



City of Lacey, Washington Utilities Committee Agenda

Refer to bottom of the agenda for instructions on attendance.

Monday, May 1, 2023

12:00 PM

Council Chambers and Online

1. Agenda Items

A. Amendments to Illicit Discharges (LMC 14.29) and Wellhead Protection and Critical Aquifer Recharge Areas (LMC 14.36)

Doug Christenson, Water Resources Engineer

2. Adjourn

Attend Remote or In Person

The public may attend the meeting in person, or you may view or listen to the meeting using one of the following platforms:

In Person: Council Chambers at Lacey City Hall, 420 College Street SE, Lacey, WA 98503

Via Zoom: <https://us02web.zoom.us/j/88324529900>

City Website: <https://cityoflacey.org/upcoming-meetings/>

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UTILITIES COMMITTEE
May 1, 2023

SUBJECT: Ordinance regarding amendments to Illicit Discharges (LMC 14.29) and Wellhead Protection and Critical Aquifer Recharge Areas (LMC 14.36)

RECOMMENDATION: Informational briefing on Planning Commission recommendation to amend LMC Chapter 14.29 Illicit Discharges and LMC Chapter 14.36 Wellhead Protection and Critical Aquifer Recharge Areas. The proposed amendments will be scheduled for Council consideration at a future Council meeting.

STAFF CONTACT: Rick Walk, Interim City Manager *RW*
Scott Egger, Public Works Director *SE*
Ryan Andrews, Planning Manager *RA*
Peter Brooks, Water Resources Manager *PCB*
Doug Christenson, Water Resources Engineer *DC*

ORIGINATED BY: Water Resources Division of the Public Works Department

ATTACHMENTS:

1. [Draft LMC Chapter 14.29 with redline edits](#)
2. [Draft LMC Chapter 14.36 with redline edits](#)

FISCAL NOTE: None

WORK PLAN GOAL AND STRATEGY: None

PRIOR REVIEW: Planning Commission briefing on October 18, 2022.
Planning Commission Public Hearing on January 17, 2023.

BACKGROUND:

The 2019-2024 Western Washington Phase II Municipal Stormwater Permit, issued by the Washington State Department of Ecology, includes two significant mandates that affect Lacey's Stormwater Management Program, which in turn requires amendments to two chapters of the Lacey Municipal Code: Chapter 14.29 Illicit Discharges and Chapter 14.36

Wellhead Protection and Critical Area Recharge Areas. Both chapters of the LMC establish standards, regulations, and enforcement provisions to protect the water quality of surface water and groundwater within the City of Lacey. The amendments are necessary to ensure consistency and compliance with the Municipal Stormwater Permit.

One of the mandates in the permit required an update to the City of Lacey Stormwater Design Manual (SDM), which was completed with adoption of the updated SDM in June 2022. The 2022 SDM includes updated definitions, terminology, guidance, requirements, and design criteria, including a new section regarding “Deep UICs” (underground injection control wells for stormwater infiltration). The proposed LMC amendments will provide consistency with definitions and terminology in the 2022 SDM, and proposed updates to LMC 14.36 will provide consistency with the UIC section.

The second mandate in the permit requires the City to implement a new “Source Control Program for Existing Development.” The term “source control” refers to structures and/or actions to prevent pollutants from coming into contact with stormwater. The purpose of this new Source Control Program is to prevent and reduce pollutants in runoff from existing sites to the municipal storm drainage system. The permit specifies four key parts to this new program implementation, summarized as follows: (1) “an ordinance or other enforceable document requiring the application of source control BMPs for pollutant-generating sources associated with existing land uses and activities;” (2) an inventory of publicly- and privately-owned institutional, commercial, and industrial sites; (3) implementation of an inspection program; and (4) “a progressive enforcement policy that requires sites to comply with stormwater requirements within a reasonable time period.” The inventory has been established, and the inspection program is being initiated; the proposed updates to LMC 14.29 Illicit Discharges address the “enforceable document” and “progressive enforcement” requirements.

The proposed LMC amendments are intended to support Lacey’s permit compliance efforts and improve consistency and clarity of definitions and requirements, with the overall goal of protecting water quality.

PROPOSED AMENDMENTS

The proposed LMC amendments are summarized as follows:

Chapter 14.29 Illicit Discharges

This chapter generally addresses the control of pollution at the source, by regulating non-stormwater discharges and controlling the introduction of pollutants into drainage systems.

The main changes in Chapter 14.29 are to the following sections:

Section 14.29.010 Definitions, for consistency with the 2022 SDM and Ecology;

Section 14.29.070 Source Control Requirements, for clarity and consistency with Ecology, and for consistency with the enforcement language added; and

Section 14.29.100 Enforcement, for consistency with the permit's requirement for "progressive enforcement" policy implementation. This code section already referenced "escalating enforcement," which is a comparable term. It has been Lacey's practice to use education, outreach, and technical assistance to coax cooperation before progressing to stricter enforcement actions, so this enforcement wording is more of a clarification rather than a substantive change. Other minor wording changes for clarity and consistency are proposed throughout the chapter.

Chapter 14.36 Wellhead Protection and Critical Aquifer Recharge Areas

This chapter generally addresses protection of the city's underground drinking water sources.

The main changes in Chapter 14.36 are to the following sections:

Section 14.36.030 Definitions, for consistency with the 2022 SDM and Ecology;

Section 14.36.100 Information Requirements, for clarity and consistency with the 2022 SDM, and aquifer protection;

Section 14.36.110 Critical Aquifer Recharge Areas – Uses and activities in critical aquifer recharge areas that are subject to limitations in wellhead protection zones, for regulatory consistency including updating to require a "Spill Prevention, Control, and Countermeasures Plan" (SPCC Plan) which has specific criteria and is specified for City projects, and "Integrated Pest Management" (IPM) Plans per Thurston County guidance, which has been referenced in stormwater regulations for many years, including the SDM;

Section 14.36.170 (formerly 14.36.180) Wellhead Protection Area standards for new uses, for clarification of fueling stations and to add "mobile on-site fueling," which is an emerging new type of potential spill threat; for clarification regarding dry-cleaning facilities and chemicals; and to update wording relating to deep underground injection control (UIC) wells, for consistency with the Deep UIC section in the 2022 SDM.

Section 14.36.130 Critical Aquifer Recharge Areas – Special Reports is proposed to be deleted and incorporated into the following section, titled Hydrogeological Reports. Sections after 14.36.130 would thus be renumbered in sequence. Other minor wording changes for clarity and consistency are proposed throughout the chapter.

The Planning Commission conducted a public hearing on January 17th. No written or oral public testimony was received. After the conclusion of the hearing, the Planning Commission voted unanimously to recommend the adoption of the amendments to the City Council.

ADVANTAGES:

1. Adoption of updated LMC Chapter 14.29 Illicit Discharges will address compliance with the new Source Control program requirements, enhance regulatory clarity, and provide consistency with the City of Lacey 2022 Stormwater Design Manual.
2. Adoption of updated LMC Chapter 14.36 Wellhead Protection and Critical Aquifer Recharge Areas will provide consistency with the definitions and guidance in the City of Lacey 2022 Stormwater Design Manual.

DISADVANTAGES:

1. None identified.

Chapter 14.29 ILLICIT DISCHARGES

Sections:

- 14.29.000 Purposes
- 14.29.010 Definitions
- 14.29.020 Applicability
- 14.29.030 Administration
- 14.29.040 Stormwater discharges
- 14.29.050 Inspections and monitoring of discharges
- 14.29.060 Industrial or construction activity discharges
- 14.29.070 Source control requirements
- 14.29.080 Spill hotline and response
- 14.29.090 Appeals
- 14.29.100 Enforcement
- 14.29.110 Conflict
- 14.29.120 Severability

14.29.000 Purposes.

The purposes of this chapter are:

A. To provide for the health, safety, and general welfare of the citizens of the city of Lacey, Washington, through the regulation of non-stormwater discharges to the city’s municipal separate storm sewer system (MS4), as well as to all groundwaters and water bodies, to the maximum extent practicable as required by federal and state law.

