

**Chapter 17.38  
CRITICAL AREAS**

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**Article I. Administration**

**17.38.010 Statement of authority and title.**

This chapter is established pursuant to RCW [36.70A.060](#) and shall be known as the Lewis County critical areas ordinance. [Ord. 1284 §4, 2018]

#### **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) ~~Any critical area within the jurisdiction of the Shoreline Management Act shall follow the policies and regulations in Chapter 17.25 LCC. This chapter does not apply to lands 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.~~

(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. [Ord. 1284 §4, 2018]

#### **17.38.030 Relationship to other regulations.**

(1) Areas characterized by multiple critical areas shall address the requirements for each of the 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. Detailed site investigations may be needed for project-specific critical area identification and regulation.

(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. [Ord. 1284 §4, 2018]

#### **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.

(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. [Ord. 1284 §4, 2018]

**17.38.060 Activities that do not require a Lewis County permit.**

The activities listed in Article II of this chapter shall not require a critical area assessment, review or permit as part of this chapter. [Ord. 1284 §4, 2018]

**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.

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

(a) LCC [17.38.320](#) for wetlands.

(b) LCC [17.38.500](#) for fish and wildlife habitat 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. [Ord. 1284 §4, 2018]

**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 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.

(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) Where off-site mitigation better achieves the purposes of this chapter. [Ord. 1284 §4, 2018]

#### **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 where woody vegetation (such as in forested or shrub wetlands) is the intended result.

(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.

(c) 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.

(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) 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.

(5) The permanent protection of mitigation areas or facilities shall be achieved through deed restriction and/or other protective covenant. [Ord. 1284 §4, 2018]

#### **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. [Ord. 1284 §4, 2018]

#### **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. [Ord. 1284 §4, 2018]

### **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 and the actions:

(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) Are proposed as part of a larger project 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; 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.
  - (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 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.

(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 in 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, 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.

(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 areas 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.

(b) Stormwater management facilities. A wetland or its buffer can be physically or hydrologically altered to meet the requirements of a low-impact development, runoff treatment or flow control best management practice 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.

(ii) There will be “no net loss” of the functions and values of the wetland.

- (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.

To determine if a low-impact development best management practice will be feasible at a project site, a site specific characterization by a qualified professional is required. Wetlands may contain features that render low-impact development best management practices infeasible.

(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. [Ord. 1284 §4, 2018]

### **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 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, in and adjacent to wetlands. [Ord. 1284 §4, 2018]

#### **17.38.205 Other provisions apply.**

Compliance 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. [Ord. 1284 §4, 2018]

**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 Article II of this chapter, the reports in Table 17.38-1 shall be required to review the projects.

**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 <a href="#">17.38.320</a>
Wetland Mitigation Report	When an impact is proposed to a wetland or wetland buffer (per LCC <a href="#">17.38.270</a> ), reduced buffer (per LCC <a href="#">17.38.280</a> ), or averaged buffer (per LCC <a href="#">17.38.290</a> )	LCC <a href="#">17.38.330</a>

(3) State and federal permits may be required even when a wetland is exempt from county requirements. [Ord. 1284 §4, 2018]

**17.38.220 Identification.**

- (1) Wetlands shall be identified and delineated in accordance with the requirements of RCW [36.70A.175](#) and LCC [17.38.230](#).
- (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. [Ord. 1284 §4, 2018]

**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 (Ecology Publication No. 14-06-029, or as revised and approved by Ecology), which contains the definitions and methods for determining whether the criteria below are met.

(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. [Ord. 1284 §4, 2018]

#### **17.38.240 Mitigation sequencing.**

Projects proposed in or adjacent to wetlands are required to utilize the mitigation sequence shown in LCC [17.38.080](#)(2). [Ord. 1284 §4, 2018]

#### **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.

(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 five 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).

(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. [Ord. 1284 §4, 2018]

**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.

**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"> <li>• Commercial</li> <li>• Urban</li> <li>• Industrial</li> <li>• Institutional</li> <li>• Retail sales</li> <li>• Residential (density greater than 1 unit/acre)<sup>1</sup></li> <li>• Conversion to high-intensity agriculture (dairies, nurseries, greenhouses, growing and harvesting crops requiring annual tilling and raising and maintaining animals, etc.)</li> <li>• High-intensity recreation (golf courses, ball fields, etc.)</li> <li>• Hobby farms</li> </ul>
Moderate	<ul style="list-style-type: none"> <li>• Residential (density between 1 unit per acre and 1 unit per 4.99 acres)<sup>1</sup></li> <li>• Moderate-intensity open space (parks with biking, jogging, etc.)</li> <li>• Conversion to moderate-intensity agriculture (orchards, hay fields, etc.)</li> <li>• Paved trails</li> <li>• Building of logging roads</li> <li>• Utility corridor or right-of-way shared by several utilities and including access/maintenance road</li> </ul>

**Table 17.38-2**

Level of Impact from Proposed Change in Land Use	Common Types of Land Use
Low	<ul style="list-style-type: none"> <li>• Forestry (cutting of trees only)</li> <li>• Low-intensity open space (hiking, bird-watching, preservation of natural resources, etc.)</li> <li>• Unpaved trails</li> <li>• Utility corridor without a maintenance road and little or no vegetation management</li> <li>• Residential (density at or lower than 1 unit per 5 acres)<sup>1</sup></li> </ul>

<sup>1</sup> Measured as density averaged over a development site, not necessarily an individual lot size.

