site in critical area	Density credit
1 – 10%	100%
11 – 20%	90%
21 – 30%	80%
31 – 40%	70%
41 – 50%	60%

51 – 60%	50%
61 – 70%	40%
71 – 80%	30%
81 – 90%	20%

Two examples of how to calculate the density credit follow:

Example 1. Size of development site – 50 acres. The minimum lot size or density in a particular area is two acres, which would permit a maximum of 25 lots to be created out of the 50-acre development site. There are 12 acres of critical areas on the 50-acre site, or 24 percent of the total site area. The density credit according to the table above is 80 percent. The allowable density on the site is 25 lots multiplied by 80 percent. The product is 20 lots, which is the permitted density on the development site. Note that without the density credit the developer would exclude the critical area from development; the site would be 38 acres of developable land and with a two-acre lot minimum, 19 lots would be allowed.

Example 2. Size of development site – 50 acres. The minimum lot size or density in a particular area is two acres, which would permit a maximum of 25 lots to be created out of the 50-acre development site. There are 40 acres of critical areas on the 50-acre site, or 80 percent of the total site area. The density credit according to the table above is 30 percent. The allowable density on the site is 25 lots multiplied by 30 percent. The product is 7.5 lots, which is the permitted density on the development site. Note that without the density credit the developer would exclude the critical area from development; the site would be 10 acres of developable land and with a two-acre lot minimum, five lots would be allowed.

The density credit can only be applied within the development proposal site. The applicant may reduce lot sizes below the minimum required for that zone (designation) to accommodate the transfer of density but it cannot change the residential uses permitted in the zone.

F. Land Exchange. State agencies or local government may convey, sell, lease or trade existing public lands in order to obtain public ownership of a fee interest, leasehold interest, or conservation easement over all or part of a critical area. Such exchanges may occur only upon agreement between the record owner and state and local agencies authorized to exchange the subject land.

G. Process for Land Exchange Involving Cowlitz County.

1. There shall be no time limitation on applications for land exchanges. All applications for land exchanges must be filed in accordance with the requirements of this section. For the purposes of this section, any requirements to provide information, appraisals or notice relating to the property or subject property shall apply to all properties involved in the proposed exchange.

2. Contents of Claim. The applicant is responsible for submitting a complete and accurate application. Such application shall include, at minimum:

a. Completed master application and/or any required supplement sheets signed by the record owner of the property;

b. A map, drawn to scale, showing the following information:

i. Name, address and telephone number of the property owner(s),

ii. Name, address and telephone number of the preparer of the application,

iii. Date of submittal,

iv. Property boundary lines,

v. Legal description of the property,

vi. Description of the nature, size and location of the critical area located on the property, as determined by a qualified expert,

vii. All existing public or private roads, sewer and water lines, wells, county utilities, easements, watercourses, lakes, springs, drainage facilities, on-site sewage disposal drainfield areas, on and within 100 feet of the property boundaries,

viii. The boundaries of all lands reserved in the deeds for the common uses of the property owners;

c. A written appraisal from a licensed appraiser of the fair market value of the properties when subject to the critical area regulations in this chapter and a written appraisal by the same appraiser of the fair market value of the property if not subject to the critical area regulations in this chapter;

d. All other information identified by the Director during the preapplication conference.

3. Director's Action. The Director shall determine if the application is complete within 30 days. If additional information is necessary, the application shall be returned to the property owner, together with a list identifying the deficiencies. When the application is complete, the Director shall consult with the County Assessor for a comparison of the fair market value of the property when subject to the critical area regulations in this chapter with the fair market value of the property if

not subject to the critical area regulations in this chapter.

4. Board Action. The Board shall hold a public hearing to review all property owner requests, pursuant to this section. Notice of public hearing shall be made at least 30 days prior to the scheduled hearing date. Notice shall consist of the publication of a legal notice in the county's newspaper of record stating the description of the property, and the purpose, date, time and location of the hearing. Such notice shall also be mailed first class to the property owner and all persons owning property, as identified in the Auditor's records, within 300 feet of the subject property boundaries 30 days prior to the hearing. And, two or more notices shall be posted in the vicinity of the subject property 30 days prior to the hearing.

Following the public hearing, the Board shall issue its written decision, with findings, within 30 days.

H. Process for Conservation Easement or Density Incentives.

1. Time for Claim. Record owners of real property seeking relief under this section shall file with the Board a claim application for a conservation easement, density incentives, or density credits. The application may be filed at any time; provided, that all applications be filed in accordance with the requirements of this section.

2. Contents of Claim. The applicant is responsible for submitting a complete and accurate application. Such application shall include, at a minimum:

a. Completed master application and/or any required supplement sheets signed by the record owner of the property;

b. A map drawn to scale, showing the following information:

i. Name, address and telephone number of the property owner(s),

ii. Name, address and telephone number of the preparer of the application,

iii. Date of submittal,

iv. Property boundary lines,

v. A legal description of the property,

vi. A description of the nature, size and location of the critical area located on the property, as determined by a qualified specialist,

vii. All existing and/or public and private roads, sewer and water lines, wells, county utilities, easements, water courses, lakes, springs, drainage facilities, on-site sewage disposal drainfield areas, on and within 100 feet of the property boundaries,

viii. The boundaries of all lands reserved in the deeds for the common uses of the property owners,

ix. All other information identified by the Director during the pre-application conference.

3. Director's Action. When the application is complete, the Director shall determine whether all or part of the property is in fact subject to any critical area regulations in this chapter. The Director shall forward his/her findings to the Board.

4. Board Decision. Within 30 days of receipt of the Director's findings, the Board shall make the final determination on whether all or part of the property is subject to this chapter. For conservation easement applications, if the Board determines that all or part of the property is subject to this chapter, the Board shall accept, as beneficiary on behalf of the county or its qualified designee under RCW 64.04.130, a conservation easement over that portion of the property subject to this chapter to the extent requested by the record owner of the property. For density incentive applications, the Board shall approve requested density transfers subject to its final approval of a planned unit development. [Ord. 98-023, §§ 4, 5, 2-9-98; Ord. 96-104, § 8, 6-24-96.]

#### **19.15.090 Critical areas permits – Applications and approvals.**

All persons proposing to develop in critical areas or associated buffers shall first obtain a critical areas permit pursuant to this chapter, except as exempted in CCC 19.15.070. All critical areas permit applications shall proceed in conformance with this section.

A. Critical Areas Permit – Coordination with Other Permits. To avoid duplication, the information required by this section shall be coordinated by the county with the assessments and requirements for other associated permits.

B. Request for Determination of Critical Areas. Staff will conduct an environmental review, based on existing in-house data, to determine if critical areas exist on a parcel, provided that the applicant supplies the following:

1. A completed master application and vicinity map;

2. An assessor's map of the property;

3. A fee in the amount established, paid to the Department at the time an application for a critical area determination is submitted; and

4. Other information as needed. When the determination of critical areas has been completed, a letter will be issued to the applicant, placed in an

address file, and a copy sent to the property owner if different. A property owner may request a re-evaluation by the Department once in any 12-month period when a change in physical conditions or government institutional actions warrant such re-evaluation.