B. To establish methods for controlling the introduction of pollutants into the city’s MS4 in order to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

Specifically:

1. To regulate the contribution of pollutants to the MS4 by stormwater discharges from any user.
2. To prohibit illicit connections and illegal discharges to the MS4, as well as to all groundwaters and water bodies.
3. To define the city’s legal authority to carry out all inspection, surveillance and monitoring necessary to effectuate said purposes.

C. To protect and enhance water quality and aquatic wildlife and its habitat by preventing harmful discharges to local water bodies. (Ord. 1525 §2 (part), 2017).

14.29.010 Definitions.

For the purposes of this chapter, the following shall mean:

“AKART” means all known, available, and reasonable methods of prevention, control, and treatment (AKART). See also the State Water Pollution Control Act, RCW [90.48.010](#) and [90.48.520](#).

“Allowable discharges” means types of discharges that are not considered illegal discharges for the purposes of this chapter unless the city determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater.

“Best management practices (BMPs)” means schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices approved by the Department of Ecology that, when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington State.

“City” means city of Lacey, Washington.

“Conditionally allowable discharges” means types of discharges that are not considered illegal discharges for the purposes of this chapter if they meet the stated conditions, or unless the city determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution to surface water or groundwater.

“Groundwater” means water in a saturated zone or stratum beneath the surface of the land or below a surface water body.

“Hazardous materials” means substances that may create a public nuisance or constitute a hazard to humans, animals, fish or fowl, or any solid, dangerous, or extremely hazardous waste, as defined by Chapter [173-303](#) or [173-304](#) WAC. Harmful materials also include substances that, when released into the environment, may cause non-compliance with the following chapters of the WAC: 246-290, 173-200, 173-201, 173-204, and/or 173-340.

“Hyperchlorinated” means water that contains more than 10 mg/liter chlorine.

“Illicit discharge” means ~~all any direct or indirect~~ non-stormwater discharges to ~~the city’s~~ stormwater drainage systems that cause or contribute to a violation of state water quality, sediment quality or groundwater quality standards, including but not limited to sanitary sewer connections, industrial process water, interior floor drains, car washing, and greywater systems, except as expressly allowed by this chapter.

“Illicit connection” means any ~~infrastructure connection~~~~man-made conveyance that is connected to thea~~~~MS4municipal separate storm sewer system without a permit that is not intended, permitted, or used for~~~~collecting and conveying stormwater or non-stormwater discharges allowed as specified in the City’s NPDES~~~~Municipal Stormwater Permit, excluding roof drains and other similar type connections.~~ Examples include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the ~~MS4municipal separate storm sewer system.~~

“Municipal separate storm sewer system (MS4)” means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

1. Owned or operated by the city of Lacey;
2. Designed or used for collecting or conveying stormwater;
3. Which is not part of a publicly owned treatment works (POTW). “POTW” means any device or system used in treatment of municipal sewage or industrial wastes of a liquid nature which is publicly owned;
4. Which is not a combined sewer. “Combined sewer” means a system that collects sanitary sewage and stormwater in a single sewer system; and
5. Which is defined as “large” or “medium” or “small” or otherwise designated by ~~the~~ Ecology pursuant to [40 CFR 122.26](#).

“National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit” means a permit issued by the Environmental Protection Agency (EPA) (or by the Washington Department of Ecology under authority delegated pursuant to [33 U.S.C. 1342\(b\)](#)) that authorizes discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

“Non-stormwater discharges to the stormwater system” means discharges to any portion of the public or privately owned stormwater system that are not composed entirely of stormwater (i.e., rainfall or snow melt). Examples may include, but are not limited to, sanitary wastewater, laundry wastewater, non-contact cooling water, vehicle wash wastewater, radiator flushing wastewater, spills from roadway accidents, and improperly disposed motor oil, solvents, lubricants, and paints.

“Person” means any individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, agency of the state, or local governmental unit, however designated.

“Pollutant” means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes, sewage, fecal coliform and pathogens; dissolved and particulate

metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

“Source control BMP” means a structure or operation that is intended to prevent pollutants from coming into contact with stormwater through physical separation of areas or careful management of activities that are sources of pollutants. Source control BMPs are classified as structural or operational. Structural source control BMPs are physical, structural, or mechanical devices or facilities that are intended to prevent pollutants from entering stormwater. Operational BMPs are non-structural practices that prevent or reduce pollutants from entering stormwater.

“Stormwater” means surface runoff due to precipitation or snowmelt. That portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, ~~channels, or pipes, and other features of the stormwater drainage system to into~~ a ~~defined~~-surface water ~~body~~channel or a-constructed ~~stormwater BMP~~infiltration facility.

“Stormwater Design Manual” means the city of Lacey Stormwater Design Manual as currently adopted.

“Stormwater BMP/facility” means a constructed component of a stormwater drainage system, designed or constructed to perform a particular function, or multiple functions. Stormwater BMPs/facilities include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention ~~ponds~~basins, retention ~~ponds~~basins, constructed wetlands, infiltration devices, catch basins, oil-/water separators, bioretention, permeable pavement, and biofiltration swalessediment basins. Stormwater BMPs/facilities are described in the Stormwater Design Manual. “Stormwater BMP/facility” includes both public and privately owned facilities.

“Stormwater pollution prevention plan (SWPPP)” means a document which describes the best management practices and activities to be implemented by a person to identify sources of pollution or contamination at a premises and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

“Stormwater drainage system” means any stormwater facilities, including the city's municipal separate storm sewer system, by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures. “Stormwater drainage system” includes both public and privately owned features.

“Waters of the state” means those waters defined as “waters of the United States” in [40 CFR Subpart 122.2](#) within the geographic boundaries of Washington State and “waters of the state” as defined in Chapter [90.48](#) RCW which includes lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and water courses within the jurisdiction of the state of Washington.

“Water body” means surface water ~~feature, whether standing or flowing, including, but not limited to, sounds, rivers, streams, lakes, marine waters, estuaries, and wetlands~~ponds, rivers, streams, and creeks including ~~waters of the state~~. (Ord. 1525 §2 (part), 2017).

14.29.020 Applicability.

This chapter shall apply to all non-stormwater discharges entering the MS4, groundwaters, or a water body from any developed or undeveloped lands, unless explicitly exempted by the city. (Ord. 1525 §2 (part), 2017).

14.29.030 Administration.

The city shall administer, implement, and enforce the provisions of this chapter. (Ord. 1525 §2 (part), 2017).

14.29.040 Stormwater discharges.

A. *Prohibition of Illicit Discharges.* No person shall discharge or cause to be discharged into the city's stormwater drainage system, groundwater, or a water body any materials (including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable ~~state~~ ~~State of Washington Department of Ecology~~ water quality standards) other than stormwater. This prohibition of the discharge of pollutants shall include discharges from a stormwater BMP/facility that is not maintained properly by the owner per the city of Lacey maintenance standards. Pollutants include, but are not limited to, the following:

1. All non-stormwater discharges to the stormwater drainage system, unless such discharges are authorized in accordance with Chapter 173-216 (State Waste Discharge Permit Program) or 173-220 WAC (National Pollutant Discharge Elimination System Permit Program);
2. Any solid, dangerous, or extremely hazardous waste, as defined by Chapter 173-304 (Minimum Functional Standards for Solid Waste Handling) or 173-303 WAC (Dangerous Waste Regulations);
3. Any substance that, when released into the environment, may cause non-compliance with Chapter 246-290 (Public Water Supplies); 173-200 (Water Quality Standards for Ground Waters of the State of Washington), 173-201 (Water Quality Standards for Surface Waters of the State of Washington), 173-204 (Sediment Management Standards); or 173-340 WAC (The Model Toxics Control Act Cleanup Regulation);
4. Trash or debris;
5. Construction materials and residues;
6. Petroleum products, including but not limited to; oil, gasoline, grease, fuel oil and heating oil;
7. Antifreeze and other automotive products;

8. Metals in either particulate or dissolved form;
9. Flammable or explosive materials;
10. Radioactive material;
11. Batteries;
12. Acids, alkalis, or bases;
13. Paints, stains, resins, lacquers, or varnishes;
14. Degreasers and/or solvents;
15. Drain cleaners;
16. Pesticides, herbicides, or fertilizers;
17. Steam cleaning wastes;
18. Uncured concrete wash water (generated during cleaning, finishing or during exposure of aggregate);
19. Soaps, detergents, or ammonia;
20. Swimming pool, ~~or~~ spa, or hot tub drainage, cleaning wastewater, or filter backwash;
21. Chlorine, bromine, or other disinfectants;
22. Heated water;
23. Animal wastes;
24. Sewages;
25. Recreational vehicle waste;
26. Animal carcasses;
27. Earth in quantities which cause violation of state water quality standards;
28. Wash water, sediment, and debris from street sweeping and street washing;
29. Food wastes;
30. Bark and other fibrous materials;
31. Lawn clippings, leaves, or branches;
32. Silt, sediment, concrete, cement or gravel;

33. Dyes (except as described in subsection C of this section under “Allowable Discharges”);
34. Chemicals, including suspected metals, not normally found in uncontaminated water;
35. Any other process-associated discharge except as otherwise allowed in this section;
36. Any hazardous material or waste not listed above.