[Ord. 1284 §4, 2018]

**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**

	Impact Level		
Category I Wetlands	Low	Moderate	High
High level of function for habitat (score for habitat 9 points)	150	225	260/300 <sup>1</sup>
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 5 - 7 points)	75	110	150



**Table 17.38-3**

	Impact Level		
High level of function for water quality improvement (8 - 9 points) and low for habitat (less than 5 points)	50	75	100
Not meeting any of the above characteristics	50	75	100
<b>Category II Wetlands</b>	<b>Low</b>	<b>Moderate</b>	<b>High</b>
High level of function for habitat (score for habitat 8 - 9 points)	150	225	260/300 <sup>1</sup>
Moderate level of function for habitat (score for habitat 5 - 7 points)	75	110	150
High level of function for water quality improvement and low for habitat (score for water quality 8 - 9 points; habitat less than 5 points)	50	75	100
Not meeting above characteristics	50	75	100
<b>Category III Wetlands</b>	<b>Low</b>	<b>Moderate</b>	<b>High</b>
Moderate level of function for habitat (score for habitat 5 - 7 points)* *If wetland scores 8 - 9 habitat points, use Category II buffers for high level of function for habitat.	75	110	150
Score for habitat 3 - 4 points	40	60	80
<b>Category IV Wetlands</b>	<b>Low</b>	<b>Moderate</b>	<b>High</b>
Score for all 3 basic functions is less than 16 points	25	40	50

<sup>1</sup> 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. [Ord. 1284 §4, 2018]

**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 (five 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 less than five 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).

**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"> <li>• Parking lots</li> <li>• Roads</li> <li>• Manufacturing</li> <li>• Residential areas</li> <li>• Commercial</li> <li>• Landscaping</li> </ul>	<ul style="list-style-type: none"> <li>• Provide stormwater detention and treatment meeting the latest adopted Stormwater Management Manual for all impervious surfaces that drain to the wetland</li> <li>• Provide infiltration, except where soil conditions preclude</li> <li>• Prevent flow from lawns that directly enters the buffer through swales or other interception</li> </ul>
Lights	<ul style="list-style-type: none"> <li>• Residential</li> <li>• Warehouses</li> <li>• Manufacturing</li> <li>• Parking lots</li> </ul>	<ul style="list-style-type: none"> <li>• Direct lights away from wetland</li> </ul>

**Table 17.38-4**

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

(2) Reductions in Buffer Widths Where Existing Roads or Structures Lie within the Buffer.

(a) The administrator may allow a reduced buffer 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.

### (3) Common Line Buffers.

(a) 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) 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.

(ii) Existing Residence 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.

(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. [Ord. 1284 §4, 2018]

### **17.38.290 Buffer width averaging.**

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.

(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).

(b) No part of the width of the buffer is less than 75 percent of the required width. [Ord. 1284 §4, 2018]

**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.

**Table 17.38-5**

<b>Wetland Mitigation Type and Replacement Ratio*</b>			
<b>Wetland Category</b>	<b>Creation or Re-establishment</b>	<b>Rehabilitation</b>	<b>Enhancement</b>
Category I: Bog, Natural Heritage Site	Not considered possible	Case by case	Case by case

**Table 17.38-5**

<b>Wetland Mitigation Type and Replacement Ratio*</b>			
<b>Wetland Category</b>	<b>Creation or Re-establishment</b>	<b>Rehabilitation</b>	<b>Enhancement</b>
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. Compensatory 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;
- (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. [Ord. 1284 §4, 2018]

### **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. [Ord. 1284 §4, 2018]

### **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. Assessment of off-site wetlands and other critical areas shall be based on available information and shall not require access to off-site properties.

(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:

(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](#). [Ord. 1284 §4, 2018]

### **Article III-C. Wetland Mitigation Plan**

#### **17.38.330 Wetland mitigation plan.**

When required, a mitigation plan for wetland and wetland buffer impacts shall meet the following requirements:

(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, 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:

(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 avoid, minimize, or reduce 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.