C. Critical Areas Permit. A critical areas permit is required if it is determined that the proposed alteration or development is located within a critical area or associated buffer. The permit application shall at a minimum include the following:

1. A completed master application, signed by the applicant and the property owner if different from the applicant, a vicinity map, environmental checklist, and any supplemental information required by the Director;

2. A site plan drawn to scale. The site plan should clearly show the following information:

- a. North arrow,
- b. Property line dimensions,
- c. Location and dimensions of all existing and proposed development or alterations, including public and private roads, sewer and water lines, wells, utilities, easements, water sources, lakes and springs, drainage facilities, on-site sewage disposal and drainfield areas, within the property boundary;

3. Technical Assessments. The applicant shall be required to submit technical assessments (see appendices) which shall be adequate for the Director to evaluate the development proposal and all probable significant adverse impacts to critical areas regulated by this chapter, unless the Director finds that such technical assessments are not necessary for the reason that adequate factual information already exists at the disposal of the Director to facilitate such evaluation. The county shall provide or advise the applicant of any existing technical information that may be pertinent to their property. Technical assessments shall be attached to or incorporated into any environmental checklist required for the proposal;

4. Fees. A fee in the amount established shall be paid to the Department at the time an application for a critical areas permit is filed.

D. Expert Qualifications and County Review. All critical area technical assessments and studies required of the applicant by this chapter shall be prepared by the applicant or a qualified expert. The Director's decision to require additional studies will be based on the complexity of the project and/or a site inspection.

E. Comments. The Department shall have the option of soliciting comments and technical assistance on the critical areas permit application from

resource agencies; these agencies shall have 30 days to respond.

F. Permit Action. The Director may approve, approve with modifications and/or conditions, or deny a critical areas permit. Any notification of approval shall include the conditions, modifications and restrictions regarding the location, character, and other features of the proposed development the Director finds necessary to make the proposal compatible with the purposes and standards of this chapter. Prior to notification of approval, approval with conditions/modifications, or denial, the decisionmaker(s) shall make findings that:

1. Confirm the nature and type of the critical area;

2. Determine if a proposed alteration to a critical area meets the standards contained in this chapter; and

3. Determine if the assurances for the mitigation proposed by the applicant are sufficient to protect the critical area consistent with this chapter.

G. Permit Duration. Permitted development must be complete within five years. Permits may be extended for one year at the discretion of the Director. There shall be no limit on the number of extensions granted. Permits run with the land. [Ord. 98-023, § 6, 2-9-98; Ord. 96-104, § 9, 6-24-96.]

#### **19.15.100 Relationship to other regulations.**

Areas characterized by a particular critical area may also be subject to other regulations due to the overlap of multiple functions of critical areas. In the event of any conflict between these regulations and any other regulations of the county, such as, but not limited to, Chapter 19.20 CCC, Shoreline Management, and Chapter 19.11 CCC, Environmental Policy, and the Federal Clean Water Act, the regulations which provide the greater protection for critical areas shall apply with the exception of incentive options. No permit granted pursuant to this chapter shall remove applicant's obligation to comply in all respects with the applicable provision of any other federal, state or local law or regulation. [Ord. 96-104, § 10, 6-24-96.]

#### **19.15.110 Critical area inventory maps.**

The approximate location and extent of critical areas and lands within the county planning area are shown on the maps adopted as part of this chapter. These maps are based on the best available information and are intended to be used as a general guide for the assistance of property owners and as information for the public. Boundaries are general-

ized; field investigation and analysis by a qualified expert may be required to confirm the existence of a critical area. The county will update information and resource material as it becomes available and feasible. Digitized editions of any inventory map identified shall be used as each becomes available.

In the event of any conflict between the location, designation, or classification of a critical area shown on the county maps and the criteria or standards of this section, the criteria and standards and the determination of any field investigation shall prevail.

**Summary of Map Sources**

Topic	Map/Data Source(s)
Geologically Hazardous Areas	1. Digital Landslide Inventory, Cowlitz County, WA; DNR Landslide Study (Wegman, 2003), within the designated study boundary
	2. Geologic Hazard Map of Cowlitz County, Cowlitz-Wahkiakum Council of Governments, 1993, in those areas outside of the digital landslide study area
	3. USDA, Natural Resources Conservation Service, Cowlitz Area Soil Survey, 1974, or as amended, and as digitized, in those areas outside of the digital landslide study area
Frequently Flooded Areas	4. FEMA, National Flood Insurance Program, Flood Insurance Rate Maps, and as digitized, when available
Critical Aquifer Recharge Areas	5. Cowlitz County Aquifer Recharge Map, Cowlitz-Wahkiakum Council of Governments, 1993, and as digitized
Wetlands	6. Cowlitz County Wetlands Map, Cowlitz-Wahkiakum Council of Governments, 1993, source: Hydric Soils, USDA, Natural Resources Conservation Service; National Wetlands Inventory Maps, US Department of Interior, U.S. Fish and Wildlife Service, as amended and as digitized
Fish and Wildlife Habitat Conservation Areas	7. Priority Habitat and Species Maps, Washington Department of Fish and Wildlife, as amended and as digitized
	8. Forest Practices Act Stream Mapping, as amended and as digitized

[Ord. 04-219, § 1, 10-19-04; Ord. 96-104, § 11, 6-24-96.]

**19.15.120 Critical area wetlands.**

A. Wetland Classification. Wetlands are classified according to the following scheme, and regulated according to the threshold outlined in subsection B of this section.

1. Classification 1: Documented site-specific habitat or state-listed endangered, threatened, or sensitive animal species. (Chapter 232-12 WAC, Department of Wildlife, Permanent Regulations, as amended).

2. Classification 2:

a. High quality, regionally rare, wetland with irreplaceable ecological functions; or

b. Complex wetlands of three or more wetland types which cannot be replicated through newly created wetlands or restoration; or

c. Wetlands improved or enhanced by agency approved mitigation projects.

3. Classification 3:

a. Wetlands of sufficient characteristics to provide any of the following:

i. Significant flood control functions, or

ii. Ground and surface water aquifer recharge function, or

iii. Significant fish and wildlife habitat, or

iv. Significant water quality attributes for sediment retention and pollution control;

b. Wetlands of any size created as a result of agency approved/permitted mitigation projects.

4. Classification 4:

a. Wetlands dominated by non-native, invasive plant species.

b. Wetlands two acres or larger which are not Classification 1, 2, 3 or 4(a) wetlands.

B. Wetland Designation. For the purposes of this chapter “regulated wetlands” include:

Wetland Classification	Minimum Size
Classification 1	No minimum size
Classification 2	No minimum size
Classification 3	1 acre
Classification 4(a)	1 acre
Classification 4(b)	2 acres

C. Development Limitations – Alterations of Wetlands. Development or regulated activity shall conform with and be governed by the following:

1. Alteration of Classification 1 wetlands is prohibited unless the alteration would improve or maintain the existing wetland function and value, or the alteration would create a higher value or less common wetland type which would improve the

function or value of the wetland as indicated within the wetland assessment and the mitigation plan.

2. Alteration of Classification 2 wetlands may be allowed only when it is demonstrated, by a qualified expert, through a wetland assessment that any of the following criteria are met:

a. Significant public benefit will accrue through the alteration and no reasonable and practical alternative to the alteration exists through on-site design or through acquisition of additional area; or

b. The alteration would improve or maintain the existing wetland function and value, or the alteration would create a higher value or less common wetland type which would improve the function or value of the wetland as indicated within the wetland assessment and the mitigation plan.

3. Alteration of Classification 3 regulated wetlands may be allowed only when it is demonstrated through a wetland assessment that any of the following criteria are met:

a. Significant public benefit will accrue through the alteration;

b. No reasonable and practical alternative to the alteration exists through on-site design; or

c. The alteration would improve or maintain the existing wetland function and value, or the alteration would create a higher value or less common wetland type which would improve the function or value of the wetland as indicated within the wetland assessment and the mitigation plan.

4. Alteration of Classification 4(a) and 4(b) regulated wetlands may be allowed if feasible alternatives cannot be identified during the development or regulated activity review process and state and federal agencies with jurisdiction over wetlands concur with the alteration.

