

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

IN THE MATTER OF:

RESOLUTION NO. 25-324

NOTICE OF A PUBLIC HEARING FOR ORDINANCE
1371, WHICH WOULD AMEND CHAPTER 2.40,
STANDARDS FOR PUBLIC DEFENSE SERVICES, OF
LEWIS COUNTY CODE

WHEREAS, Lewis County Administration is proposing to amend Chapter 2.40, Standards for Public Defense Services to update the caseload limits and types of cases; and

WHEREAS, publication of notice and a hearing before the BOCC is required in order to take public testimony and formal action on the proposed amendments to the Lewis County Code.

NOW THEREFORE BE IT RESOLVED that a hearing before the BOCC is hereby scheduled to take place at or after 10 a.m. December 9, 2025, to receive public testimony on Ordinance 1371, which would amend Chapter 2.40, Standards for Public Defense Services, of the Lewis County Code; and

NOW THEREFORE BE IT FURTHER RESOLVED that the Clerk of the Board is hereby instructed to proceed with all appropriate and necessary notifications, postings and publications as required by law.

DONE IN OPEN SESSION this 25th day of November, 2025.

APPROVED AS TO FORM:
Jonathan Meyer, Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON

David Bailey
By: David Bailey,
Chief Civil Deputy Prosecuting Attorney

Scott J. Brummer
Scott J. Brummer, Chair

ATTEST:



Lindsey R. Pollock, DVM
Lindsey R. Pollock, DVM, Vice Chair

Rieva Lester, CMC
Rieva Lester, CMC,
Clerk of the Lewis County Board of
County Commissioners

Sean D. Swope
Sean D. Swope, Commissioner

**NOTICE OF PUBLIC HEARING BEFORE THE
LEWIS COUNTY BOARD OF COUNTY COMMISSIONERS
AND INTENT TO ADOPT**

NOTICE IS HEREBY GIVEN that the LEWIS COUNTY, WASHINGTON, BOARD OF COUNTY COMMISSIONERS will hold a public hearing on December 9, 2025, to receive public testimony on the Critical Areas Ordinance, Chapter 17.38 and Chapter 17.10 Definitions as part of the Comprehensive Plan Periodic Update.

The hearing will take place at or after 10 a.m. in the Commissioners' Hearing Room on the second floor of the Historic Courthouse in Chehalis, Washington. Interested parties are encouraged to check the Commissioners' Business Meeting agenda for the Zoom log-in details. The agenda will be posted at least 24 hours in advance of the meeting on the [Lewis County Agendas & Calendar webpage](#).

The public hearing will consider amendments to Chapter 17.38, Critical Areas. The amendments to the Critical Areas Ordinance was the subject of a duly notice public hearing before the Planning Commission on November 10, 2025. All materials available at <https://lewiscountywa.gov/departments/community-development/comprehensive-plan-and-development-regulation-amendments/comprehensive-plan-periodic-update/>.

Details about the proposal will be available online at the agenda link provided above. Please select the agenda for November 25, 2025 (Notice) or December 9, 2025 (Hearing) to see the draft resolution. The draft is subject to change before or at the hearing. If you wish to receive a paper copy of the proposals, contact Megan Sathre at megan.sathre@lewiscountywa.gov or (360)740-2677 and a copy will be mailed to you.

During the hearing, individuals will be invited to speak and/or provide written statements regarding the proposed changes. All individuals wishing to speak are encouraged to attend. Written comments may be submitted beginning at 8:00 am on November 25, 2025 through 4:00pm on Monday December 8, 2025 by emailing Natalie Kamieniecki, Senior Long Range Planner, at natalie.kamieniecki@lewiscountywa.gov or postal mail to Community Development, c/o Natalie Kamieniecki, 351 NW North ST, Chehalis, WA 98532.

To sign up for Community Development email announcements, please visit:
<http://lewiscountywa.gov/communitydevelopment/receive-email-announcements>

The meeting site is barrier free. People needing special assistance or accommodations should contact Rieva Lester at 360.740.1419 at the Community Development Department 72 hours in advance of the meeting.

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

Adopt Ordinance XXXX to amend Chapter 17.10, Definitions)	
and Chapter 17.38, Critical Areas)	
)	ORDINANCE #####
)	

WHEREAS, RCW 36.70A.040 requires Lewis County to plan under and in accordance with the Growth Management Act; and

WHEREAS, RCW 36.70A.130 requires that comprehensive plan and development regulations be subject to continuing review and evaluation by each county at a frequency no more than once every year; and

WHEREAS, RCW 36.70A.130 requires comprehensive plan changes to be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained; and

WHEREAS, RCW 36.70A.040 requires adoption of development regulations consistent with comprehensive plans; and

WHEREAS, in the year 2025, the Lewis County Planning Commission reviewed the proposed amendments to Chapter 17.10 Definitions as shown in exhibit A and Chapter 17.38 Critical Areas as shown in Exhibit B; and

WHEREAS, staff provided notice for public hearings before the Lewis County Planning Commission on the proposed amendments in the manner prescribed in Chapter 17.05 and 17.12 LCC on October 23, 2025, and

WHEREAS, the Lewis County Planning Commission held a public hearing on the proposed amendments shown in Exhibit A and B on November 10, 2025; and

WHEREAS, following the public hearing, the Planning Commission deliberated and determined that the proposed the amendments met the intent and requirements of the Growth Management Act, were consistent with the Lewis County Comprehensive Plan and Countywide Planning Policies, and were in accordance with the public interest. Planning Commission forwarded a letter of transmittal Exhibit C recommending approval of the amendments with two changes and

WHEREAS, on November 17, 2025 the Planning Commission Chair, Frank Corbin signed a Letter of Transmittal recommending approval of the proposed critical areas regulatins with two amendments , as shown in Exhibit A and B; and

WHEREAS, on November 25, 2025, the Lewis County Board of County Commissioners (BOCC) passed Resolution 25-XXXX to hold a public hearing on Ordinance XXXX and directed the Clerk of the Board to provide notice of the hearing; and

WHEREAS, the BOCC held duly noticed public hearing on the proposed amendments to the Lewis County code Chapter 17.10 Definitions and Chapter 17.38 Critical Areas; and

WHEREAS, the BOCC agrees with the Lewis County Planning Commission's recommendation, Exhibit C, to approve the Lewis County code Chapter 17.10 Definitions and Chapter 17.38 Critical Areas, and finds the recommendation to be in the best interest of the public.

NOW THEREFORE BE IT RESOLVED that the BOCC directs staff to amend the Lewis County Development regulations Chapter 17.10 Definitions and Chapter 17.38 Critical Areas, as required by RCW 36.70A.040 which reflects the decisions made in this ordinance.

APPROVED AS TO FORM:
Jonathan Meyer, Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON

By: Civil Deputy Prosecuting Attorney

Sean Swope, Chair

ATTEST:

Scott J. Brummer, Vice Chair

Rieva Lester, Clerk of the Board

Lindsey R. Pollock, DVM, Commissioner

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17.10.230 "W" definitions.

Update to definition of wellhead protection zone in accordance with Department of Health.

"Warehouse or warehousing" means facilities for storage of goods, machinery, and/or equipment in an enclosure.

"Watershed" means an area draining to the surface water systems of the Chehalis, Cowlitz, Deschutes, or Nisqually Rivers.

"Wellhead protection area" means the area (surface and subsurface) managed to protect ground-water-based public water supplies; protective areas associated with public drinking water sources established by water systems and approved or assigned by the state Department of Health

"Wetland mitigation bank" means a site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved, expressly for the purpose of providing compensatory mitigation in advance of unavoidable impacts to wetlands or other aquatic resources that typically are unknown at the time of certification to compensate for future, permitted impacts to similar resources.

"Wetland mosaic" means an area with a concentration of multiple small wetlands, in which each patch of wetland is less than one acre; on average, patches are less than 100 feet from each other; and areas delineated as vegetated wetland are more than 50 percent of the total area of the entire mosaic, including uplands and open water.

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

"Wholesale use" means an establishment or place of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

"Wireless communication facility"* means an unstaffed facility for the transmission and reception of radio or microwave signals used for commercial or governmental communications. Wireless communication facilities are composed of two or more of the following components: antenna, support structure, equipment enclosure, or security barrier. [Ord. 1284 §1, 2018; Ord. 1170B, 2000]

*Note: LCC [15.50.020](#) et seq. also define wireless communications facility.

Commentary

ATTACHMENT A – LEWIS COUNTY CODE 17.38 & 17.10 AMENDMENTS

Chapter 17.38, Critical Areas, is being updated to address changes in state law and best available science since the last periodic update in 2017.

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Chapter 17.38

CRITICAL AREAS

Sections:

Article I. Administration

- 17.38.010 Statement of authority and title.
- 17.38.015 Purpose
- 17.38.020 Applicability.
- 17.38.030 Relationship to other regulations.
- 17.38.040 Mapping of known critical areas.
- 17.38.050 Administration.
- 17.38.060 Activities that do not require a Lewis County permit.
- 17.38.070 Critical area assessment report.
- 17.38.080 General mitigation requirements.
- 17.38.090 Mitigation monitoring.
- 17.38.100 Mitigation assurance.
- 17.38.110 Qualified professional required.

~~Article II. Activities Allowed Without a Critical Areas Permit~~

- ~~17.38.130 — Activities allowed without a permit in critical areas and buffers.~~

Article III. Wetlands

- 17.38.200 Purpose.
- 17.38.205 Other provisions apply.
- 17.38.210 Administration.
- 17.38.220 Identification.
- 17.38.230 Classification.
- 17.38.240 Mitigation sequencing.
- 17.38.250 Exemption from the requirement to avoid impacts.
- 17.38.260 Use intensity and determination of buffer width.
- 17.38.270 Required wetland buffers.
- 17.38.280 Buffer width reduction.
- 17.38.290 Buffer width averaging.
- 17.38.300 Mitigation.

Article III-A. Map References.

- 17.38.310 References.

Commentary

Note: Section, article and code citations are updated as applicable.

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Article III-B. Wetland Assessment

17.38.320 Wetland assessment.

Article III-C. Wetland Mitigation Plan

17.38.330 Wetland mitigation plan.

Article ~~III~~IV. Fish and Wildlife Habitat Conservation Areas

17.38.400 Purpose.

17.38.410 Administration.

17.38.420 Designation and Classification.

17.38.425 Mitigation sequencing.

~~17.38.430~~ Stream Buffer Width.

~~17.38.435~~ Buffer width ~~reduction or~~ averaging.

17.38.440 Reduction of impacts.

17.38.450 Designation of locally important habitat.

~~Article IV-A. Classification of Fish and Wildlife Habitat~~

~~17.38.465 Identification of aquatic habitat.~~

~~17.38.470 Classification.~~

~~17.38.480 Classification of wildlife habitat.~~

17.38.4690 Inconsistencies between conditions on ground and mapping.

Article ~~III~~IV-~~AB~~. Aquatic Habitat Area Assessment

17.38.500 Aquatic habitat area assessment.

Article ~~III~~IV-~~BC~~ Habitat Mitigation Plan

17.38.510 Fish and wildlife habitat mitigation plan.

Article ~~IV~~. Geologically Hazardous Areas

17.38.600 Purpose.

17.38.610 Administration.

17.38.620 Designation.

17.38.630 Standards.

Commentary

Note: Section, article and code citations are update as applicable.

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Article IV-A. Classification of Hazard Areas

- 17.38.640 Classification of erosion hazard areas.
- 17.38.650 Classification of steep slope and landslide hazard areas.
- 17.38.660 Seismic hazard areas.
- 17.38.670 Volcanic hazard areas.
- 17.38.680 Mine hazard areas.
- 17.38.690 Channel migration zones.
- 17.38.695 Alluvial fan hazards.

Article IV-B. Geotechnical Report

- 17.38.710 Geotechnical report.
- 17.38.720 Standards for mine hazard studies.

Article VI. Critical Aquifer Recharge Areas

- 17.38.800 Purpose.
- 17.38.810 Administration.
- 17.38.820 Designation.
- 17.38.830 Standards.
- 17.38.840 Conditions.

Article VI-A. Aquifer Sensitivity Rating for Lewis County Soil Types

- 17.38.850 Aquifer sensitivity rating for Lewis County soil types.

Article VI-B. Critical Aquifer Recharge Area Report Requirements

- 17.38.860 Critical aquifer recharge area report requirements.

Article VI-C. Regulated Activities and Best Management Practices in Critical Aquifer Recharge Areas

- 17.38.870 Regulated activities and best management practices in critical aquifer recharge areas.

Article VII. Frequently Flooded Areas

- 17.38.900 Purpose.
- 17.38.910 Classification.
- 17.38.920 Designation.
- 17.38.930 Standards for permit decisions.

Article VIII. Miscellaneous Provisions

- 17.38.1000 Nonconforming activities.
- 17.38.1010 Reasonable use and variances.
- 17.38.1020 Land division.
- 17.38.1030 Building setbacks.
- 17.38.1040 Notice of proximity to critical areas

Commentary

17.38.010

Clarifies the chapter is established pursuant to the Growth Management Act and RCW 36.70A.172.

17.38.015

A purpose statement is added.

17.38.020 (2)

Replaced 'in' to 'within' to clarify jurisdictional scope under the Shoreline Management Act (SMA).

17.38.020 (5)

Clarifies that the applicant is responsible for complying with other federal, state, and local permit requirements, including but not limited to WDFW HPA, USACE, Department of Ecology and NPDES permits.

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Article I. Administration

17.38.010 Statement of authority and title.

This chapter is established pursuant to the Washington State Growth Management Act, RCW 36.70A.060 and RCW 36.70A.172. This chapter ~~and~~ shall be known as the Lewis County critical areas ordinance. [Ord. 1284 §4, 2018]

17.38.015 Purpose.

The purpose of this chapter is to implement the goals and policies of the Washington State Growth Management Act, Chapters 36.70A and 36.70B RCW, the State Environmental Policy Act, Chapter 43.21C RCW, and the Lewis County Comprehensive Plan, as amended, to protect critical areas of Lewis County. This purpose will be achieved by preserving these valuable ecological resources, maintaining no net loss of ecological functions, and reducing risks to public health and safety by employing best available science as defined by WAC 365-195-900 through 925.

This chapter also provides county officials and the public with sufficient information to protect critical areas through clear regulations, documentation requirements, review, and approval processes for sites containing critical areas and/or their buffers.

17.38.020 Applicability.

(1) This chapter classifies and designates critical areas in Lewis County and establishes regulations for: the protection of the ecological functions and values of critical areas; and the preservation of human health and safety. The chapter also gives special consideration to conservation and protection measures to preserve and enhance anadromous fisheries.

(2) Administrative provisions of this chapter do not apply to lands ~~in~~ within the jurisdiction of the Shoreline Management Act (SMA). Projects within the jurisdiction of the SMA shall be processed under the Lewis County shoreline master program, SMP Chapter 7, Shoreline Administration.

(3) No alterations to land, water, or vegetation, or the construction or alteration of any structure or improvement, shall occur within a critical area or its buffer, as regulated by this chapter, except in compliance with the provisions of this chapter.

(4) Failure to comply with the provisions of this chapter shall be considered a violation and be subject to the enforcement procedures in Chapter 17.300 LCC.

(5) Compliance with the provisions of this title does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required including, but not limited to, shoreline permits, HPA permits, Army Corps of Engineers Section 404 permits, Ecology Section 401 permits, and NPDES permits. The applicant is responsible for complying with these requirements, apart from the process established in this title.

Commentary

17.38.030 (1)

This adds the word 'critical' to maintain sentence consistency.

17.38.040(2)

Language has been added to clarify that available maps are used to determine whether an investigation is warranted to identify the presence, location, extent, and characteristics of critical areas. The findings of a critical areas assessment report—and the County's review of that report—take precedence over the County's mapping.

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17.38.030 Relationship to other regulations.

(1) Areas characterized by multiple critical areas shall address the requirements for each of the critical areas.

(2) In the event of a conflict between these regulations and the other regulations of the county, the regulations that provide the greater protection of the critical areas shall apply.

(3) No permit granted pursuant to this chapter shall remove the applicant's obligation to comply with other provisions of federal, state, and local law and regulation. [Ord. 1284 §4, 2018]

17.38.040 Mapping of known critical areas.

(1) Mapping. The approximate location and extent of known critical areas is shown on the county's critical area maps. The county shall update the maps as new critical areas are identified and information becomes available.

(2) Site-Specific Information Required. The county maps and reports should be used as a general guide for critical area investigation. They depict the approximate location and extent of known critical areas. Some critical areas depicted in these resources may no longer exist and critical areas not shown in these resources may occur. Detailed site investigations ~~are~~ may be needed for project-specific critical area identification and regulation to determine the actual locations and boundaries of critical areas and buffers, as well as their quality and quantity, which must be based upon the presence of the features applicable to each critical areas element in this Chapter. The provisions of this chapter and the findings of a critical areas assessment report and review of the report by the County take precedence over the County's mapping.

(3) Limitation of Liability. The maintenance of critical area maps does not imply that land outside of mapped critical areas will be without risk. Preparation and maintenance of such maps shall not create a liability on the part of Lewis County, or any officer or employee thereof, for any damages that result from the reliance on said maps for any decision lawfully made hereunder.

Commentary

No Changes to 17.38.050.

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17.38.050 Administration.

(1) Role of Administrator.

(a) When a development application is submitted to Lewis County, the administrator shall review the proposal for its relation to critical areas or their buffers.

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

(i) Require the applicant to submit a critical area assessment report, subject to LCC 17.38.070, that has been prepared by a qualified professional.

(ii) Require the applicant to submit a critical area mitigation plan subject to LCC 17.38.080, if any impacts to a critical area or buffer are anticipated; provided, that the requirement for a mitigation plan shall not apply to any developments that utilize buffer reductions or averaging.

(iii) Review and evaluate the proposal based on the application submittals to:

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

(B) Assess the potential impacts to the critical area and whether the impacts can be avoided or minimized;

(C) Determine if the mitigation proposed by the applicant is sufficient to protect the functions and values of the critical area and any public health, safety, and welfare concerns; and

(D) Impose any conditions necessary to assure compliance with the requirements of this code, including implementation and monitoring of mitigation, and, where necessary, increasing the size of the required buffer.

(2) Application Process.

(a) No separate application or permit is required for this chapter if the criteria and requirements are otherwise addressed in connection with a Lewis County land use or development permit.

(b) Activities that are in or near a critical area or its associated buffer and do not require another permit shall be processed as a Type I permit approval subject to Chapter 17.05 LCC.

(c) Decisions made in the administration of this chapter may be appealed in accordance with the appeal provisions for the underlying permit per Chapter 17.05 LCC.

