

## Chapter 18.08

### WETLANDS

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#### **18.08.010 Purpose.** The purposes of this Chapter are to:

- A. Recognize and protect the beneficial functions performed by many wetlands, which include, but are not limited to, providing food, breeding, nesting and/or rearing habitat for fish and wildlife; recharging and discharging ground water; contributing to stream flow during low flow periods; stabilizing stream banks and shorelines; storing storm and flood waters to reduce flooding and erosion; and improving water quality through biofiltration, adsorption, and retention and transformation of sediments, nutrients, and toxicants.
- B. Regulate land use to avoid adverse effects on wetlands and maintain the functions and values of wetlands throughout (name of jurisdiction).
- C. Establish review procedures for development proposals in and adjacent to wetlands. (Ord 874, December 2010)

#### **18.08.020 Identification and Rating.**

- A. Identification and Delineation. Wetlands shall be identified and delineated by a qualified wetland professional in accordance with WAC 173-22-035 and the *Washington State Wetlands Identification and Delineation Manual* (Ecology Publication #96-94, or as revised and approved by Ecology), using the criteria established in WAC 173-22-080 and in the definition of Chapter 18.04.150. Wetland delineations are valid for five years; after such date the City may determine whether a revision or additional assessment is necessary.
- B. Rating. Wetlands shall be rated according to the Washington Department of Ecology wetland rating system, as set forth in the *Washington State Wetland Rating System for Eastern Washington* (Ecology Publication #04-06-015, or as revised proved by Ecology), which contains the definitions and methods for determining whether the criteria below are met.
  - 1. Category I wetlands are:
    - a. Alkali wetlands;
    - b. Wetlands that are identified by scientists of the Washington Natural Heritage Program/DNR as high quality wetlands;

- c. Bogs;
- d. Mature and old-growth forested wetlands over ¼ acre with slow-growing trees;
- e. Forests with stands of aspen; and
- f. Wetlands that perform many functions very well (scores of 70 points or more).

These wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of function.

2. Category II wetlands are:

- a. Forested wetlands in the floodplains of rivers;
- b. Mature and old-growth forested wetlands over ¼ acre with fast-growing trees;
- c. Vernal pools; and
- d. Wetlands that perform functions well (scores between 51-69 points).

3. Category III wetlands are:

- a. Vernal pools that are isolated; and
- b. Wetlands with a moderate level of functions (scores between 30-50 points). Wetlands scoring between 30 and 50 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

4. Category IV wetlands have the lowest level of functions (scores fewer than 30 points) and are often heavily disturbed. These are wetlands that we should be able to replace, and in some cases be able to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions and also need to be protected.

C. Illegal modifications. Wetland rating categories shall not change due to illegal modifications made by the applicant or with the applicant's knowledge. (Ord 874, December 2010)

**18.08.030 Regulated Activities.**

- A. For any regulated activity, a critical areas report (see Section 16.20.060 of this Chapter) may be required to support the requested activity.
- B. The following activities are regulated if they occur in a regulated wetland or its buffer:

1. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind.
  2. The dumping of, discharging of, or filling with any material.
  3. The draining, flooding, or disturbing the water level or water table.
  4. Pile driving.
  5. The placing of obstructions.
  6. The construction, reconstruction, demolition, or expansion of any structure.
  7. The destruction or alteration of wetland vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland.
  8. "Class IV - General Forest Practices" under the authority of the "1992 Washington State Forest Practices Act Rules and Regulations", WAC 222-12-030, or as thereafter amended.
  9. Activities that result in:
    - a. A significant change of water temperature.
    - b. A significant change of physical or chemical characteristics of the sources of water to the wetland
    - c. A significant change in the quantity, timing or duration of the water entering the wetland.
    - d. The introduction of pollutants.
- C. Subdivisions. The subdivision and/or short subdivision of land in wetlands and associated buffers are subject to the following:
1. Land that is located wholly within a wetland or its buffer may not be subdivided.
  2. Land that is located partially within a wetland or its buffer may be subdivided provided that an accessible and contiguous portion of each new lot is:
    - a. Located outside of the wetland and its buffer; and
    - b. Meets the minimum lot size requirements of Titles 17 and 20. (Ord 874, December 2010)