**D. Wetland Buffers.**

1. Buffers are required for all regulated wetlands. Wetland buffer widths are established in Table 1 of this section.

2. Buffer widths shall be measured perpendicular to the delineated boundaries of the regulated wetland and extend the required buffer width range as indicated in Table 1.

3. Variable buffer widths intended to protect the wetland’s physical functions shall be based on: (see Table 1).

a. The hydric soil type/mapping unit on which the regulated wetland is located; and

b. A wetland assessment. Wetland physical functions include but are not limited to:

i. Flood control functions;

ii. Ground and surface water aquifer recharge functions;

iii. Sediment retention and pollution control functions.

4. Buffer widths intended to protect the wetland’s fish and wildlife habitat shall be based on the open water component associated with the regulated wetland. (See Table 2.)

5. Buffer width can be reduced below minimums when site-specific, abrupt topographical changes such as cliffs, indicate the wetland function will be protected.

**Table 1  
Required Buffer Widths for Regulated Wetlands**

Soil Type	Buffer Width Range	
	Maximum	Minimum
Andic Cryaquepts Rock Outcrops Complex 50-90% Slopes	100 ft.	60 ft.
Caples Silty Clay Loam 0-3% Slopes	100 ft.	60 ft.
Carrolls Sand, Flooded 0-2% Slopes	60 ft.	40 ft.
Carrolls Fine Sandy Loam Overwash 0-1% Slopes	60 ft.	40 ft.
Coweeman Silt Loam 5-15% Slopes	100 ft.	60 ft.
Coweeman Silty Clay Loam 3-30% Slopes	80 ft.	40 ft.
Godfrey Silt Loam 0-3% Slopes	120 ft.	80 ft.
Histic Cryaquepts 0-3% Slopes	200 ft.	150 ft.
Histic Humaquepts 0-3% Slopes	200 ft.	150 ft.
Kosmos Silt Loam 0-3% Slopes	80 ft.	60 ft.
Lacamas Silt Loam 0-6% Slopes	80 ft.	60 ft.
Minniece Silt Loam 0-8% Slopes	80 ft.	60 ft.
Mountsolo Gravelly Sand 0-1% Slopes	120 ft.	80 ft.
Natal Silty Clay Loam 0-4% Slopes	80 ft.	60 ft.
Riverwash	80 ft.	60 ft.
Rose Valley Silt Loam 0-8% Slopes	120 ft.	80 ft.

<b>Soil Type</b>	<b>Buffer Width Range</b>	
	<b>Maximum</b>	<b>Minimum</b>
Rose Valley Silt Loam 8-15% Slopes	160 ft.	120 ft.
Semiahmoo Muck 0-1% Slopes	200 ft.	150 ft.
Snohomish Silty Clay Loam 0-1% Slopes	120 ft.	80 ft.

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**Table 2**  
**Buffer Widths for Regulated Wetlands Which Provide Functions and Values for Wildlife and Fisheries**

Description	Buffer Width	
	Maximum	Minimum
(A) Regulated wetlands with open water component (mapped open water or aquatic bed) at least 1/4 acre in size but less than 20 acres	200 ft.	100 ft.
(B) Vegetated regulated wetland associated with a riverine system or wetland on a lake 20 acres or greater in size	150 ft.	75 ft.
Wetlands with special sensitivities: heritage sites bogs and fens mature forested swamps (21 inch DBH) island systems lakes and shorelines of statewide significance priority species (as defined by ordinance)	As determined by a wetland assessment (see Appendix D)	

**E. Activities Allowed in a Wetland Buffer.**

1. Passive activities that do not have a significant adverse impact on the function of buffers shall be allowed. Examples include: educational or scientific projects, nonmotorized recreation, and utilities.

Such activities or projects shall be consistent with the wetland development limitations and mitigation standards set for the buffered wetland.

2. Prior to development or alteration within the buffer, the applicant shall demonstrate that no other feasible option exists.

**F. Mitigation Standards (refer to CCC 19.15.070, Mitigation Standards).**

1. All significant adverse impacts to Classifications 2 and 3 wetlands and buffers as identified in the wetlands assessment shall be specified in a mitigation plan consistent with CCC 19.15.170 and prepared by or on behalf of the applicant.

2. When an applicant proposes to alter or eliminate a regulated wetland, he/she shall be required to replace or enhance the function and value of the wetland based upon an approved evaluation procedure such as Wetland Evaluation Technique (WET). When replacement of a wetland

is proposed, the wetland and associated buffer shall be replaced at the following ratio:

Regulated Wetland Type	Minimum Ratio of Replaced Wetland to Lost Wetland
Classification 1 Wetland	Not applicable
Classification 2 Wetland and Classification 3 Wetland	At least 1 to 1, or as required, by the Department not to exceed 2 to 1
Classification 4(a) Wetland and Classification 4(b) Wetland	No replacement required

G. Wetland Delineation. For the purposes of this chapter, wetland delineations shall be performed in accordance with the procedures as specified in the Washington State Wetlands Identification and Delineation Manual. [Ord. 98-023, § 7, 2-9-98; Ord. 96-104, § 12, 6-24-96.]

**19.15.130 Fish and wildlife habitat conservation.**

A. Designation of Critical Fish and Wildlife Habitat Conservation Areas. Critical fish and wildlife habitat conservation areas are designated according to the classifications in the following table:

Classifications WAC 365-190-080(5)	Description
1. Areas with which state designated endangered, threatened or sensitive species have a primary association.	Areas which, if significantly altered, may reduce the likelihood that the species will reproduce over the long term. Habitats associated with these species are those identified by Washington Department of Fish and Wildlife's current system for mapping species of concern. These habitats are designated as critical areas, where endangered, threatened and sensitive species are verified to have a primary association.
2. Species and habitats of local importance.	Habitat: Unique or significant habitats which regionally rare wildlife species depend upon and that have high wildlife concentrations, including: 1. Caves, 2. Talus slopes, 3. Snag rich areas (outside forest practices), and

<b>Classifications WAC 365-190-080(5)</b>	<b>Description</b>
	Species: Wildlife species which require protective measures for their continued existence due to their population status or sensitivity to habitat alterations or are highly valued by the local citizens. Species meeting the above criteria but not depending upon a habitat of local importance (as listed above) to meet criteria habitat needs are those documented, verified, and mapped in Cowlitz County.
3. Commercial and recreational shellfish areas.	There is a small commercial and recreational crawfish fishery in Cowlitz County.
4. Kelp and eelgrass beds; herring and smelt spawning areas.	No kelp, eelgrass beds, or herring spawning areas are known to occur in Cowlitz County. The Washington State Hydraulic Code guidelines (WAC Title 232) and information from the Washington State Department of Fisheries and Wildlife are used to identify smelt spawning areas.
5. Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat.	Naturally occurring ponds are waters with a surface area of less than 20 acres but greater than one acre and manmade ponds developed as mitigation as part of a permitting process or mitigation agreement. Naturally occurring ponds do not include ponds deliberately created such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds (of less than three years duration), and landscape amenities.
6. Water of the state.	Waters of the state shall be those defined in WAC 222-16-030, Forest Practices Board, Definitions.
7. Lakes, ponds, streams and rivers planted with game fish by a governmental or tribal entity.	Waters of the state which regularly have game fish introduced.
8. State natural area preserves and natural resource conservation areas.	Currently, there is only one natural resource conservation area in Cowlitz County, Merrill Lake. It is owned by the State of Washington and managed by the Department of Natural Resources.
9. Unintentionally created ponds.	Ponds with a surface area of less than 20 acres, but greater than one acre.