Commentary

17.38.060

Note: The 'Activities that do not require a Lewis County permit' section is not new. It has been relocated from Article II and the table of contents has been renumbered accordingly. Changes made to the original Article II, now relocated to LCC 17.38.060, are discussed further in the commentary.

17.38.060 (1)

Adds the phrase 'Exempt activities must not:' before the criteria subsection.

17.38.060 (1) (c)

Original code modified from the existing:

'Are proposed as part of a larger project that has other components that require the submission of a critical areas report.'

To the updated:

'Be part of a larger project proposal that has other components that require the submission of a critical areas report.'

17.38.060(2)

(a) vegetation management was added to this exemption to be clear that Lewis County Public Works conducts routine vegetation management within the right-of-way for public safety purposes and this activity is not subject to 17.38 as long as the footprint of impact is not increased. (b) was added to exempt utility work for public safety that has limit impact to critical areas and buffers.

17.38.060 (2) (a)

A revision to include additional phrase 'including vegetation management' to provide greater clarity regarding permitted activities.

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(3) County Permits. Compliance with the standards in this section shall be a material element of any permit approval.

(4) Time Period for Critical Areas Report. Approved critical area assessment reports or mitigation plans shall generally be valid for a period of five years.

(5) Requirement for New Report.

(a) Modification of Development Proposal. When a proponent modifies the scope of a previously approved proposal, a new critical area assessment report or mitigation plan is required, unless the applicant can demonstrate that the previously prepared information adequately addresses the impacts of the alteration.

(b) Receipt of Information That Shows Error. When information demonstrates that the initial review was in error, a new critical area assessment report and/or mitigation plan may be required.

(6) Other Agency Permits and Standards. When permits are required by agencies other than the county, the county shall coordinate the review and establishment of conditions to the maximum extent feasible.

17.38.060 Activities that do not require a Lewis County permit.

The activities ~~listed in Article II of this chapter~~ in this section shall not require a critical area assessment, review or permit as part of this chapter.

(1) Activities Allowed without a Lewis County Permit. The activities in subsections (2) through (4) of this section are allowed without the submission of a Lewis County critical areas permit or assessment report; provided, that a critical area assessment report shall be required for the activities when they are not specifically exempted from local review. Exempt activities must not:

(a) Result in the loss of the functions and values of a critical area and/or a critical area buffer;

(b) Increase the danger associated with a critical area; or

(c) Be part of a larger project proposal that has other components that require the submission of a critical areas report.

(2) Permit Exempt Activities - Critical Areas and Buffers. The following activities are allowed within critical areas and their buffers without a critical areas permit, when the activities meet the requirements of subsection (1) of this section:

(a) Normal and routine maintenance and repair of existing public or private facilities within an existing right-of-way, including vegetation management; provided, that the maintenance or repair does not increase the footprint of the facility or right-of-way.

Commentary

17.38.060(2)(b)

Revision to include new criteria for exemptions related to utility projects. These exempt projects must be minor and short-term, must not significantly impact the critical area, and must comply with the criteria listed in this subsection (i)-(v), as determined by the director.

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(b) Utility projects that have minor or short-duration impacts to critical areas, and do not significantly impact the function or values of a critical area(s), as determined by the administrator according to the following criteria:

(i) There is no practical alternative to the proposed activity with less impact on critical areas;

(ii) All unavoidable impacts to critical areas and associated buffers are fully mitigated;

(iii) The activity involves the placement of a utility pole, street signs, anchor, or vault or other small component of a utility facility;

(iv) The disturbance area associated with the activity is the minimum necessary; and

(v) The project does not result in the permanent transportation of sediment or increased stormwater flow.

(c) Activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, WAC 222-12-030, where state law specifically exempts local authority. This exemption, however, shall not apply to developments that require local approval for a Class 4 - General forest practice permit (conversion), as defined in Chapter 76.09 RCW and Chapter 222-12 WAC.

(d) Existing and ongoing agricultural activities are not subject to this chapter, so long as the activities are covered by the Lewis County voluntary stewardship program.

(e) The harvesting of wild crops in a manner that is not injurious to the natural reproduction of such crops, and does not require the tilling of soil, planting of crops, chemical applications, or the alteration of a critical area by changes to topography, water conditions, or water sources.

(f) Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.

(g) Educational and scientific research activities.

(h) The enhancement of a critical area or critical area buffer through the removal of noxious weeds and/or nonnative invasive plant species, so long as:

Commentary

17.38.060(2)(i)

This is a new provision added to the exemption from permit code to accommodate the emergency removal of hazardous trees, as defined in LCC 17.10.080. A 'hazard tree' is any tree susceptible to imminent fall due to its condition (damaged, diseased, or dead) or other factors, and which, because of its location, poses a risk of causing personal injury or damaging a property's permanent physical improvements. This provision was added to protect public safety and is subject to the conditions listed in the corresponding subsection.

17.38.060 (2) (ii)

Emergency actions within critical areas and buffers must have the least possible impact. The person or agency responsible must notify the department of the emergency action within 14 days, except in the case of county-wide or regional disasters, for which the director shall provide alternative deadlines.

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- (i) The removal of the noxious weeds and/or invasive plant species is done by hand, unless guidance by the Washington State or Lewis County Noxious Weed Control Board recommends an alternative approach to prevent, control or eradicate the species.
- (ii) All removed plant material is taken away from the site and appropriately disposed.
- (iii) Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds are handled and disposed of according to a noxious weed control plan appropriate to the species.
- (iv) Revegetation of the site with appropriate native species and at natural densities is allowed in conjunction with the removal of invasive plant species.
- (i) Emergency actions, including those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventative action in a time frame too short to allow for compliance with the requirements of this chapter.
- (i) Hazard Trees. The felling of hazard trees within critical areas and buffers, may be performed as an emergency action pursuant to the following conditions:
 - (A) Documentation from a qualified professional illustrating that the tree to be removed meets the County's definition of a "hazard tree" (LCC 17.10.080) must be submitted to the County either prior to the work or within the time frame established by subsection (2)(i)(ii) of this section.
 - (B) The hazard tree must remain within the critical area or buffer. Creation of a snag tree is preferred. If this is not feasible, then the felled tree shall remain in place as large woody debris.
- (ii) Emergency actions that create an impact to a critical area or its buffer shall use reasonable methods to address the emergency. In addition, they must have the least possible impact to the critical area or its buffer. The person or agency undertaking such action shall notify the administrator within 14 working days following commencement of the emergency activity, except for county-wide or regional disasters for which the administrator shall provide alternative deadlines.

Commentary

17.38.060 (2) (iii)

Following the emergency action, any impacts to the critical area and buffers must be restored and/or mitigated, and all necessary approvals must be obtained. Restoration and/or mitigation activities must begin within one year of the emergency action date unless an alternative timeline is approved by the director

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(iii) After the emergency, the person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action. The person or agency undertaking the action shall obtain all approvals required for this chapter. Restoration and/or mitigation activities must be initiated within one year of the date of the emergency and be completed as provided for in this chapter. An extension may be granted when the administrator determines that more time will be needed, based on a written request from the responsible party.

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

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

(l) Maintenance of existing, lawfully established landscaping and gardens within a critical area or its buffer, including, but not limited to, mowing lawns, weeding, removal of noxious and invasive species, harvesting and replanting of garden crops, pruning, and replanting and replacement of ornamental vegetation to maintain the condition and appearance of such areas as they existed prior to adoption of this code; provided, that such activities do not expand any further into the critical area or buffer. Home and garden herbicides, pesticides, and fertilizers may be used to maintain existing landscaping and gardens within critical area buffers, when applied at times and rates specified on the label in accordance with Washington State Department of Agriculture and other applicable regulations. Home and garden herbicides, pesticides, and fertilizers may not be used in wetlands, streams, or other water bodies without the submittal of a critical areas permit.

(3) Permit Exempt Activities - Wetlands and their Buffers. The following activities are additionally allowed within wetlands and their buffers without a critical areas permit, when the activities meet the requirements of subsection (1) of this section:

Commentary

17.38.060(3)(a)

Clarifies and streamlines the permit-exempt activities for utility work, including a new subsection outlining specific criteria for the maintenance and repair of legally established stormwater management facilities. Temporary impacts must be carried out in a manner that achieves "no net loss" of critical areas and buffers, and all other applicable stormwater management regulations must be followed. This section may require reformatting to ensure proper citation and code formatting.

17.38.070(1)

A critical areas assessment report is required for proposals located within geologically hazardous areas pursuant to LLC 17.38.610; and for proposals located within critical aquifer recharge areas pursuant to LCC 17.38.810.

17.38.070(2)

A critical areas assessment report is required to address geologically hazardous areas pursuant to LLC 17.38.610; and critical aquifer recharge areas pursuant to LCC 17.38.810.

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(a) Drilling for utilities/utility corridors under a buffer with entrance/exit portals located completely outside of the wetland boundary; provided, that the drilling does not interrupt the ground water connection to the wetland or stream or the percolation of the surface water through the soil column. Specific studies shall be submitted by a hydrologist to determine whether the ground water connection to the wetland, or the percolation of surface water through the soil column, will be disturbed.

(b) Maintenance and repair of existing legally established stormwater management facilities. Temporary buffer impacts may occur if all of the following criteria are met:

(i) There will be "no net loss" of the functions and values of the critical area or its buffer.

(ii) All regulations regarding stormwater management and wetlands are followed, including but not limited to local and state wetland and stormwater codes, manuals, and permits.

(4) Permit Exempt Activities - Buffers Only. The following activities are allowed within critical area buffers without a critical areas permit, when the activities meet the requirements of subsection (1) of this section:

(a) Repair and maintenance of nonconforming uses or structures, when legally established within the buffer; provided, that the activities do not increase the degree of nonconformity for the critical area, or otherwise cause a net loss in the ecological functions of the critical area or buffer.

17.38.070 Critical area assessment report.

(1) A critical areas assessment report shall be required when a proposal is located within the areas specified in the following sections:

(a) LCC 17.38.210 for wetlands.

(b) LCC 17.38.410 for fish and wildlife habitat areas.

(c) LCC 17.38.610 for geologically hazardous areas.

(d) LCC 17.38.810 for critical aquifer recharge areas.

(2) The critical areas assessment report shall include the following information:

Commentary

17.38.080 (2)

Clarifies that mitigation sequencing applies to critical areas and their buffers.

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- (a) LCC 17.38.320 for wetlands.
- (b) LCC 17.38.500 for fish and wildlife habitat areas.
- (c) LCC 17.38.710 for geologically hazardous areas.
- (d) LCC 17.38.860 for critical aquifer recharge areas.

The administrator may waive portions of the submittal requirements, if he/she determines that they are not applicable to the proposed activity.

(3) Impacts to Critical Areas Known. When a project will impact critical areas and/or their buffers, beyond any standards allowed for buffer averaging and reduced buffer widths, the applicant may submit a report that consolidates the requirements for both the assessment report and the mitigation plan (per LCC 17.38.080).

(4) Submittal of Electronic Information. Applicants shall provide the reports and maps in an electronic format that allows site data to be incorporated into the county geographic information system (GIS) database; provided, that the administrator may waive this requirement for single-family developments. Applicants are encouraged to coordinate the electronic submittal guidelines with the administrator. Please note: this standard shall not be construed as a requirement to use a specific computer software.

17.38.080 General mitigation requirements.

(1) Mitigation Report. Where a proposal would alter or impact a critical area or buffer, the applicant shall submit a mitigation plan, critical aquifer recharge area report or geotechnical report in accordance with the following requirements:

- (a) LCC 17.38.330 for wetlands.
- (b) LCC 17.38.510 for fish and wildlife habitat areas.
- (c) LCC 17.38.710 for geologically hazardous areas.
- (d) ~~LCC 17.38.860 for critical aquifer recharge areas.~~

(2) Mitigation Sequencing. The mitigation plan, critical aquifer recharge area report or geotechnical report shall demonstrate that all reasonable efforts have been taken to mitigate impacts to critical areas and their buffers in the following prioritized order:

- (a) Avoiding the adverse impact altogether by not taking a certain action or parts of an action, or by moving the action.

Commentary

17.38.090 (1) (a)

Allows for a ten-year mitigation monitoring period on a case-by-case basis, depending on the goals and objectives outlined in the mitigation plan.

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- (b) Minimizing adverse impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology and engineering, or by taking affirmative steps to avoid or reduce adverse impacts.
 - (c) Rectifying the adverse impact by repairing, rehabilitating or restoring the affected environment.
 - (d) Reducing or eliminating the adverse impact over time by preservation and maintenance operations during the life of the action.
 - (e) Compensating for the adverse impact by replacing, enhancing, or providing similar substitute resources or environments, monitoring any adverse impact and mitigation, and taking appropriate corrective or adaptive management measures.
 - (f) Monitoring the impact and taking appropriate corrective measures.
- (3) The mitigation of individual projects may include a combination of the above measures as needed to achieve the most effective protection or compensatory mitigation of the critical area functions and values.
- (4) On-Site Versus Off-Site Mitigation.
- (a) To assure that a mitigation report relieves the direct impacts of an action, on-site mitigation is preferred over off-site mitigation.
 - (b) Off-site mitigation is only allowed:
 - (i) Where appropriate, adequate on-site mitigation is not reasonable or desirable to achieve; or
 - (ii) All regulations regarding stormwater management and wetlands are followed, including but not limited to local and state wetland and stormwater codes, manuals, and permits.

17.38.090 Mitigation monitoring.

(1) Monitoring Required. The administrator shall require applicants to monitor mitigation projects to ensure that the performance standards are satisfactorily met. Monitoring reports shall be submitted to the county in accordance with the monitoring timetables articulated in the mitigation plan or geotechnical report, typically over a period of five to 10 years.

- (a) Monitoring should occur for at least five years from the date of plant installation. ~~and Ten years may be applied as warranted on a case-by-case basis to track achievement of mitigation plan goals and objectives where woody vegetation (such as in forested or shrub wetlands tree canopy or tree height metrics) is the intended result.~~

Commentary

17.38.090 (1) (c)

The administrator may waive monitoring requirements for small-scale projects of approximately 1,000 square feet or less on a case-by-case basis. *(Note: confirm whether "Director" or "Administrator" is the intended decision-maker for consistency.)*

17.38.090 (2)

Modification on a case-by-case basis of the yearly monitoring report for 3 and 5 year monitoring periods by the administrator.

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- (b) The administrator may reduce the time frame for monitoring to three years for small mitigation projects that involve limited critical area or buffer revegetation or vegetation enhancement; provided, that this provision shall not apply to wetland mitigation sites.
 - (a) The administrator may waive the monitoring requirement for ~~structural improvements, such as retaining walls, foundations or bulkheads, when located near critical areas or their buffers~~ small scale mitigation projects of approximately 1000 square feet or less. These requests shall be reviewed on a case-by-case basis by the administrator.
- (2) Schedule for Monitoring. Monitoring reports for mitigation projects shall be submitted every year, unless an alternative schedule is approved. A potential schedule for a 10-year monitoring period includes the submittal of reports in years one, two, three, five, seven and 10. 3 and 5-year monitoring periods require a report in each monitoring year. The administrator may modify report submittal requirements on a case-by-case basis.
- (3) Monitoring Report. Monitoring reports shall include sufficient information to document and assess the degree of mitigation success or failure as defined by the performance standards articulated in the approved mitigation plan or geotechnical report. Information to be provided in monitoring reports shall include the following:
- (a) Methods used to document compliance with the performance standards;
 - (b) Measurements of the percent survival of planted material, plant cover, stem density, presence of invasive species, and/or other attributes;
 - (c) For sites that involve wetland creation, re-establishment or rehabilitation, hydrologic observations of soil saturation/inundation as needed to demonstrate that a site meets the wetland hydrology criterion;
 - (d) Representative photographs of the site;
 - (e) A written summary of the overall site conditions and recommendations for maintenance actions if needed; and
 - (f) Other information that the administrator deems necessary to ensure the success of the mitigation.
- (4) Projects that fail to meet monitoring objectives. For projects that fail to address the performance standards identified in the mitigation plan or geotechnical report, the administrator may (among other options):
- (a) Require corrective mitigation measures; and/or
 - (b) Extend the required monitoring period.

Commentary

No changes to LCC 17.38.100 - Mitigation assurance.

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- (5) The permanent protection of mitigation areas or facilities shall be achieved through deed restriction and/or other protective covenant.

17.38.100 Mitigation assurance.

- (1) A project applicant shall demonstrate sufficient capability to implement the mitigation project, monitor the site, and make corrections if the mitigation fails to meet projected goals. A surety to ensure the success of the mitigation may be required:
- (a) When deemed necessary by the administrator, the applicant shall post a mitigation surety in the amount of 125 percent of the estimated cost of the uncompleted mitigation actions. The value of the surety shall be based on an itemized cost estimate of the proposed mitigation activities, including clearing and grading, plant materials, plant installation, irrigation, weed management, monitoring, and other costs.
 - (b) The surety shall be in the form of an assignment of funds or other means approved by the administrator.
 - (c) The surety shall remain in effect until the administrator determines, in writing, that the standards that have been bonded for have been met. The surety shall generally be held by the county for a period of five years to ensure that the required mitigation has been fully implemented and demonstrated to function. The surety may be held for longer periods when necessary.
 - (d) After the initial completion of the mitigation, a surety for the construction of the mitigation may be reduced to an amount not to exceed the cost of the monitoring plus not less than 25 percent of the construction cost.
 - (e) The depletion, failure, or collection of surety funds shall not discharge the obligation of an applicant or violator to complete the required mitigation, maintenance, or monitoring.
 - (f) Public development proposals may be relieved from having to comply with the bonding requirements of this section if the agency demonstrates that: public funds have been committed to the mitigation, maintenance, or monitoring; and the funds will be available throughout the monitoring period.
- (2) Default. Any failure to satisfy the critical area requirements established by law or condition, including but not limited to the failure to provide a monitoring report within 30 days of its due date or the failure to comply with other provisions of an approved mitigation plan, shall constitute a default of the surety. The county may demand the payment of the financial guarantee or pursue some other remedy that is authorized by the county code or other applicable law. All funds recovered pursuant to this section shall be used to complete the required mitigation.

Commentary

17.38.130

Note - This section is moved up to 17.38.060.

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17.38.110 Qualified professional required.

- (1) Technical analyses, including critical areas assessments, mitigation plans, and geotechnical reports, that are submitted as part of an application shall be completed by a qualified critical area professional as defined in LCC 17.10.170
- (2) Peer Review Allowed. During the course of review, the administrator may retain, at the applicant's expense, a qualified professional to perform a peer review of the assessment and mitigation reports. The administrator may similarly consult outside agencies with expertise that pertains to the proposal when necessary.

Article II. Activities Allowed without a Critical Areas Permit

~~17.38.130~~ Activities allowed without a permit in critical areas and buffers.