**18.08.040 Exemptions and Allowed Uses in Wetlands.**

- A. The following wetlands are exempt from the buffer provisions contained in this Chapter and the normal mitigation sequencing process in Chapter 18.04. They may be filled if impacts are fully mitigated based on provisions in Chapter 16.20.070. In order to verify the following conditions, a critical area report for wetlands meeting the requirements in Chapter 16.20.060 must be submitted.
1. All isolated Category III and IV wetlands less than 1,000 square feet that:
    - a. Are not associated with riparian areas or buffer

- b. Are not part of a wetland mosaic
  - c. Do not contain habitat identified as essential for local populations of priority species identified by Washington Department of Fish and Wildlife or identified in Chapter 16.10.
  - d. Are not a vernal pool
  - e. Are not an alkali wetland
  - f. Do not contain aspen stands
- B. Activities Allowed in Wetlands. The activities listed below are allowed in wetlands. These activities do not require submission of a critical area report, except where such activities result in a loss of the functions and values of a wetland or wetland buffer. These activities include:
1. Those activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, WAC 222-12-030, where state law specifically exempts local authority, except those developments requiring local approval for Class 4 – General Forest Practice Permits (conversions) as defined in RCW 76.09 and WAC 222-12.
  2. Conservation or preservation of soil, water, vegetation, fish, shellfish, and/or other wildlife that does not entail changing the structure or functions of the existing wetland.
  3. 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, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.
  4. Drilling for utilities/utility corridors under a wetland, with entrance/exit portals located completely outside of the wetland buffer, provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column will be disturbed.
  5. Enhancement of a wetland through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal unless permits from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Re-vegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.
  6. Educational and scientific research activities

7. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, provided that the maintenance or repair does not expand the footprint or use of the facility or right-of-way. (Ord 874, December 2010)

**18.08.050 Wetland Buffers.**

A. Buffer Requirements.

The standard buffer widths in Table 18.1 have been established in accordance with the best available science. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington state wetland rating system for eastern Washington.

1. The use of the standard buffer widths **requires** the implementation of the measures in Table 18.2, where applicable, to minimize the impacts of the adjacent land uses.
2. If an applicant chooses not to apply the mitigation measures in Table 18.2, then a 25% increase in the width of all buffers is required. For example, a 75-foot buffer with the mitigation measures would be a 100-foot buffer without them.
3. The standard buffer widths assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.
4. Additional buffer widths are added to the standard buffer widths. For example, a Category I wetland scoring 32 points for habitat function would require a buffer of 150 feet (75 + 75).

**Table 18.1 Wetland Buffer Requirements Eastern Washington**

Wetland Category	Standard Buffer Width	Additional Buffer Width if Wetland Scores 21-25 Habitat Points	Additional Buffer Width if Wetland Scores 26-29 Habitat Points	Additional Buffer Width if Wetland Scores 30-36 Habitat Points
Category 1: Based on total score	75 ft	Add 15 ft.	Add 45 ft.	Add 75 ft.
Category 1: Forested	75 ft.	Add 15 ft.	Add 45 ft.	Add 75 ft.
Category 1: Bogs	190 ft.	N/A	N/A	N/A
Category 1: Alkali	150 ft.	N/A	N/A	N/A
Category 1:				

Natural Heritage Wetlands	190 ft.	N/A	N/A	N/A
Category II: Based on Total score	75 ft.	Add 15 ft.	Add 45 ft.	Add 75 ft.
Category II: Vernal pool	150 ft.	N/A	N/A	N/A
Category II: Forested	75 ft.	Add 15 ft.	Add 45 ft.	Add 75 ft.
Category III (all)	60 ft.	Add 30 ft.	Add 60 ft.	N/A
Category IV (all)	40 ft.	N/A	N/A	N/A

**Table 18.2 Required measures to minimize impacts to wetlands**  
(Measures are required, where applicable to a specific proposal)

<u>Disturbance</u>	<u>Required Measures to Minimize Impacts</u>
Lights	Direct lights away from wetland.
Noise	Locate activity that generates noise away from wetland. If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source. For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer.
Toxic Runoff	Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered. Establish covenants limiting use of pesticides within 150 feet of wetland. Apply integrated pest management.
Stormwater Runoff	Retrofit stormwater detention and treatment for roads and existing adjacent development. Prevent channelized flow from lawns that directly enters the buffer. Use Low Intensity Development techniques (per PSAT publication on LID techniques).
Change in Water Regime	Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns.
Pets and Human Disturbance	Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance

	using vegetation appropriate for the ecoregion. Place wetland and its buffer in a separate tract or protect with a conservation easement.
Dust	Use best management practices to control dust.
Disruption of Corridors or Connections	Maintain connections to offsite areas that are undisturbed. Restore corridors or connections to offsite habitats by replanting.