B. Development Performance Standards. Development or regulated activity shall conform and be governed by the following items in this subsection, and in subsections C through J of this section:

1. When impacts to critical fish and wildlife habitat cannot be avoided, the performance standards contained in this section shall be used to develop plans submitted for regulated activities. Critical area permits may be conditioned to reflect the following performance standards;

2. Consider habitat in site planning and design;

3. Locate buildings and structures in a manner that preserves the habitat or minimizes adverse impacts;

4. Consolidate habitat and vegetated open space in contiguous blocks, and where possible locate habitat contiguous to other habitat, open space or landscaped areas to contribute to a continuous system or corridor that provides connections to adjacent habitat areas;

5. Use native species in any landscaping of disturbed or undeveloped areas and in any enhancement of habitat or buffers;

6. Emphasize heterogeneity and structural diversity of vegetation in landscaping;

7. Remove and/or control any noxious, or undesirable species of plants as identified by the Cowlitz County Weed Control Board;

8. Preserve trees to the extent possible, preferably in consolidated areas;

9. Preserve and introduce native plant species which serve as food, shelter from climatic extremes and predators, and structure and cover for reproduction and rearing of young for critical wildlife;

10. Preserve the natural hydraulic and ecological functions of drainage systems;

11. Preserve critical fish and wildlife habitat areas through maintenance of stable channels, adequate low flows, management of stormwater runoff, erosion and sedimentation;

12. Manage access to critical fish and wildlife habitat areas to protect species which are sensitive to human disturbance;

13. Maintain or enhance water quality through control of runoff and use of best management practices.

C. Overlap of Critical Areas. CCC 19.15.100 notwithstanding, if a fish or wildlife habitat classification is determined to be a wetland, then the wetland regulations in CCC 19.15.120 shall apply in lieu of requirements established in this section.

D. Habitat Management Plan – Classification 1 Only. A habitat management plan may be required (Appendix E) if the regulated activity is within 250 feet of a Classification 1 habitat area, or identified within 1,000 feet of a point location (nests, dens, etc.) for a Classification 1 habitat area.

E. Habitat Management Plan Requirements.

1. The habitat management plan will be prepared by a qualified expert (see Appendix E).

2. Habitat management plans will be sent to the Washington State Department of Fish and Wildlife and other state and federal agencies with jurisdiction for comment with the SEPA checklist.

F. Habitat Protection for Classification 2. Protection for these habitat areas shall be through the development performance standards listed in subsection B of this section.

G. Habitat Protection for Classification 3 and 4. If found to occur, protection of these areas shall be coordinated by the Department with the Washington State Department of Fish and Wildlife.

H. Habitat Protection for Classification 5, 6 and 7. Protection for these habitat areas shall be through the Shoreline Management Act, the Federal Clean Water Act, and the State Hydraulic Code and/or best management practices. Within Classification 6 – Type 1, 2 and 3 waters as defined in WAC 222-16-030, Forest Practices Board, Definitions, are regulated streams.

I. Habitat Protection for Classification 8. Protection for state natural area preserves and natural resource conservation area habitat is achieved by the Washington State Department of Natural Resources.

J. Habitat Protection for Classification 9. Protection for habitat provided by unintentionally created ponds shall be through the development performance standards in subsection B of this section. [Ord. 98-023, § 8, 2-9-98; Ord. 96-104, § 13, 6-24-96.]

#### **19.15.140 Frequently flooded critical areas.**

A. Frequently Flooded Area Classifications and Designation. All lands identified in the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps, as amended, and approved by the county as within the 100-year floodplain are designated as frequently flooded areas. These maps are based on the following: Flood Insurance Study – Cowlitz County Unincorporated Areas.

B. Development Limitations. All development within designated frequently flooded areas shall comply with the Cowlitz County Floodplain Man-

agement Ordinance, Chapter 16.25 CCC, as now or hereafter amended. [Ord. 96-104, § 14, 6-24-96.]

#### **19.15.150 Geologic hazard areas.**

This section acknowledges the application of other relevant codes and regulations which may require mutual compliance.

A. Geotechnical Assessments and/or Reports. For all regulated activities proposed within designated landslide, erosion and mine hazard areas, a geotechnical assessment or an erosion hazard assessment prepared by a qualified expert shall be submitted and coordinated with the Uniform Building Code requirements (Appendix A and B).

If the geotechnical assessment indicates an inability of the site to accommodate the proposed activity without special measures or precautions as determined by a qualified expert, the Department may require a geotechnical report (see Appendix C).

B. Classification – Landslide Hazard Areas. Landslide hazard areas are those areas meeting any of the following criteria:

1. Areas of historic failure, such as areas designated as quaternary slumps, earthflows, mudflows or landslides;

2. Any area with all of the following:

a. Slope greater than 15 percent, and

b. Steep hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock, and

c. Springs or groundwater seepage;

3. Slopes that are parallel or subparallel to planes of weakness; such as bedding planes, joint systems, and fault planes;

4. Slopes having gradients greater than 80 percent and subject to rockfall during seismic shaking;

5. Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action;

6. Areas located in a canyon, on an active alluvial fan, or that are presently subject to inundation by debris flows or catastrophic flooding;

7. Areas identified as being Class 4 or 5 on slope stability of the Longview-Kelso Urban Area Study. Division of Geology and Earth Resources, Department of Natural Resources, 1973;

8. Areas identified as being unstable or very unstable on Department of Natural Resources soils-based stability maps. Washington State Department of Natural Resources.

C. Classification – Erosion Hazard Areas. Erosion hazard areas are those areas identified by the presence of soils which are recognized as having a severe erosion hazard by the Natural Resources Conservation Service, Cowlitz Area, Washington.

D. Development Standards for Landslide Hazard Areas and Erosion Hazard Areas. Any allowed or regulated activity on areas identified as landslide or erosion hazards or their buffers shall conform to the following standards.

1. Grading.

a. Clearing, grading and other construction activities shall not aggravate or result in slope instability or surface sloughing;

b. Undergrowth shall be retained to the maximum extent feasible;

c. No dead vegetation (slash), fill or other foreign material shall be placed within a landslide or erosion hazard area, other than that approved for bank stabilization or if such fill is consistent with authorized activities specified in a geotechnical report;

d. Minimize ground disturbance to the maximum extent feasible.

2. Erosion Control.

a. There shall be minimum disturbance of trees and vegetation in order to reduce erosion and maintain existing stability of hazard areas.

b. Vegetation removal on the slopes of banks between the ordinary high-water mark and the top of the banks shall be minimized because of the potential for erosion.

c. Vegetation and organic soil material shall be removed from fill site prior to the placement of fill.

d. Thinning of limbs of individual trees is preferred over tree removal as a means to provide a view corridor.

e. Vegetative cover or engineered ground covers shall be placed on any disturbed surface to the extent feasible.

3. Drainage.

a. Surface drainage, including downspouts, shall not be directed across the face of a hazard area. If drainage must be discharged from the top of a hazard area to its toe, it shall be collected above the top and directed to the toe by tight line drain, and provided with an energy-dissipating device at the toe for discharge to a swale or other acceptable natural drainage areas.

b. Stormwater retention and detention systems, including percolation systems utilizing buried pipe are strongly discouraged unless a geotechnical assessment indicates such a system shall not

affect slope stability and the systems are designed by a licensed civil engineer. The licensed civil engineer shall also certify that the systems are installed as designed.

4. Sewage Disposal System Drainfields. For the purpose of landslide or erosion control, the sewage disposal drain fields shall be located outside of the hazard area buffer, unless otherwise justified by a qualified geotechnical engineer. The septic system drainfield must be in compliance with all local government health regulations.

5. Buffers.

a. An undisturbed 50-foot (15.25-meter) buffer, as measured on the surface, is required from the top, toe, and along all sides of any existing landslide or erosion, within a critical area.

b. Based on the results of the geotechnical assessment, the Director may increase or decrease the buffer as indicated.

c. The buffer shall be clearly staked before and during any construction or clearing.