B. Prohibition of Illicit Connections.

1. The construction, use, maintenance or continued existence of illicit connections to the storm~~water~~drainage system is prohibited.
2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
3. A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the municipal separate storm sewer system, or allows such a connection to continue.

C. Allowable Discharges. The following types of discharges shall not be considered illicit discharges for the purposes of this chapter unless the city determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of groundwater or a water body:

1. Diverted stream flows;
2. Rising groundwaters;
3. Uncontaminated groundwater infiltration (as defined in [40 CFR 35.2005\(b\)\(20\)](#));
4. Uncontaminated pumped groundwater;
5. Discharge from foundation drains;
6. Air conditioning condensation;
7. Irrigation water from agricultural sources that is commingled with urban stormwater;
8. Springs;
9. Uncontaminated water from crawl space pumps;
10. Water from footing drains;
11. Flows from riparian habitats and wetlands;
12. Discharges resulting from dye testing authorized by the city;

13. Non-stormwater discharges covered by another NPDES permit;

14. Discharges from emergency firefighting activities by a fire department or a fire district.

D. *Conditionally Allowable Discharges.* The following types of discharges shall not be considered illicit discharges for the purposes of this chapter if they meet the stated conditions, or unless the city determines that the type of discharge, whether singly or in combination with others, is causing or likely to cause pollution of surface water or groundwater:

1. Potable water, including water from water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be dechlorinated to a concentration of 0.1 parts per million (ppm) or less, pH-adjusted, if necessary, and in volumes and velocities controlled to prevent resuspension of sediments in the stormwater drainage system.

2. Lawn watering and other irrigation runoff are permitted but shall be minimized through, at minimum, public education and water conservation efforts.

3. De-chlorinated swimming pool, spa and hot tub discharges. These discharges shall be de-chlorinated to a total residual chlorine concentration of 0.1 ppm or less, pH-adjusted, and re-oxygenated, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater drainage system. Discharge shall be thermally controlled to prevent increase in temperature of the receiving water.

4. Street and sidewalk wash water, used to control dust, and routine external building wash down that does not use detergents are permitted if the amount of street wash and dust control water used is minimized. At active construction sites, street sweeping must be performed prior to washing the street.

5. Non-stormwater discharges covered by another NPDES permit; provided, that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations; and provided, that written approval has been granted for any discharge to the stormwater drainage system.

6. Other non-stormwater discharges. The discharges shall be in compliance with the requirements of a stormwater pollution prevention plan (SWPPP) reviewed and approved by the city which addresses control of such discharges by applying AKART to prevent pollutants from entering the ~~MS4municipal-storm drainage system~~, groundwaters, or a water body. A permit is required for all construction site dewatering and may be required by the city for other non-stormwater discharges approved by the city in a SWPPP. (Ord. 1525 §2 (part), 2017).

14.29.050 Inspections and monitoring of discharges.

A. ~~Access-to-Facilities.~~

1. As a condition of service, all persons and premises connected to the municipal storm~~water~~ drainage system shall allow the city to:
 - a. Enter onto a person's property at reasonable times after notice to, and with the permission of, the property owner to inspect ~~the~~ on-site stormwater drainage system, potential pollutant generating sources, ~~and~~ source control BMPs, any connection made to the on-site stormwater drainage system by the property owner, or to install appropriate monitoring equipment. This provision shall not be interpreted to limit the city's rights under any easement, license or right arising from public right-of-way.
 - b. Inspect records of the person relating to discharges to the city stormwater drainage system upon request and at reasonable times.
2. Failure to permit entry or inspection may result in the following actions or consequences:
 - a. The city may at its sole option seek a search warrant from a court of competent jurisdiction.
 - b. If it is later determined that a violation of this chapter has occurred, the violation shall be assumed to have been occurring from the date of the city's original request and to have continued until discovered by the city. Each and every day shall be a separate violation. This presumption may be overcome by the presumed violator only by clear and convincing evidence that the violation began at a later date.

B. *Confidential information.* Information and data furnished to the city with respect to the nature and frequency of discharge into the stormwater drainage system shall be available to the public or to other governmental agencies without restriction unless the person specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets or proprietary information of the person. When requested by a person furnishing a report, the portions of a report or other information which may disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to these regulations, the NPDES permit and/or other programs as amended; however, such portions of a report or other information shall be available for use by the city, the state, or any other public agency in enforcement proceedings involving the person furnishing the report. The constituents and characteristics of the stormwater will not be recognized as confidential information. Information accepted by the city as confidential shall not be transmitted to any governmental agency or to the general public by the city until and unless a ten-day notification is given to the person to the extent permitted by law.

C. The city may require either partial or complete cleaning of a stormwater drainage system whenever a prohibited substance (see LMC [14.29.040\(A\)](#)) is found to be present in a stormwater drainage system. (Ord. 1525 §2 (part), 2017).

14.29.060 Industrial or construction activity discharges.

Any person or activity subject to an NPDES stormwater discharge permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the federal Environmental Protection Agency or Washington State Department of Ecology, shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the city of Lacey prior to allowing discharges to the MS4. (Ord. 1525 §2 (part), 2017).

14.29.070 Source control requirements.

The city of Lacey has developed a Stormwater Design Manual that outlines requirements identifying best management practices, including pollutant source control for any activity, operation, or facility that may cause or contribute to pollution or contamination of stormwater, the storm~~water~~ drainage system, or waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at its own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the ~~municipal storm drainage system~~MS4 or water body through the use of ~~these~~ structural and operational nonstructural source control BMPs. Further, any person responsible for a premises which is, or may be, the source of an illicit discharge may be required to implement, at said person's expense, additional structural and operational nonstructural source control BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. These BMPs shall be part of a SWPPP as necessary for compliance with requirements of the NPDES permit. Outreach, education, and t~~Technical assistance materials and information~~ may be provided by the city upon reasonable request. (Ord. 1525 §2 (part), 2017).

14.29.080 Spill hotline and response.

Notwithstanding other requirements of law, as soon as any person responsible for a premises or operation, or responsible for emergency response for a premises or operation, has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the storm~~water~~ drainage system, or water bodies, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify:

- A. Emergency response agencies of the occurrence via emergency dispatch services; and

B. The city of Lacey spill response hotline at (360) 491-5644, Monday through Friday 7:00 a.m. to 3:30 p.m. After hours, leave a voicemail at the number above, or select the option to be connected to Thurston County central dispatch, who will notify the city of Lacey's stand-by spill response staff.

In the event of a release of nonhazardous materials, said person shall notify the city in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the city of Lacey within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years. (Ord. 1525 §2 (part), 2017).

14.29.090 Appeals.

Any decision of the city of Lacey in the administration of this chapter may be appealed in accordance with Chapter 1D of the City of Lacey Development Guidelines and Public Works Standards. (Ord. 1525 §2 (part), 2017).

14.29.100 Enforcement.

A progressive approach is typically implemented to assist businesses and other entities, persons, and residents in achieving and maintaining compliance with this chapter. This approach emphasizes outreach, education, and technical assistance before taking further enforcement actions or assessment penalties, unless a flagrant, serious, or purposeful violation has occurred. If any person violates or fails to comply with any of these provisions, Chapter 14.40 LMC regarding civil violations shall be applied. The City's NPDES Municipal Stormwater Phase II permit requires progressive enforcement for illicit connections, illicit discharges, and source control violations, and Chapter 14.40 LMC includes addresses this enforcement actions that may be applied if issues are not addressed following outreach, education, and technical assistance. (Ord. 1525 §2 (part), 2017).