5. Increased Wetland Buffer Area Width. Buffer widths shall be increased on a case-by-case basis as determined by the designating official when a larger buffer is necessary to protect wetland functions and values. This determination shall be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the wetland. The documentation must include but not be limited to the following criteria:
  - a. The wetland is used by a plant or animal species listed by the federal government or the state as endangered, threatened, candidate, sensitive, monitored or documented priority species or habitats, or essential or outstanding habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees; or
  - b. The adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or
  - c. The adjacent land has minimal vegetative cover or slopes greater than 30 percent.
6. Buffer averaging to *improve wetland protection* may be permitted when **all** of the following conditions are met:
  - a. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a “dual-rated” wetland with a Category I area adjacent to a lower-rated area.
  - b. The buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the wetland and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical areas report from a qualified wetland professional.
  - c. The total area of the buffer after averaging is equal to the area required without averaging.
  - d. The buffer at its narrowest point is never less than either  $\frac{3}{4}$  of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.

7. Averaging to *allow reasonable use* of a parcel may be permitted when **all** of the following are met:
  - a. There are no feasible alternatives to the site design that could be accomplished without buffer averaging.
  - b. The averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a critical areas report from a qualified wetland professional.
  - c. The total buffer area after averaging is equal to the area required without averaging.
  - d. The buffer at its narrowest point is never less than either  $\frac{3}{4}$  of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.
- B. To facilitate long-range planning using a landscape approach, the designating official may identify and pre-assess wetlands using the rating system and establish appropriate wetland buffer widths for such wetlands. The designating official will prepare maps of wetlands that have been pre-assessed in this manner.
- C. Measurement of Wetland Buffers. All buffers shall be measured perpendicular from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Only fully vegetated buffers will be considered. Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers or included in buffer area calculations.
- D. Buffers on Mitigation Sites. All mitigation sites shall have buffers consistent with the buffer requirements of this Chapter. Buffers shall be based on the expected or target category of the proposed wetland mitigation site.
- E. Buffer Maintenance. Except as otherwise specified or allowed in accordance with this Chapter, wetland buffers shall be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive non-native weeds is required for the duration of the mitigation bond.
- F. Impacts to Buffers. Requirements for the compensation for impacts to buffers are outlined in Section 16.20.070 of this Chapter.
- G. Overlapping Critical Area Buffers. If buffers for two contiguous critical areas overlap (such as buffers for a stream and a wetland), the wider buffer applies.
- H. Allowed Buffer Uses. The following uses may be allowed within a wetland buffer in accordance with the review procedures of this Chapter, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:
  1. Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.

2. Passive recreation. Passive recreation facilities designed and in accordance with an approved critical area report, including:
  - a. Walkways and trails, provided that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five (5) feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.
  - b. Wildlife-viewing structures.
3. Educational and scientific research activities.
4. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, provided that the maintenance or repair does not increase the footprint or use of the facility or right-of-way.
5. 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, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.
6. Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column is disturbed.
7. Enhancement of a wetland buffer through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.
8. Stormwater management facilities. Stormwater management facilities are limited to stormwater dispersion outfalls and bioswales. They may be allowed within the outer twenty-five percent (25%) of the buffer of Category III or IV wetlands only, provided that:
  - a. No other location is feasible; and
  - b. The location of such facilities will not degrade the functions or values of the wetland; and