6. Design Guidelines.

a. Structures should be clustered where possible to reduce disturbance and removal of vegetation.

b. Foundations should conform to the natural contours of the slope.

c. Roads, walkways and parking areas should be designed to parallel the natural contours of the site.

E. Classification – Seismic Hazard Areas. For the purposes of this classification, a seismic hazard area is any area indicated by a Zone 2B or higher rating as defined by the Seismic Risk Map of the United States, adopted by the Washington State Legislature and defined in the Uniform Building Code (UBC).

F. Development Standards – Seismic Hazard Areas. All development within areas that meet the classification for seismic hazard areas shall comply with the Uniform Building Code. A critical areas permit is not required by this chapter for seismic hazards.

G. Classification – Mine Hazard Areas. For the purposes of this classification mine hazard areas are:

1. Abandoned mines and/or workings where locations are known;

2. Abandoned mines and/or workings where exact locations are unknown, but based upon the best available information, there is good cause to believe it is within an area which may be reasonably delineated.

H. Development Standards – Mine Hazard Areas. Development adjacent to a mine hazard is prohibited unless the applicant can demonstrate the development will be safe. If a proposal is located adjacent to a mine hazard area, a geotechnical assessment may be required.

I. Classification – Volcanic Hazard Areas. For the purposes of this classification, all volcanic mudflow hazard areas shall be identified as the 500-year floodplain areas identified in FEMA maps.

J. Development Standards – Volcanic Hazard Areas. Development shall comply with existing Federal Emergency Management Agency regulations for floodplain management. A critical areas permit is not required by this chapter for development in a volcanic hazard area.

K. Designations. Lands of Cowlitz County meeting the classification criteria for geologic hazard areas are designated, under Chapter 36.70A RCW, as geologic hazard areas.

Maps that illustrate critical areas include, but are not limited to:

1. Alien J. Fiksdal, Slope Stability of The Longview-Kelso Urban Area, Cowlitz County, Department of Natural Resources, 1973.

2. Soil Conservation Service, Cowlitz Area Soil Survey, February, 1974.

3. Geologic Hazard Map developed by Cowlitz-Wahkiakum Council of Governments, 1993.

4. Federal insurance rate maps for Cowlitz County, FEMA 1993-1994.

5. Washington Department of Natural Resources, Soils-Based Slope Stability Map. [Ord. 98-023, § 9, 2-9-98; Ord. 96-104, § 15, 6-24-96.]

#### **19.15.160 Critical aquifer recharge areas.**

A. Classification – Critical Aquifer Recharge Areas. For the purposes of this classification the critical aquifer recharge areas are determined by the combined effects of soil types and hydrogeology. (Critical Aquifer Recharge Map, Cowlitz-Wahkiakum Council of Governments, 1993).

Classification 1: High susceptibility areas, identified on the aquifer recharge map, with a very high susceptibility to contamination of the underlying aquifer due to high soil permeability and high water table.

B. Regulated Activities – Classification 1. The following activities are regulated in Classification 1, critical aquifer recharge areas.

1. Solid waste disposal facilities, junk yards, etc.: landfills, junk yards, salvage yards, auto wrecking yards, and other solid waste disposal

facilities, except those for the disposal of brush and stumps, sawdust, and inert construction debris.

2. Aboveground and underground storage tanks and vaults: aboveground or underground storage tanks or vaults for the storage of hazardous substances or dangerous wastes as defined in Chapter 173-303 WAC, Dangerous Waste Regulations, or any other substances, solids or liquids in quantities identified by the County Health Department, consistent with Chapter 173-303 WAC, as a risk to groundwater quality, shall conform to CCC 16.05.060, the Uniform Fire Code, Chapter 173-360 WAC, Underground Storage Tank Regulations.

3. Utility transmission facilities: utility facilities which carry liquid petroleum products or any other hazardous substance as defined in Chapter 173-303 WAC.

4. Land divisions: subdivisions, short subdivisions and other divisions of land will be evaluated for their impact on groundwater quality within the Classification 1, aquifer recharge areas. The following measures may be required:

- a. An analysis of the potential contaminate loading;

- b. Alternative site designs, phased development and/or groundwater quality monitoring;

- c. Open spaces within development proposals;

- d. Community/public water systems and community drainfields.

C. Hydrogeologic Testing and Site Evaluation.

1. Hydrogeologic testing and site evaluation may be required for any regulated activity. If federal or state regulations require hydrogeologic testing, the Department may waive the requirement for additional testing provided the Director has adequate factual information to evaluate the proposal.

2. If hydrogeologic testing and site evaluation are required, they shall be conducted by a qualified expert and must include but not be limited to the requirements in Appendix F.

3. Development which negatively impacts the quality of Classification 1, critical aquifer recharge area, shall be prohibited unless the hydrogeologic testing and site evaluation satisfactorily demonstrate that significant adverse impacts will be mitigated. [Ord. 96-104, § 16, 6-24-96.]

#### **19.15.170 Mitigation plan performance standards – Mitigation planning requirements.**

All critical areas mitigation projects required pursuant to this chapter either as a permit condition

or as the result of an enforcement action shall follow a mitigation plan approved by the Department and prepared by or on behalf of the applicant.

A. When a mitigation plan is required it shall be approved by the Department prior to any site disturbance. The Department may seek assistance from resource agencies prior to making a decision. At a minimum the plan shall meet the following standards:

1. The mitigation plan shall be prepared by an applicant or qualified expert and shall be acceptable to the county.

2. The mitigation plan shall include:

a. An assessment of the existing function and values of the critical area;

b. The functions and values that will be lost;

c. The critical area's expected functions and values after mitigation.

3. Objectives shall be stated in measurable terms, if feasible.

4. The mitigation plan shall specify and describe how functions and values will be replaced.

5. The mitigation plan shall include provisions for monitoring the mitigation area as reasonably necessary to determine whether stated objectives have been accomplished. A contingency plan shall be included in the event the stated objectives are not accomplished.

6. Mitigation shall be provided on-site, except where on-site mitigation is not scientifically feasible, economical or practical due to physical features of the property. The burden of proof shall be on the applicant to demonstrate that mitigation cannot be provided on-site.

7. When mitigation cannot be provided on-site, mitigation shall be provided in the immediate vicinity of the permitted activity on property owned or controlled by the applicant where such mitigation is practical and beneficial to the critical area and associated resources. Where possible, this means within the same hydrologic unit as the location of the proposed project.

8. Mitigation plans shall be approved by the Department prior to any site alterations.

B. Restoration shall be required when a critical area has been altered by the landowner after the adoption of the critical areas ordinance and prior to project approval or when a critical area is temporarily affected by construction or any other temporary phase of a project. [Ord. 96-104, § 17, 6-24-96.]

### **19.15.180 Variance/reasonable use allowance.**

If an applicant asserts that application of this chapter would deny him reasonable use of his property, the applicant may apply for a variance/reasonable use allowance. A variance/reasonable use allowance is intended to address those cases in which the application of this chapter unreasonably restricts all economic use of a parcel of land and the restriction cannot be remedied by other authorized techniques or conditions.

A. The Director shall have the power to grant variances/reasonable use allowances. A request for a variance/reasonable use allowance shall be made on forms provided by the Director and shall accompany an application for a development permit. Before an application for a variance/reasonable use allowance is acted upon, all of the matters relating to the application shall be reviewed by the Director and his or her findings shall be included in his/her decision.