- ~~(1) Activities Allowed without a Lewis County Permit. The activities in subsections (2) through (4) of this section are allowed without the submission of a Lewis County critical areas permit or assessment report; provided, that a critical area assessment report shall be required for the activities when they are not specifically exempted from local review. Exempt activities must not:~~
 - ~~(a) Result in the loss of the functions and values of a critical area and/or a critical area buffer;~~
 - ~~(b) Increase the danger associated with a critical area; or~~
 - ~~(c) Be part of a larger project proposal that has other components that require the submission of a critical areas report.~~
- ~~(2) Permit Exempt Activities – Critical Areas and Buffers. The following activities are allowed within critical areas and their buffers without a critical areas permit, when the activities meet the requirements of subsection (1) of this section:~~
 - ~~(a) Normal and routine maintenance and repair of existing public or private facilities within an existing right-of-way, including vegetation management; provided, that the maintenance or repair does not increase the footprint of the facility or right-of-way.~~
 - ~~(b) Activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, WAC 222-12-030, where state law specifically exempts local authority. This exemption, however, shall not apply to developments that require local approval for a Class 4 – General forest practice permit (conversion), as defined in Chapter 76.09 RCW and Chapter 222-12 WAC.~~
 - ~~(c) Existing and ongoing agricultural activities are not subject to this chapter, so long as the activities are covered by the Lewis County voluntary stewardship program.~~

Commentary

17.38.130

Note - This section is moved up to 17.38.060.

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- (d) ~~The harvesting of wild crops in a manner that is not injurious to the natural reproduction of such crops, and does not require the tilling of soil, planting of crops, chemical applications, or the alteration of a critical area by changes to topography, water conditions, or water sources.~~
- (e) ~~Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.~~
- (f) ~~Educational and scientific research activities.~~
- (g) ~~The enhancement of a critical area or critical area buffer through the removal of noxious weeds and/or nonnative invasive plant species, so long as:~~
 - (i) ~~The removal of the noxious weeds and/or invasive plant species is done by hand, unless guidance by the Washington State or Lewis County Noxious Weed Control Board recommends an alternative approach to prevent, control or eradicate the species.~~
 - (ii) ~~All removed plant material is taken away from the site and appropriately disposed.~~
 - (iii) ~~Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds are handled and disposed of according to a noxious weed control plan appropriate to the species.~~
 - (iv) ~~Revegetation of the site with the appropriate native species and at natural densities is allowed in conjunction with the removal of invasive plant species.~~
- (h) ~~Emergency actions, including those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventative action in a time frame too short to allow for compliance with the requirements of this chapter.~~
 - (i) ~~Emergency actions that create an impact to a critical area or its buffer shall use reasonable methods to address the emergency. In addition, they must have the least possible impact to the critical area or its buffer. The person or agency undertaking such action shall notify the administrator within 14 working days following commencement of the emergency activity, except for county wide or regional disasters for which the director shall provide alternative deadlines.~~

Commentary

17.38.130

Note - This section is moved up to 17.38.060.

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- (ii) ~~After the emergency, the person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action. The person or agency undertaking the action shall obtain all approvals required for this chapter. Restoration and/or mitigation activities must be initiated within one year of the date of the emergency, and be completed as provided for this chapter.~~
- (i) ~~Passive recreational uses, sport fishing or hunting, hiking, canoeing, viewing, nature study, photography, scientific or educational review, or similar minimal impact, nondevelopment activities.~~
- (j) ~~Site investigative work required by a city, county, state, or federal agency in conjunction with the preparation of a land use application submittal, or the monitoring of a restoration or mitigation site, such as surveys, soil logs, percolation tests, and other related activities. In any such activity, impact on the critical areas must be avoided where possible, minimized where necessary, and disbursed to the extent possible. Critical areas shall be restored to the preexisting level of function and value within one year after tests are concluded.~~
- (k) ~~Maintenance of existing, lawfully established landscaping and gardens within a critical area or its buffer, including, but not limited to, mowing lawns, weeding, removal of noxious and invasive species, harvesting and replanting of garden crops, pruning, and replanting and replacement of ornamental vegetation or indigenous native species to maintain the condition and appearance of such area as they existed prior to adoption of this code. Home and garden herbicides, pesticides, and fertilizers may be used to maintain existing landscaping and gardens within critical area buffers, when applied at times and rates specified on the label in accordance with Washington State Department of Agriculture and other applicable regulations. Home and garden herbicides, pesticides, and fertilizers may not be used in wetlands, streams, or other water bodies without the submittal of a critical areas permit.~~
- (3) ~~Permit Exempt Activities – Wetlands and their Buffers. The following activities are additionally allowed within wetlands and their buffers without a critical areas permit, when the activities meet the requirements of subsection (1) of this section:~~

 - (a) ~~Drilling for utilities/utility corridors under a buffer with entrance/exit portals located completely outside of the wetland boundary; provided, that the drilling does not interrupt the ground water connection to the wetland or stream or the percolation of the surface water through the soil column. Specific studies shall be submitted by a hydrologist to determine whether the ground water connection to the wetland, or the percolation of surface water through the soil column, will be disturbed. Specific studies shall be submitted by a hydrologist to determine whether the ground water connection to the wetland, or the percolation of surface water through the soil column, will be disturbed.~~

Commentary

17.38.130

Note - This section is moved up to 17.38.060.

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- (b) ~~Maintenance and repair of existing legally established stormwater management facilities.~~
A wetland or its buffer can be physical or hydrologically altered to meet the requirements of a low impact development, runoff treatment or flow control best management practice. Temporary buffer impacts may occur if all of the following criteria are met:
- (i) ~~The wetland is classified as a Category III or a Category IV wetland with a habitat score of three to four points. ECY~~
 - (ii) ~~There will be "no net loss" of the functions and values of the wetland critical area or its buffer.~~
 - (iii) ~~The wetland does not contain a breeding population of any native amphibian species.~~
 - (iv) ~~The hydrologic functions of the wetland can be improved as outlined in questions 3, 4, 5 of Chart 4 and questions 2, 3, 4 of Chart 5 in the guidance: Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington) (Ecology Publication No. 09-06-32, December 2009); or the wetland is part of a priority restoration plan that achieves the restoration goals identified in a shoreline master program or another local or regional watershed plan.~~
 - (v) ~~The wetland lies in the natural routing of the runoff, and the discharge follows the natural routing.~~
 - (vi) ~~All regulations regarding stormwater management and wetlands are followed, including but not limited to local and state wetland and stormwater codes, manuals, and permits.~~
 - (vii) ~~Alterations to the structure of the wetland or its soils obtain the necessary permits for the proposal.~~
 - (viii) ~~All lost functions and values of the wetland are compensated/replaced.~~
- (4) ~~Permit Exempt Activities – Buffers Only.~~ The following activities are allowed within critical area buffers without a critical areas permit, when the activities meet the requirements of subsection (1) of this section:
- (a) ~~Repair and maintenance of nonconforming uses or structures, when legally established within the buffer; provided, that the activities do not increase the degree of nonconformity for the critical area, or otherwise cause a net loss in the ecological functions of the critical area or buffer.~~

Commentary

17.38.200 (1)

"No net loss" is consistent with best available science.

17.38.205

Now addressed under 17.38.020

17.38.210(2)

Language added to be consistent with best available science regarding available mapping.

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Article III. Wetlands

17.38.200 Purpose.

The purposes of this article are to:

- (1) Regulate land use to avoid adverse effects on wetlands and maintain the no net loss of wetland functions and values ~~of wetlands~~ throughout Lewis County
- (2) Protect the beneficial functions performed by wetlands, which include, but are not limited to: providing food, breeding, nesting and/or rearing habitat for fish and wildlife; providing habitat for endangered, threatened and sensitive species; recharging and discharging ground water; contributing to stream flow during low flow periods; stabilizing stream banks and shorelines; storing storm and flood waters to reduce flooding and erosion; and improving water quality through biofiltration, adsorption, and the retention and transformation of sediments, nutrients, and toxicants.
- (3) Establish review procedures for development proposals, which are consistent with best available science as defined by WAC 365-195-900 through 925, in and adjacent to wetlands.

~~17.38.205 Other provisions apply.~~

- ~~(1) Compliant with the provisions of this article does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required. The applicant is responsible for complying with those requirements, in addition to the process established in this article.~~

17.38.210 Administration.

- (1) Administration of this article shall occur in accordance with Article I of this chapter.
- (2) When a project is subject to these requirements and does not fall within the activities listed in LCC 17.38.060 ~~Article II~~ of this chapter, the reports in Table 17.38-1 shall be required to review the projects. Wetland assessment reports are required when wetland conditions are known or likely to be present based on visual observations or publicly available data.

Commentary

Table 17.38-1

Revised language from reduced buffer to buffer modification for consistency.

17.38.220(1)

Language added pursuant to Department of Ecology 2022 sample regulations.

17.38.230 (1)

Updated Washington State Wetland Rating System for Western Washington: 2014 Update version 2.0 (Ecology Publication 23-06-009)

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Table 17.38-1

Report	When Required	Standards
Wetland Assessment Report	Within an area of mapped hydric soil or within 300 feet of a mapped wetland	LCC 17.38.320
Wetland Mitigation Report	When an impact is proposed to a wetland or wetland buffer (per LCC 17.38.270), reduced <u>including proposed buffer modification</u> (per LCC 17.38.280), or averaged buffer (per <u>or</u> LCC 17.38.290)	LCC 17.38.330

- (3) State and federal permits may be required even when a wetland is exempt from county requirements.

17.38.220 Identification.

- (1) Wetlands shall be identified and delineated in accordance with the requirements of RCW 36.70A.175~~030(48)~~ and LCC 17.38.230 WAC 173-22-035 using the 1987 U.S. Army Corps of Engineers Wetland Delineation Manual and the 2010 Western Mountains Valleys and Coasts Regional Supplement, or as amended. Wetland delineations are valid for five (5) years; after such date the County shall determine whether a revision or additional assessment is necessary. Wetland delineations will be documented on a ground-verified map using either professional surveying methods or an equivalent professional method using GPS with sub-meter accuracy.
- (2) The administrator may accept a written determination by the U.S. Army Corps of Engineers and the Washington State Department of Ecology (Ecology) that a specific parcel is not a wetland, as long as the determination is consistent with current local, state or federal law.

17.38.230 Classification.

- (1) Rating. Wetlands shall be identified and rated according to the Washington Department of Ecology wetland rating system, as set forth in the Washington State Wetland Rating System for Western Washington: 2014 Update Version 2.0 (Ecology Publication No. 14-06-029~~23-06-009~~), or as amended, which contains the definitions and methods for determining whether the criteria below are met.

Commentary

17.38.240

Added language based on best available science and no net loss.

17.38.250

Clarifies that wetlands deemed exempt under this section remain subject to all applicable local, state, and federal permitting requirements.

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- (a) Category I. Category I wetlands are: (i) wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; (ii) bogs; (iii) mature and old-growth forested wetlands larger than one acre; or (iv) wetlands that perform many functions well (scoring 23 points or more). The wetlands: (i) represent unique or rare wetland types; (ii) are more sensitive to disturbance than most wetlands; (iii) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (iv) provide a high level of functions.
 - (b) Category II. Category II wetlands are: wetlands with a moderately high level of functions (scoring between 20 and 22 points).
 - (c) Category III. Category III wetlands are: (i) wetlands with a moderate level of functions (scoring between 16 and 19 points); and (ii) can often be adequately replaced with a well-planned mitigation project. Wetlands scoring between 16 and 19 points generally have been disturbed in some way and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.
 - (d) Category IV. Category IV wetlands have the lowest levels of functions (scoring fewer than 16 points) and are often heavily disturbed. These wetlands are often able to be replaced, or in some cases improved. However, experience has shown that replacement cannot be guaranteed in any specific case. The wetlands may provide some important functions, and should be protected to some degree.
- (2) Illegal Modifications. Illegal modifications to a wetland made by the applicant or with the applicant's knowledge shall not change a wetland's rating.

17.38.240 Mitigation sequencing.

- (1) Projects proposed in or adjacent to wetlands are required to utilize the mitigation sequence to avoid and minimize impacts, and provide compensatory mitigation for any unavoidable impacts. Mitigation sequencing is detailed ~~shown~~ in LCC 17.38.080(2).

17.38.250 Exemption from the requirement to avoid impacts.

- (1) The following wetlands may be exempt from the requirement to avoid impacts to wetlands (as defined in the mitigation sequence in LCC 17.38.080(2)(a)). The wetlands may be filled if the remaining actions in the mitigation sequence (LCC 17.38.080(2)(b) through (e)) ensure that no net loss of wetland functions and values will occur from the activity and other agency permits are obtained consistent with LCC 17.38.020.

Commentary

17.38.250 (1) (a) (iv)

Updated to reference the current wetland classification system as set forth in the most recent Ecology publication referenced in LCC 17.38.230(1).

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- (a) All isolated Category IV wetlands less than 4,000 square feet that:
 - (i) Are not associated with riparian areas or their buffers.
 - (ii) Are not associated with shorelines of the state or their associated buffers.
 - (iii) Are not part of a wetland mosaic.
 - (iv) Do not score six or more points for habitat function based on the ~~2014 update to the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication No. 14-06-029, or as revised and approved by Ecology)~~per LCC 17.38.230(1).
 - (v) Do not contain a federally listed species or their critical habitat, priority habitat or species identified by the Washington Department of Fish and Wildlife, or species of local importance identified in LCC 17.38.420.
 - (b) Wetlands less than 1,000 square feet that meet the above criteria and do not contain federally listed species or their critical habitat are exempt from the buffer provisions contained in this chapter.
- (2) To ensure that no reduction of wetland values and functions occurs as a result of this section, a wetland assessment report and mitigation plan meeting the requirements in LCC 17.38.320 and 17.38.330 must be submitted.

17.38.260 Use intensity and determination of buffer width.

The use intensities in Table 17.38-2 shall be used in connection with the standards to classify wetlands in LCC 17.38.230 to determine required buffers.

Commentary

Table 17.38-2

Home-based businesses have been added to this table as a common use associated with residential properties, where the residence constitutes the primary use of the site.

Footnote 1 has been updated to clarify that, for the purposes of this table, an accessory dwelling unit (ADU) is considered a single residential unit.

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Table 17.38-2

Level of Impact from Proposed Change in Land Use	Common Types of Land Use
High	<ul style="list-style-type: none"> • Commercial • Urban • Industrial • Institutional • Retail sales • Residential <u>or home-based business</u> (density greater than 1 unit/acre)¹ • Conversion to high-intensity agriculture (dairies, nurseries, greenhouses, growing and harvesting crops requiring annual tilling and raising and maintaining animals, etc.) • High-intensity recreation (golf courses, ball fields, etc.) • Hobby farms
Moderate	<ul style="list-style-type: none"> • Residential <u>or home-based business</u> (density between ¹ unit per acre and 1 unit per 4.99 acres)¹ • Moderate-intensity open space (parks with biking, jogging, etc.) • Conversion to moderate-intensity agriculture (orchards, hay fields, etc.) • Paved trails • Building of logging roads • Utility corridor or right-of-way shared by several utilities and including access/maintenance road
Low	<ul style="list-style-type: none"> • Forestry (cutting of trees only) • Low-intensity open space (hiking, bird-watching, preservation of natural resources, etc.) • Unpaved trails • Utility corridor without a maintenance road and little or no vegetation management • Residential <u>or home-based business</u> (density at or lower than 1 unit per 5 acres)¹

¹Measured as density averaged over a development site, not necessarily an individual lot size. In the context of this table, an accessory dwelling unit (ADU) constitutes 1 unit.

Commentary

Commentary regarding updated footnote is provided on the following comment page.

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17.38.270 Required wetland buffers.

- (1) Utilizing the impact levels specified above, the buffer widths in Table 17.38-3 have been established in accordance with best available science.

- (a) Buffers.

Table 17.38-3

Category I Wetlands	Impact Level ¹		
	Low	Moderate	High
High level of function for habitat (score for habitat 9 points)	150	225	260/300 ¹²
Wetlands of high conservation value	125	190	250
Bogs	125	190	250
Forested	Buffer width to be based on score for habitat functions or water quality functions		
Moderate level of function for habitat (score for habitat 6 - 7 points)	75	110	150
High level of function for water quality improvement (8 - 9 points) and low for habitat (5 points or less)	50	75	100
Not meeting any of the above characteristics	50	75	100

Commentary

Table 17.38-3

Existing footnote 1 was renumbered to footnote 2. No changes to the content.
New footnote 1 regarding assumes buffer is vegetated or one that performs similar functions.

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	Impact Level		
Category II Wetlands	Low	Moderate	High
High level of function for habitat (score for habitat 8 - 9 points)	150	225	260/300 ¹²
Moderate level of function for habitat (score for habitat 6 - 7 points)	75	110	150
High level of function for water quality improvement and low for habitat (score for water quality 8 - 9 points; <u>5</u> habitat points or less than 5 points)	50	75	100
Not meeting above characteristics	50	75	100
Category III Wetlands	Low	Moderate	High
Moderate level of function for habitat (score for habitat 6 - 7 points)* *If wetland scores 8 - 9 habitat points, use Category II buffers for high level of function for habitat.	75	110	150
Low level of function for habitat (score for habitat 5 points or less)	40	60	80
Category IV Wetlands	Low	Moderate	High
Score for all 3 basic functions is less than 16 points	25	40	50

¹ Buffer widths in the table assume it is vegetated with a native plant community appropriate for the ecoregion or with one that performs similar functions. ~~Buffers are 260 feet for eight habitat points and 300 feet for nine habitat points.~~

² Buffers are 260 feet for eight habitat points and 300 feet for nine habitat points.

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

Commentary

17.38.270(2)

Moved to Geologically Hazardous Areas Establishes the method for measuring buffer widths. Where a buffer terminates within a continuous slope of 35% or greater, the buffer shall be extended to a point 25 feet beyond the top of bank of the sloped area.

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- (2) ~~Wetland buffers are measured horizontally in a landward direction from the wetland edge, as delineated in the field. Where a wetland buffer ends within a continuous slope of 35% or greater, the buffer must be extended to a point 25 feet beyond the top of the bank of the sloping area.~~

17.38.280 Buffer width reduction.

Buffer widths may be reduced in the following instances without the submittal of a mitigation plan:

- (1) Reduction in Buffer Width by Reducing the Intensity of Land Use Impacts. The widths of buffers recommended for proposed land uses with high-intensity impacts can be reduced to the buffers recommended for moderate-intensity impacts under the following conditions:
 - (a) For wetlands that score moderate or high for habitat (six points or more for the habitat functions), the width of the buffer can be reduced if both of the following criteria are met:
 - (i) A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other priority habitats as defined by the Washington state Department of Fish and Wildlife. The latest definitions of priority habitats and their locations are available on the WDFW website at: <http://wdfw.wa.gov/hab/phshabs.htm>. The corridor must be protected for the entire distance between the wetland and the priority habitat by some type of legal protection such as a conservation easement.
 - (ii) Measures to minimize the impacts of different land uses on wetlands, such as the examples summarized in Table 17.38-4, are applied; provided, that the administrator may approve of alternative impact reduction measures that are demonstrated to have equivalent effectiveness in reducing impacts on wetland functions.
 - (b) For wetlands that score five or less points for habitat, the buffer width can be reduced to that required for moderate land-use impacts by applying the measures to minimize the impacts of the proposed land uses (see examples in Table 17.38-4).