- c. Stormwater management facilities are not allowed in buffers of Category I or II wetlands.
  9. Non-Conforming Uses. Repair and maintenance of non-conforming uses or structures, where legally established within the buffer, provided they do not increase the degree of nonconformity.
- I Signs and Fencing of Wetlands and Buffers.
  1. Temporary markers. The outer perimeter of the wetland buffer and the clearing limits identified by an approved permit or authorization shall be marked in the field with temporary “clearing limits” fencing in such a way as to ensure that no unauthorized intrusion will occur. The marking is subject to inspection by the designating official prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.
  2. Permanent signs. As a condition of any permit or authorization issued pursuant to this Chapter, the designating official may require the applicant to install permanent signs along the boundary of a wetland or buffer.
    - a. Permanent signs shall be made of an enamel-coated metal face and attached to a metal post or another non-treated material of equal durability. Signs must be posted at an interval of one (1) per lot or every fifty (50) feet, whichever is less, and must be maintained by the property owner in perpetuity. The signs shall be worded as follows or with alternative language approved by the designating official:

**Protected Wetland Area  
Do Not Disturb  
Contact [Local Jurisdiction]  
Regarding Uses, Restrictions, and  
Opportunities for Stewardship**

- b. The provisions of Subsection (a) may be modified as necessary to assure protection of sensitive features or wildlife.
  3. Fencing.
    - a. The applicant shall be required to install a permanent fence around the wetland or buffer when domestic grazing animals are present or may be introduced on site.
    - b. Fencing installed as part of a proposed activity or as required in this Subsection shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat. (Ord 874, December 2010)

**18.08.060 Critical Area Report for Wetlands.**

- A. If the designating official determines that the site of a proposed development includes, is likely to include, or is adjacent to a wetland, a wetland report, prepared by a qualified professional, shall be required. The expense of preparing the wetland report shall be borne by the applicant.
- B. Minimum Standards for Wetland Reports. The written report and the accompanying plan sheets shall contain the following information, at a minimum:
  - 1. The written report shall include at a minimum:
    - a. The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s) of the wetland critical area report; a description of the proposal; identification of all the local, state, and/or federal wetland-related permit(s) required for the project; and a vicinity map for the project.
    - b. A statement specifying the accuracy of the report and all assumptions made and relied upon.
    - c. Documentation of any fieldwork performed on the site, including field data sheets for delineations, function assessments, baseline hydrologic data, etc.
    - d. A description of the methodologies used to conduct the wetland delineations, function assessments, or impact analyses including references.
    - e. Identification and characterization of all critical areas, wetlands, water bodies, shorelines, floodplains, and buffers on or adjacent to the proposed project area. For areas off site of the project site, estimate conditions within 300 feet of the project boundaries using the best available information.
    - f. For each wetland identified on-site and within 300 feet of the project site provide: the wetland rating per Wetland Ratings (BCMC 16.20.020.B); required buffers; hydrogeomorphic classification; wetland acreage based on a professional survey from the field delineation (acreages for on-site portion and entire wetland area including off-site portions); Cowardin classification of vegetation communities; habitat elements; soil conditions based on site assessment and/or soil survey information; and to the extent possible, hydrologic information such as location and condition of inlet/outlets (if they can be legally accessed), estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g., algal mats, drift lines, flood debris, etc.). Provide acreage estimates, classifications, and ratings based on entire wetland complexes, not only the portion present on the proposed project site.

- g. A description of the proposed actions including an estimation of acreages of impacts to wetlands and buffers based on the field delineation and survey and an analysis of site development alternatives including a no-development alternative.
  - h. An assessment of the probable cumulative impacts to the wetlands and buffers resulting from the proposed development.
  - i. A description of reasonable efforts made to apply mitigation sequencing pursuant to *Mitigation Sequencing* (Chapter 16.10) to avoid, minimize, and mitigate impacts to critical areas.
  - j. A discussion of measures, including avoidance, minimization, and compensation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land-use activity.
  - k. A conservation strategy for habitat and native vegetation that addresses methods to protect and enhance on-site habitat and wetland functions.
  - l. An evaluation of the functions of the wetland and adjacent buffer. Include reference for the method used and data sheets.
2. A copy of the site plan sheet(s) for the project must be included with the written report and must include, at a minimum:
- a. Maps (to scale) depicting delineated and surveyed wetland and required buffers on-site, including buffers for off-site critical areas that extend onto the project site; the development proposal; other critical areas; grading and clearing limits; areas of proposed impacts to wetlands and/or buffers (include square footage estimates);.
  - b. A depiction of the proposed stormwater management facilities and outlets (to scale) for the development, including estimated areas of intrusion into the buffers of any critical areas. The written report shall contain a discussion of the potential impacts to the wetland(s) associated with anticipated hydroperiod alterations from the project. (Ord 874, December 2010)