14.29.110 Conflict.

In the event of a conflict between this chapter and any other provision of any Lacey Municipal Code, the most restrictive shall apply. (Ord. 1525 §2 (part), 2017).

14.29.120 Severability.

If any one or more sections, subsections, or sentences of this chapter are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this chapter and the same shall remain in full force and effect. (Ord. 1525 §2 (part), 2017).

The Lacey Municipal Code is current through Ordinance 1619, passed April 7, 2022.

Chapter 14.36

WELLHEAD PROTECTION AND CRITICAL AQUIFER RECHARGE AREAS

Sections:

14.36.020	Purpose and intent
14.36.030	Wellhead protection and critical aquifer recharge areas--Definitions
14.36.040	Applicability
14.36.050	Exempt activities
14.36.060	Maps and inventory
14.36.070	Determination of wellhead protection areas and critical aquifer recharge areas
14.36.080	Review standards--General review requirements
14.36.090	Consolidated application process
14.36.100	Information requirements
14.36.110	Critical aquifer recharge areas--Uses and activities in critical aquifer recharge areas that are subject to limitations in wellhead protection zones
14.36.120	Critical aquifer recharge areas and wellhead protection areas--Departmental cooperation
14.36.130	Critical aquifer recharge areas--Special reports
14.36.1430	Hydrogeological reports
14.36.1540	Hydrogeological reports--Reimbursement for costs
14.36.1650	Hazardous materials spill plans
14.36.1760	Wellhead protection area standards of mitigation
14.36.1870	Wellhead protection area standards for new uses
14.36.1890	Special management areas--Wellhead protection area standards for expansion of existing uses
14.36.20190	Special management areas--Wellhead protection area standards for existing uses
14.36.2100	Other laws and regulations
14.36.2210	Suspension, revocation
14.36.2320	Appeals
14.36.2430	Enforcement
14.36.2540	Non-conforming activities
14.36.2750	Amendments
14.36.2860	Severability

14.36.020 Purpose and intent.

The purpose of this chapter is to protect the public health, safety, and welfare by protecting critical aquifer recharge areas and the city's water resources that serve as the city's potable water source. Specifically, the purpose of this chapter is to implement the following goals:

- A. To protect the quality and to manage the quantity of ground water for all uses in the present and in the future.
- B. To prevent ground water contamination by protecting the entire resource as effectively as possible, but within the limits of what is acceptable and affordable to the community.
- C. To prevent contamination of drinking water supplies.
- D. To assure that preventive actions are taken to protect water quality from further degradation and, in cooperation with the Department of Ecology, promote corrective actions in areas where degradation has occurred so that the net effect is a gradual improvement of the ground and surface water quality.
- E. To provide legislation regulating land uses within critical aquifer recharge areas generally and more precise standards and regulations for designated wellhead protection areas. (Ord. 1505 §44 (part), 2017).

14.36.030 Wellhead protection and critical aquifer recharge areas--Definitions.

- A. "AKART" means all known, available, and reasonable methods of ~~treatment,~~ prevention, ~~and~~ control, and treatment and is one component of pollution prevention plan development and implementation. AKART refers to technology-based treatments of pollutant sources that are implemented along with BMPs to treat, prevent and control the release of contaminants to surface water and groundwater. See also the State Water Pollution Control Act, RCW 90.48.010 and 90.48.520~~WAC 173-201A-020~~.
- B. "Applicant" means a person who files an application for approval under this chapter and who is either the owner of the land on which that proposed activity would be located, a contract vendee, a lessee of the land, the person who would actually control and direct the proposed activity, or the authorized agent of such a person.
- C. "Application" as defined in Section 1.030(A) of the City of Lacey Development Guidelines and Public Works Standards.
- D. "Aquifer" means a geologic stratum containing groundwater that can be withdrawn and used for human purposes.
- E. "Best management practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices approved by the Department of Ecology~~best-management practices for physical, structural, and/or managerial practices~~ that, when used singularly or in combination, prevent or reduce the release of pollutants and other adverse impacts ~~discharges~~ to waters of Washington State. ~~These may include, but are not limited to, the schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices.~~ See WAC 173-200-020.
- F. "Category I critical aquifer recharge areas" means those areas with extreme aquifer sensitivity due to the presence of soils that provide very rapid recharge with little natural water quality treatment. Category I areas

contain coarse soil textures and soil materials, and are derived from glacial outwash materials. The predominant soil series in Category I CARAs are listed in LMC [14.36.070\(B\)](#).

G. “Category II critical aquifer recharge areas” are those areas with high aquifer sensitivity due to soils which provide slightly lower recharge than Category I, but provide little protection and natural water quality treatment. Category II soils are derived from materials of glacial deposit. The predominant soil series in Category II CARAs are listed in LMC [14.36.070\(B\)](#).

H. “Category III critical aquifer recharge areas” are those areas with aquifers present but have moderate aquifer sensitivity due to surface soil material that encourages run-off and slows water entry into the ground. The predominant soil series in Category III CARAs are listed in LMC [14.36.070\(B\)](#).

I. “Category IV low aquifer sensitivity areas” are those areas of low ground water availability and whose soils series are derived from basaltic or andesitic rock or ancient glacial till (more consolidated, more clay at surface), and which have not formed geological strata that provide abundant ground water.

J. “Critical aquifer recharge areas (CARA)” means those areas that overlay aquifers that are used for potable water supply, and have soils and geologic characteristics that allow precipitation and runoff to infiltrate and replenish natural groundwater systems and aquifers. CARAs are further designated into Categories I, II, and III based on soil type, texture, and origin as listed in LMC [14.36.070\(B\)](#), with these categories determining the stringency of land use management controls needed to be protective of underlying aquifers.

K. “Hazardous materials” means ~~those~~ substances [that may create a public nuisance or constitute a hazard to humans, animals, fish or fowl, or any solid, dangerous, or extremely hazardous waste, as defined by, debris, and waste which are a physical or health hazard, chemical substances that are ignitable, corrosive, reactive or toxic, consistent with Chapter 173-303 or 173-304 WAC and the International Fire Code, as amended.](#) [Harmful materials also include substances that, when released into the environment, may cause non-compliance with the following chapters of the WAC: 246-290, 173-200, 173-201, 173-204, and/or 173-340.](#)

L. “Health expert” means a person employed or contracted by the city of Lacey and licensed by the state as a registered sanitarian and with the necessary expertise and experience to provide information required by this chapter relating to health issues and concerns.

M. “Health officer” means the Thurston County health officer as defined in Chapter [70.05](#) RCW or his or her authorized representative.

N. “Hydrogeology” means the study of the interrelationships of geologic materials and processes with water, especially groundwater. Hydrogeology is a science that involves the study of the waters of the Earth, and the collection of data concerning waters and their interaction with other materials in the atmosphere, on the Earth’s surface, or in the interior of the Earth.

O. “MPCs” means reasonable methods of prevention and control. Examples of MPCs include but are not limited to pollution prevention plan development and implementation, routine maintenance, secondary containment, and measures to eliminate contaminant pathways to the source water.

P. “Pollution prevention plan” means a site-specific plan that addresses the avoidance of unplanned chemical release in the air, water, or land. It is based upon deliberate waste management planning, site design, and operational practices.

Q. “Sanitary control area” means the one-hundred-foot radius around any potable water supply well that shall be established and protected from all potential sources of contamination as required under WAC [246-290-135](#).

R. “Stormwater BMP/facility” means a constructed component of a stormwater drainage system, designed or constructed to perform a particular function, or multiple functions. Stormwater BMPs/facilities include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention ponds, retention ponds, constructed wetlands, infiltration devices, catch basins, oil-water separators, bioretention, permeable pavement, and biofiltration swales. Stormwater BMPs/facilities are described in the Stormwater Design Manual. “Stormwater BMP/facility” includes both public and privately owned facilities.