B. Before a variance is granted it shall be shown by the applicant:

1. That the application of this chapter will deny all economically viable use of the subject property otherwise allowed by applicable law; and

2. That because of special circumstances applicable to the subject property including size, shape, topography and location, the enforcement of this chapter would result in unwarranted hardship; and

3. That an interpretation of this chapter will deprive the land owner of rights commonly enjoyed by other properties in similar areas within the critical area or buffer; and

4. That the granting of a variance will not confer upon a land owner any special privilege that would be denied by the terms of this chapter to other lands or structures within the critical area or buffer that are of a similar nature or circumstance; and

5. That the variance request is not based upon conditions or circumstances which are the result of actions by the current or previous land owners or that the request arises from any condition related to land or building use, either permitted or nonconforming, on any neighboring property. Such conditions or circumstances include:

a. Prior subdivision or segregation of the subject property, or changes to the boundaries of the subject property through a boundary line adjustment or otherwise,

b. Prior actions taken in violation of this chapter or any local, state or federal law or regulation,

c. Natural constraints of the subject property that would otherwise preclude the proposed development activities; and

6. That as a result of the proposed development varying from the terms of this chapter there will be no threat to the public health, safety or welfare on or off the subject property; and

7. Any variance granted shall be for the least intrusion into the critical area or buffer necessary to allow an economically viable use of the subject property; and

8. That any authorized alteration of a critical area or buffer under this section shall be subject to conditions established by the Department in accordance with this chapter and may require mitigation under an approved mitigation plan. [Ord. 96-104, § 18, 6-24-96.]

#### **19.15.190 Appeals.**

Any interpretation or decision made by the Director in the administration of this chapter is final and conclusive unless appealed to the Cowlitz County Hearing Examiner as authorized by Cowlitz County Ordinance No. 95-193. Appeals of decisions made by other bodies shall be as directed by the appropriate county code governing the underlying action.

A. Any person aggrieved by a decision of the Director may, within 30 days following the date of the Department's written decision, submit an appeal of the Director's decision. The burden of proof in any appeal is the responsibility of the appellant. Any appeal shall be in written form and filed with the Department together with a fee as established by resolution by the Board. Any appeal shall as a minimum contain the following information:

1. An explanation and description of how the appellant is aggrieved;

2. A statement describing why the appellant believes the decision of the Director is in error and the specific relief sought;

3. A statement showing why upholding an appeal will not be detrimental to public health, safety or welfare, or significantly negate the functions of a critical area, the goals, objectives and policies of the Growth Management Act, and the purposes this chapter;

4. A statement describing any mitigating measures the appellant proposes to assure that the function of the critical area will not be irrevocably jeopardized in the event the appeal is successful.

B. Upon the filing of an appeal with appropriate fee, the Director shall set forth the time and place for a public hearing before the Hearing Examiner

on the matter. If the appeal is filed 20 days or more before the Hearing Examiner's regularly scheduled monthly meeting, he/she shall hear the appeal at that meeting. For appeals filed within 19 days of the regularly scheduled monthly meeting, the Hearing Examiner shall hear the appeal in the subsequent month.

C. Notice of the time, date and place of the hearing shall be sent to the appellant and the permittee by first class mail prior to the public hearing. Legal notice of the hearing shall be published in a newspaper of general circulation and the subject property shall be posted with the notice not less than 10 days prior to the public hearing.

D. Within 10 days after the public hearing, the Hearing Examiner shall issue a written decision, including findings of fact on which his/her decision is based. Such written decision shall be available to the appellant and the public upon request.

E. The Director shall transmit the application and appeal information to the Hearing Examiner at least five days prior to the public hearing. The Director may provide additional information if the appeal contains material or facts not available prior to the Director's decision.

F. The Hearing Examiner shall determine if the appeal should be upheld, upheld with conditions, or denied. Any person aggrieved by the decision of the Hearing Examiner regarding a permit pursuant to this ordinance may request relief from the Superior Court of Cowlitz County pursuant to state law. [Ord. 96-104, § 19, 6-24-96.]

#### **19.15.200 Penalties/violations.**

It is a civil infraction for any person to violate this chapter or assist in the violation of this chapter. Violations are subject to the provisions of Chapter 2.06 CCC. Any violation is a public nuisance. Each day a violation exists is a separate violation. Payment of any penalty imposed for a violation does not relieve a person from the duty to comply with this chapter. [Ord. 96-104, § 20, 6-24-96.]

#### **19.15.210 Fees.**

Fees for administering the provisions of this chapter shall be as set from time to time by the Board. [Ord. 96-104, § 21, 6-24-96.]

#### **19.15.220 Liability for damages.**

This chapter shall not be construed to hold the County of Cowlitz, or any officer or employee thereof, responsible for any damages to persons or property by reason of the certification, inspection or noninspection of any building, equipment or

property as herein authorized. [Ord. 96-104, § 22, 6-24-96.]

### **19.15.230 Severability.**

Should any section, clause or provision of this chapter or any code adopted be declared by a court to be invalid, the same shall not affect the validity of the remainder, either in whole or in part. [Ord. 96-104, § 23, 6-24-96.]

### **19.15.240 Effective date.**

This chapter shall become effective July 24, 1996. [Ord. 96-104, § 24, 6-24-96.]

### **Appendix A Geotechnical Assessments.**

1. The applicant must submit a geotechnical assessment prepared by a qualified expert.

2. The geotechnical assessment shall typically include at a minimum the following:

a. A discussion of the surface and subsurface geologic conditions of the site;

b. A site plan of the area delineating all areas of the site subject to landslide hazards based on mapping and criteria;

c. A contour map of the proposed site, at a reasonable scale (not smaller than 1":200') which clearly delineates slopes for ranges between 15 and 29 percent and 30 percent and greater, and includes figures for area coverage of each slope category on the site.

3. Site evaluation: evaluation of the ability of the site to accommodate the proposed activity.

### **Appendix B Erosion Hazard Assessments.**

1. The applicant must submit an erosion hazard assessment prepared by a qualified expert.

2. The erosion hazard assessment shall typically include, at a minimum, the following:

a. An overview of existing channel characteristics and stream hydraulics at the subject property.

b. An assessment of the probability for stream-induced erosion to occur on the subject property and the estimated extent of the property that would be affected.

c. A site map of the property, drawn to scale, delineating the relationship of the stream to the property, and existing erosion areas and/or potential erosion areas, and the proposed development, including structural dimensions.

d. A cross-section map, drawn to scale and at 5-foot contour intervals from the edge of the river's surface to the furthest landward boundary of the property, and including the proposed development.

e. Site Evaluation: evaluation of the ability of the site to accommodate the proposed activity.

### **Appendix C Geotechnical Report.**

The geotechnical report shall typically include at a minimum the following. Technical justification shall be provided where any information is not deemed applicable by the qualified expert.

1. Site geology information required:

a. Topographic data – contour map of proposed site at a scale of 1":200', which clearly delineates the slopes between 15 and 29 percent and 30 percent and greater, including figures for area coverage of each slope category on the site.

b. Subsurface data – boring logs and exploratory methods, soil and rock stratigraphy, groundwater levels including seasonal changes.

c. Site history – description of any prior grading, soil instability, or slope failure.

d. Seismic hazard – data concerning the vulnerability of the site to seismic events.

2. Geotechnical Engineering Information required:

a. slope stability studies and opinion of slope stability;

b. proposed angles of cut and fill slopes and site grading requirements;

c. structural foundation requirements and estimated foundation settlements;

d. soil compaction criteria;

e. proposed surface and subsurface drainage;

f. lateral earth pressures;

g. erosion vulnerability of site;

h. suitability for fill;

i. laboratory data and soil index properties for soil samples; and

j. building limitations.