**18.08.070 Compensatory Mitigation.**

- A. Mitigation Sequencing. Before impacting any wetland or its buffer, an applicant shall demonstrate that the following actions have been taken. Actions are listed in the order of preference.
  - 1. Avoid the impact altogether by not taking a certain action or parts of an action.
  - 2. Minimize impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.
  - 3. Rectify the impact by repairing, rehabilitating, or restoring the affected environment.

4. Reduce or eliminate the impact over time by preservation and maintenance operations.
5. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments.
6. Monitor the required compensation and take remedial or corrective measures when necessary.

B. Requirements for Compensatory Mitigation.

1. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with *Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1)*, Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as revised.
2. Mitigation ratios shall be consistent with Subsection G of this Chapter.

C. Compensating for Lost or Affected Functions. Compensatory mitigation shall address the functions affected by the proposed project, with an intention to achieve functional equivalency or improvement of functions. The goal shall be for the compensatory mitigation to provide similar wetland functions as those lost, except when either:

1. The lost wetland provides minimal functions and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal Washington state watershed assessment plan or protocol; or
2. Out-of-kind replacement of wetland type or functions will best meet watershed goals formally identified by the City, such as replacement of historically diminished wetland types.

D. Preference of Mitigation Actions. Methods to achieve compensation for wetland functions shall be approached in the following order of preference:

1. Restoration (re-establishment and rehabilitation) of wetlands.
2. Creation (establishment) of wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of non-native species. This should be attempted only when there is an adequate source of water and it can be shown that the surface and subsurface hydrologic regime is conducive to the wetland community that is anticipated in the design.
3. Enhancement of significantly degraded wetlands in combination with restoration or creation. Enhancement alone will result in a loss of wetland acreage and is less effective at replacing the functions lost. Enhancement should be part of a mitigation package that includes replacing the impacted area and meeting appropriate ratio requirements.
4. Preservation. Preservation of high-quality, at risk-wetlands as compensation is generally acceptable when done in combination with

restoration, creation, or enhancement, provided that a minimum of 1:1 acreage replacement is provided by re-establishment or creation.

Preservation of high-quality, at-risk wetlands and habitat may be considered as the sole means of compensation for wetland impacts when the following criteria are met:

- a. Wetland impacts will not have a significant adverse impact on habitat for listed fish, or other ESA listed species.
- b. There is no net loss of habitat functions within the watershed or basin.
- c. Mitigation ratios for preservation as the sole means of mitigation shall generally start at 20:1. Specific ratios should depend upon the significance of the preservation project and the quality of the wetland resources lost.
- d. The impact area is small (generally <math>< \frac{1}{2}</math>acre) and/or impacts are occurring to a low-functioning system (Category III or IV wetland).

All preservation sites shall include buffer areas adequate to protect the habitat and its functions from encroachment and degradation.

E. Type and Location of Compensatory Mitigation. Unless it is demonstrated that a higher level of ecological functioning would result from an alternative approach, compensatory mitigation for ecological functions shall be either in kind and on site, or in kind and within the same stream reach, sub-basin, or drift cell (if estuarine wetlands are impacted). Compensatory mitigation actions shall be conducted within the same sub-drainage basin and on the site of the alteration except when all of the following apply:

1. There are no reasonable opportunities on-site or within the sub-drainage basin (e.g., on-site options would require elimination of high-functioning upland habitat), or opportunities on site or within the sub-drainage basin do not have a high likelihood of success based on a determination of the capacity of the site to compensate for the impacts. Considerations should include: anticipated replacement ratios for wetland mitigation, buffer conditions and proposed widths, available water to maintain anticipated hydrogeomorphic classes of wetlands when restored, proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts (such as connectivity);
2. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland; and
3. Off-site locations shall be in the same sub-drainage basin unless:
  - a. Established watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the City and strongly justify location of mitigation at another site; or