RS. “Underground injection control well” (UIC well) means a structure builtwell that is used to discharge fluids from the ground surface into the subsurface; a bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; or an improved sinkhole, which is a natural crevice that has been modified; or a subsurface fluid distribution system that includes an assemblage of perforated pipes, drain tiles, or other similar mechanisms intended to distribute fluids below the surface of the ground. Examples of UIC wells or subsurface infiltration systems include drywells, drain fields, infiltration trenches with perforated pipe, storm chamber systems with the intent to infiltrate, French drains, bioretention systems intended to distribute water to the subsurface by means of perforated pipe installed below the treatment soil, and other similar devices that discharge to the ground., as described in WAC 173-218-030. UIC wells that extend below an upper confining layer and discharge into the underlying vadose zone are designated as deep UIC wells.

RST. “Wellhead protection area (WHPA)” means the surface and subsurface area surrounding a well or well field, through which contaminants are reasonably likely to move toward and reach such water well or well field within 6-monthsa, one, five, and ten years. WHPAs for Lacey’s water supply wells are adopted in Lacey’s Water System Comprehensive Plan which is approved by the Washington State Department of Health. (Ord. 1505 §44 (part), 2017).

14.36.040 Applicability.

A. The provisions of this chapter apply to non-exempt proposals for development of new uses, and the alteration or expansion of existing uses located in wellhead protection areas or critical aquifer recharge areas within the city of Lacey as defined by this chapter.

B. When any provision of any other chapter of the city of Lacey Municipal Code conflicts with this chapter, the most restrictive will prevail. These provisions shall apply to any project or portion of a project which is partially or wholly located within a wellhead protection area.

C. The city of Lacey is authorized to adopt written administrative procedures for the purposes of carrying out the provisions of this chapter.

D. The city of Lacey shall not grant any approval or permission to conduct a nonexempt activity in an area classified as a wellhead protection area or Category I or II critical aquifer recharge area until the requirements of this chapter have been fulfilled including but not limited to action on the following: limited administrative review, full administrative review, quasi-judicial review, legislative review pursuant to Chapter 1.010C of the City of Lacey Development Guidelines and Public Works Standards, or any subsequently adopted permit or required approval not expressly exempted by this chapter. (Ord. 1505 §44 (part), 2017).

14.36.050 Exempt activities.

The following activities shall be exempt from the review requirements of this chapter provided such activities are undertaken using best management practices in a manner that does not adversely impact the aquifer recharge area or wellhead area:

- A. Building projects for individual single family residence or duplex;
- B. Boundary line adjustments;
- C. Franchise right-of-way construction permit;
- D. Grading permit for less than five hundred cubic yards of material, provided the permit is not part of a project that exceeds a threshold triggering stormwater requirements as defined under the City of Lacey Stormwater Design Manual;
- E. Conservation or preservation of soil, water, vegetation and wildlife in consultation with the Natural Resources Conservation Service, State Department of Fish and Wildlife, or other appropriate federal or state agency;
- F. Noncommercial outdoor recreation activities that have no impact on aquifer recharge, such as bird watching or hiking, but shall not include such things as golf courses that may impact aquifer recharge;
- G. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, or alteration of the aquifer sensitive area by changing existing topography, water conditions or other natural parameters important to the aquifer sensitivity;
- H. Location of boundary markers;

- I. Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities. In every case, impacts shall be minimized and disturbed areas shall be immediately restored;
- J. Nondevelopment educational activities and scientific research;
- K. Normal and routine maintenance or repair of existing utility structures or right-of-way, except situations involving the application of chemical substances;
- L. Installation, replacement, alteration or construction and operation of all electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of fifty-five thousand volts or less in improved city road right-of-way, except situations involving the application of chemical substances; and
- M. Installation, replacement, alteration or construction and operation of all natural gas, cable communications and telephone facilities, lines, pipes, mains, equipment or appurtenances in improved city road right-of-way, except situations involving the application of chemical substances (Ord. 1505 §44 (part), 2017).

14.36.060 Maps and inventory.

Maps of soils in the Lacey area are located on the Web Soil Survey (Natural Resource Conservation District). The soil survey maps, as amended, are the basis for the CARA categories referenced in this chapter. The standards of this chapter shall apply to all lots or parcels which include Category I or II critical aquifer recharge areas, within the jurisdiction of the city of Lacey. Maps relating to city of Lacey wellhead protection areas [and critical aquifer recharge areas can be found](#) in the City of Lacey Water System [Comprehensive](#) Plan, as amended. In the event that any of the critical aquifer recharge areas or wellhead protection areas shown on the maps conflict with the criteria set forth in this chapter, the criteria in this chapter shall control. (Ord. 1505 §44 (part), 2017).

14.36.070 Determination of wellhead protection areas and critical aquifer recharge areas.

- A. Wellhead protection areas (WHPAs) for water supply wells are delineated by the city using a numerical computer groundwater model that is calibrated with current information on local hydrogeological properties and pumping characteristics at each city well. The WHPAs consist of time-based capture zones for one-year, five-year, and ten-year times of travel and may include additional management areas to account for uncertainty in the modeling or for areas where WHPAs for two or more sources overlap.
- B. Critical aquifer recharge areas are determined by the soil series and types present, as listed below:

Critical Aquifer Recharge Area Soil Series

CATEGORY I SOIL SERIES	
Series Name	SCS Map Symbol #
Baldhill	5, 6, 7, 8
Cagey	20
Everett	32, 33, 34, 35
Grove	42
Indianola	46, 47, 48
Newberg	71, 72
Nisqually	73, 74
Pilchuck	84
Pits, gravel	85
Puyallup	89
Spanaway	110, 111, 112, 113, 114
Sultan	115
Tenino	117, 118, 119
CATEGORY II SOIL SERIES	
Series Name	SCS Map Symbol #
Alderwood	1, 2, 3, 4
Chehalis	26
Delphi	27, 28
Eld	31
Giles	38, 39, 40
Maytown	64
Spana	109
Yelm	126, 127, 128

CATEGORY III SOIL SERIES	
Series Name	SCS Map Symbol #
Bellingham	14
Dupont	29
Everson	36
Galvin	37
Godfrey	41
Hoogdal	43, 44
Kapowsin	50, 51, 52, 53, 54, 55
Mashel	62, 63
McKenna	65
Mukilteo	69, 70
Norma	75, 76
Puget	88
Scammen	100, 101
Semiamoo	104
Shalkar	105
Shalkar Variant	106
Skipopa	107, 108
Tacoma	116
Tisch	120

C. The exact presence and location of soils constituting a critical aquifer recharge area shall be determined by a field investigation applying specific criteria described by the health officer or health expert. A professional soil scientist or licensed hydrogeologist expert shall perform soils analysis necessary to make determinations. Hiring the services of a soil scientist or licensed hydrogeologist expert shall be the responsibility of the applicant. The applicant is required under LMC [14.36.100](#) to show the location of the aquifer sensitive area on a scaled drawing as a part of the application.

D. *Disputed Areas.*

1. In cases of disputed soil series, or series boundary, and resulting category, the city of Lacey in consultation with the health officer, and the Natural Resources Conservation Service, shall determine the category.
2. In the event the changes are contested by the applicant, the city of Lacey shall, at the applicant's expense, obtain its own expert services to render a final determination.
3. In areas that have been disturbed or the surface soil removed as in gravel pits, the city of Lacey in consultation with the health officer and the Natural Resources Conservation Service shall determine the most appropriate category with geological and hydrological information. (Ord. 1505 §44 (part), 2017).

14.36.080 Review standards--General review requirements.

- A. No nonexempt action shall be undertaken by any person which results in any alteration of a critical aquifer recharge area or wellhead protection area except in compliance with the requirements, goals, purposes and objectives of this chapter.
- B. In association with normal permit requirements every nonexempt activity will require a written authorization or notation on the application of compliance with this chapter prior to undertaking the activity.
- C. The city may approve, approve with conditions or deny any development proposal in order to comply with the requirements and carry out the goals, purposes and objectives of this chapter. (Ord. 1505 §44 (part), 2017).

14.36.090 Consolidated application process.

When more than one application for a proposed development is required, the applicant may elect to have all applications submitted for review at one time in conformance with Section 1B.030 of the City of Lacey Development Guidelines and Public Works Standards; applications for proposed development and planned actions subject to the provisions of the State Environmental Policy Act (SEPA) shall be reviewed concurrently and in accordance with state and local laws, regulations and ordinances. (Ord. 1505 §44 (part), 2017).