Commentary

No changes to Table 17.38-4

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Table 17.38-4

Impact Type	Activities and Uses that Cause Disturbances	Examples of Measures to Reduce Impacts
Stormwater runoff	<ul style="list-style-type: none"> • Parking lots • Roads • Manufacturing • Residential areas • Commercial • Landscaping 	<ul style="list-style-type: none"> • Provide stormwater detention and treatment meeting the latest adopted Stormwater Management Manual for all impervious surfaces that drain to the wetland • Provide infiltration, except where soil conditions preclude • Prevent flow from lawns that directly enters the buffer through swales or other interception
Lights	<ul style="list-style-type: none"> • Residential • Warehouses • Manufacturing • Parking lots 	<ul style="list-style-type: none"> • Direct lights away from wetland
Noise	<ul style="list-style-type: none"> • Residential • Commercial • Warehouse • Manufacturing 	<ul style="list-style-type: none"> • Locate activity that generates noise away from wetland • Place loading areas, garbage pickup and other pickup/delivery functions on the building side furthest removed from the wetland
Toxic runoff	<ul style="list-style-type: none"> • Parking lots • Roads • Manufacturing • Residential areas • Application of agricultural pesticides • Landscaping • Pesticides • Herbicides • Fertilizer 	<ul style="list-style-type: none"> • Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150 feet of wetland • Require development and implementation of integrated pest management plan to reduce chemical use
Pets and human disturbance	<ul style="list-style-type: none"> • Residential areas 	<ul style="list-style-type: none"> • Fence buffer area with privacy fencing • Plant dense native vegetation to delineate buffer edge
Lack of native vegetation in buffer	<ul style="list-style-type: none"> • Buffer will not provide functions 	<ul style="list-style-type: none"> • Ensure minimum vegetation relative density of 20 or plant to 300 stems per acre
Change in water regime	<ul style="list-style-type: none"> • Impermeable surfaces • Lawns • Tilling 	<ul style="list-style-type: none"> • Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Dust	<ul style="list-style-type: none"> • Tilled fields 	<ul style="list-style-type: none"> • Use best management practices to control dust

Commentary

17.38.280 (2), (a), (e)

Clarifies the criteria for allowing reduced buffers for functionally disconnected wetlands. A reduction shall not result in a net loss of ecological functions to the critical area or its buffer, and mitigation may still be required. Where uncertainty exists as to whether a buffer is functionally disconnected, the Administrator may require the submission of a critical area report.

17.38.280 (3) (a) (i)-(ii)

This section has been revised for clarity and recognizes that legally established buffers are vested, provided they are equal to or greater than 50 percent of the standard buffer width and that the impact minimization measures outlined in Table 17.38-4 are applied.

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- (2) ~~Reductions in Functionally Disconnected Buffer Widths Area~~ Where Existing Roads or Structures Lie within the Buffer.
- (a) The administrator may ~~allow a reduced~~ exclude buffer area that is functionally disconnected by ~~where~~ a legally established substantial improvement such as a road, railroad, or structure serves to eliminate or greatly reduce the impact of a proposed activity upon a wetland buffer.
 - (b) Where such a substantial improvement exists, the buffer may be reduced to the critical area edge of the existing substantial improvement.
 - (c) If a project has the potential to impact the functions of a wetland or its buffer, even though such a substantial improvement exists, the administrator shall require the applicant to submit a wetland assessment report to ensure that no net loss of ecological values and functions occurs. A mitigation plan may be required.
 - (d) As used within this section only, substantial improvements shall include developed public infrastructure such as roads and railroads, and private improvements such as homes, commercial structures, and paved parking lots. Substantial improvements shall not include paved trails, sidewalks, private driveways, resident parking areas, and accessory buildings that do not require a building permit.
 - (e) Where questions exist regarding whether a development functionally disconnects the buffer, or the extent of that impact, the administrator may require a critical area report to analyze and document the buffer functionality.
- (3) Legally Established Common-Line Buffers.
- (a) Where a buffer has been previously established on a legally created parcel or tract that was legally established according to the regulations in place at the time of establishment and is permanently recorded on title or placed within a separate tract, and the parcels that are included on the plat at the time of recording of the subject parcel or tract, then the buffer shall remain as previously established, provided: For legal lots of record that were created prior to July 26, 1999; are smaller than two acres in size; are proposed for residential development; and are bound by neighboring home sites, the required buffer may be reduced to the buffers for neighboring properties when the proposal incorporates the measures in Table 17.38 4, as well as other appropriate mechanisms, to provide compensatory mitigation for the impacts to wetland functions and values.
 - (i) It is equal to or greater than 50 percent of the required standard buffer distance for the applicable wetland category; and Existing Residences on Both Sides. Where existing residences are within 300 feet of both sides of the proposed residence, the buffer may be drawn as a common line calculated by the average of both adjacent residential setbacks from the wetland.

Commentary

Changes to 17.38.280 (3) are on the previous commentary page.

17.38.290

Clarifies that buffer modifications may be considered on a case-by-case basis. Buffer averaging and buffer reduction provisions may not be used together.

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- (ii) ~~Existing Residences on One Side. When a site only has one existing residence adjacent to the proposed development, the common line buffer may be the average of the required buffer for the wetland and the average setback of the adjacent residence from the wetland.~~
- (iii) Impact minimization measures are applied. See Table 17.38-4 for more information.
- (b) ~~A common line buffer reduction based on neighboring development shall require an analysis by a qualified professional that evaluates the existing environmental conditions and how the reduced buffer width would affect existing wetland functions when compared to the standard buffer.~~
- (c) ~~Existing wetland functions and values must be protected by the reduced buffer and the proposed mitigation measures.~~

17.38.290 Buffer width averaging.

The administrator may allow modification of the standard wetland buffer width in accordance with the best available science on a case-by-case basis by averaging buffer widths. Applicants cannot use buffer averaging and buffer reduction allowances together. An applicant may request to average the width of a wetland buffer, thereby reducing the width of a portion of the buffer and increasing the width of another portion, if all of the following requirements are met:

- (1) Averaging to improve wetland protection may be permitted when all of the following conditions are met:
 - (a) The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component, or a "dual-rated" wetland with a Category I area adjacent to a lower rated area.
 - (b) The buffer is increased adjacent to the higher-functioning habitat area or more sensitive portion of the wetland and decreased adjacent to the lower functioning or less sensitive portion.
- (2) Averaging to allow the reasonable use of a parcel may be permitted when all of the following are met:
 - (a) Buffer averaging is necessary to accommodate existing conditions, such as topography, existing roads, public facilities, or similar features that prevent reasonable development in compliance with standard buffers.

Commentary

17.38.290 (3) (c)

Establishes new criteria for buffer averaging to ensure no net loss of buffer functions and values, consistent with best available science and the impact minimization measures outlined in Table 17.38-4.

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- (b) There are no feasible site design alternatives that could be accomplished without buffer averaging.
 - (c) Averaging will not impair or reduce the habitat, water quality purification and enhancement, stormwater detention, ground water recharge, shoreline protection, erosion protection, and other functions of the wetland and buffer as demonstrated by a report from a qualified wetland professional.
- (3) Buffer averaging must meet the following criteria:
- (a) The total area of the buffer on the subject property is not less than the buffer that would be required if averaging was not allowed, and all increases to the buffer dimensions from averaging are generally parallel to the wetland boundary (to avoid creating buffer panhandles); and
 - (b) No part of the width of the buffer is less than 75 percent of the required width; and
 - (c) Enhancement of reduced or average buffer areas may be required to ensure that no net loss of buffer functions and values will occur as a result of the decreased buffer width. Standards include in Table 17.38-4 may be utilized as a means to help preserve habitat function and value.

17.38.300 Mitigation.

- (1) Wetland Mitigation. The alteration of wetlands shall require the creation, restoration, or enhancement of wetlands to provide equivalent or greater functions and values. In order to address the risk and time lag associated with the creation, restoration, or enhancement of wetlands, the following acreage replacement ratios shall be required, except as provided for in subsection (5) of this section. The listed ratios assume that the replacement wetland will be similar in type and structure to the wetland being altered.

Commentary

Table 17.38-5 has been updated to include 'or Preservation' in the Enhancement column.

17.38.300 (2)

Buffer mitigation is required at a minimum 1:1 ratio for impacts to wetland buffers. While standard buffer widths assume 80% native vegetation, mitigation must replace any buffer functions lost due to development.

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Table 17.38-5

Wetland Mitigation Type and Replacement Ratio*			
Wetland Category	Creation or Re-establishment	Rehabilitation	Enhancement <u>or</u> <u>Preservation</u>
Category I: Bog, Natural Heritage Site	Not considered possible	Case by case	Case by case
Category I: Mature Forested	6:1	12:1	24:1
Category I: Based on Functions	4:1	8:1	16:1
Category II	3:1	6:1	12:1
Category III	2:1	4:1	8:1
Category IV	1.5:1	3:1	6:1

*Ratio is the replacement area: impact area

- (2) Buffer Mitigation. Impacts to wetland buffers shall be mitigated at a minimum 1:1 ratio. Although buffer widths determined pursuant to LCC 17.38.270 assume native vegetation cover,
eCompensatory buffer mitigation shall replace the buffer functions lost from development.
- (3) Increasing or Decreasing Replacement Ratios. Mitigation ratios may be increased or decreased based on the following circumstances:
 - (a) The degree of uncertainty as to the probable success of the proposed mitigation;
 - (b) The period of time between the alteration of the wetland or buffer and the replacement of lost functions and values; and
 - (c) The projected gains or losses in functions and values; provided, that the findings of special studies coordinated with agencies with expertise demonstrate that no loss of wetland functions or values will result from a reduced ratio.
- (4) Replacement of Functions and Values. In lieu of mitigation based on land area, as provided above, an applicant may alternatively propose mitigation based on the credit/debit methodology established by the Washington Department of Ecology. Such a proposal shall follow the process and provide the details established in Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington dated March 2012 and note:
 - (a) The degree of uncertainty as to the probable success of the proposed mitigation;
 - (b) The period of time between the alteration of the wetland or buffer and the replacement of lost functions and values;

Commentary

17.38.300 (5) (b) (iv)

Adds a provision allowing the Director to approve innovative mitigation projects that are supported by best available science.

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- (c) Projected gains or losses in functions and values; provided, that findings of special studies, coordinated with agencies with expertise, demonstrate that no loss of wetland functions or values will result from the proposal.
- (5) Standards for Mitigation. Mitigation projects shall meet the following requirements:
 - (a) Location. Compensatory mitigation actions shall generally be conducted within the same sub-drainage basin and on the site of the alteration except when the applicant can demonstrate that off-site mitigation is ecologically preferable.
 - (b) Allowed Mitigation Approaches. The following wetland mitigation approaches are allowed:
 - (i) Wetland Mitigation Banks. Credits from a certified wetland mitigation bank may be used to compensate for wetland and buffer impacts that are located within the service area specified in the mitigation bank instrument. Standards for the creation of a wetland mitigation bank are available in Chapter 173-700 WAC.
 - (ii) Permittee-Responsible Mitigation. Permittee-responsible mitigation may occur at the site of the permitted impacts or at an off-site location within the same watershed. With permittee-responsible mitigation, the permittee performs the mitigation after the permit is issued and is ultimately responsible for the implementation, monitoring and success of the mitigation.
 - (iii) Additional mitigation approaches (such as in-lieu fee mitigation) may also be approved, so long as: the administrator determines that the approach ensures that no net loss of wetland functions and values will occur; an appropriate organizational entity will implement the mitigation; and a monitoring plan will be provided to show the success of the mitigation. Approved in-lieu-fee program credits may be used for wetland and buffer impacts that are situated within a service area specified within an approved in-lieu-fee instrument. Project applicants should contact the U.S. Army Corps of Engineers, Seattle District, for more information.
 - (iv) The Director may approve innovative mitigation projects that are based on the best available science.

Commentary

17.38.320 (1) (d)

Revised to include guidance for evaluating off-site wetland conditions. When access to adjacent property is not granted, the qualified professional will estimate off-site wetland conditions.

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Article III-A. Map References

17.38.310 References.

The approximate location and extent of wetlands and hydric soils are shown on the county's critical area maps. Sources that have contributed to the development of these maps include:

- (1) United States Fish and Wildlife Service National Wetland Inventory.
- (2) Natural Resources Conservation Service, soils map for Lewis County, hydric soils designations.

Article III-B. Wetland Assessment

17.38.320 Wetland assessment.

A wetland assessment describes the characteristics of the subject property and adjacent areas. The assessment shall include the following:

- (1) A site plan that shows:
 - (a) The site boundary lines.
 - (b) Existing physical features of the site including buildings, fences, and other structures, roads, parking lots, utilities, water bodies, etc.
 - (c) A detailed depiction of the proposed development including features such as utility location (well, septic, drainfield, etc.); parking and access location; the limits of grading and vegetation removal; and the location of any proposed building(s).
 - (d) An identification and delineation of critical areas, including wetlands, and their buffers within 300 feet of the site and an estimate of the existing approximate acreage for each. Private property cannot be accessed without permission. Therefore, aAssessment of off-site wetlands and other critical areas shall be based on available information and shall not require access to off-site properties will either be conducted with neighboring property owner permission or estimated by a qualified professional.
- (2) The following additional information:
 - (a) The wetland category and standard wetland buffers.
 - (b) All data sheets and rating forms used to assess the wetland conditions on and off the project site.
 - (c) A detailed description of the effects of the proposed development on the function and value of the wetland and buffer, including but not limited to:

Commentary

17.38.330 (1)

Updates the applicable Ecology reference materials used to guide wetland mitigation planning.

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- (i) Any areas of direct wetland disturbance;
 - (ii) The location and potential impacts of buffer reduction or averaging including a documentation of whether the functions and values of the wetland will be adversely affected by the change;
 - (iii) Effects of stormwater management;
 - (iv) Proposed hydrologic alterations including changes to natural drainage and infiltration patterns;
 - (v) Effects on fish and wildlife species and their habitats;
 - (vi) Impacts from clearing and grading;
 - (vii) Temporary construction impacts; and
 - (viii) Effects of increased noise, light, or human intrusion.
- (3) A mitigation plan, if applicable, meeting the requirements outlined in LCC 17.38.330.

Article III-C. Wetland Mitigation Plan

17.38.330 Wetland mitigation plan.

- (1) The plan shall be based on applicable portions of the latest edition of the Washington State Department of Ecology ~~Guidelines for Developing Freshwater Wetland Mitigation Plans and Proposals~~ Wetland Mitigation in Washington State, Parts 1 and 2: Developing Mitigation Plans (Ecology Publication #06-06-011b), as amended, or equivalent;
- (2) The plan shall contain sufficient information to demonstrate that the proposed activities are logistically feasible, constructible, ecologically sustainable, and likely to succeed. Specific information to be provided in the plan shall include:
 - (a) Basic Requirements. The plan shall include the name and contact information of the applicant; the name, qualifications, and contact information of the primary author(s); a description of the proposal; a summary of the impacts and proposed compensation concept; identification of all required local, state, and/or federal wetland-related permit(s); and a vicinity map for the project.
 - (b) Project Description. A project description that includes:

Commentary

17.38.330 (2) (b) (iii)

Updated verbiage for clarity and consistency with no net loss and best available science.

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- (i) Existing Conditions. An explanation of the existing wetland and buffer areas proposed to be altered including acreage (or square footage), water regime, vegetation, soils, landscape position, surrounding land uses, and functions.
- (ii) Plan Goals. Overall goals for the plan, including future wetland function, value, and acreage.
- (iii) Mitigation Sequencing. A description of how the project ~~design~~ has been ~~modified to~~ designed to avoid, minimize, rectify, ~~or~~ reduce, or compensate adverse impacts to wetlands.
- (iv) Type and Location of Mitigation Activities. A narrative that describes the nature of mitigation activities including:
 - (A) Site Treatment. A description of measures that are proposed to protect existing wetlands and desirable vegetation on the site including planting, invasive species removal, use of mulch and fertilizer, placement of erosion and sediment control devices, and other best management practices.
 - (B) Hydrology. An analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas. The narrative shall include illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions.
 - (C) Buffers. A description of the appropriateness of the buffer widths to protect the wetland functions into perpetuity.
 - (D) Impacts to Ecological Functions. A description of the ecological functions and values that the proposed alteration will affect and the specific ecological functions and values that the proposed mitigation area(s) will provide, together with a description of the required or recommended mitigation ratios and an assessment of factors that may affect the success of the mitigation program.
 - (E) Expected Future Conditions. Conditions expected from the proposed actions on site, including future hydrogeomorphic types, vegetation community types by dominant species (wetland and upland), and future water regimes.

Commentary

No Change to page 74.

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- (F) Performance Standards. Specific measurable performance standards that the proposed mitigation action(s) will achieve together with a description of how the mitigation action(s) will be evaluated and monitored to determine if the performance standards are being met; and an identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates that project performance standards are not being met. The performance standards shall be tied to and directly related to the mitigation goals and objectives.
- (G) Cost estimates for the installation of the mitigation program, monitoring, and potential corrective actions if project performance standards are not being met.
- (v) Scaled Drawings for the Project. Scaled drawings of the activities proposed including, but not limited to:
 - (A) The location of the wetland and buffer.
 - (B) Extent of clearing, grading, excavation, and construction impacts.
 - (C) Existing hydrological features and proposed alterations.
 - (D) Proposed planting, invasive plant management, installation of habitat structures, irrigation, and other site treatments associated with the development and proposed mitigation action(s).
 - (E) Existing topography, ground-proofed, at two-foot contour intervals in the area of the proposed compensation actions, if any grading activity is proposed. Also existing cross-sections (estimated one-foot intervals) of wetland areas on the development site that are proposed to be altered, or used as wetland or buffer compensation sites.

Article IIIV. Fish and Wildlife Habitat Conservation Areas

17.38.400 Purpose.

- (1) The purpose of this article is to allow the reasonable use of private property, while:
 - (a) Encouraging no net loss of habitat functions and values within designated habitat areas; and
 - (b) Conserving the functional integrity of the habitats that are necessary to perpetually support fish and wildlife populations.