- b. Credits from a state-certified wetland mitigation bank are used as compensation, and the use of credits is consistent with the terms of the bank's certification.
4. The design for the compensatory mitigation project needs to be appropriate for its location (i.e., position in the landscape). Therefore, compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland. An atypical wetland refers to a compensation wetland (e.g., created or enhanced) that does not match the type of existing wetland that would be found in the geomorphic setting of the site (i.e., the water source(s) and hydroperiod proposed for the mitigation site are not typical for the geomorphic setting). Likewise, it should not provide exaggerated morphology or require a berm or other engineered structures to hold back water. For example, excavating a permanently inundated pond in an existing seasonally saturated or inundated wetland is one example of an enhancement project that could result in an atypical wetland. Another example would be excavating depressions in an existing wetland on a slope, which would require the construction of berms to hold the water.
- F. Timing of Compensatory Mitigation. It is preferred that compensatory mitigation projects be completed prior to activities that will disturb wetlands. At the least, compensatory mitigation shall be completed immediately following disturbance and prior to use or occupancy of the action or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.
1. The designating official may authorize a one-time temporary delay in completing construction or installation of the compensatory mitigation when the applicant provides a written explanation from a qualified wetland professional as to the rationale for the delay. An appropriate rationale would include identification of the environmental conditions that could produce a high probability of failure or significant construction difficulties (e.g., project delay lapses past a fisheries window, or installing plants should be delayed until the dormant season to ensure greater survival of installed materials). The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety, or general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints that preclude implementation of the compensatory mitigation plan. The justification must be verified and approved by the City.

G. Wetland Mitigation Ratios.

<b>Category and Type of Wetland</b>	<b>Creation or Re-establishment</b>	<b>Rehabilitation</b>	<b>Enhancement</b>	<b>Preservation</b>
Category 1: Bog, Natural Heritage Site	Not considered possible	6:1	Case-by-case	10:1
Category I:				

Mature Forested	6:1	12:1	24:1	24:1
Category I: Based on functions	4:1	8:1	16:1	20:1
Category II	3:1	6:1	12:1	20:1
Category III	2:1	4:1	8:1	15:1
Category IV	1.5:1	3:1	6:1	10:1

H. Compensatory Mitigation Plan. When a project involves wetland and/or buffer impacts, a compensatory mitigation plan prepared by a qualified professional shall be required, meeting the following minimum standards:

1. Wetland Critical Area Report. A critical area report for wetlands must accompany or be included in the compensatory mitigation plan and include the minimum parameters described in *Minimum Standards for Wetland Reports*.
2. Compensatory Mitigation Report. The report must include a written report and plan sheets that must contain, at a minimum, the following elements. Full guidance can be found in *Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1)* (Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as revised).
  - a. The written report must contain, at a minimum:
    - i. The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s) of the compensatory mitigation report; a description of the proposal; a summary of the impacts and proposed compensation concept; identification of all the local, state, and/or federal wetland-related permit(s) required for the project; and a vicinity map for the project.
    - ii. Description of how the project design has been modified to avoid, minimize, or reduce adverse impacts to wetlands.
    - iii. Description of the existing wetland and buffer areas proposed to be impacted. Include acreage (or square footage), water regime, vegetation, soils, landscape position, surrounding lands uses, and functions. Also describe impacts in terms of acreage by Cowardin classification, hydrogeomorphic classification, and wetland rating, based on *Wetland Ratings* (BCMC 18.08.020.B).
    - iv. Description of the compensatory mitigation site, including location and rationale for selection. Include an assessment of existing conditions: acreage (or square footage) of wetlands and uplands, water regime, sources of water, vegetation, soils, landscape position, surrounding land uses, and functions. . Estimate future conditions in this location if the compensation actions are NOT undertaken (i.e., how would this site progress through natural succession?).

