

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

IN THE MATTER OF:

RESOLUTION NO. 21-308

NOTICE OF PUBLIC HEARING TO CONSIDER
ORDINANCE 1327, AN ORDINANCE TO AMEND
LEWIS COUNTY CODE (LCC) 17.38 CRITICAL
AREAS

WHEREAS, as required by the State Shoreline Management Act (SMA) (RCW 90.58), local governments are required to prepare and adopt an SMP based on the State's SMP Guidelines; and

WHEREAS, RCW 90.58.080(4)(a) requires counties to periodically review their SMP to ensure the SMP stays current with changes in laws and rules, remains consistent with other Lewis County plans and regulations, and is responsive to changed circumstances, new information and improved data; and

WHEREAS, Lewis County as part of the periodic review undertaking prepared a draft SMP with associated amendments to LCC 15.35 Flood Damage Prevention, LCC 17.25 Shoreline Management, and LCC 17.38 Critical Areas; and

WHEREAS, the Lewis County Planning Commission held workshops on the draft amendments to LCC 15.35 Flood Damage Prevention, LCC 17.25 Shoreline Management, and LCC 17.38 Critical Areas on January 26, 2021, February 9, 2021 and May 11, 2021; and held a duly noticed public hearing on the amendment on June 8, 2021; and

WHEREAS, following the public hearing, the Planning Commission voted unanimously to transmit the amendment to the Lewis County Board of County Commissioners.

NOW THEREFORE BE IT RESOLVED that a hearing before the Board of County Commissioners is hereby scheduled for September 14, 2021, to take public testimony and/or written comment on the adoption of Ordinance 1327, amending Chapter 17.38 Critical Areas of the Lewis County Code; and

NOW THEREFORE BE IT FURTHER RESOLVED that the Clerk of the BOCC is hereby instructed to proceed with all appropriate and necessary notifications, posting and publication for the changes as required by law.

DONE IN OPEN SESSION this 24th day of August, 2021.

APPROVED AS TO FORM:
Jonathan Meyer, Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON

Eric Eisenberg
By: Eric Eisenberg,
Chief Civil Deputy Prosecuting Attorney

Gary Stamper
Gary Stamper, Chair

ATTEST:



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

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

Sean D. Swope
Sean D. Swope, Commissioner

LETTER OF TRANSMITTAL

To: Lewis County Board of County Commissioners

From: Lewis County Planning Commission

Date: June 8, 2021

Subject: Transmittal to the BOCC: Findings and Conclusions regarding Draft Revisions to Lewis County Shoreline Master Program

Dear Commissioners:

The purpose of this report is to transmit the draft revisions to the Lewis County Shoreline Master Program (SMP) to the Lewis County Board of County Commissioners (BOCC) for board consideration.

General findings of fact:

1. As required by the State Shoreline Management Act (SMA) (RCW 90.58), local governments are required to prepare and adopt an SMP based on the State's SMP Guidelines.
2. Lewis County last adopted the Shoreline Master Program in 2017.
3. RCW 90.58.080(4)(a) requires counties to periodically review their SMP to ensure the SMP stays current with changes in laws and rules, remains consistent with other Lewis County plans and regulations, and is responsive to changed circumstances, new information and improved data.
4. Lewis County is undertaking their periodic review and prepared a draft SMP with associated amendments to Lewis County Code (LCC) 15.35 Flood Damage Prevention, LCC 17.25 Shoreline Management, and LCC 17.38 Critical Areas.
5. Lewis County Planning Commission had three open public workshops on January 26, 2021, February 9, 2021 and May 11, 2021.
6. Staff at Lewis County issued a SEPA Determination of Nonsignificance for the draft on May 11, 2021.
7. Staff at Lewis County sent the draft to Washington State Department of Commerce on April 28, 2021 for the 60-day review.
8. The Planning Commission held a duly noticed Public Hearing on the proposed SMP update at its meeting of June 8, 2021

June 8, 2021

Page 1 of 1

9. The Planning Commission deliberated the proposed revisions following the Public Hearing and voted to recommend that the BOCC approve of the proposal as written.

Conclusions

Based on the above findings and conclusions, the Planning Commission recommends that the Lewis County BOCC review the proposed SMP, LCC 15.35, LCC 17.25, and LCC 17.38 and forward the documents to the Department of Ecology for their review and ultimate approval.