(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. [Ord. 1284 §4, 2018]

#### **Article IV. 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.

(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. [Ord. 1284 §4, 2018]

##### **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](#)), the applicant shall submit an aquatic habitat area assessment report that meets the requirements of LCC [17.38.070](#) and [17.38.500](#).

(ii) 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](#)), the proposal shall include a mitigation plan that meets the requirements in LCC [17.38.080](#) and [17.38.510](#).

(b) WDFW Priority and Locally Important Habitat.

(i) WDFW Consultation Required. When a project is located within a mapped habitat for an endangered, threatened or sensitive species, or within a mapped locally important habitat, the application shall be sent to the WDFW for their consultation.

(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.

(ii) When the WDFW determines that a proposal is likely to impact an endangered, threatened or sensitive species or a locally important habitat, the applicant shall:

(A) Follow the WDFW management recommendations; or

(B) 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. [Ord. 1284 §4, 2018]

**17.38.420 Designation.**

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

**Table 17.38-6**

	<b>Regulated Area</b>
Aquatic Priority Habitat	Areas extending outward from the ordinary high water mark on each side of a stream to the following distances <sup>1, 2</sup> :  (a) DNR Type F waters, 150 feet <sup>3</sup> ;  (b) DNR Type Np and Ns waters, 75 feet.
WDFW Priority Habitats and Species	Areas identified by and consistent with WDFW priority habitats and species criteria for federal or state endangered, threatened or sensitive species. The county shall defer to WDFW in regards to classification, mapping and interpretation of priority habitats and species.

**Table 17.38-6**

	<b>Regulated Area</b>
Locally Important Habitat and Species	The following species of local importance and locally important habitat areas: (a) Elk wintering habitat; (b) Western brook lamprey; (c) Pacific lamprey; and (d) Fresh water mussels.
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.

<sup>1</sup> Numbers shown within the table represent required “buffers.” Aquatic habitat buffers may be modified per the standards in LCC [17.38.430](#).

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

<sup>3</sup> 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.

[Ord. 1284 §4, 2018]

**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). [Ord. 1284 §4, 2018]

**17.38.430 Buffer width reduction or averaging.**

(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

(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.

(d) 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. [Ord. 1284 §4, 2018]

#### **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;

(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. [Ord. 1284 §4, 2018]

#### **17.38.450 Designation of locally important habitat.**

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:

(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. [Ord. 1284 §4, 2018]

#### **Article 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. [Ord. 1284 §4, 2018]

##### **17.38.470 Classification.**

(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. [Ord. 1284 §4, 2018]

#### **17.38.480 Classification of wildlife habitat.**

(1) Definitions and maps of wildlife habitat areas are based on the following documents:

(a) The United States Endangered Species Act of 1973, and species and critical habitat designed thereunder;

(b) The 1999 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. [Ord. 1284 §4, 2018]

#### **17.38.490 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. [Ord. 1284 §4, 2018]

### **Article IV-B. 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.

(2) The following additional information:

(a) The category of the aquatic habitat area and the buffer 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](#). [Ord. 1284 §4, 2018]

#### **Article IV-C. 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:

(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, or reduce 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.

(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). [Ord. 1284 §4, 2018]

### Article V. 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. 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. [Ord. 1284 §4, 2018]

#### 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.

(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. [Ord. 1284 §4, 2018]

#### 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**

	<b>Classification</b>	<b>Report Required</b>
Erosion Hazard Area	LCC <a href="#">17.38.640</a>	Within severe and very severe erosion hazard area
Steep Slope and Landslide Hazard Area	LCC <a href="#">17.38.650</a>	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.

**Table 17.38-7**

	<b>Classification</b>	<b>Report Required</b>
		(ii) 1.5 for slopes from 40 to 50 percent.  (iii) 2 for slopes that are greater than 50 percent.
Seismic Hazard Area	LCC <a href="#">17.38.660</a>	No report is required in a seismic hazard area, though the applicable standards in LCC <a href="#">17.38.630</a> must be met.
Volcanic Hazard Area	LCC <a href="#">17.38.670</a>	No report is required in a volcanic hazard area, though the applicable standards in LCC <a href="#">17.38.630</a> must be met.
Mine Hazard Area	LCC <a href="#">17.38.680</a>	Within a classified mine hazard area.
Channel Migration Zone	LCC <a href="#">17.38.690</a>	Within a channel migration zone.
Alluvial Fan Hazard Area	LCC <a href="#">17.38.695</a>	Within 200 feet of an alluvial fan hazard area.