- v. Description of the proposed actions for compensation of wetland and upland areas affected by the project. Include overall goals of the proposed mitigation, including a description of the targeted functions, hydrogeomorphic classification, and categories of wetlands.
  - vi. A description of the proposed mitigation construction activities and timing of activities.
  - vii. A discussion of ongoing management practices that will protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs (for remaining wetlands and compensatory mitigation wetlands).
  - viii. A bond estimate for the entire compensatory mitigation project, including the following elements: site preparation, plant materials, construction materials, installation oversight, maintenance twice per year for up to five (5) years, annual monitoring field work and reporting, and contingency actions for a maximum of the total required number of years for monitoring.
  - ix. Proof of establishment of Notice on Title for the wetlands and buffers on the project site, including the compensatory mitigation areas.
- b. The scaled plan sheets for the compensatory mitigation must contain, at a minimum:
- i. Surveyed edges of the existing wetland and buffers, proposed areas of wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation actions.
  - ii. Existing topography, ground-processed, at two-foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed to create the compensation area(s). Also existing cross-sections of on-site wetland areas that are proposed to be impacted, and cross-section(s) (estimated one-foot intervals) for the proposed areas of wetland or buffer compensation.
  - iii. Surface and subsurface hydrologic conditions including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas. Also, illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions;
  - iv. Conditions expected from the proposed actions on site including future hydrogeomorphic types, vegetation community types by dominant species (wetland and upland), and future water regimes.
  - v. Required wetland buffers for existing wetlands and proposed compensation areas. Also, identify any zones where buffers are

proposed to be reduced or enlarged outside of the standards identified in this Chapter.

- vi. A plant schedule for the compensation area including all species by proposed community type and water regime, size and type of plant material to be installed, spacing of plants, typical clustering patterns, total number of each species by community type, timing of installation. Performance standards (measurable standards reflective of years post-installation) for upland and wetland communities, monitoring schedule, and maintenance schedule and actions by each biennium.
3. **Monitoring Requirement.** The report shall include a plan monitoring requirement demonstrating successful regeneration of vegetation filed on the anniversary date of the vegetation planting for five (5) successive years.
- I. **Buffer Mitigation Ratios.** Impacts to buffers shall be mitigated at a 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.
  - J. **Wetland Mitigation Banks.**
    1. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:
      - a. The bank is certified under state rules;
      - b. The designating official determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and
      - c. The proposed use of credits is consistent with the terms and conditions of the bank's certification.
    2. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.
    3. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, the service area of the bank may include portions of more than one adjacent drainage basin for specific wetland functions.
  - K. **In-Lieu Fee.** To aid in the implementation of off-site mitigation, the City may develop a program which prioritizes wetland areas for use as mitigation and/or allows payment in lieu of providing mitigation on a development site. This program shall be developed and approved through a public process and be consistent with state and federal rules. The program should address:
    1. The identification of sites within the City suitable for use as off-site mitigation. Site suitability shall take into account wetland functions, potential for wetland degradation, and potential for urban growth and service expansion, and

2. The use of fees for mitigation on available sites that have been identified as suitable and prioritized.
- L. Advance Mitigation. Mitigation for projects with pre-identified impacts to wetlands may be constructed in advance of the impacts if the mitigation is implemented according to state and federal rules. (Ord 874, December 2010)

**18.08.080 Unauthorized Alterations and Enforcement.**

- A. When a wetland or its buffer has been altered in violation of this Chapter, all ongoing development work shall stop and the critical area shall be restored. The City shall have the authority to issue a “stop-work” order to cease all ongoing development work and order restoration, rehabilitation, or replacement measures at the owner’s or other responsible party’s expense to compensate for violation of provisions of this Chapter.
- B. Requirement for Restoration Plan. All development work shall remain stopped until a restoration plan is prepared and approved by City. Such a plan shall be prepared by a qualified professional using the currently accepted scientific principles and shall describe how the actions proposed meet the minimum requirements described in subsection C below. The designating official shall, at the violator’s expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.
- C. Minimum Performance Standards for Restoration. The following minimum performance standards shall be met for the restoration of a wetland, provided that if the violator can demonstrate that greater functions and habitat values can be obtained, these standards may be modified:
  1. The historic structure, functions, and values of the affected wetland shall be restored, including water quality and habitat functions.
  2. The historic soil types and configuration shall be restored to the extent practicable.
  3. The wetland and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration.
  4. Information demonstrating compliance with other applicable provisions of this Chapter shall be submitted to the designating official.
- D. Site Investigations. The designating official is authorized to make site inspections and take such actions as are necessary to enforce this Chapter. The designating official shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property. (Ord 874, December 2010)