Commentary

17.38.410 (1) (a) (ii)

Impacts to aquatic buffers that exceed the allowances provided under LCC 17.38.430 (Buffer width averaging) may only be approved through a reasonable use exception or a variance.

17.38.410 (1) (b) (i)

WDFW consultation is required, at the discretion of the administrator, for projects located in areas known or likely to be habitat for locally important species. If WDFW consultation is required for all projects involving Threatened, Endangered, and Sensitive species; WDFW Priority Species; WDFW Priority Habitats; and Species and Habitats of Local Importance. WDFW Priority Habitats include elk overwintering habitat, which encompasses nearly all of Lewis County many—if not most—permit applications will require WDFW review, potentially amounting to unsustainable review in the hundreds of permits per year.

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(2) Key priorities of the article are to:

- (a) Identify and protect areas with which endangered, threatened, and sensitive species have a primary association;
- (b) Identify and protect habitats and species of local importance, including waters of the state, lakes, ponds, and terrestrial and riparian habitats that are essential to their protection; and
- (c) Give special consideration to conservation or protection measures that are necessary to preserve or enhance anadromous fisheries.

17.38.410 Administration.

The administration of this article shall occur in accordance with Article I of this chapter, and the standards listed below.

- (1) Review. Projects proposed in or near fish and wildlife habitat conservation areas shall utilize the following thresholds for review:
 - (a) Aquatic ~~Priority~~ Habitat.
 - (i) When a development is within 200 feet of an aquatic habitat (as specified in ~~LCC 17.38.465~~ Table 17.38-6), the applicant shall submit an aquatic habitat area assessment report that meets the requirements of LCC 17.38.070 and 17.38.500.
 - (ii) Proposals ~~If an applicant proposes to impact an aquatic critical area or its buffer beyond what is allowed under the standards for buffer width reductions (LCC 17.38.430) may only be approved under a reasonable use exception or variance request (LCC 17.38.1010). The application the proposal shall include a mitigation plan that meets the requirements in LCC 17.38.1010080 and 17.38.510.~~
 - (b) WDFW Priority and Locally Important Habitats and Species.
 - (i) WDFW Consultation Required. At the discretion of the administrator, W~~When~~ a project is located within an area likely or known to be mapped ~~a habitat of local importance or~~ habitat for an endangered, threatened, ~~or sensitive species, or within a mapped~~ locally important habitat species, the application shall be sent to the WDFW for their consultation.

Commentary

17.38.410 (1) (ii)

Added verbiage to include additional WDFW Threatened, Endangered, and Sensitive species; WDFW Priority Species; WDFW Priority Habitats; and Species and Habitats of Local Importance.

17.38.420 (1)

Relocates stream classification criteria and eliminates footnotes. Provides clarity and additional reference to DNR stream typing.

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- (A) This consultation is meant to ensure that the proposal adequately addresses the management recommendations of the Washington Department of Fish and Wildlife (WDFW) Priority Habitats and Species Program.
- (B) No WDFW consultation shall be required for accessory uses on existing sites that are shown as having avian habitat, but where no mature trees will be removed.
- (C) Threatened, Endangered, and Sensitive Species. Areas in which federally listed species are found, have a primary association with, or contain suitable habitat for said listed species, as listed in the U.S. Fish and Wildlife's Threatened and Endangered Species List or Critical Habitat List (<http://ecos.fws.gov/ecp/>), as amended.
- (D) WDFW Priority Species. Areas in which state-listed priority species are found, have a primary association with, or contain suitable habitat for said listed species, as listed in the Washington Department of Fish and Wildlife's Priority Habitats and Species List (<http://wdfw.wa.gov/mapping/phs/>), as amended.
- (E) WDFW Priority Habitats. State priority habitats and areas associated with state priority species as listed in Washington Department of Fish and Wildlife's Priority Habitats and Species List (<http://wdfw.wa.gov/mapping/phs/>), as amended.
- (F) Species and Habitats of Local Importance. Species and habitats of local importance are listed in Table 17.38-6.
- (ii) When the WDFW determines that a proposal is likely to impact a locally important habitat or an endangered, threatened, or sensitive species, or a locally important species habitat, the applicant shall:
 - (G) Follow the WDFW management recommendations; or
 - (H) Prepare a fish and wildlife habitat mitigation plan that meets the requirements of LCC 17.38.080 and 17.38.510.
- (iii) The administrator shall not permit a development where a net loss of habitat functions and values will occur.

17.38.420 Designation and Classification.

The following locations are designated as fish and wildlife habitat conservation areas:

Commentary

Table 17.38-6

LCC 17.38.470 relocated here as part of consolidation of FWHCA and Stream sections

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Table 17.38-6

	Regulated Area
Aquatic Priority-Habitat	<p>The following resources are identified as aquatic habitat critical areas for the purposes of this article:</p> <p>(1) Waters of the state as defined in RCW 77.55.011 and 90.56.010, but not including shorelines of the state as defined in RCW 90.58.010.</p> <p>(2) Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat.</p> <p>(3) Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity. [Ord. 1284 §4, 2018]</p> <p>(4) Streams and lakes meeting the classifications of 17.38.420(1)</p> <p>(5) Aquatic habitat does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.</p> <p>Areas extending outward from the ordinary high water mark on each side of a stream to the following distances^{1, 2}:</p> <p>(a) DNR Type F waters (defined by WAC 222-16-030, as amended), 150 feet³;</p> <p>(b) Type Np and Ns waters (defined by WAC 222-16-030, as amended), 100 feet.</p>
Habitat corridors	<p>Those corridors set aside and protected for preserving connections between habitats on development proposal sites that contain streams and/or wetlands with a moderate to high habitat score greater than or equal to six on the Washington State Wetland Rating System for Western Washington (Department of Ecology 2014 or as revised) that are located within 200 feet of an on-site or off-site stream and/or wetland with a moderate to high habitat score greater than or equal to six on the Washington State Wetland Rating System for Western Washington. Fish and wildlife habitat corridors do not increase stream buffers, except as required to provide a connection between two features as described above.</p>
WDFW Priority Habitats and Species	<p>Areas identified by and consistent with WDFW priority habitats and species criteria for federal or state endangered, threatened or sensitive species and those areas which these species have a primary association. The county shall defer to WDFW in regards to classification, mapping and interpretation of priority habitats and species.</p>
Locally Important Habitat and Species	<p>The following species of local importance and locally important habitat areas:</p> <p>(a) Elk wintering habitat;</p> <p>(b) Western brook lamprey;</p> <p>(c) Pacific lamprey; and</p> <p>(d) Fresh water mussels.</p>

Commentary

LCC17.38.420 (1)

Stream classifications relocated from LCC 17.38.470 as part of consolidation of FWHCA and Stream sections.

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Designated Wildlife Areas	State natural area preserves, conservation areas, and state wildlife areas. No buffers shall be required adjacent to the areas, since the preserves and conservation areas are assumed to encompass the land required for species preservation.
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¹ Numbers shown within the table represent required "buffers." Aquatic habitat buffers may be modified per the standards in LCC 17.38.430.

² Type S streams, and lakes and ponds over 20 acres in size in Lewis County are regulated under the shoreline master program.

³ Projects along Type F streams, which are less than 10 feet in width, may reduce their required buffer to 100 feet, when a qualified professional submits a report that details the width of the stream as it travels through the project site.

(1) Stream and Lake Classification.

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

(i) "Type S water" means all waters identified as shorelines of the state under Chapter 90.58 RCW and the rules promulgated pursuant to Chapter 90.58 RCW, including periodically inundated areas of their associated wetlands. Type S waters are regulated entirely by the Lewis County shoreline master program.

(ii) "Type F water" means segments of natural waters other than Type S waters, as defined by the ordinary high water mark and periodically inundated areas of their associated wetlands, except as regulated by LCC 17.38.220, or within lakes, ponds, or impoundments having a surface area of one-half acre or greater at seasonal low water and which in any case contain fish habitat, as well as riverine ponds, wall-based channels, and other channel features that are used by fish for off-channel habitat.

(iii) "Type Np water" means all segments of natural waters within defined channels that are perennial nonfish habitat. Perennial streams are waters that do not go dry at any time during a year of normal rainfall. However, for the purpose of water typing, Type Np waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.

(iv) "Type Ns water" means all segments of natural waters within defined channels that are not Type S, F, or Np waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np water. Ns waters must be physically connected by an aboveground channel system to Type S, F, or Np waters.

(b) Stream typing data from the Washington State Department of Natural Resources (DNR) is utilized to show the approximate location of streams and their types.

(i) Where a stream is shown on the DNR mapping, but no stream is present or the location is in error, the administrator may waive the requirements for additional studies after a qualified professional prepares a site investigation that details the existing stream conditions.

(ii) Where a question about the correct stream type exists, Lewis County may consult with WDFW about the appropriate stream classification.

Commentary

LCC17.38.430

This section is not new it is relocated from LCC 17.38.420 to new section 17.38.430.

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17.38.425 Mitigation sequencing.

Projects proposed in or adjacent to fish and wildlife conservation areas are required to utilize the mitigation sequence shown in LCC 17.38.080(2).

17.38.430 Stream Bbuffer width ~~reduction or averaging~~.

(1) Buffers. The buffer widths in Table 17.38-7 have been established in accordance with best available science.

Table 17.38-7

<u>Stream Type</u>	<u>Buffer Width</u>
Type F waters (defined by WAC <u>222-16-030</u> , as amended)	<u>150 feet</u> ⁴
Type Np and Ns waters (defined by WAC <u>222-16-030</u> , as amended)	<u>100 feet</u>
Areas extending outward from the ordinary high water mark on each side of a stream to the following distances ^{2,3} .	

¹ Buffer widths in the table assume it is vegetated with a native plant community appropriate for the ecoregion or with one that performs similar functions.

² Numbers shown within the table represent required "buffers." Aquatic habitat buffers may be modified per the standards in LCC 17.38.430(2) and 17.38.435.

³ Type S streams, and lakes and ponds over 20 acres in size in Lewis County are regulated under the shoreline master program.

⁴ Projects along Type F streams, which are less than 10 feet in width, may reduce their required buffer to 100 feet, when a qualified professional submits a report that details the width of the stream as it travels through the project site.

(2) Buffer widths may be reduced in the following instances without the submittal of a mitigation plan:

(a) Functionally Disconnected Buffer Area Where Existing Roads or Structures Lie within the Buffer.

(i) The administrator may exclude buffer area that is functionally disconnected by a legally established substantial improvement such as a road, railroad, or structure serves to eliminate or greatly reduce the impact of a proposed activity upon an aquatic habitat buffer.

(ii) Where such a substantial improvement exists, the buffer may be reduced to the critical area edge of the existing substantial improvement.

Commentary

LCC17.38.430

This section is not new it is relocated from LCC 17.38.420 to new section 17.38.430.

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(iii) If a project has the potential to impact the functions of an aquatic habitat or its buffer, even though such a substantial improvement exists, the administrator shall require the applicant to submit an aquatic habitat assessment report to ensure that no net loss of ecological values and functions occurs. A mitigation plan may be required.

(iv) As used within this section only, substantial improvements shall include developed public infrastructure such as roads and railroads, and private improvements such as homes, commercial structures, and paved parking lots. Substantial improvements shall not include paved trails, sidewalks, private driveways, resident parking areas, and accessory buildings that do not require a building permit.

(v) Where questions exist regarding whether a development functionally disconnects the buffer, or the extent of that impact, the administrator may require a critical area report to analyze and document the buffer functionality.

(b) Legally Established Buffers.

(i) Where a buffer has been previously established on a legally created parcel or tract that was legally established according to the regulations in place at the time of establishment and is permanently recorded on title or placed within a separate tract, and the parcels that are included on the plat at the time of recording of the subject parcel or tract, then the buffer may remain as previously established, provided:

(A) It is equal to or greater than 50 percent of the required standard buffer distance for the applicable water type; and

(B) Meets vegetative buffer standards described in LCC 17.38.420(1)(a); and

(C) Impact minimization measures are applied. See Table 17.38-4 for more information.

Commentary

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17.38.435 Buffer width averaging.

The administrator may allow modification of the standard buffer width in accordance with the best available science on a case-by-case basis by averaging buffer widths. Applicants cannot use buffer averaging and buffer reduction allowances together. An applicant may request to average the width of a buffer, thereby reducing the width of a portion of the buffer and increasing the width of another portion, if all of the following requirements are met:

- (1) Averaging to improve aquatic and riparian habitat protection may be permitted when all of the following conditions are met:
 - (a) The aquatic and riparian habitat has significant differences in characteristics that affect its habitat functions.
 - (b) The buffer is increased adjacent to the higher-functioning habitat area or more sensitive portion of the aquatic and riparian habitat and decreased adjacent to the lower functioning or less sensitive portion.
- (2) Averaging to allow the reasonable use of a parcel may be permitted when all of the following are met:
 - (a) Buffer averaging is necessary to accommodate existing conditions, such as topography, existing roads, public facilities, or similar features that prevent reasonable development in compliance with standard buffers.
 - (b) There are no feasible site design alternatives that could be accomplished without buffer averaging.
 - (c) Averaging will not impair or reduce the habitat, water quality purification and enhancement, stormwater detention, ground water recharge, shoreline protection, erosion protection, and other functions of the aquatic habitat and buffer as demonstrated by a report from a qualified professional.
- (3) Buffer averaging must meet all of the following criteria:
 - (a) The total area of the buffer on the subject property is not less than the buffer that would be required if averaging was not allowed, and all increases to the buffer dimensions from averaging are generally parallel to the ordinary high watermark boundary (to avoid creating buffer panhandles);
 - (b) The applicable standard buffer width is not reduced below 75 percent of the required width in any location; and
 - (c) Enhancement of reduced or averaged buffer areas may be required to ensure that no net loss of buffer functions or values will occur as a result of the decreased buffer width.

Commentary

Section replaced with Buffer averaging section LCC17.38.435.

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- (d) Standards included in Table 17.38-4 may be utilized as a means to help preserve habitat function and value.
- ~~(1) The buffer distances for nonexempt projects adjacent to aquatic habitat areas may be reduced using the provisions for wetlands in Article III of this chapter, LCC 17.38.280(2) and (3), and 17.38.290, as modified below:~~
- (a) ~~Where the standards in Article III of this chapter refer to wetlands, the standards shall apply to aquatic habitat.~~
 - (b) ~~Where the standards refer to wetland buffers, the buffers articulated in LCC 17.38.420 shall apply.~~
 - (c) ~~Except if the project is mitigated in accordance with LCC 17.38.080, the buffer widths reduced under the standards for buffer averaging shall not be less than:~~
 - ~~(i) Seventy-five percent of the distance for Type F waters; or~~
 - (d) (ii) Fifty percent of the distance for Type Np or Ns waters, or Type F waters whose required buffers have been reduced to 100 feet. Enhancement of reduced or averaged buffer areas may be required to ensure that no net loss of buffer functions or values will occur as a result of the decreased buffer width. Standards included in Table 17.38-4 may be utilized as a means to help preserve habitat function and value.
- ~~(2) The administrator may waive the allowance of buffer width reduction or averaging where an applicant seeks to reduce a buffer in a geologically hazardous area or in an area where ongoing streambank erosion is evident.~~

Commentary

17.38.440 (2) (b) (i)

As a method to minimize or eliminate impacts, a habitat mitigation plan can include the retention of trees and limited, as well as the creation of snags and the retention of large woody debris where feasible.

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17.38.440 Reduction of impacts.

- (1) Where projects propose an impact to a fish and wildlife conservation area, specific mitigation elements shall be detailed within a habitat mitigation plan, as defined in LCC 17.38.080 and 17.38.510. The habitat mitigation plan shall provide specific recommendations to reduce, eliminate, or mitigate for the adverse effects of the proposed activity.
- (2) Methods to minimize or eliminate the adverse impacts of proposed development activities in fish and wildlife habitat conservation areas may include, but are not limited to:
 - (a) Buffering and clustering development;
 - (b) Retaining or planting native vegetation, including retaining trees and limiting clearing;
 - (i) Includes creation of snags and retention of large woody debris where feasible.
 - (c) Limiting access;
 - (d) Seasonal restrictions on construction activities in accordance with the guidelines developed by the Washington Department of Fish and Wildlife, the U.S. Army Corps of Engineers, a salmonid recovery plan and/or other agencies or tribes with expertise and/or jurisdiction over the subject species/habitat; and
 - (e) Other appropriate techniques that are consistent with best available science.

17.38.450 Designation of locally important habitats and species.

Lewis County may use a legislative process to designate or de-designate locally important habitats and species.

- (1) Criteria. The classification of locally important habitats and species shall consider unusual or unique habitats that warrant protection because of the qualitative species diversity or habitat system health indicators; or local species that demonstrate a need for special consideration based on:

Commentary

17.38.465 (4)

New subsection clarifying that aquatic habitat does not include artificial features related to irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

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- (a) Declining population;
 - (b) Sensitivity to habitat manipulation;
 - (c) Commercial, recreational, cultural, or other special value; and
 - (d) The availability of linkages between existing habitat areas.
- (2) Recommendation. Recommendations for designating or de-designating areas with habitats or species that meet these criteria may be submitted by any person or group, and be included for potential review on the planning commission annual docket.
- (3) Review. Review of the proposal, if deemed to merit formal consideration by the planning commission and the board of county commissioners, shall progress as a Type V amendment.
- (4) Notice. Notice of proposals to designate or de-designate locally important habitat or species shall be forwarded to impacted property owners in a manner similar to the standards for a Type III application.
- (5) Not allowed as part of other proposals. Designation or de-designation of locally important habitats or species may not occur concurrent with or as part of an associated development request.

Article ~~III~~IV-A. Classification of Fish and Wildlife Habitat

17.38.465 Identification of aquatic habitat.

The following resources are identified as aquatic habitat critical areas for the purposes of this article:

- (1) Waters of the state as defined in RCW 77.55.011 and 90.56.010, but not including shorelines of the state as defined in RCW 90.58.010.
- (2) Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat.
- (3) Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity.
- (4) Aquatic habitat does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

17.38.470 ~~Classification.~~

Commentary

17.38.480 (1)

Definitions and maps of wildlife habitat areas are based on the following documents, or as amended.