3. Site evaluation: evaluation of the ability of the site to accommodate the proposed activity.

Where a valid geotechnical report has been prepared within the last five years for a specific site, and where the proposed activity and surrounding site conditions are unchanged, said report may be utilized and a new assessment may not be required.

### **Appendix D Wetland Assessment.**

A wetland assessment shall typically include the following. Technical justification shall be provided where any information is not deemed applicable by the qualified expert.

1) An on-site wetland delineation performed by a qualified expert. The wetland boundaries shall be staked and flagged. The recommended wetland buffer shall be staked and flagged with different

colored flags than that used for the wetland delineation.

2) Vicinity Map drawn to scale and including a north arrow, public roads and other known landmarks in the vicinity.

3) National Wetlands Inventory Map (U.S. Fish and Wildlife Service) and/or a Cowlitz County Wetland Inventory Map identifying wetlands on or adjacent to the site.

4) Site Map. This map must be drawn to a usable scale, 1" = 100' or better, and must include a north arrow and all of the following requirements:

a) Site boundary/property lines and dimensions;

b) Wetland boundaries based upon a wetland specialist's delineation, and depicting sample points and differing wetland types if any;

c) Recommended wetland buffer boundary;

d) Internal property lines such as rights-of-way, easements, etc.;

e) Existing physical features of the site including buildings and other structures, fences, road utilities, parking lots, water bodies, etc.;

f) Topographical variations.

5) Report. This document must include each of the following:

a) Location information (legal description, parcel number and address);

b) Site characteristics including topography, total acreage, delineated wetland acreage, other water bodies, vegetation, soil types, etc., and distances to and sizes of other off-site wetlands and water bodies within one quarter mile of the subject wetland;

c) Identification of the wetland's classification as defined in the ordinance codified in this chapter, including the rationale for selecting the wetland category;

d) Analysis of functional values of existing wetlands, including flood control, water quality, aquifer recharge, fish and wildlife habitat, and hydrologic characteristics;

e) A complete description of the proposed project and its potential impacts to the wetland and, if applicable, adjacent off-site wetlands, including construction impacts;

f) Discussion of project alternatives including total avoidance of impacts to wetland areas;

g) If mitigation for wetland impacts is proposed, a description and analysis of that mitigation;

h) A wetland buffer recommendation and rationale for the buffer size determination.

6) Completed wetland data form provided by the county.

#### **Appendix E Habitat Management Plan Requirements.**

At a minimum, the habitat management plan shall typically contain the following information. Technical justification shall be provided where any information is not deemed applicable by the qualified expert.

1. A. A description of state or federally designated endangered, threatened or sensitive fish or wildlife species, or species of local importance, on-site or adjacent to the subject property within a distance typical of the normal range of the species.

B. A description of the critical wildlife habitat for the identified species known or expected to be located on-site or immediately adjacent to the subject property.

2. A site plan which clearly identifies and delineates critical fish and wildlife habitats found in subsection (1)(B) above.

3. An evaluation of the project's effects on critical fish and wildlife habitat both on and adjacent to the subject property.

4. A summary of any federal, state, or local management recommendations which have been developed for the critical fish or wildlife species or habitats located at the site.

5. A statement of measures proposed to preserve existing habitats and restore area degraded as a result of proposed activities.

6. A description of proposed measures which mitigate the impacts of the project.

7. An evaluation of on-going management practices which will protect critical fish and wildlife habitat after the project site has been fully developed, including proposed monitoring and maintenance programs of the subject property.

#### **Appendix F Hydrogeologic Testing and Site Evaluation.**

If hydrogeologic testing and site evaluation are required, they shall be conducted by a qualified expert and typically include at least the following. Technical justification shall be provided where any information is not deemed applicable by the qualified expert.

1. A characterization of the site and its relationship to the aquifer and evaluation of the ability of the site to accommodate the proposed activity;

2. A discussion of the effects of the proposed project on groundwater quality and quantity; and

3. Recommendations on appropriate mitigation, if any, to assure that there shall be no significant degradation of groundwater quality or quantity.

In addition the testing and evaluation must include, but not be limited to, an analysis of:

4. Geologic setting and soils information of site and surrounding area;

5. Water quality data, including PH, temperature, conductivity, nitrates, and bacteria;

6. Location and depth to perched water tables;

7. Recharge potential of facility site (permeability/transmissivity);

8. Local groundwater flow, direction and gradient;

9. Surface water locations within 1,000 feet of the site.

## Chapter 19.20

### SHORELINE MANAGEMENT

#### Sections:

- 19.20.010 Responsible official.
- 19.20.020 Application for permit.
- 19.20.030 Public notice of application.
- 19.20.040 Department of Building and Planning review.
- 19.20.050 Board of County Commissioners' action.
- 19.20.060 Notice to Department of Ecology and Attorney General.
- 19.20.070 Exemptions.
- 19.20.080 Violations.
- 19.20.090 County compliance with SEPA.
- 19.20.100 Fees and charges.

#### Cross-references:

Chapter 90.58 RCW: Shoreline Management Act.

Chapter 43.21C RCW: State Environmental Policy Act.

Chapter 173-14 WAC: Permits for substantial developments.

Chapter 197-10 WAC: SEPA guidelines.

#### **19.20.010 Responsible official.**

The provisions of this chapter shall be administered by the Director of the Department of Building and Planning or his or her duly authorized designee. [Ord. 03-048, § 1, 4-8-03.]

#### **19.20.020 Application for permit.**

All applications for a permit required under the Shoreline Management Act, Chapter 90.58 RCW, and information related thereto, shall be submitted to the Department of Building and Planning. Upon receipt of the permit application, the Director shall determine whether the information submitted meets the requirements of WAC 173-27-180, Application requirements for substantial development, conditional use, or variance permit, RCW 90.58.140, Development permits, and any additional information required by the Director. [Ord. 03-048, § 2, 4-8-03.]

#### **19.20.030 Public notice of application.**

Upon receipt of a complete application the Director shall ensure that notice is made to the general public and the property owners in the vicinity of the proposed project by at least one of the following methods:

A. Mailing to the latest recorded real property owners as shown by the County Assessor within at

least 300 feet of the boundary of the property upon which the substantial development is proposed; or

B. Posting in a conspicuous manner on the property upon which the project is to be constructed; or

C. Any other manner deemed appropriate by the Director to accomplish the objectives of reasonable notice to adjacent landowners and the public. [Ord. 03-048, § 3, 4-8-03.]

#### **19.20.040 Department of Building and Planning review.**

The Director may refer the permit application for a review by departmental staff for knowledgeable comments from interested departments. All pertinent county departments shall participate. When the Director has made a SEPA threshold determination that a project exhibits evidence of adverse environmental impacts, the Director shall hold a public hearing per the requirements of Chapter 197-11 WAC. [Ord. 03-048, § 4, 4-8-03.]

#### **19.20.050 Board of County Commissioners' action.**

The Director at the termination of the required review period shall transmit the permit application and all pertinent review comments, findings and recommendations to the Cowlitz County Board of Commissioners for action. The Board of Cowlitz County Commissioners may hold a public hearing prior to taking action. [Ord. 03-048, § 5, 4-8-03.]

#### **19.20.060 Notice to Department of Ecology and Attorney General.**

The Director shall transmit copies of the original application and other pertinent materials he deems necessary to the regional office of the Department of Ecology and the Attorney General's office within eight days of the final decision. [Ord. 03-048, § 6, 4-8-03.]

#### **19.20.070 Exemptions.**

As required in WAC 173-27-050, when federal permits are required, the Director shall take action on exemption requests and transmit copies of a letter of exemption to the Department of Ecology and the applicant. [Ord. 03-048, § 7, 4-8-03.]