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

Submitted by Lorie Spogen Date 6-9-2021
Lorie Spogen, Chair
Lewis County Planning Commission

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

NOTICE IS HEREBY GIVEN that the **LEWIS COUNTY, WASHINGTON, BOARD OF COUNTY COMMISSIONERS** will hold a public hearing to adopt **Ordinance 1327**. The hearing will take place at or after 10 a.m. September 14, 2021, in the Commissioners' Hearing Room on the second floor of the Historic Courthouse in Chehalis, Washington. Interested parties are encouraged to check the Commissioners' Business Meeting agenda for the Zoom log-in details. The agenda will be posted at <https://lewiscountywa.gov/offices/commissioners/agendas-calendar/> at least 24 hours in advance of the meeting.

The public hearing will consider Ordinance 1327, which amends Lewis County Code Chapters 17.38 Critical Areas of Lewis County.

During the hearing, individuals will be invited to speak and/or provide written statements regarding the proposed changes. All individuals wishing to speak are encouraged to attend. Written comments may be submitted in advance of the hearing to:

Lee Napier lee.napier@lewiscountywa.gov

Details about the proposal are available at <https://lewiscountywa.gov/departments/community-development/track-planning-projects/shoreline-master-program-periodic-review/> Printed copies are available at the Lewis County Community Development Department at 2025 NE Kresky Ave., Chehalis WA. Due to COVID-19 and the physical closures of the Timberland Regional Libraries and Senior Centers, copies are not available at those locations. If you wish to receive a paper copy of the proposals, contact Community Development at 360.740.1146 and a copy will be mailed to you.

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

Rieva Lester/Publish in the Chronicle and East County Journal on August 26 and September 1 2021

DRAFT

ORDINANCE 1327

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

**AN ORDINANCE OF THE COUNTY OF LEWIS,)
AMENDING THE LEWIS COUNTY CODE CHAPTER)
17.38 CRITICAL AREAS)**

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

WHEREAS, RCW 36.70A.060 (2) requires Lewis County to adopt development regulations that protect critical areas; and

WHEREAS, Lewis County protects critical areas under Chapter 17.38 of the Lewis County Code (LCC); and

WHEREAS, RCW 36.70A.172 requires Lewis County to adopt best available science for protecting the functions and values of critical areas; and

WHEREAS, the Washington State Department of Ecology adopted new best available science in July 2018 that provided Modifications for Habitat Score Ranges for wetland critical areas; and

WHEREAS, Lewis County proposes incorporating the July 2018 best available science for Habitat Score Ranges into Sections 17.38.250(1)(a)(iv), 17.38.270(1)(a), and 17.38.280(1)(b); and

WHEREAS, adoption of the 2021 Lewis County shoreline master program requires minor changes to Sections 17.38.020 and 17.38.930 to clarify administrative procedures; and

WHEREAS, Lewis County held open public workshops with the Lewis County Planning Commission on January 26, 2021, February 9, 2021 and May 11, 2021 to discuss integrating aforesaid amendments to Chapter 17.38 LCC; and

WHEREAS, staff at Lewis County issued a SEPA Determination of Nonsignificance for the draft on May 11, 2021; and

WHEREAS, staff at Lewis County sent the draft to Washington State Department of Commerce on April 28, 2021 for the 60 day review; and

WHEREAS, on June 8, 2021, the Lewis County Planning Commission conducted a joint public hearing with Washington State Department of Ecology, noticed in accordance with the standards in LCC 17.12; and

WHEREAS, following the public hearing, the Lewis County Planning Commission voted unanimously to recommend approval of the amendments to Chapter 17.38 LCC to the Lewis County Board of County

Commissioners (BoCC) for their consideration; and

WHEREAS, on August 24, 2021, the BOCC passed Res. 21-XXX to hold a public hearing on Ordinance 1327, and directed the Clerk of the Board to provide notice of the hearing; and

WHEREAS, the Lewis County BoCC held a duly noticed public hearing on the proposed amendments on September 14, 2021; and

WHEREAS, the Lewis County BoCC finds that the proposed amendments to Chapter 17.38 LCC are consistent with the Chapter 36.70A RCW and best serves the residents of Lewis County given the requirements of state law;

NOW, THEREFORE BE IT HEREBY ORDAINED that the Lewis County BoCC approve the following;

Section 1. Amendment to 17.38.020(2), Applicability.