[Ord. 1284 §4, 2018]

**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:

(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.
- (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.
- (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. [Ord. 1284 §4, 2018]

#### **Article V-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 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. [Ord. 1284 §4, 2018]

##### **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;

(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. [Ord. 1284 §4, 2018]

### **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.

(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. [Ord. 1284 §4, 2018]

#### **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. [Ord. 1284 §4, 2018]

#### **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. [Ord. 1284 §4, 2018]

#### **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:

(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. [Ord. 1284 §4, 2018]

#### **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. [Ord. 1284 §4, 2018]

### **Article V-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.

(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. [Ord. 1284 §4, 2018]

**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. [Ord. 1284 §4, 2018]

**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.

(3) Comply with Chapter [90.48](#) RCW, the Water Pollution Control Act of the state of Washington. [Ord. 1284 §4, 2018]

**17.38.810 Administration.**

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

(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](#). [Ord. 1284 §4, 2018]

#### **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 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. [Ord. 1284 §4, 2018]

#### **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:

(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, such as:

(i) Agricultural drainage wells.

(ii) 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:
  - (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.

(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. [Ord. 1284 §4, 2018]

**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. [Ord. 1284 §4, 2018]

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

**17.38.850 Aquifer sensitivity rating for Lewis County soil types.**

<b>Soil Survey Map Number</b>	<b>Soil Name</b>	<b>Category</b>
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

Soil Survey Map Number	Soil Name	Category
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
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	Udfluvents, moist, 0 to 8 percent slopes	2

[Ord. 1284 §4, 2018]

#### 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.

(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. [Ord. 1284 §4, 2018]

### **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 <a href="#">173-303-640</a>
Animal Feedlots, Animal Feeding Operations/Concentrated Animal Feeding Operations	Chapter <a href="#">173-216</a> WAC, Chapter <a href="#">173-220</a> WAC, Final Rule <a href="#">40</a> CFR Parts <a href="#">9</a> , <a href="#">122</a> , <a href="#">123</a> , and <a href="#">412</a>
Automobile Washing Facilities	Chapter <a href="#">173-200</a> WAC, Chapter <a href="#">173-216</a> WAC, Best Management Practices for Vehicle and Equipment Discharges (Washington Department of Ecology WQ-R-95-56)
Below-Ground Storage Tanks	Chapter <a href="#">173-360</a> WAC, Chapter <a href="#">90.76</a> RCW, RCW <a href="#">43.131.394</a>
Chemical Treatment Storage and Disposal Facilities	Chapter <a href="#">173-303</a> WAC
Dangerous Waste	Chapter <a href="#">70.105</a> RCW, Chapter <a href="#">173-303</a> WAC
Injection Wells	Federal <a href="#">40</a> CFR Parts <a href="#">144</a> and <a href="#">146</a> , Chapter <a href="#">173-218</a> WAC
Junk Yards and Salvage Yards	Chapter <a href="#">173-304</a> 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 <a href="#">173-240</a> WAC, Chapter <a href="#">246-272</a> WAC, Chapter <a href="#">246-272B</a> 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 <a href="#">246-272</a> WAC, Chapter <a href="#">246-272A</a> WAC, Lewis County Code
Pesticide and Fertilizer Storage and Use	Chapter <a href="#">15.54</a> RCW, Chapter <a href="#">17.21</a> RCW
Reclaimed Water for Ground Water Recharge	Chapter <a href="#">90.46</a> RCW
Sawmills	Chapter <a href="#">173-303</a> WAC, Chapter <a href="#">173-304</a> WAC, Best Management Practices to Prevent Stormwater Pollution



Activity	Statute - Regulation - Guidance
	at Log Yards (Washington State Department of Ecology, 95-53)
Solid Waste Handling and Recycling Facilities	Chapter <a href="#">173-304</a> WAC
Surface Mining	Chapter <a href="#">78.44</a> RCW, Chapter <a href="#">332-18</a> WAC
Wastewater Application to Land Surface	Chapter <a href="#">173-216</a> WAC, Chapter <a href="#">173-200</a> WAC, Washington State Department of Ecology Land Application Guidelines, Best Management Practices for Irrigated Agriculture

[Ord. 1284 §4, 2018]

### **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. [Ord. 1284 §4, 2018]

**17.38.910 Classification.**

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. [Ord. 1284 §4, 2018]

**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. [Ord. 1284 §4, 2018]

**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/or the Lewis County shoreline master program, as now or hereafter amended. [Ord. 1284 §4, 2018]

### **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 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 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. [Ord. 1284 §4, 2018]

**17.38.1010 Reasonable use and variances.**

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;

(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. [Ord. 1284 §4, 2018]

#### **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) Each lot created through a land division must be sufficiently sized to accommodate all necessary facilities and site amenities required for the property outside of the critical area and 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 septic system and required drainfields, the building, and any needed parking facilities.

(ii) 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 showing the boundary of the critical area and its buffer 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. [Ord. 1284 §4, 2018]

#### **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. [Ord. 1284 §4, 2018]

#### **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. [Ord. 1284 §4, 2018]