17.38.470

Moved to table 17.38-6

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~~(1) Streams and lakes are classified in accordance with the Washington State Department of Natural Resources (DNR) as provided in WAC 222-16-030, with the following revisions:~~

- ~~(a) "Type S water" means all waters identified as shorelines of the state under Chapter 90.58 RCW and the rules promulgated pursuant to Chapter 90.58 RCW, including periodically inundated areas of their associated wetlands. Type S waters are regulated entirely by the Lewis County shoreline master program.~~
- ~~(b) "Type F water" means segments of natural waters other than Type S waters, as defined by the ordinary high water mark and periodically inundated areas of their associated wetlands, except as regulated by LCC 17.38.220, or within lakes, ponds, or impoundments having a surface area of one-half acre or greater at seasonal low water and which in any case contain fish habitat, as well as riverine ponds, wall-based channels, and other channel features that are used by fish for off-channel habitat.~~
- ~~(c) "Type Np water" means all segments of natural waters within defined channels that are perennial nonfish habitat. Perennial streams are waters that do not go dry at any time during a year of normal rainfall. However, for the purpose of water typing, Type Np waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.~~
- ~~(d) "Type Ns water" means all segments of natural waters within defined channels that are not Type S, F, or Np waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np water. Ns waters must be physically connected by an aboveground channel system to Type S, F, or Np waters.~~

~~(2) Classification. Stream typing data from the Washington State Department of Natural Resources (DNR) is utilized to show the approximate location of streams and their types.~~

- ~~(a) Where a stream is shown on the DNR mapping, but no stream is present or the location is in error, the administrator may waive the requirements for additional studies after a qualified professional prepares a site investigation that details the existing stream conditions.~~
- ~~(b) Where a question about the correct stream type exists, Lewis County may consult with WDFW about the appropriate stream classification.~~

~~17.38.480~~ — ~~Classification of wildlife habitat.~~

~~(1) Definitions and maps of wildlife habitat areas are based on the following documents, or as amended:~~

Commentary

17.38.480

Moved to table 17.38-6

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- (a) ~~The United States Endangered Species Act of 1973, and species and critical habitat designed thereunder;~~
 - (b) ~~The 1999-2023 Washington Department of Fish and Wildlife Priority Habitats and Species List;~~
 - (c) ~~The 1997 Management Recommendations for Washington's Priority Habitats;~~
 - (d) ~~The list of best available science references maintained by the responsible official; and~~
 - (e) ~~Associated GIS data files maintained by Lewis County GIS department.~~
- (2) ~~Updated as Needed. Maps supporting this chapter may be updated and/or reevaluated as new information comes available.~~

17.38.4690 Inconsistencies between conditions on ground and mapping.

- (1) Determining Site-Specific Applicability. In the event of inconsistencies, official habitat area definitions shall prevail over countywide maps in determining applicability of this chapter. The county shall follow the recommendations of WDFW in the interpretation of site-specific conditions as they relate to the definition of priority habitat and species.

Article ~~IIIV-AB~~. Aquatic Habitat Area Assessment

17.38.500 Aquatic habitat area assessment.

An aquatic habitat assessment describes the characteristics of the subject property and adjacent areas. The assessment shall include the following:

- (1) A site plan that shows:
 - (a) The site boundary lines.
 - (b) Existing physical features of the site including buildings, fences, and other structures, roads, parking lots, utilities, water bodies, etc.
 - (c) A detailed depiction of the proposed development including features such as lot location (for land divisions); utility location (well, septic, drainfield, etc.); parking and access location; the limits of grading and vegetation removal; and the location of any proposed building(s).
 - (d) An identification of critical areas and buffers within 300 feet of the site and an estimate of the existing approximate acreage for each. Assessment of off-site critical areas shall be based on available information and shall not require access to off-site properties.

Commentary

17.38.500 (2) (a)

As part of the additional information for aquatic habitat assessment, the assessment must include the category of the aquatic habitat area and the buffer or the width of the riparian management zone required.

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(2) The following additional information:

- (a) The category of the aquatic habitat area and the buffer or the width of the riparian management zone required.
- (b) If an impact to the buffer or averaging is proposed, a detailed description of the effects of the proposed development on the function and value of the aquatic habitat area and buffer, including but not limited to:
 - (i) Any areas of direct disturbance;
 - (ii) The location and potential impacts of buffer reduction or averaging including a documentation that the functions and values of the aquatic habitat will not be adversely affected by the reduction or averaging;
 - (iii) Effects of stormwater management;
 - (iv) Proposed hydrologic alterations including changes to natural drainage and infiltration patterns;
 - (v) Effects on fish and wildlife species and their habitats;
 - (vi) Impacts from clearing and grading;
 - (vii) Temporary construction impacts; and
 - (viii) Effects of increased noise, light, or human intrusion.

(3) A mitigation plan, if applicable, meeting the requirements outlined in LCC 17.38.510.

Article ~~IIIV~~BC. Habitat Mitigation Plan

17.38.510 Fish and wildlife habitat mitigation plan.

When required, a mitigation plan for fish and wildlife habitat conservation areas shall meet the following requirements:

- (1) The plan shall contain sufficient information to demonstrate that the proposed activities are logistically feasible, constructible, ecologically sustainable, and likely to succeed. Specific information to be provided in the plan shall include:

Commentary

17.38.510 (1) (b)

The project description for a fish and wildlife habitat mitigation plan must include an explanation of how the project design will rectify or compensate for adverse impacts to fish and wildlife.

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- (a) Basic Requirements. The plan shall include the name and contact information of the applicant; the name, qualifications, and contact information of the primary author(s); a description of the proposal; a summary of the impacts and proposed compensation concept; identification of all related permit(s) required for the project; and a vicinity map for the proposal.
- (b) Project Description. A project description that includes:
 - (i) Existing Conditions. An explanation of the existing habitat and buffer areas proposed to be altered including items such as acreage (or square footage), vegetation, soils, landscape position, surrounding land uses, and functions.
 - (ii) Plan Goals. Overall goals for the plan, including future habitat function, value, and acreage.
 - (iii) Mitigation Sequencing. A description of how the project design has been modified to avoid, minimize, rectify, ~~or reduce~~, or compensate adverse impacts to fish and wildlife habitat.
 - (iv) Type and Location of Mitigation Activities. A narrative that describes the nature of mitigation activities applicable to the proposal including:
 - (A) Site Treatment. A description of measures that are proposed to protect existing habitat areas on the site including native vegetation retention, planting, invasive species removal, placement of erosion and sediment control devices, and other best management practices. Approaches outlined in the Washington Department of Fish and Wildlife Integrated Streambank Protection Guidelines, the Washington Department of Fish and Wildlife Priority Habitats and Species Management Recommendations (as revised) and other applicable best available science documents shall be used.
 - (B) Buffers. A description of the appropriateness of the buffer widths to protect the habitat functions into perpetuity.
 - (C) Impacts to Ecological Functions. A description of the habitat functions and values that the proposed alteration will affect and the specific ecological functions and values that the proposed mitigation area(s) will provide, together with a description of the recommended mitigation ratios and an assessment of the factors that may affect the success of the mitigation program.
 - (D) Expected Future Conditions. Conditions expected from the proposed actions on site, including future habitat features, and vegetation community types by dominant species.

Commentary

17.38.600

The purpose statement has been updated to include language addressing the consideration of natural processes and the protection of stream habitat when development occurs on or adjacent to geologically hazardous areas.

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- (E) Performance Standards. Specific measurable performance standards that the proposed mitigation action(s) will achieve, together with a description of how the mitigation action(s) will be evaluated and monitored to determine if the performance standards are being met; and an identification of potential courses of action, and any corrective measures to be taken if the monitoring or evaluation indicates that the project performance standards are not being met. The performance standards shall be tied to and directly related to the mitigation goals and objectives.
- (F) Cost estimates for the installation of the mitigation program, monitoring, and potential corrective actions if project performance standards are not being met.
- (c) Scaled Drawings for the Project. Scaled drawings of the activities proposed including, but not limited to:
 - (i) The location of the habitat area and its buffer.
 - (ii) Extent of clearing, grading, excavation, and construction impacts.
 - (iii) Existing habitat features and proposed alterations.
 - (iv) Proposed planting, invasive plant management, installation of habitat structures, irrigation, and other site treatments associated with the development and the proposed mitigation action(s).

Article IV. Geologically Hazardous Areas

17.38.600 Purpose.

The purpose of this article is to minimize hazards to the public from development activities on or adjacent to geologically hazardous areas, while allowing for natural processes, and protecting stream habitats. For the purposes of this chapter, geologically hazardous areas include: erosion hazard areas, steep slope and landslide hazard areas, seismic hazard areas, mine hazard areas, channel migration zones, alluvial fan hazard areas and volcanic hazard areas.

17.38.610 Administration.

The administration of this article shall occur in accordance with Article I of this chapter and the standards listed below.

- (1) Review. The applicant shall prepare a geotechnical report consistent with the requirements in LCC 17.38.710 when required by Table 17.38-7.

Commentary

No changes.

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- (2) Qualified Professional. Geotechnical reports shall be prepared by a qualified professional as defined in LCC 17.38.110. Geotechnical reports shall include a discussion of how the project incorporates mitigation sequencing and maintains the long-term stability of the geologic hazard (including any recommended buffers). Geotechnical reports shall also address the potential impact of the proposed mitigation on the hazard area, the subject property, and any affected adjacent properties.

17.38.620 Designation.

- (1) Designation of Geologically Hazardous Areas. Lands that meet the criteria for geologically hazardous areas and their buffers are presented in Table 17.38-7:

Table 17.38-7

	Classification	Report Required
Erosion Hazard Area	LCC 17.38.640	Within severe and very severe erosion hazard area
Steep Slope and Landslide Hazard Area	LCC 17.38.650	Within steep slope and landslide hazard area and buffer that is equal to the largest of: (a) 50 feet; or (b) The vertical height of the slope multiplied by: (i) 1 for slopes from 15 to 40 percent. (ii) 1.5 for slopes from 40 to 50 percent. (iii) 2 for slopes that are greater than 50 percent.
Seismic Hazard Area	LCC 17.38.660	No report is required in a seismic hazard area, though the applicable standards in LCC 17.38.630 must be met.
Volcanic Hazard Area	LCC 17.38.670	No report is required in a volcanic hazard area, though the applicable standards in LCC 17.38.630 must be met.
Mine Hazard Area	LCC 17.38.680	Within a classified mine hazard area.
Channel Migration Zone	LCC 17.38.690	Within a channel migration zone.
Alluvial Fan Hazard Area	LCC 17.38.695	Within 200 feet of an alluvial fan hazard area.

17.38.630 Standards.

- (1) Standards for Certain Geologically Hazardous Areas and Their Buffers. The following standards apply to geologically hazardous areas and their required buffers, except for alluvial fan, volcano and seismic hazards:

Commentary

17.38.270(2)

Relocated from wetland buffers 17.38.270(2) to 17.38.630 (2)(c)(iv)

. When wetlands or wetland buffers are present on steep slopes of 35% or greater, the setback from the top of the slope shall not be less than 25 feet

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- (a) Development of geologically hazardous areas and their required buffers shall follow the mitigation sequence in LCC 17.38.080(2).
 - (b) Where no reasonable alternative to the alteration of a potentially hazardous area is available, the administrator may allow the development of the area when a geotechnical report, as described in LCC 17.38.710, is submitted by a qualified professional.
 - (c) When a geotechnical report has been submitted, the administrator may only allow the alteration when the report shows:
 - (i) The site is stable under existing conditions based on a plane of failure analysis with a factor of safety of 1.5 under seismic conditions for unconsolidated deposits or other factor of safety relevant to the type of development and hazard.
 - (ii) The alteration of vegetation will not increase the probability of the failure of the geologically hazardous area.
 - (iii) The proposed grading, excavation and structures will not increase the probability of the failure of the geologically hazardous area, and the construction of facilities to reduce risk, such as drainage systems, are effective in the absence of mechanical systems and ongoing long-term maintenance.
 - (iv) The development will incorporate measures to control additional erosion and deposition downslope or downstream, and the proposed measures to control the erosion are feasible.
 - (v) The development will not increase the risk of geologic failure on the site or adjacent properties.
 - (vi) The alteration will not adversely impact other critical areas or their associated buffers, such as wetlands, wildlife habitat areas, frequently flooded areas and critical aquifer recharge areas. When wetlands or wetland buffers are present on steep slopes of 35% or greater, the setback from the top of the slope shall not be less than 25 feet.
 - (d) The alteration may be approved, approved with conditions, or denied based on the administrator's evaluation of the suitability of the geotechnical report and proposed mitigation measures to protect life, safety, and stability on the subject and nearby properties.
- (2) Standards for Seismic Hazard Areas. Developments that are proposed within seismic hazard areas shall meet the applicable provisions of the International Building Code.
- (3) Standards for Alluvial Fan Hazard Areas. Development is not permitted within alluvial fan hazard areas, beyond what is allowed in the reasonable use provisions of this code.

Commentary

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17.38.640

Erosion hazards added verbiage to considered that development in erosion hazards could lead to sediment transfer into wetland areas, aquatic priority habitats, or waters of the state.

Commentary

- (4) Standards for Critical Facilities. Critical facilities, as defined under Chapter 17.10 LCC (Definitions), shall only be allowed within seismic and volcanic hazard areas; provided, that no critical facilities shall be allowed within one-quarter mile of an active fault or trench. When an application for a critical facility is proposed within a seismic or volcanic hazard area, the proposal shall articulate the planned strategies to evacuate individuals within the facility, or ensure continuity of operations, in the case of a natural hazard.
- (5) Verification of Completion of Mitigation. Upon the completion of a project, a qualified professional shall verify that any mitigation or safety measures associated with a geotechnical report have been properly implemented in accordance with LCC 17.38.090. Depending on the nature of the mitigation (i.e., structural versus planting (of vegetation) or small or large scale improvements), the administrator may waive the five-year monitoring time frame that is specified within that section.

Article IV-A. Classification of Hazard Areas

17.38.640 Classification of erosion hazard areas.

Erosion hazard areas are those areas that have severe or very severe erosion potential and could lead to sediment transfer into wetland areas, aquatic priority habitats, or waters of the state, as detailed in the soil descriptions contained in the Web Soil Survey for Lewis County, Washington, Soil Survey Staff, Natural Resources Conservation Service, United States Department of Agriculture. Available online at:

<https://websoilsurvey.sc.egov.usda.gov/>

Accessed December 1, 2016.

17.38.650 Classification of steep slope and landslide hazard areas.

- (1) Classification of Steep Slope Hazard Areas. Steep slope hazard areas are areas where there is not a mapped or designated landslide hazard, but where there are steep slopes equal to or greater than a 35 percent slope with a vertical relief of 10 or more feet. Steep slopes which are less than 10 feet in vertical height and are not part of a larger steep slope system, and steep slopes created through previous legal grading activity, are not regulated steep slope hazard areas. Presence of a steep slope suggests potential slope stability problems.
- (2) Classification of Landslide Hazard Areas. Landslide hazard areas are those areas meeting any of the following criteria:
 - (a) Areas subject to previous slope failures, including areas of unstable old or recent landslides;
 - (b) Areas with all of the following characteristics:
 - (i) A slope greater than 15 percent;

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No changes.

Commentary

- (ii) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
 - (iii) Springs or ground water seepage;
 - (c) Slopes that are parallel or sub-parallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;
 - (d) Slopes having gradients greater than 80 percent subject to rockfall during seismic shaking;
 - (e) Areas potentially unstable as a result of rapid stream incision and streambank erosion or undercutting;
 - (f) Areas located in a canyon, on an alluvial fan, or presently or potentially subject to inundation by debris flows or catastrophic flooding.
- (3) Mapped Landslide Hazard Areas. Landslide hazard areas include the following mapped sources:
- (a) Areas mapped as "unstable," "landslides," and "old landslides" in the Slope Stability Study of the Centralia-Chehalis Area, Lewis County, Washington, by Allen J. Fiksdal, Department of Natural Resources, Division of Geology and Earth Resources, 1978.
 - (b) Areas included in the Landslides and Landforms maps available from the Washington Department of Natural Resources Division of Geology and Earth Resources, dated July 2016 or as amended. Available data was accessed from:

<http://www.dnr.wa.gov/programs-and-services/geology/publications-and-data/gis-data-and-databases>

on December 22, 2016.

17.38.660 Seismic hazard areas.

- (1) Classification of Seismic Hazard Areas. Seismic hazard areas are locations subject to severe risk of damage as a result of earthquake-induced soil liquefaction, ground shaking amplification, slope failure, settlement, or surface faulting.
- (a) All structures that require a building permit within Lewis County are required to be consistent with the D1 seismic zone (as specified in the International Building Code).
 - (b) Active faults or trenches are considered seismic hazards.

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No changes.

Commentary

- (c) Areas of known faults and soil liquefaction hazards are depicted in Ground Response Geographic Information System data dated June 2010 and Seismogenic Features data dated April 2016 and retrieved from the Washington Department of Natural Resources Division of Geology and Earth Resources. Available data was accessed from:

<http://www.dnr.wa.gov/programs-and-services/geology/publications-and-data/gis-data-and-databases>

on December 22, 2016.

17.38.670 Volcanic hazard areas.

- (1) Classification of Volcanic Hazard Areas. Volcanic hazard areas are locations where the risk to life and property by a large volcanic event is high. For the purpose of these regulations, damage from lahars and near volcano hazards constitute the primary volcanic hazards. Volcanic tephra (ash), while disruptive and potentially dangerous, is not considered a volcanic hazard that is subject to these regulations.

- (a) Volcanic hazard areas are shown on maps available from the United States Geological Service (USGS) Volcano Hazards Program. Data was accessed from:

<https://volcanoes.usgs.gov/volcanoes/>

on January 3, 2017. Maps for Mount Rainier, Mount Saint Helens and Mount Adams are dated March 2014.

17.38.680 Mine hazard areas.

- (1) Classification of Mine Hazard Areas. Mine hazard areas are those areas within 100 horizontal feet of a mine opening at the surface or which are underlain at a depth of 300 feet or less by mine workings. Known locations of historic mines are identified in the Washington State Department of Natural Resources, Division of Geology and Earth Resources, Open File Report 94-7; The Washington State Coal Mines Map Collection: A Catalog, Index, and User's Guide, by H.W. Schaase, M. Lorraine Koler, Nancy A. Eberle, and Rebecca A. Christie, 1994, 107 pages; Open File Report 84-6, Inventory of Abandoned Coal Mines in the State of Washington, by F.V. LaSalata, M.C. Meard, T.J. Walsh, and H.W. Schaase, 1985, 42 pages; and specific maps and surveys of mine workings on file with the Division of Geology and Earth Resources.