14.36.100 Information requirements.

Unless the city of Lacey waives one or more of the following information requirements, nonexempt applications for activities undertaken in a critical aquifer recharge area or wellhead protection area must provide the following information:

A. A site development plan drawing that shows the entire parcel of land owned by the applicant and features that are relevant to groundwater source protection, including but not limited to:

1. The exact boundary and description of wellhead protection areas, including the source well and sanitary control area, on site and on adjacent properties within specified setbacks if applicable;
2. Locations of Category I and II soils on the site;
3. Groundwater contours indicating the direction of shallow groundwater flow, shown in relation to the wellhead and its wellhead protection area if applicable, and existing and proposed stormwater BMPs/facilities;
4. Any existing drinking water well(s) and/or septic systems on site, both active and whether in use or abandoned;
5. All potential sources of soil or groundwater contamination on the site; and
6. Locations of proposed test pits and/or soil borings for geotechnical soil samples, temporary construction dewatering wells or other resource protection wells anticipated for gathering project data.

B. A description of the proposed use of the site, and descriptions of the types and quantities of hazardous materials and other pollutants that would be used or stored on the site including fuels and fuels associated with mechanical equipment and retail products.

C. A description of the engineering design and planned operation and maintenance of the projects that will mitigate impacts to groundwater quality and quantity at the development site. The description shall also identify specific limitations of the site, such as soils and geology, for mitigating impacts to site development. See requirements in special reports LMC 14.36.1430. (Ord. 1505 §44 (part), 2017).

14.36.110 Critical aquifer recharge areas--Uses and activities in critical aquifer recharge areas that are subject to limitations in wellhead protection zones.

A. To protect the public health and safety, prevent aquifer contamination, and preserve the groundwater/ground-water resource for continual beneficial use, uses and activities shall be most limited in those areas which have the highest degree of risk.

B. *Stormwater Runoff.* Stormwater impacts shall be mitigated through the application of the most current version of the City of Lacey Stormwater Design Manual. To minimize the potential for groundwater contamination, ~~stormwater runoff may require maximum treatment of metals~~ enhanced treatment and/or phosphorus~~phosphorous~~ treatment may be required prior to infiltration or discharge. ~~Determinations will be made on a case by case basis, in accordance with the City of Lacey Stormwater Design Manual.~~

C. *Agricultural Activities.* Agricultural activities within the city are primarily associated with urban agriculture, as allowed under Chapter 16.21 LMC, which includes limits and requirements for small farm animals. Agricultural impacts shall be mitigated through implementation of the Northern Thurston County Ground Water Management Plan (1991) as revised and updated, where applicable. In designated critical areas, the city of Lacey in consultation with the health officer or other qualified health expert shall require an applicant to employ methods that result in protection from aquifer contamination.

D. *Solid Waste.* Solid waste disposal facilities shall comply with Chapters 173-304 and 173-200 WAC. Solid waste landfills, and other solid waste disposal facilities likely to produce leachate shall be prohibited in Critical Aquifer Recharge Area Categories I and II. Handling and transfer facilities within these two categories may be placed with source control BMPs~~measures~~ appropriate to the facility. Special care shall be employed to avoid the impacts of spills and leachate.

E. *Hazardous Materials.* Projects within sites that utilize, store, or dispose of hazardous substances may be required to prepare and implement a ~~source control and s~~Spill ~~p~~Prevention, Control, and Countermeasures ~~p~~Plan (SPCC Plan) that is specific to the hazardous substances on the site, or hazardous materials management plan as described in LMC 14.36.1650.

F. *Landscaping and Irrigation. Fertilizer and Pesticides. Reserved.*~~Requirements for landscaping and associated irrigation are addressed in LMC Chapter 16.80. All land use projects located within a wellhead protection area will be required to develop and implement an integrated pest management (IPM) plan that addresses plant selection, irrigation, and maintenance practices for minimizing the need for pesticides and fertilizers, and for preventing the leaching of soluble fertilizers and other contaminants into groundwater. IPM Plans are expected to~~shall include the elements described in Thurston County's Integrated Pest Management Plan Guidance, and IPM pPlans as required by Thurston County for any land use projects located within a City of Lacey wellhead protection area shall also be submitted to the City of Lacey.

G. *Onsite Septic Systems.* Onsite septic systems for new or expanding uses within the city are addressed in service policies in the City of Lacey Wastewater Comprehensive Plan. The following provisions do not apply to septic tank effluent pumping (STEP) systems that are part of the city sewer system.

1. New individual or community onsite septic systems are not allowed within the city.
2. Individual onsite septic systems for expanding uses are discouraged and will only be considered on a case by case basis, generally as exceptional cases when connection to city sewer is not feasible. The city may require annual testing of septic systems as a condition of approval.

H. *Abandoned Wells.* Wells that cease to be used as a water source or as a resource protection well, are unmaintained, or are in such disrepair as to be unusable, shall be decommissioned consistent with Chapter [173-160 WAC](#) to prevent ~~groundwater~~[ground-water](#) contamination and remove any public safety hazards. (Ord. 1505 §44 (part), 2017).

**14.36.120 Critical aquifer recharge areas and wellhead protection areas--
Departmental cooperation.**

- A. The city of Lacey may coordinate with the health officer in the enforcement of these regulations.
- B. Where designated critical aquifer recharge areas and wellhead protection areas encroach into the city of Lacey from neighboring jurisdictions, the provisions of this chapter shall apply. (Ord. 1505 §44 (part), 2017).

~~14.36.130 Critical aquifer recharge areas--Special reports.~~

~~A. A hydrogeological report shall be required for a project located in a Category I or II critical aquifer recharge area or wellhead protection area by the city if:~~

- ~~1. There is insufficient hydrogeological information to perform an adequate review to assure aquifer protection; or~~
- ~~2. The project is likely to possess, store, use, transport, or dispose of hazardous materials.~~

~~B. The city of Lacey may waive the hydrogeological report requirements if the nature of the project and its impacts are generally known, or the impacts of the project have been mitigated by source control strategies. (Ord. 1505 §44 (part), 2017).~~

14.36.1430 Hydrogeological reports.

- A. The city shall require a hydrogeological report for a project located in a wellhead protection area or Category I or II critical aquifer recharge area if:
 - 1. There is insufficient ~~ground-water~~[hydrogeological](#) information to perform an adequate review to assure aquifer protection; or
 - 2. The project is likely to possess, store, use, transport, or dispose of hazardous materials.

- B. This report shall be prepared, signed, and dated by a professional who is licensed in the state of Washington in hydrogeology or geology.
- C. The report shall identify and characterize the aquifer recharge area as it relates to the development site, assess impacts of the development proposal on the aquifer protection and assess the impacts of any alteration proposed for the aquifer recharge or wellhead protection area.
- D. The report shall propose adequate protection mechanisms and include mitigation, maintenance and monitoring plans and financial security measures if appropriate.
- E. The hydrogeological report shall contain the information required under LMC [14.36.100](#), and the following:
1. Information sources;
 2. Site geology and hydrostratigraphy, supported by ~~project-specific well logs or~~ borings and data from other nearby wells;
 3. Available data on wells and springs located within one-quarter mile of the site;
 4. Location and depth of perched water tables;
 5. Groundwater elevations, flow direction, and gradient;
 6. Recharge potential of facility site, including aquifer permeability and transmissivity;
 7. Background water quality;
 8. Identification of all hazardous materials to be used or stored on the site;
 9. Analysis of the increase or change in nitrate concentrations predicted to occur in groundwater beneath the site as a result of the project;
 10. A description of site conditions prior to project development, including vegetation and other conditions relating to existing and historic groundwater recharge at the site;
 11. An analysis of site conditions as they are likely to exist during and after construction of the proposed project, and their cumulative impacts on ~~groundwater~~ground water quantity and quality;
 12. Discussion of proposed mitigation measures to minimize impacts to groundwater quality and quantity, including training, maintenance and monitoring plans, and proposed mechanisms and financial measures that will ensure long-term implementation of mitigation measures; and
 13. Any other information as required by the city.

F. The city of Lacey may retain health experts and other consultants with applicable expertise at the applicant's expense to assist in the review of special studies outside the range of staff expertise.

G. Review and evaluation of the report may be delegated to other city departments and to qualified private consultants at the applicant's expense.

H. The city of Lacey may waive the hydrogeological report requirements if the nature of the project and its impacts are generally known, or the impacts of the project have been mitigated by source control [BMP strategies](#). (Ord. 1505 §44 (part), 2017).

14.36.1540 Hydrogeological reports--Reimbursement for costs.

The developer shall pay for or reimburse the city for the cost incurred in the conduct of such special reports or tests and for the costs incurred by the city to engage technical consultants for review and interpretation of data and findings submitted by or on behalf of the developer. (Ord. 1505 §44 (part), 2017).

14.36.1650 Hazardous materials spill plans.

A. Any new project located within a wellhead protection area that uses, stores, handles or disposes of hazardous materials above the minimum cumulative quantities listed in this section shall submit a hazardous materials management (spill) plan that will ensure adequate protection of the aquifer and any domestic water supply. This plan shall be reviewed and updated as needed, and conditions under this plan shall be met on an ongoing basis.

B. The city in consultation with the Thurston County health officer may request that an owner of any existing use located within a wellhead protection area which uses, stores, handles or disposes of hazardous materials above the minimum cumulative quantities listed within this section to submit a hazardous materials management (~~spill~~) and spill prevention plan. This plan shall be reviewed and updated as needed, and conditions under this plan shall be met on an ongoing basis.

C. Hazardous materials management (~~spill~~) and spill prevention plans shall include, at a minimum, the following:

1. A brief description of business activities and a list and map of the locations, amounts, and types of hazardous materials, hazardous waste and petroleum products, stored on site;
2. A pollution prevention evaluation that reviews whether the risk from hazardous substances could be reduced through modifying production processes, utilizing nontoxic or less toxic substances, implementing conservation techniques, or reusing materials rather than putting them in the waste stream;

3. A description of inspection procedures for hazardous material storage areas and containers and the minimum inspection intervals. An inspection logbook shall be maintained for periodic review by the city or county;
4. Provision of an appropriate spill kit with adequate spill supplies and protective clothing;
5. Detailed spill cleanup and emergency response procedures identifying how the applicant will satisfy the requirements of the Dangerous Waste Regulations, Chapter [173-303](#) WAC, in the event that hazardous material is released into the ground, ground water, or surface water;
6. Procedures to report spills immediately to the Department of Ecology and the Environmental Health Division of the Thurston County Public Health and Social Services Department, in that order;
7. A list of emergency phone numbers (e.g., the local fire district and ambulance);
8. Procedures to ensure that all employees with access to locations where hazardous materials are used or stored receive adequate spill training. A training logbook shall be maintained for periodic review by the city or county;
9. A map showing the location of all floor drains and any hazardous material and petroleum product transfer areas; and
10. Additional information determined by the approval authority to be necessary to demonstrate that the use or activity will not have an adverse impact on ground water quality.

D. Any existing use which uses, stores, handles or disposes of hazardous materials above these minimum cumulative quantities will meet requirements described in subsection A of this section:

1. Chemical substances that are ignitable, corrosive, reactive or toxic, consistent with WAC [173-303-090](#), as amended, except as provided for below. Minimum cumulative quantity: one hundred sixty pounds or the equivalent of twenty gallons.
2. Cleaning substances for janitorial use or retail sale in the same size, packaging and concentrations as a product packaged for use by the general public. Chlorinated solvents and nonchlorinated solvents which are derived from petroleum or coal tar will not be considered a cleaning substance under this subsection, but rather a chemical substance identified in subsection [\(D\)\(1\)](#) of this section. Minimum cumulative quantity: eight hundred pounds (or the equivalent one hundred gallons), not to exceed fifty-five gallons for any single package.
3. Businesses which use, store, handle or dispose of chemicals listed in WAC as "P" chemicals. Minimum cumulative quantity: two and two-tenths pounds. (Ord. 1505 §44 (part), 2017).

14.36.1760 Wellhead protection area standards of mitigation.

A. Every application for a non-exempt development permit for a new use or expansion of an existing use within a wellhead protection area shall meet these minimum standards for mitigation:

1. If the proposal indicates the use, storage, handling or disposal of hazardous materials above the minimum quantity thresholds listed in LMC [14.36.1650](#), the applicant shall submit a hazardous materials management (spill) plan as outlined in LMC [14.36.1650](#).
2. Any existing wells on the site that are not actively used for domestic water use, irrigation or monitoring, or are not maintained and in such disrepair as to be unusable, will be decommissioned by the applicant following the procedures in WAC [173-160-381](#).
3. The city may require dedicated groundwater monitoring wells to be installed for the project in situations where groundwater contamination risks or monitoring needs are identified. The wells will be installed and equipped by the applicant to city standards.
4. The proposal must ensure compliance with the city of Lacey stormwater maintenance requirements, as described in Section [5B5.100](#) of the City of Lacey Development Guidelines and Public Works Standards, [and in LMC 14.27.060](#).
5. The city may allow alternatives to the minimum mitigation standards described in this section in unique conditions and on a case-by-case basis when the applicant demonstrates that:
 - a. The project has been evaluated by a hydrogeological report as described in LMC [14.36.1340](#); and
 - b. Based upon the hydrogeological report and the best available science the proposed alternative mitigation measures will be adequate to protect the drinking water source. (Ord. 1505 §44 (part), 2017).

14.36.1870 Wellhead protection area standards for new uses.

The following standards for new uses within designated wellhead protection areas are established to minimize risk to potable water supplies.

A. The following uses shall be prohibited within the designated one-year time of travel zone:

1. Land spreading disposal facilities (as defined by Chapters [13-304](#) and [173-308](#) WAC--disposed above agronomic rates);
2. Direct groundwater recharge or surface percolation using reclaimed water (as defined under Chapter [90.46.010](#) RCW);

3. Animal operations with over two hundred animal units. For purposes of this section, one animal unit is the equivalent number of livestock and/or poultry as defined by the U.S. Department of Agriculture Natural Resource Conservation Service Animal Waste Field Handbook;

4. ~~Gas stations, p~~Petroleum products refinement, reprocessing, and storage (except underground storage of heating oil or agricultural fueling in quantities less than one thousand one hundred gallons for consumptive use on the parcel where stored), and liquid petroleum products pipelines;

5. Retail gas stations and non-retail fueling stations, and mobile on-site fueling of commercial or residential vehicles;

~~56.~~ Automobile wrecking and salvage yards;

~~67.~~ Dry cleaning and garment care facilities~~ers~~, excluding drop-off only facilities, that utilize solvents (including but not limited to perchloroethylene (PERC), trichloroethylene (TCE), toluene, methyl ethyl ketone (MEK), glycol ethers, liquid silicone, liquid carbon dioxide, or brominated solvents) as part of their service;

~~78.~~ Deep underground injection control (UIC) wells that extend below an upper confining layer and discharge stormwater into the underlying vadose zone for conveying stormwater or waste discharges to an underlying geologic unit by means of boring or excavating through a confining layer or aquitard;

~~789.~~ Asphalt and asphalt recycling plants, and cement concrete plants; and

~~8910.~~ Machine shops, metal finishing/fabricating, metal plating and electroplating.

B. The following uses shall be prohibited within the designated one-, five- and ten-year time of travel zones:

1. Landfills (municipal sanitary solid waste and hazardous waste), demolition (inert), and wood waste;
2. Chemical/hazardous waste manufacturing, reprocessing, transfer, storage and disposal facilities;
3. Wood and wood products preserving; ~~and~~
4. Retail gGas stations and non-retail fueling stations without attendant (i.e., operated with no attendant on site to respond to fuel spills related to the dispensing of gasoline or equipment failure); ~~and-~~

C. The following uses may be restricted on a case-by-case basis in the designated five-year time of travel zone:

1. Deep underground injection control (UIC) wells that extend below an upper confining layer and discharge stormwater into the underlying vadose zone for conveying stormwater or waste discharges to an underlying geologic unit by means of boring or excavating through a confining layer or aquitard, when the infiltration is proposed within a WHPA for a production well that is rated as having a higher susceptibility to contamination, by the water system or by the Washington State Department of Health.

(Ord. 1505 §44 (part), 2017).

14.36.1980 Special management areas--Wellhead protection area standards for expansion of existing uses.

The following shall apply to expansion of use of facilities located within the designated wellhead protection areas. In this section, “expansion” shall be defined as any addition, remodel, or structural change that requires a building permit.

A. Expansion of all uses prohibited in LMC [14.36.1870\(A\)](#) shall be prohibited within the designated one-year time of travel zone.

B. Expansion of all uses prohibited in LMC [14.36.1870\(B\)](#) shall be prohibited within the designated one-, five- and ten-year time of travel zones.

C. For any expansion of an existing use proposed within the designated one-, five- and ten-year time of travel zones, the applicant shall meet the minimum standards of mitigation described in LMC [14.36.1760](#). The health officer at the health officer’s discretion and with reasonable expectation of risk to ground water, may require pollution prevention plan development and implementation of MPCs on any use located within the one-, five- or ten-year time of travel zones. The health officer will review the documentation to determine whether the expansion shall be approved, denied or approved with conditions to ensure adequate protection of the source water supply. (Ord. 1505 §44 (part), 2017).

14.36.20190 Special management areas--Wellhead protection area standards for existing uses.

The following shall apply to existing uses located within the designated wellhead protection areas defined in LMC [14.36.030](#):

A. For any existing use identified by the ~~pollution-contaminant~~ source inventory in approved wellhead protection plans within the one-, five- and ten-year time of travel zones which produces, uses, stores, handles or disposes of hazardous materials, the owner, upon request of the health officer shall submit a hazardous materials management (spill) plan as described under LMC [14.36.1650](#) that will ensure adequate protection of the source water supply. The health officer, in consultation with the water purveyor in which the use is located, shall review this plan to determine whether the plan shall be approved, or approved with conditions to ensure adequate protection of the source water supply.

B. The health officer at the health officer's discretion, for good cause and with reasonable expectation of risk to ground water, may require pollution prevention plans and MPCs on any use proposed within the one-, five-, and ten-year time of travel zones.

C. For any existing agricultural use located within the designated one-, five- and ten-year time of travel zones, the owner, upon request of the health officer, at the health officer's discretion, for good cause and with reasonable expectation of risk to ground water and with consultation with the Thurston Conservation District, shall develop a farm conservation plan in conformance with the U.S. Natural Resources Conservation Service Field Office Technical Guide and obtain approval of the Thurston Conservation District board of supervisors. (Ord. 1505 §44 (part), 2017).

14.36.2100 Other laws and regulations.

No approval granted pursuant to this chapter shall remove an applicant's obligation to comply in all respects with the applicable provisions of any other federal, state, or local law or regulation, including but not limited to the acquisition of any other required permit or approval. (Ord. 1505 §44 (part), 2017).

14.36.2210 Suspension, revocation.

In addition to other penalties provided for elsewhere, the city of Lacey may suspend or revoke an approval if it finds that the applicant or permittee has not complied with any or all of the conditions or limitations set forth in the approval, has exceeded the scope of work set forth in the approval, or has failed to undertake the project in the manner set forth in the approved application. (Ord. 1505 §44 (part), 2017).

14.36.2320 Appeals.

Any decision of the city of Lacey in the administration of this chapter may be appealed in accordance with Chapter 1D of the City of Lacey Development Guidelines and Public Works Standards. (Ord. 1505 §44 (part), 2017).

14.36.2430 Enforcement.

A. The city of Lacey shall have authority to enforce this chapter, any rule or regulation adopted and any permit or order issued pursuant to this chapter, against any violation or threatened violation thereof. The city of

Lacey is authorized to issue violation notices and administrative orders, levy fines, and/or institute legal actions in court. Recourse to any single remedy shall not preclude recourse to any of the other remedies. Each violation of this chapter, or any rule or regulation adopted, or any permit, permit condition, or order issued pursuant to this chapter, shall be a separate offense, and, in the case of a continuing violation, each day's continuance shall be deemed to be a separate and distinct offense. All costs, fees, and expenses in connection with enforcement actions may be recovered as damages against the violator.

B. Enforcement actions shall include civil penalties, administrative orders and actions for damages and restoration.

1. The city of Lacey may bring appropriate actions at law or equity, including actions for injunctive relief, to ensure that no uses are made of a critical aquifer recharge area or wellhead protection area which are inconsistent with this chapter or an applicable habitat or species protection program.

2. The city of Lacey may serve upon a person a cease and desist order if an activity being undertaken on sites with a geologically sensitive feature or required buffers is in violation of this chapter. Whenever any person violates this chapter or any permit issued to implement this chapter, the city of Lacey may issue an order reasonably appropriate to cease such violation and to mitigate any environmental damage resulting therefrom.

a. *Content of Order.* The order shall set forth and contain:

(1) A description of the specific nature, extent, and time of violation and the damage or potential damage;

(2) A notice that the violation or the potential violation cease and desist or, in appropriate cases, the specific corrective action to be taken within a given time. A civil penalty may be issued with the order;

(3) *Effective Date.* The cease and desist order issued under this section shall become effective immediately upon receipt by the person to whom the order is directed; and

(4) *Compliance.* Failure to comply with the terms of a cease and desist order can result in enforcement actions including, but not limited to, the issuance of a civil penalty.

3. Any person who undertakes nonexempt activity within a critical aquifer recharge area or wellhead protection area without first obtaining an approval required by this chapter, or any person who violates one or more conditions of any approval required by this chapter or of any order issued pursuant to subsection B of this section shall incur a penalty allowed per violation. In the case of a continuing violation, each violation and each day of activity without a required approval shall be a separate and distinct violation. The penalty amount shall be set in consideration of the previous history of the violator and the severity of the environmental impact of the violation. The penalty provided in this subsection shall be appealable to the hearings examiner in conformance with Section 1D.030 of the City of Lacey Development Guidelines and Public Works Standards.

4. *Aiding or Abetting.* Any person who, through an act of commission or omission procures, aids or abets in the violation shall be considered to have committed a violation for the purposes of the penalty.
5. *Notice of Penalty.* Civil penalties imposed under this section shall be imposed by a notice to the person incurring the same from the city of Lacey. The notice shall describe the violation, approximate the date(s) of violation, and shall order the acts constituting the violation to cease and desist, or, in appropriate cases, require necessary corrective action within a specific time.
6. *Application for Remission or Mitigation.* Any person incurring a penalty may apply in writing within thirty days of receipt of the penalty to the city of Lacey for remission or mitigation of such penalty. Upon receipt of the application, the city of Lacey by action of the city hearings examiner under the provision of Chapter [2.30](#) LMC may remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty.
7. Orders and penalties issued pursuant to this subsection may be appealed as provided for in Section 1D.030 of the City of Lacey Development Guidelines and Public Works Standards.
8. Criminal penalties shall be imposed on any person who willfully or negligently violates this chapter or who knowingly makes a false statement, representation, or certification in any application, record or other document filed or required to be maintained under this chapter or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device, record or methodology required to be maintained pursuant to this chapter or pursuant to an approval. (Ord. 1505 §44 (part), 2017).

14.36.2540 Non-conforming activities.

- A. All nonexempt activities that were approved prior to the passage of this chapter shall be subject to the provisions of LMC [14.36.20190](#).
- B. No activity specified in subsection A of this section shall be expanded, changed, enlarged or altered in any way unless it complies with all of the provisions of LMC [14.36.1980](#).
- C. When in conflict, provisions of this section shall supersede the normal nonconforming use provisions of Chapter [16.93](#) LMC. Activities or adjuncts thereof that are nuisances shall not be entitled to continue. (Ord. 1505 §44 (part), 2017).

14.36.2750 Amendments.

These regulations and wellhead protection maps referenced in LMC [14.36.060](#) may from time to time be amended in accordance with the procedures and requirements in the general statutes, the City of Lacey Comprehensive Plan, adopted development regulations, and as new information concerning becomes available. (Ord. 1505 §44 (part), 2017).

14.36.2860 Severability.

If any clause, sentence, paragraph, section or part of this chapter or the application thereof to any person or circumstances shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any part thereof to any other person or circumstances and to this end the provisions of each clause, sentence, paragraph, section or part of this law are hereby declared to be severable. (Ord. 1505 §44 (part), 2017).

The Lacey Municipal Code is current through Ordinance 1601, passed September 16, 2021.