#### **19.20.080 Violations.**

The Director shall transmit Shoreline Management Act violation reports to the Cowlitz County Prosecuting Attorney's office and/or the Department of Ecology for prompt appropriate legal action. [Ord. 03-048, § 8, 4-8-03.]

#### **19.20.090 County compliance with SEPA.**

The Director shall ensure that any official action will comply with the State Environmental Policy Act, the SEPA Rules and the Cowlitz County SEPA Ordinance, Chapter 19.11 CCC. [Ord. 03-048, § 9, 4-8-03.]

#### **19.20.100 Fees and charges.**

The fees and charges for processing applications for shoreline permits, and for other administrative actions under this chapter, shall be as established from time to time by resolution by the Board. [Ord. 03-048, § 10, 4-8-03.]

## Chapter 19.30

### AIR POLLUTION CONTROL AUTHORITY

#### Sections:

- 19.30.010 Legislative findings – Purpose.
- 19.30.020 Authority activated – Boundaries.
- 19.30.030 Name – Office – Duties – Area covered.
- 19.30.900 Filing – Effective date.

#### Cross-references:

Chapter 70.94 RCW: Clean air act.

#### **19.30.010 Legislative findings – Purpose.**

The Board of County Commissioners of Cowlitz County has given due consideration to the existing problems connected with air pollution and the problems which are likely to occur as a result of air pollution within the jurisdiction of the aforementioned county. The Board finds that existing city or town ordinances and county resolutions are inadequate to prevent or control air pollution. The Board has conducted a public hearing in accordance with Chapter 42.32 RCW. The Board deems it to be in the best interests of the public to secure and maintain such levels of air quality as will protect human health and safety and to the greatest degree practicable, prevent injury to plant and animal life and property; foster the comfort and convenience of the county inhabitants; promote the economic and social development of the county and facilitate the enjoyment of the natural attractions of the county. [Res. 1396, preamble, 3-22-68.]

#### **19.30.020 Authority activated – Boundaries.**

A program of air resources management shall be initiated. The program shall begin with the activation of a multicounty Air Pollution Control Authority including Clark, Cowlitz, Lewis, Skamania, and Wahkiakum Counties in accordance with the provisions of Chapter 70.94 RCW and amendments thereto.

The Air Pollution Control Authority shall include and be co-extensive with the boundaries of Clark, Cowlitz, Lewis, Skamania, and Wahkiakum Counties and include as participating communities the cities and towns within their boundaries and other towns or cities which may hereafter be incorporated. [Res. 1396, 3-22-68.]

#### **19.30.030 Name – Office – Duties – Area covered.**

Cowlitz County agrees together with the other counties participating in the Air Pollution Control Authority as follows:

A. The name of the Authority shall be the Southwest Air Pollution Control Authority.

B. The initial principal office and place of business of the Authority shall be the Clark County Court House, Vancouver, Washington. The Board of Directors of the Authority may relocate the principal office as needed.

C. That the Air Pollution Control Authority shall begin to transact business and establish programs and exercise its powers on April 15, 1968. It shall continue in active operation for such period of time as the Board of Directors of the Southwest Air Pollution Control Authority may find necessary to conduct research and studies and develop and enforce regulations with respect to air pollution.

D. The geographic area of the Southwest Air Pollution Control Authority shall include and be co-extensive with the boundaries of Clark, Cowlitz, Lewis, Skamania, and Wahkiakum Counties to the end that all of the area within the aforementioned counties shall be a part of a participating jurisdiction of the Air Pollution Control Authority. [Res. 1396, 3-22-68.]

#### **19.30.900 Filing – Effective date.**

A certified copy of this resolution shall be forthwith filed with the Secretary of the State of Washington, with the County Auditor, and the County Treasurer, and with each of the participating cities, towns, or agencies. This resolution shall take effect April 15, 1968. [Res. 1396, 3-22-68.]

**Chapter 19.40****RECYCLING OF USED OIL**

## Sections:

- 19.40.010 Purpose.
- 19.40.020 Definitions.
- 19.40.030 Used oil recycling sign.
- 19.40.040 Used oil recycling containers.
- 19.40.050 Public education display.
- 19.40.060 Violation – Penalty.
- 19.40.070 Severability.

**19.40.010 Purpose.**

In the interest of public health, safety and welfare, and to protect the environment from any damage which may be caused by the improper disposal of used oil, and to facilitate the recycling of used oil as a valuable petroleum resource, the Board of County Commissioners in conformance with Chapter 70.951 RCW, deems it necessary to require certain sellers of lubricating oil and vehicle oil filters to post used oil recycling signs, display educational materials and offer household used oil recycling containers for sale to the public. [Ord. 93-171, § 1, 10-11-93.]

**19.40.020 Definitions.**

For the purposes of this chapter:

“Lubricating oil” means any oil designed for use in or maintenance of a vehicle, including but not limited to motor oil, gear oil and hydraulic oil. “Lubricating oil” does not mean petroleum hydrocarbons with a flashpoint below 100 degrees centigrade.

“Point of display” means an area of a seller’s premises where containers of lubricating oil or vehicle oil filters are displayed.

“Point of sale” means an area of a seller’s premises where the transaction to purchase lubricating oil or vehicle oil filters takes place.

“Public used oil collection site” means a site where a used oil collection tank has been placed for the purpose of collecting household generated used oil. “Public used oil collection site” also means a vehicle designated or operated to collect used oil from the public.

“Seller” means any person, business or corporation, who sells annually:

1. One thousand or more gallons of lubricating oil to ultimate consumers for use or installation off the premises; or

2. Five hundred or more vehicle oil filters to ultimate consumers for use or installation off the premises.

“Used oil” means:

1. Any lubricating fluids that have been removed from an engine crankcase, transmission, gearbox, hydraulic device or differential of an automobile, bus, truck, vessel, plane, heavy equipment or machinery powered by an internal combustion engine;

2. Any oil that has been refined from crude oil, used, and as a result of use, has been contaminated with physical or chemical impurities; and

3. Any oil that has been refined from crude oil and, as a consequence of extended storage, spillage or contamination, is no longer useful to the original purchaser. “Used oil” does not include used oil to which hazardous wastes have been added.

“Vehicle” means every device physically capable of being moved upon a public or private highway, road, street, watercourse or trail, and in, upon or by which any person or property is or may be transported or drawn upon a public or private highway, road, street, watercourse or trail, except devices moved by human or animal power. [Ord. 93-171 § 2, 10-11-93.]

**19.40.030 Used oil recycling sign.**

Every seller in unincorporated Cowlitz County shall post and maintain, at or near the point of sale, a durable and legible used oil recycling sign furnished by Cowlitz County Department of Public Works. The sign will provide information on the importance of used oil recycling and the location of public used oil collection sites. [Ord. 93-171, § 3, 10-11-93.]

**19.40.040 Used oil recycling containers.**

Every seller in unincorporated Cowlitz County shall, at or near the point of display, provide for the sale of household used oil recycling containers. [Ord. 93-171, § 4, 10-11-93.]

**19.40.050 Public education display.**

Every seller in unincorporated Cowlitz County shall, either at the point of display or point of sale, provide an area for the display of educational materials in the form of pamphlets and other appropriate materials concerning the recycling of used oil or vehicle oil filters, to be provided by Cowlitz County Department of Public Works. [Ord. 93-171, § 5, 10-11-93.]

**19.40.060 Violation – Penalty.**

Any person who, after notice, violates this chapter is guilty of a misdemeanor and is punishable, upon conviction, by a fine not to exceed \$1,000. [Ord. 93-171, § 6, 10-11-93.]

**19.40.070 Severability.**

Should any section, subsection or part of this chapter be declared unconstitutional or invalid for any reason by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. [Ord. 93-171, § 7, 10-11-93.]