17.38.690 Channel migration zones.

- (1) Classification of Channel Migration Zones. Channel migration zones are areas within which a river channel can be expected to migrate over time due to hydrologically and geomorphologically related processes.
- (2) Mapped channel migration zones are based on:

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Commentary

- (a) The location of severe and moderate channel migration areas as identified within the report: Channel Migration and Avulsion Potential Analyses: Upper Nisqually River, Pierce County, Washington, produced by GeoEngineers for Pierce County public works and utilities, water programs division, 2007, 59 pages; or as revised.
- (b) The location of severe and moderate channel migration areas identified within the report: Geomorphic Evaluation and Channel Migration Zone Analysis Addendum: Cowlitz River, near Packwood and Randle, Lewis County, Washington, produced by GeoEngineers for the Lewis County public works department, 2009, 76 pages; or as revised.
- (c) The location of historical migration zones (HMZ), avulsion hazard zones (AHZ), and erosion hazard areas (EHA) within the report Reach Analysis and Erosion Hazard Management Plan: Cispus River from River Mile 12.3 (Greenhorn Creek) to River Mile 17.6 (Cispus Road Bridge), prepared by Herrera Environmental Consultants, Inc. for the Lewis County public works department, 2004, 105 pages; or as revised.
- (d) The location of the channel migration area identified for Rainey Creek within the report: Geomorphic Evaluation and Channel Migration Zone Analysis, Lewis County, Washington, produced by GeoEngineers for the Lewis County public works department, 2003, 52 pages; or as revised.
- (e) The location of a channel migration zone may be modified by the administrator based on a study provided by an applicant and prepared by a qualified professional that demonstrates there are specific geologic, landform, hydraulic, sediment transport, or other factors that demonstrate that a specific area is not in the channel migration zone. Such a study shall be developed in accordance with best available science and investigate areas upstream and downstream of the review site that could influence the migration of the channel and the channel migration corridor.

17.38.695 Alluvial fan hazards.

- (1) Classification of Alluvial Fan Hazards. Alluvial fan hazard areas are low, outspread, relatively flat to gently sloping deposits of sediments and organic debris, shaped like an open fan or segment of a cone, deposited by streams or debris flows where they issue from narrow, steep valleys upon a plain or broad valley or wherever the gradient of the stream suddenly decreases.
- (2) A single mapped alluvial fan hazard area is depicted in Geomorphic Evaluation and Channel Migration Zone Analysis Addendum: Cowlitz River, near Packwood and Randle, Lewis County, Washington, produced by GeoEngineers for the Lewis County public works department, 2009, 76 pages. Additional research is necessary to identify the location, presence, and potential risk of other alluvial fan hazards.

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Commentary

Article IV-B. Geotechnical Report

17.38.710 Geotechnical report.

- (1) When a site proposed for development or alteration is located or may be located within a geologically hazardous area or its buffer, or will negatively impact a geologically hazardous area, the administrator shall have the authority to require the submittal of a geotechnical report.
- (2) A geotechnical report is an evaluation of the geologic characteristics of the subject property and adjacent areas. A geotechnical report shall include a field investigation and may include an analysis of historical aerial photographs, review of public records and documentation, and interviews with adjacent property owners.
- (3) Submittal requirements will vary depending on the type of project and the type of hazard mitigations that are proposed. The administrator may waive parts of the submittal requirements if he/she determines that they are not applicable to the proposed activity.
- (4) Submittal Requirements. The following submittals may be required for a geotechnical report:
 - (a) A site plan that shows:
 - (i) The site boundary lines.
 - (ii) Existing physical features of the site including buildings, fences, and other structures, roads, parking lots, utilities, water bodies, etc.
 - (iii) A detailed depiction of the proposed development including features such as lot location (for land divisions); utility location (well, septic, drainfield, etc.); parking and access location; the location of any proposed building(s); and the limits of grading and vegetation removal.
 - (iv) An identification of critical areas and buffers within 300 feet of the site and an estimate of the existing acreage for each. The assessment of off-site critical areas shall be based on available information and shall not require access to off-site properties.
 - (b) Site Geology Information.
 - (i) Topographic contours at two-foot intervals or as specified by the responsible official.
 - (ii) Subsurface data including the exploration method, location of soil borings, borings, logs, soil and rock stratigraphy, and ground water levels including seasonal changes.

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No changes.

Commentary

- (iii) The location of landslides, or down-slope soil movement, faults, and geologic contacts on the subject property and adjacent properties.
- (iv) A site history that describes any prior grading, soil instability and/or slope failure.
- (v) A description of the site vulnerability to seismic events.
- (c) Geotechnical Information and Plan Requirements.
 - (i) A slope stability study and opinion of slope stability on the subject property and adjacent properties.
 - (ii) A grading plan, including road profiles.
 - (iii) Structural foundation requirements and estimated foundation settlements.
 - (iv) Soil compaction criteria.
 - (v) Allowable soil-bearing pressure for foundations, minimum footing widths, piling recommendations for foundations, and design pressure for retaining walls.
 - (vi) Laboratory data and soil index properties for soil samples.
 - (vii) Suitability for fill.
 - (viii) Lateral earth pressures.
 - (ix) A description of erosion vulnerability and an erosion control plan, including measures to reduce the impacts of erosion on neighboring critical areas.
 - (x) An evaluation of proposed surface and subsurface drainage, and a drainage control plan.
 - (xi) Building limitations.
 - (xii) A vegetation management and restoration plan or other means to maintain long-term stability of the hazardous areas and their buffers.
- (d) A site evaluation that describes the suitability of the site to accommodate the proposed activity.
- (e) Such additional information describing existing physical features of the site and the surrounding area as required by the responsible official to complete a review of the project.

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17.38.800

Includes recognition of aquifer recharge areas as potential connection for base stream flows and updated RCW pertaining to drinking water.

Commentary

17.38.720 Standards for mine hazard studies.

- (1) Mine Hazard Study. A mine hazard study shall include the items in LCC 17.38.710, all available documentary information about historic or current mine workings, and the results of a surface reconnaissance that identifies any mine hazards, mine waste dumps, or evidence of mine subsidence or sinkholes.
- (2) The study shall include:
 - (a) Historical mining data, including available copies of the original mine records for mine workings.
 - (b) A map showing property boundaries, mine hazard boundaries, and any potential hazards identified on or within 100 feet of the property.
- (3) The study shall occur in accordance with the best available science for mine hazards and consider, among other items:
 - (a) Shallow hazards such as entry portals, shaft collars, ventilation shafts, prospects, and mine waste.
 - (b) Potential trough subsidence.
 - (c) Potential sinkhole hazards.

Article VI. Critical Aquifer Recharge Areas

17.38.800 Purpose.

The purpose of this article is to:

- (1) Prevent the significant degradation of the quality and quantity of ground water resources.
- (2) Recognize the potential connection between surface and ground waters, including support for base stream flows.
- (3) Comply with Chapter 90.48 RCW, Chapter 90.54 RCW, and the Federal Safe Drinking Water Act (40 CFR Part 141). ~~the Water Pollution Control Act of the state of Washington.~~

17.38.810 Administration.

- (1) Administration of this article shall occur in accordance with Article I of this code.

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LCC17.38.820 (1) (a) (i)

If the 10-year time-of-travel area is not available, the location of the Category I area shall be based on the Washington State Department of Health assigned area instead of largest mapped time of travel area.

Commentary

- (a) Applicability. Development activities listed in LCC 17.38.830(2) that are located in a critical aquifer recharge area shall require the submittal of a critical aquifer recharge area report; provided, that the regulations shall not apply to land uses and/or activities that exist as of the date of the regulation. Expansion of the scale or intensity of an existing use that is listed in LCC 17.38.830(2) shall require the submittal of a critical aquifer recharge area report.
- (b) Report Requirements. The requirements for a critical aquifer recharge area report are included in LCC 17.38.860.

17.38.820 Designation.

- (1) Critical aquifer recharge areas are categorized as follows in Lewis County:
 - (a) Category I - Category I critical aquifer recharge areas are those areas that are:
 - (i) Within a mapped 10-year time-of-travel area for a Group A public water system. If the 10-year time-of-travel area is not available, the location of the Category I area shall be based on the Washington State Department of Health assigned area. ~~be determined based on the largest mapped time-of-travel area available.~~
 - (ii) Within a mapped one-year time-of-travel area for a Group B public water system. If the location of the time-of-travel area is not mapped, the distance shall be based on the Washington State Department of Health "assigned time-of-travel" area.
 - (b) Category II - Category II critical aquifer recharge areas are those areas with highly permeable soils that provide rapid recharge with limited ground water protection. Predominant soil series and types are those listed as Category II soils in LCC 17.38.850.
 - (c) Category III - Category III, moderate aquifer sensitivity areas, are those locations with aquifers present, but which have a surface soil material that encourages runoff, slows water entry into the ground, or provides some filtration of water. Predominant soil series and types are those listed as Category III soils in LCC 17.38.850.
- (2) If an applicant can demonstrate, through a valid hydrogeological assessment, that a property does not meet the criteria for a Category I, II or III critical aquifer recharge area, the administrator may waive the requirements of this section.

17.38.830 Standards.

- (1) Prohibited Activities. The following activities are prohibited in Category I and II areas due to the probability or potential magnitude of adverse effects on ground water:

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LCC17.38.830 (1) (b)

Prohibitions on certain injection wells within critical aquifer recharge areas category I and II as directed by comment from the Department of Health.

Commentary

- (a) Landfills, including, but not limited to, hazardous or dangerous waste disposal facilities as defined in Chapter 173-303 WAC, municipal solid waste landfills as defined in Chapter 173-351 WAC, and limited purpose landfills as defined in Chapter 173-350 WAC.
 - (b) Underground injection wells, Class I, III, and IV wells and subclasses 5F01, 5D03, 5F04, 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells, such as:
 - (i) ~~Agricultural drainage wells. Industrial process water and disposal wells; and~~
 - (ii) ~~Radioactive waste disposal. Untreated sewage waste disposal wells.~~
 - (iii) ~~Cesspools.~~
 - (iv) ~~Industrial process water and disposal wells.~~
 - (c) Wood product preserving or treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade).
 - (d) Facilities that store, process, or dispose of radioactive substances.
 - (e) Dry cleaners or other facilities that store, process, or dispose of chemicals containing perchloroethylene (PCE).
 - (f) Gas stations or other facilities that utilize methyl tertiary butyl ether (MTBE).
 - (g) Electroplating facilities.
 - (h) Other activities that the administrator or health officer determines would:
 - (i) Significantly degrade ground water quality;
 - (ii) Significantly reduce the recharge of aquifers that are currently used or potentially usable as a potable water source; or
 - (iii) Significantly reduce the recharge of an aquifer that acts as a significant source of in-stream river or stream flows.
 - (iv) Determination of these potential impacts must be made based on credible scientific information.
- (2) Permitted Activities. The following activities are allowed subject to the submittal of an approved critical aquifer recharge area report; provided, that the proposed use is not prohibited in the critical aquifer recharge area in subsection (1) of this section and the use is permitted within the underlying zoning designation:

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No changes.

Commentary

- (a) Above- and below-ground storage tanks (tanks and pipes used to contain an accumulation of regulated substances).
- (b) Animal feedlots, animal feeding operations/concentrated animal feeding operations (new or expanded uses).
- (c) Below-ground transformers and capacitors.
- (d) Chemical manufacturing, storage, reprocessing and/or research.
- (e) Development with an on-site domestic septic system at a gross density greater than one system per residence per acre.
- (f) Dry cleaners.
- (g) Facilities that conduct biological research.
- (h) Facilities that store, process, or dispose of radioactive substances.
- (i) Funeral services.
- (j) Gas stations.
- (k) Golf courses.
- (l) Industrial activities such as furniture strippers, painters, finishers; concrete, asphalt, tar, coal, and creosote companies; industrial manufacturers, including but not limited to pesticides/herbicides, paper, leather products, textiles, rubber, plastic/fiberglass, silicone/glass, pharmaceuticals, electrical equipment; metal platers, heat treaters, smelters, annealers, descalers.
- (m) Injection wells.
- (n) Land application activities such as waste-water application (spray irrigation), bio-solid application and hazardous waste application.
- (o) Landfills.
- (p) Medium and large quantity generators (dangerous, acutely hazardous, and toxic extremely hazardous waste).
- (q) Motor vehicle service garages, repair shops, gasoline service stations, auto-washing facilities and/or auto recycling facilities (both private and governmental).
- (r) Petroleum and petroleum product refining, including reprocessing.

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No changes.

Commentary

- (s) Pipelines.
- (t) Printing and publishing shops (that use printing liquids) and/or photographic processing.
- (u) Regulated waste treatment, storage, disposal facilities that handle hazardous material, including those disposal facilities regulated under an NPDES permit.
- (v) Sawmills (producing over 10,000 board feet per day).
- (w) Solid waste handling and processing.
- (x) Surface mining.
- (y) Wood product preserving or treatment facilities.
- (z) Other uses deemed necessary by the administrator.

17.38.840 Conditions.

- (1) Required Conditions. Proposed uses and/or activities in critical aquifer recharge areas shall be constructed in accordance with applicable local, state and federal regulations, best management practices, and the guidance and recommendations from the approved critical aquifer recharge area report. A partial list of standards and best management practices for regulated activities are shown in LCC 17.38.870.
- (2) If the administrator determines that an additional level of protection for a critical aquifer recharge area is necessary, beyond the best management practices and standards listed in LCC 17.38.870, the administrator may impose additional conditions that ensure that the specific use or activity will not significantly degrade ground water quality or quantity. Such conditions may include, but are not limited to, the following:
 - (a) The use of site design or other approaches that limit the amount of impervious surfaces on a project site.
 - (b) The preparation of a written management plan for wastewater, hazardous products and hazardous waste, petroleum products and petroleum waste, and/or other materials judged by the administrator to be potentially detrimental to ground water quality.
 - (c) The provision of or required upgrade to on-site spill response equipment.
 - (d) The use of employee spill response training.
 - (e) Emergency service coordination measures.
 - (f) Ground water monitoring.

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No changes.

Commentary

Article VI-A. Aquifer Sensitivity Rating for Lewis County Soil Types

17.38.850 Aquifer sensitivity rating for Lewis County soil types.

Soil Survey Map Number	Soil Name	Category
4	Aquic xerofluvents, overflow	2
23	Bromo very cindery sandy loam, 0 to 8 percent slopes	3
49	Cinebar silt loam, 0 to 8 percent slopes	3
57	Cispus cindery sandy loam, 0 to 8 percent slopes	2
58	Cispus cindery sandy loam, 8 to 15 percent slopes	2
59	Cispus cindery sandy loam, 15 to 30 percent slopes	3
61	Cloquato silt loam	2
91	Glenoma very cindery loam	2
92	Greenwater loamy sand	2
104	Indianola loamy sand	2
123	Ledow sand	2
135	National cindery sandy loam, 0 to 8 percent slopes	2
136	Nesika loam, 2 to 5 percent slopes	2
138	Netrac sand, 2 to 5 percent slopes	2
139	Netrac sand, 5 to 15 percent slopes	2
140	Nevat sand, 5 to 15 percent slopes	3
141	Nevat sand, 15 to 30 percent slopes	3
148	Newberg fine sandy loam	2
149	Nisqually loamy sand	2
187A	Pilchuck loamy fine sand, 0 to 3 percent slopes	2
166	Pits	2
180	Riverwash	2
206	Siler fine sandy loam	2
207	Siler silt loam	2
212	Spanaway gravelly sandy loam	2

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No changes.

Commentary

242	Winston loam, 0 to 8 percent slopes	2
243	Winston gravelly loam, 0 to 8 percent slopes	2
244	Winston gravelly loam, 8 to 15 percent slopes	2
247	Xerorthents, spoils	3
267A	Udifluvents, moist, 0 to 8 percent slopes	2

Article VI-B. Critical Aquifer Recharge Area Report Requirements

17.38.860 Critical aquifer recharge area report requirements.

Critical aquifer recharge area reports shall include the following site- and proposal-related information unless the administrator determines that any portion of the requirements is unnecessary given the scope and/or scale of the proposed development:

(1) A site plan that shows:

- (a) Existing physical features of the site including buildings, fences, and other structures, roads, parking lots, utilities, water bodies, etc.
- (b) A detailed depiction of the proposed development including features such as utility location (well, septic, drainfield, etc.); parking and access location; the limits of grading and vegetation removal; and the location of any proposed building(s).
- (c) An identification of critical areas and buffers within 300 feet of the site and an estimate of the existing approximate acreages for each. Assessment of off-site critical areas shall be based on available information and shall not require access to off-site properties.

(2) The following additional information:

- (a) Available information regarding geologic and hydrogeologic characteristics of the site, including the surface location of all critical aquifer recharge areas on-site and immediately adjacent to the site, the permeability of the unsaturated zone, and the presence of any confining layers.
- (b) Ground water depth, flow direction and gradient based on available information.
- (c) Currently available data on wells and springs within 1,320 feet of the project area.
- (d) Existing and available historic water quality data for the area to be affected by the proposed activity.

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No changes.

Commentary

- (e) The effects of the proposed project on ground water quality and quantity, including:
 - (i) Potential effects to stream flow, wetlands and/or other resources, and ecosystem processes.
 - (ii) A predictive evaluation of ground water withdrawal effects on nearby wells and surface water features.
 - (iii) A predictive evaluation of the transport of contaminants to ground waters in the event of a spill based on existing confining layers, the availability of centralized wastewater treatment, the nature of the chemicals and/or processes utilized in the proposed activity, and other features.
- (f) Proposed best management practices to preserve ground water quality and quantity, including how the proposal meets any local, state or federal guidance or standards.
- (g) A spill plan that identifies equipment and/or structures that could fail and result in an impact to ground water. Spill plans should include emergency response provisions as well as items that address regular inspection, and the repair and/or replacement of structures and equipment that could fail.

Article VI-C. Regulated Activities and Best Management Practices in Critical Aquifer Recharge Areas

17.38.870 Regulated activities and best management practices in critical aquifer recharge areas.

Activity	Statute - Regulation - Guidance
Aboveground Storage Tanks	WAC 173-303-640
Animal Feedlots, Animal Feeding Operations/Concentrated Animal Feeding Operations	Chapter 173-216 WAC, Chapter 173-220 WAC, Final Rule 40 CFR Parts 9, 122, 123, and 412
Automobile Washing Facilities	Chapter 173-200 WAC, Chapter 173-216 WAC, Best Management Practices for Vehicle and Equipment Discharges (Washington Department of Ecology WQ-R-95-56)
Below-Ground Storage Tanks	Chapter 173-360 WAC, Chapter 90.76 RCW, RCW 43.131.394
Chemical Treatment Storage and Disposal Facilities	Chapter 173-303 WAC

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No changes.

Commentary

Dangerous Waste	Chapter 70.105 RCW, Chapter 173-303 WAC
Injection Wells	Federal 40 CFR Parts 144 and 146, Chapter 173-218 WAC
Junk Yards and Salvage Yards	Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Vehicles Recycler Facilities (Washington State Department of Ecology 94-146)
On-Site Sewage Systems (Large Scale Greater Than 3,500 Gallons/Day)	Chapter 173-240 WAC, Chapter 246-272 WAC, Chapter 246-272B WAC, Lewis County Code
A Single or Multiple Small On-Site Sewage Systems with a Combined Design Volume of Greater Than 3,500 Gallons/Day	Chapter 246-272 WAC, Chapter 246-272A WAC, Lewis County Code
Pesticide and Fertilizer Storage and Use	Chapter 15.54 RCW, Chapter 17.21 RCW
Reclaimed Water for Ground Water Recharge	Chapter 90.46 RCW
Sawmills	Chapter 173-303 WAC, Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Log Yards (Washington State Department of Ecology, 95-53)
Solid Waste Handling and Recycling Facilities	Chapter 173-304 WAC
Surface Mining	Chapter 78.44 RCW, Chapter 332-18 WAC
Wastewater Application to Land Surface	Chapter 173-216 WAC, Chapter 173-200 WAC, Washington State Department of Ecology Land Application Guidelines, Best Management Practices for Irrigated Agriculture

Article VII. Frequently Flooded Areas

17.38.900 Purpose

The purpose of this article is to help the public and private sectors avoid losses due to flood conditions in specific areas.

17.38.910 Classification.

Code text to be removed is shown
with a ~~strike-through~~ and code text to be added is shown with an underline.

17.38.1000 (2) & (4)

Provisions have been added to include roads, trails, utilities and other infrastructure.

Commentary

For the purposes of this chapter, frequently flooded areas within Lewis County shall be classified using the following criteria: frequently flooded areas shall be those lands, identified by the Federal Emergency Management Agency, as falling within the 100-year frequency floodplain in the Flood Insurance Study for Lewis County, Washington, Unincorporated Areas, the most current version thereof, with accompanying flood insurance rate maps and floodway maps or the best available information based on past flood records or special studies.

17.38.920 Designation

Lands within Lewis County meeting the classification criteria for frequently flooded areas are hereby designated and subject to the standards and requirements set forth below.

17.38.930 Standards for permit decisions.

Development within designated frequently flooded areas shall be in compliance with Chapter 15.35 LCC, as now or hereafter amended, and the Lewis County shoreline master program where applicable, as now or hereafter amended.

Article VIII. Miscellaneous Provisions

17.38.1000 Nonconforming activities.

An established use or existing structure that was lawfully permitted prior to adoption of the ordinance codified in this chapter, but which is not in compliance with this chapter, shall be processed under this article and not under Chapter 17.155 LCC. The nonconforming activity may continue subject to the following:

- (1) Nonconforming uses shall not be expanded or changed in any way that increases the nonconformity without a permit or other approval issued pursuant to the provisions of this chapter.
- (2) Existing structures, including roads, trails, utilities and other infrastructure, shall not be expanded or altered in any manner which will increase the nonconformity without a permit or other approval that is issued pursuant to the provisions of this chapter.
- (3) Activities or Uses Which Are Abandoned. Uses discontinued for 36 months shall be presumed to be abandoned, though such presumption may be rebutted. Abandoned uses or structures are allowed to resume only if in compliance with this chapter.
- (4) Nonconforming structures, including roads, trails, utilities and other infrastructure, destroyed by fire, explosion, or other disaster may be replaced or restored if reconstruction of the same facility is commenced within 24 months of such damage. Reconstruction or restoration shall not serve to expand, enlarge, or increase the extent of the nonconformity, except as provided in subsection (2) of this section.

Code text to be removed is shown
with a ~~strike through~~ and code text to be added is shown with an underline.

No changes.

Commentary

17.38.1010 Reasonable use and variance.

Permit applicants who are unable to comply with the specific standards of this chapter may seek approval pursuant to the reasonable use or variance standards and procedures provided for in this section. Approval may be granted if the proponent demonstrates that the application of the standards of this chapter would constitute an extraordinary hardship for the proposal, and the following reasonable use or variance standards are met:

- (1) Reasonable Use Standard. This chapter is not intended to preclude all reasonable economic use of a property. If the application of this chapter would deny all reasonable economic use of a subject property, including agricultural use, a use or development shall be allowed if the applicant submits a report, prepared by a qualified professional, that demonstrates the following to the satisfaction of the administrator:
 - (a) That there is no portion of the site where the provisions of this chapter allow reasonable economic use, including agricultural use or the continuation of legal nonconforming uses;
 - (b) That there is no feasible alternative to the proposed activities, including locating the activity on a contiguous parcel that has been under the ownership or control of the applicant since the effective date of the ordinance codified in this chapter, changing the use, reducing the density, phasing the project implementation, changing the timing of activities, revising road and lot layout, and/or related site planning considerations, that would allow a reasonable economic use with less adverse impacts to the critical area and its related buffer;
 - (c) That the proposed activities will result in the minimum feasible alteration or impairment to the critical area's functional characteristics and existing environment;
 - (d) That the disturbance of critical areas has been minimized by locating any necessary alteration as far as possible from critical areas and the project employs all reasonable methods to avoid or mitigate adverse effects on critical area functions and values, including maintaining existing topography and hydrology and maintaining or enhancing existing vegetation through site planning including the location of a road or driveway. Disturbances or activities shall be located in a related buffer rather than a critical area to the extent possible;
 - (e) That the proposed activities will not jeopardize the continued existence of habitats or species listed by the federal or state government as endangered, threatened, or sensitive;
 - (f) That the proposed activities will not significantly affect the quality of ground or surface water;

Code text to be removed is shown
with a ~~strike through~~ and code text to be added is shown with an underline.

17.38.1020 (1) (a) (i) - (iii)

Provisions added to land divisions that specify land that is wholly located within a wetland and/or wetland buffer may not be subdivided. If partially within a wetland and/or wetland buffer, it must be demonstrated that all lots meet minimum lot size standards.

Commentary

- (g) That the proposed activities will comply with all federal, state, and local laws and regulations, including those related to sediment control, pollution control, floodplain restrictions, and on-site wastewater disposal;
 - (h) That any and all alterations to critical areas and their related buffers will be mitigated as required by the provisions of this chapter;
 - (i) That there will be no injury to nearby public or private property and no significant effect upon the health, safety, or welfare of persons within or outside of the property; and
 - (j) That the inability to derive reasonable economic use of the property is not the result of deliberate actions by the applicant or prior owners after the effective date of the ordinance codified in this chapter.
- (2) Reasonable Use Process.
- (a) The director may approve a single-family dwelling, on property that is under one ownership as of the effective date of the ordinance codified in this chapter, as part of Type I permit (per Chapter 17.05 LCC).
 - (b) Other requests for reasonable use permits shall be processed in accordance with the permit review type for the underlying permit application.
- (3) Variance Standards. In cases where the reasonable use criteria do not apply, an individual may seek a variance from the other standards of this chapter. The variance may be approved when an applicant submits a report that has been prepared by a qualified professional and complies with the procedures and criteria in Chapter 17.162 LCC.

17.38.1020 Land division.

- (1) Standards for Wetlands, Fish and Wildlife Habitat Areas, and Geologically Hazardous Areas, Except for Seismic Hazards and Volcanic Hazards.
- (a) Land Division. Where a land division is proposed for a site with a critical area and/or its buffer, the development shall be designed to avoid the need to impact the features.
 - (i) Land that is located wholly within a wetland, stream, aquatic habitat, and/or related buffer may not be subdivided.
 - (ii) Land that is located partially within a wetland, stream, aquatic habitat, and/or buffer may be subdivided if, as part of the short plat or subdivision application, the applicant demonstrates that:
 - (A) Each lot meets the minimum lot size requirements applicable to that zone; and

Code text to be removed is shown
with a ~~strike through~~ and code text to be added is shown with an underline.

17.38.1020 (1) (a) (i) - (iii)

Provisions added to land divisions that specify land partially within a wetland and/or wetland buffer must demonstrate sufficient developable area to accommodate the allowed use(s) in that zone, including required facilities and site amenities outside of the critical area and its buffer.

17.38.1020 (1) (b)

Provisions to add appropriate fencing and signage at the edge of critical area and buffer.

Commentary

- (B) Each lot contains sufficient developable area to accommodate the allowed use(s) in that zone, including required facilities and site amenities outside of the critical area and its buffer. Potential facilities and site amenities to consider include, but are not limited to: the location of the well and the buffer for the well, the septic system and required drainfields, the building, vehicular access, and any needed parking facilities.
- (iii) Each lot created through a land division must ~~be sufficiently sized~~ contain sufficient developable area to accommodate all ~~necessary-required~~ required facilities and site amenities ~~required~~ for the property outside of the critical area and ~~its required~~ buffers, unless methods to mitigate the impacts to the buffers are identified. Potential facilities and site amenities to consider include, but are not limited to: the location of the well and the buffer for the well, the minimum land area for septic systems and required drainfields pursuant to WAC 246-272A.0320, the building, vehicular access, and any needed parking facilities.
- (iiv) Clustering may be used as a means to group development sites away from critical areas and their buffers.
- (b) Easements or Tracts. Prior to the final approval of any land division, the part of the critical area and required buffer that is located on the site shall be protected by clearly indicating ~~showing~~ the boundary of the critical area and its buffer with appropriate fencing and signage and placing a restriction on the use of the area. Critical areas may be:
- (i) Noted on the face of a plat with a description of the restriction of the use of the area;
 - (ii) Covered by a protective easement, or public or private land trust dedication;
 - (iii) Preserved through an appropriate permanent protective mechanism that provides the same level of permanent protection as designation of a separate tract or tracts as determined by the administrator or hearing examiner.
- (2) Standards for Frequently Flooded Areas.
- (a) Compliance with Flood Standards. All land divisions in frequently flooded areas shall be designed in accordance with LCC 15.35.230.
- (3) Standards for Critical Aquifer Recharge Areas.
- (a) All land divisions in critical aquifer recharge areas shall meet the relevant requirements in Article VI of this chapter.

Code text to be removed is shown
with a ~~strike through~~ and code text to be added is shown with an underline.

No changes.

Commentary

17.38.1030 Building setbacks.

- (1) To protect vegetation and other critical area features, buildings and other structures shall be set back a minimum of 15 feet from the edge of the critical area buffer, or from the edge of a critical area where no buffer is required. This provision shall only apply to features in or near wetlands, wildlife habitat areas, and geologically hazardous areas, except for seismic and volcanic hazards.
- (2) This provision may be modified by the administrator upon the submittal of a specific construction proposal by the applicant that demonstrates that the critical area or buffer will not be disturbed.
- (3) The following uses shall be allowed in the building setback:
 - (a) Landscaping;
 - (b) Uncovered decks;
 - (c) Building overhangs;
 - (d) Impervious surfaces such as driveways, parking lots, roads, and patios; provided, that such surfaces conform to the applicable water quality standards and that construction equipment does not enter or damage the buffer or critical area;
 - (e) Clearing and grading; and
 - (f) Wells.

17.38.1040 Notice of proximity to critical areas.

- (1) Properties located in critical areas or their buffers shall receive notice of their proximity to the critical area. This notice shall note the general presence of a critical area or buffer on the property, and the fact that limitations on actions in or affecting the critical area or buffer exist.
- (2) The notice shall occur in the following manner:
 - (a) For building or development permits, this notice shall be provided as a condition of permit approval.
 - (b) Where the approval is a subdivision or binding site plan, the notice shall be recorded on the face of the plat.

BOCC AGENDA ITEM SUMMARY

Resolution:**BOCC Meeting Date:** Nov. 25, 2025**Suggested Wording for Agenda Item:****Agenda Type:** Legal Notice

Publication of notice and a hearing before the BOCC is required in order to take public testimony and formal action on the application for amendments to the Development Regulations

Contact: Natalie Kamieniecki**Phone:** 2537402606**Department:** CD - Community Development**Description:**

Publish a legal notice of a public hearing before the BOCC to consider Ordinance 1370 amendments to Chapter 17.38 Critical Areas and Chapter 17.10 Definitions.

Approvals:

User	Status
PA's Office	Approved

Publication Requirements:**Publications:**

The Chronicle

Additional Copies:

none

Cover Letter To:

none

LEWIS COUNTY PLANNING COMMISSION

Frank Corbin, Chair

LETTER OF TRANSMITTAL

To: Lewis County Board of County Commissioners
From: Lewis County Planning Commission
Date: November 17, 2025
Subject: **Transmittal to the BOCC – Amendment to Lewis County Code, Chapters 17.10 Definitions, 17.38 Critical Areas**

Dear Commissioners:

The purpose of this report is to transmit to the Board of County Commissioners (BOCC) draft amendments to the Lewis County Code, Chapter 17.38 – Critical Areas. The draft amendments are found in the October 8 and November 10, 2025 Planning Commission Staff Reports and Attachments available online at <https://lewiscountywa.gov/departments/community-development/comprehensive-plan-and-development-regulation-amendments/comprehensive-plan-periodic-update/planning-commission-materials/>

Overview

The proposed amendments to Chapter 17.38 update, clarify, and reorganize the Critical Areas Ordinance (CAO) while retaining the County's overall regulatory approach. Substantive changes are limited; most revisions focus on improving clarity, aligning with Best Available Science, and responding to requests from Public Works and the State Department of Health. Several sections are relocated to improve code organization, which may give the appearance of extensive changes.

Key Topic Areas

1. Critical Area Reports and Mitigation Sequencing

This section clarifies when critical area reports are required, including for geologically hazardous areas and critical aquifer recharge areas, and allows the administrator to waive non-applicable submittal requirements. It specifies that mitigation sequencing applies to all critical areas and their buffers and provides flexibility for mitigation monitoring, including case-by-case adjustments and reduced requirements for small projects when appropriate. It also strengthens standards for buffer mitigation, buffer averaging, and replacement of lost buffer functions, while allowing for innovative mitigation where supported by Best Available Science.

2. **Wetland Buffers, Assessments, and Slopes**

Updates in this section include revised requirements for wetland assessments and delineations, including a five-year validity period, as well as new provisions for home-based businesses when wetlands are present. The section clarifies assumptions regarding vegetated buffer conditions, refines criteria for reduced buffers on functionally disconnected wetlands, and clarifies perimeters for vesting of legally established buffers. It incorporates Best Available Science supporting recognition of slope-related constraints on wetland buffers relocated to Geologically Hazardous Areas section.

3. **Fish & Wildlife Habitat Conservation Areas and Stream Buffers**

This topic relocates and reorganizes stream classification and buffer standards for improved clarity without substantial policy changes. It clarifies buffer width reduction and averaging procedures and updates citations to current Ecology guidance. The code clarifies Washington Department of Fish and Wildlife consultation conducted at the administrator's discretion, for projects occurring in areas of known or likely habitat for important or threatened species. Provisions are added to address aquatic habitat areas maintained by port districts, irrigation districts, or companies. The section clarifies applicable standards while recognizing natural processes and maintaining protection of stream habitats.

4. **Activities Allowed Without a Critical Areas Permit**

This section consolidates and relocates all allowed activities into a new, more user-friendly section. It provides clearer references to applicable mapping resources and jurisdictional permit requirements, improving usability and consistency. This section clarifies removal of hazardous trees, vegetation management and emergency removal.

5. **Geologically Hazardous Areas**

This section is updated to consider natural processes and ensuring the protection of stream habitats when correlated with geologically hazardous areas. It also clarifies that reductions to the standard 50-foot setback may be considered but cannot be reduced to less than 25 feet when, in limited circumstances, wetlands or wetland buffers are present on steep slopes of 35 percent or greater.

6. **Critical Aquifer Recharge Areas**

Updates include new prohibitions on certain injection wells in CARA I and II based on State Department of Health recommendations, as well as an updated definition of "wellhead protection area."

7. **Land Division and Buffer**

This section adds standards to ensure that subdivided lots contain adequate developable area outside critical areas and their buffers and prohibits subdivision of land located entirely within critical areas or their buffers. It also requires fencing and signage for critical area tracts as appropriate based on the development and recommended by the qualified professional.

8. **Nonconforming Activities**

Provisions are updated to add that existing roads, trails, utilities, and other infrastructure may continue, subject to applicable nonconforming use standards.

9. **Code Reorganization and Minor Clarifications**

Numerous sections of the code are renumbered or relocated for greater clarity and ease of navigation. Minor wording refinements improve readability and reflect current terminology and state rules. Overall, the proposed updates include very few substantive changes; the Critical Areas Ordinance remains in good condition, and the revisions primarily support clarity, alignment with current science, and consistency throughout the chapter.

A motion was approved recommending that the Board of County Commissioners approve the proposed amendments to LCC 17.38.0102 (1) (b) and LCC 17.38.465(4), as presented.

Findings of Fact

The Planning Commission has the authority to provide recommendations to the Board of County Commissioners pursuant to RCW 36.70A and is required to review plans and regulations consistent with state law and the local enabling statutes governing county planning commissions. Chapter 17.12 of the Lewis County Code establishes the duties and responsibilities of the Planning Commission. The Planning Commission finds that the proposed amendments to the Critical Areas Ordinance have been evaluated in accordance with these authorities and that the amendments meet the approval criteria set forth in LCC 17.12.110, together with the following substantive amendments:

Recommendation

Based on the above findings, the Lewis County Planning Commission recommends that the Board of County Commissioners pass an ordinance that adopts the proposed changes to Chapters 17.10, Definitions, and Chapter 17.38, Critical Areas, as shown the October 8, 2025 Staff report with the following changes:

Aquatic Habitat: New subsection, 17.38.465 (4), has been added to the code to clarify the applicability of aquatic habitat regulations. The following is a revised version of the proposed new section:

- 17.38.465 (4) "Aquatic habitat does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ~~ditches~~ features that lie within the boundaries of and are maintained by a port district or an irrigation district or company. A pre-existing DNR mapped stream cannot be automatically declassified as aquatic habitat as a result of a Port District or Irrigation District purchasing property with preexisting drainage features or altered stream conditions."

Land Divisions – Fencing and Signage

Critical area tracts or easements created through the subdivision process shall incorporate appropriate signage and/or fencing. The type of fencing and the spacing of signage will be

described in the critical areas report and approved by the Administrator as part of the standard subdivision review process. The specific type, amount, and placement of fencing and signage will be determined based on site-specific conditions, allowing the code to remain flexible and responsive to individual development proposals and their specific impacts. The proposed clarification on fencing for subdivisions reads as follows:

- LCC 17.38.0102 (1) (b) Easements or Tracts. Prior to the final approval of any land division, the part of the critical area and required buffer that is located on the site shall be protected by clearly indicating showing the boundary of the critical area and its buffer with appropriate fencing and signage and placing a restriction on the use of the area. Type of signage, and/or where necessary fencing, to be considered within the subdivision review based on recommendations in the critical areas report and site-specific conditions. Critical areas may be:

Being duly authorized to transmit the recommendations on behalf of the Lewis County Planning Commission, I hereby respectfully submit the documents to the Lewis County Board of County Commissioners.

Submitted by Frank L. Corbin Date 11-17-25
Frank Corbin, Chair
Lewis County Planning Commission

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