Administrative provisions of this chapter do not apply to lands in within the jurisdiction of the Shoreline Management Act (SMA). 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, SMP Chapter 7, Shoreline Administration.

Section 2. Amendment to 17.38.250(1)(a)(iv) Exemption from the requirement to avoid impacts.

Do not score ~~five~~ six or more points for habitat function based on the 2014 update to the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication No. 14-06-029, or as revised and approved by Ecology).

Section 3. Amendment to 17.38.270(1)(a) Buffers.

Table 17.38-3

Category I Wetlands	Impact Level		
	Low	Moderate	High
High level of function for habitat (score for habitat 9 points)	150	225	260/300 ¹
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 <u>6</u> - 7 points)	75	110	150
High level of function for water quality improvement (8 - 9 points) and low for habitat (less than 5 points or less)	50	75	100

	Impact Level		
Not meeting any of the above characteristics	50	75	100
Category II Wetlands	Low	Moderate	High
High level of function for habitat (score for habitat 8 - 9 points)	150	225	260/300 ¹
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 5 points or less)	50	75	100
Not meeting above characteristics	50	75	100
Category III Wetlands	Low	Moderate	High
Moderate level of function for habitat (score for habitat 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. Low level of function for habitat (score for habitat 5 points or less)	40	60	80
Category IV Wetlands	Low	Moderate	High
Score for all 3 basic functions is less than 16 points	25	40	50

¹ 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.

Section 4. Amendment to 17.38.280(1)(a) and (b), Buffer width reduction.

(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-six~~ points or more for the habitat functions), the width of the buffer can be reduced if both of the following criteria are met:

(i) A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other priority habitats as defined by the Washington state Department of Fish and Wildlife. The latest definitions of priority habitats and their locations are available on the WDFW website at: <http://wdfw.wa.gov/hab/phshabs.htm>. The corridor must be protected for the entire distance between the wetland and the priority habitat by some type of legal

protection such as a conservation easement.

(ii) Measures to minimize the impacts of different land uses on wetlands, such as the examples summarized in Table 17.38-4, are applied; provided, that the administrator may approve of alternative impact reduction measures that are demonstrated to have equivalent effectiveness in reducing impacts on wetland functions.

(b) For wetlands that score ~~less than five~~ or less points for habitat, the buffer width can be reduced to that required for moderate land-use impacts by applying the measures to minimize the impacts of the proposed land uses (see examples in Table 17.38-4).

Section 5. Amendment to 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 ~~for~~ the Lewis County shoreline master program where applicable, as now or hereafter amended.

SECTION 6. All provisions of the Lewis County Code not specifically addressed herein shall remain in full force and effect.

SECTION 7. If any part of this ordinance is found to be invalid by a court of competent jurisdiction, the remainder of the ordinance shall remain valid and continue in full force and effect.

SECTION 8. This ordinance is in the public interest and shall be effective immediately.

PASSED IN REGULAR SESSION THIS _____ DAY OF _____, 2021.

APPROVED AS TO FORM:
Jonathan Meyer, Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON

By: Deputy Prosecuting Attorney

Gary Stamper, Chair

ATTEST:

Lindsey R. Pollock, DVM, Vice Chair

Rieva Lester, Clerk of the Board

Sean Swope, Commissioner

BOCC AGENDA ITEM SUMMARY

Resolution:**BOCC Meeting Date:** Aug. 24, 2021**Suggested Wording for Agenda Item:****Agenda Type:** Legal Notice

Notice of Public Hearing to consider Ordinance 1327, an ordinance to amend Lewis County Code (LCC) 17.38 Critical Areas

Contact: Lee Napier**Phone:** 360.740.2606**Department:** CD - Community Development**Description:**

Notice of Hearing for Ordinance 1327, amending Lewis County Code (LCC) 17.38 Critical Areas

Approvals:**Publication Requirements:****User****Status****Publications:**

The Chronicle and The East County Journal

PA's Office

Pending

Additional Copies:

Mindy Brooks

Cover Letter To: