

**CHAPTER 15.04****WETLANDS****SECTIONS:**

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**15.04.010 DESIGNATION, RATING, AND MAPPING OF WETLANDS.**

(a) Designating Wetlands. Wetlands are those areas, designated in accordance with WAC 173-22-035 and the Federal Wetlands Delineation Manual (1987, as now existing and hereafter amended) that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. All areas meeting the wetland designation criteria in the Federal Wetlands Delineation Manual and applicable regional supplements, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter. Wetland delineations are valid for five years; after such date the County shall determine whether a revision or additional assessment is necessary.

(b) Wetlands Rating Categories: Wetlands shall be rated according to Ecology's Washington State Wetland Rating System for Eastern Washington: 2014 Update—Revised (Ecology Publication #14-06-030), or as revised by the Washington State Department of Ecology. Wetland rating categories shall be applied as the wetland exists at the time of the adoption of this chapter or as it exists at the time of an associated permit application. Wetland rating categories shall not change due to illegal modifications. Wetlands shall be rated according to the following categories:

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(1) Category I Wetlands. Those wetlands scoring a "Category I" rating ~~under the Ecology Wetlands Rating System;~~

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(2) Category II Wetlands: Those wetlands scoring a "Category II" rating ~~under the Ecology Wetlands Rating System;~~

(3) Category III Wetlands: Those wetlands scoring a "Category III" ~~rating under the Ecology Wetlands Rating System;~~ and

(4) Category IV Wetlands: Those wetlands scoring a "Category IV" ~~rating under the Ecology Wetlands Rating System.~~

(c) Mapping: The approximate location and extent of critical areas are displayed on various inventory maps available at the Planning Department. These maps will be updated as inventories are completed in compliance with the requirements of the Growth Management Act, and additional maps may be added as appropriate. Benton County's critical areas maps depict the approximate location and extent of known or suspected wetlands, and are hereby adopted.

(1) These maps are to be used as a guide for the County, project applicants, and/or property owners, and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

(2) The exact location of a wetland's boundary shall be determined through the performance of a field investigation by a qualified professional wetland scientist applying the approved Federal Wetlands Delineation Manual (1987, as now existing and hereafter amended) and applicable regional supplements. Wetland delineations will be documented on a ground-verified map using either professional surveying methods or an equivalent professional method using GPS with sub-meter accuracy.

[Ord. 609 (2018) § 31]

#### **15.04.020 ACTIVITIES ALLOWED IN WETLANDS.**

The activities listed below are allowed in wetlands, in addition to those activities listed in, and consistent with, the provisions established in allowed activities (BCC 15.02.160), and do not require submission of a critical area report, except where such activities result in a loss to the functions and values of a wetland or wetland buffer. These activities include:

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(a) Conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife that does not entail changing the structure or functions of the existing wetland.

(b) Enhancement of a wetland through the removal of non-native invasive species. Weeding shall be restricted to hand removal and weed material shall be removed from the site. Bare areas that remain after weed removal shall be revegetated with native shrubs and trees at natural densities. Some hand seeding may also be done over the bare areas with native herbs.  
[Ord. 609 (2018) § 32]

(c) Agricultural activities in and around critical areas that are addressed by the implementation of the VSP work plan.

(d) 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.

(e) 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 alter 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 altered. Trenching is not allowed by this provision.

(f) Enhancement of a wetland through the removal of non-native, invasive plant species. Removal shall be restricted to hand removal unless permits from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments or mechanical methods. All removed plant material shall be taken away from the site and disposed of properly. Plants that are on the Washington State Noxious Weed Control Board list of noxious weeds should be handled and disposed of according to a noxious weed control plan appropriate to that species. Re-vegetation with appropriate native species to achieve natural densities is allowed and encouraged in conjunction with removal of invasive plants.

**15.04.030 CRITICAL AREA REPORT-ADDITIONAL REQUIREMENTS FOR WETLANDS.**

In addition to the general critical area report requirements of BCC 15.02.190, critical area reports for wetlands must meet the requirements of this section.

(a) Preparation by a Qualified Professional. A critical area report for wetlands shall be prepared by a qualified professional who has training and experience in preparing wetland reports. A qualified professional shall meet the standard specified in BCC 15.02.070(57).

(b) Area Addressed in Critical Area Report. The following areas shall be addressed in a critical area report for wetlands:

(1) The project area of the proposed activity;

(2) All wetlands, shoreline areas, water features, floodplains, and other critical areas, and related buffers within two-hundred fifty (250) feet of the project area.

(c) Wetland analysis. In addition to the minimum required contents of critical area reports-requirements (BCC 15.02.190), a critical area report for wetlands may, upon the determination of the Planning Administrator, contain an analysis of the wetlands including the following site and proposal related information:

(1) A written assessment and accompanying maps of the wetlands and buffers within two hundred fifty (250) feet of the project area, including the following information at a minimum:

(i) Wetland delineation and required buffers;

(ii) Estimated wetland acreage;

- (iii) Wetland category;
- (iv) Vegetative, faunal, and hydrologic characteristics;
- (v) Soil and substrate conditions; and
- (vi) Topographic elevations.

(2) A discussion of the water sources supplying the wetland and documentation of hydrologic regime (locations of inlet and outlet features, water depths throughout the wetland, evidence of recharge or discharge, evidence of water depths throughout the year).

(3) A description of the functions provided by the wetland and discussion of the relative degree to which the wetland is capable of providing the identified functions.

(4) A scale map of the development proposal site and adjacent area.

(5) As appropriate, a discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing wetlands, habitat and native vegetation and restore any wetlands that were degraded prior to the current proposed land use activity.

(6) Proposed mitigation, if needed, including a written assessment and accompanying maps of the mitigation area, including the following information at a minimum:

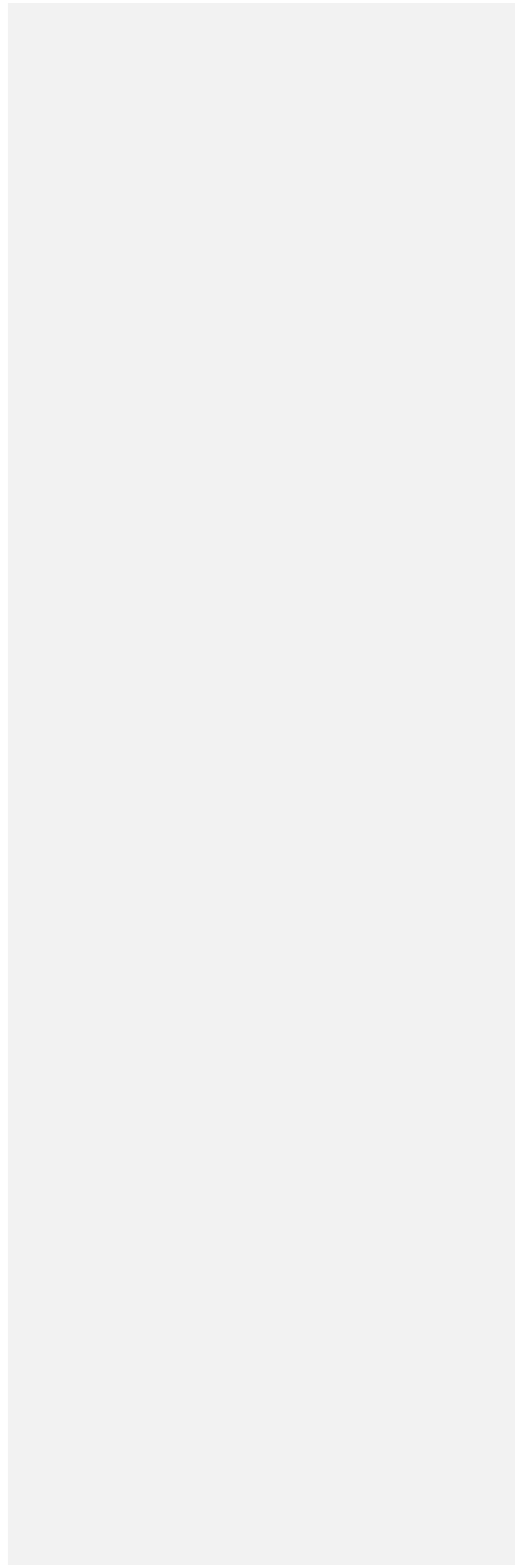
- (i) Existing and proposed wetland acreage;
- (ii) Vegetative and faunal conditions;
- (iii) Surface and subsurface hydrologic conditions including an analysis of existing and future hydrologic regime and proposed hydrologic regime for enhanced, created, or restored mitigation areas;
- (iv) Relationship within watershed and to existing waterbodies;

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(v) Soil and substrate conditions, topographic elevations;

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(vi) Existing and proposed adjacent site conditions;

(vii) Required wetland buffers (including any buffer reduction and mitigation proposed to increase the plant densities, remove weedy vegetation, and replant the buffers);

(viii) A description of the nature and timing of any previous alterations to the wetland and buffer;

(ix) Property ownership; and

(x) Other wetlands and critical areas that may be functionally related to or associated with the subject wetland.

(7) A discussion of any ongoing management practices that will protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs.

(8) A bond estimate for any installation (including site preparation, plant materials and installation, fertilizers, mulch, stakes) and the proposed monitoring and maintenance work for the required number of years.

d) When appropriate, the Planning Administrator may also require the critical area report to include an evaluation by the Washington State Department of Ecology or an independent qualified expert regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, and to include any recommendations as appropriate.

(e) The Planning Administrator shall determine if the mitigation and monitoring plans and bonding measures proposed by the applicant are sufficient to protect the public health, safety, and welfare, consistent with the goals, purposes, objectives and requirements of this chapter.

[Ord. 609 (2018) § 33]

**15.04.040 PERFORMANCE STANDARDS—GENERAL REQUIREMENTS.**

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(a) Activities may only be permitted in a wetland or wetland

buffer if the applicant can show that the proposed activity will not degrade the functions and functional performance of the wetland and other critical areas.

(b) Wetland Buffers. The following buffer widths 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 (Ecology Publication #14-06-030, or as revised and approved by Ecology). The standard buffer widths are provided in Table 15.04.040-1 below.

(1) The use of the standard buffer widths requires providing:

a) a minimum 100 foot protected habitat corridor to connect wetlands that score 6 or more habitat points with any of the following:

i. A legally protected, relatively undisturbed and vegetated area (e.g., Priority Habitats, other compensation sites, wildlife areas/refuges, or national, county and state parks where they have management plans with identified areas designated as Natural, Natural Forest, or Natural Area Preserve)

ii. An area that is the site of a Watershed Project identified within and fully consistent with a Watershed Plan, as these terms are defined by RCW 89-08-460

iii. An area where development is prohibited per the provisions of the local shoreline master program

iv. An area with equivalent habitat quality that has conservation status in perpetuity, in consultation with WDFW.

b) The corridor is permanently protected for the entire distance between the wetland and the shoreline or legally protected area by a conservation easement, deed restriction, or other legal means.

c) Presence or absence of the shoreline or Priority Habitat must be confirmed by a qualified biologist or shoreline Administrator.

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d) The measures in Table 15.04.040-2 are implemented, as applicable, to minimize the impacts of the adjacent land uses.

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(2) For wetlands that score 5 or fewer habitat points, only the measures in Table 15.04.040-2 are required for the use of the buffers in Table 15.04.040-1.

(3) If an applicant does not apply the mitigation measures in Table 15.04.040-2 or is unable to provide a protected corridor, then the buffers in Table 15.04.040-3 shall be used.

(4) The buffer widths in Tables 15.04.040-1 and 15.04.040-3 assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is un-vegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer must either be planted to create the appropriate native plant community or be widened to ensure that the buffer provides adequate functions to protect the wetland.

~~(1) The use of the standard buffer widths requires the implementation of the measures in Table 15.04.040-2, where applicable, to minimize the impacts of the adjacent land uses.~~

~~(2) If an applicant chooses not to apply the minimization measures in Table 15.04.040-2, then a 33% increase in the width of all buffers is required. For example, a 75-foot standard buffer would become a 100-foot buffer if the minimization measures are not implemented.~~

~~(3) The standard buffer widths assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the buffer is un-vegetated, 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 in accordance with subsection (i) below, or the buffer should be widened to ensure that adequate functions of the buffer are provided.~~

~~(i) In lieu of increasing the buffer width where existing buffer vegetation is inadequate to protect the wetland functions and values, implementation of a buffer planting plan may substitute. Existing buffer vegetation~~

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~~is considered "inadequate" and will need to be enhanced through additional native plantings and (if appropriate) removal of non native plants when: (1) non native or invasive plant species provide the dominant cover, (2) vegetation is lacking due to disturbance and wetland resources could be adversely affected, or (3) enhancement plantings in the buffer could significantly improve buffer functions~~

(54) Measurement of Wetland Buffers. All buffers shall be measured from the wetland boundary as surveyed in the field.

(65) Increased Wetland Buffer Widths. The Planning Administrator may require increased buffer widths in accordance with the recommendations of an experienced, qualified professional wetland scientist, and the best available science on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on site-specific characteristics. The documentation shall include but not be limited to the following criteria:

- a. The wetland is used by a state or federally listed plant or animal species. These species would be those listed under WAC 220-610-010, 50 CFR 17-11, 50 CFR 17-12, or other state or federal regulations.
- b. The wetland has critical habitat; or a priority area for a priority species as defined by WDFW; or Wetlands of High Conservation Value as defined by the Washington Department of Natural Resources' Natural Heritage Program.
- c. The adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts.
- d. The adjacent land has minimal vegetative cover.
- e. The land has slopes greater than 30 percent.

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~~{NOTE: This chapter is continued on the following page.}~~

**Table 15.04.040-1. Wetland Buffer Width Requirements, in feet**

Wetland Category	<u>Standard Buffer Width</u> <u>Habitat Score 3-5</u> <u>4 habitat points (Corrector not required)*</u>	<u>Additional buffer width if wetland scores 5 habitat points</u> <u>Habitat Score 6 - 7 points*</u>	<u>Habitat Score 8 - 9 points</u> <u>Additional buffer width if wetland scores 6-7 habitat points*</u>	<u>Additional buffer width if wetland scores 8-9 habitat points*</u> <u>Buffer width based on special characteristics</u>
Category I and II: Based on <u>rating of wetland functions (and not listed below) total score</u>	<del>75 ft</del>	<del>Add 15 ft</del> <u>110</u>	<del>Add 45 ft</del> <u>150</u>	<del>Add 75 ft</del> <u>NA</u>
Category I & II: Forested	<del>75</del> <u>75 ft</u>	<del>110</del> <u>Add 15 ft</u>	<del>150</del> <u>Add 45 ft</u>	<del>NA</del> <u>Add 75 ft</u>
Category I: Bogs, <u>calcareous fens, and Wetlands of High Conservation Value</u>	<del>190 ft</del> <u>NA</u>	NA	NA	<del>NA</del> <u>190</u>
Category I: Alkali	<del>150 ft</del> <u>NA</u>	<del>N/A</del>	NA	<del>NA</del> <u>150</u>
Category I: <u>Natural</u>	<del>190 ft</del>	<del>N/A</del>	NA	NA

Wetland Category	<del>Standard Buffer Width</del> <del>Habitat Score 3-5</del> <del>4 habitat points (Corridor not required)*</del>	<del>Additional buffer width if wetland scores 5</del> <del>habitat points</del> <del>Habitat Score 6 - 7 points*</del>	<del>Habitat Score 8 - 9 points</del> <del>Additional buffer width if wetland scores 6-7</del> <del>habitat points*</del>	<del>Additional buffer width if wetland scores 8-9</del> <del>habitat points*</del> <del>Buffer width based on special characteristics</del>
Heritage Wetlands				
Category II: Based on total score	<del>75 ft</del>	<del>Add 15 ft</del>	<del>Add 45 ft</del>	<del>Add 75 ft</del>
Category II: Vernal pool	<del>150</del> NA	NA	NA	NA <del>150</del>
Category II: Forested	<del>75 ft</del>	<del>Add 15 ft</del>	<del>Add 45 ft</del>	<del>Add 75 ft</del>
Category III (all)	<del>60 ft</del>	<del>Add 30 ft</del> <u>110</u>	<del>Add 60 ft</del> <u>150</u>	<del>Add 90 ft</del> <u>NA</u>
Category IV (all)	<del>40 ft</del>	<del>NA</del> <u>40</u>	<u>40</u> <del>NA</del>	NA

\*Or latest method of scoring, if the Department of Ecology updates its Wetland Rating

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Forms, these point ranges should be modified using Ecology's conversion table once updated.

**Table 15.04.040-2. Required measures to minimize impacts to wetlands**

(Measures are required, where applicable to a specific proposal)

Disturbance	Required Measures to Minimize Impacts
Lights (from parking lots, Commercial/industrial uses, residential uses, agricultural buildings)	<ul style="list-style-type: none"> <li>▪ Direct lights away from wetland</li> <li>▪ Only use lighting where necessary for public safety and keep lights off when not needed</li> <li>▪ Use motion-activated lights</li> <li>▪ Use full cut-off filters to cover light bulbs and direct light only where needed</li> <li>▪ Limit use of blue-white colored lights in favor of red-amber hues</li> <li>▪ Use lower-intensity LED lighting</li> <li>▪ Dim light to the lowest acceptable intensity</li> </ul>
Noise (from parking lots, Commercial/industrial uses, residential uses, recreation and agriculture)	<ul style="list-style-type: none"> <li>▪ Locate activity that generates noise away from wetland</li> <li>▪ Construct a fence to reduce noise impacts on adjacent wetland and buffer</li> <li>▪ Plant a strip of dense shrub vegetation adjacent to wetland buffer</li> <li>▪ <del>If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source</del></li> <li>▪ <del>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</del></li> </ul>
Toxic runoff (from parking lots, Commercial/industrial uses, residential uses, pesticide application, landscaping and agriculture)	<ul style="list-style-type: none"> <li>▪ Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</li> <li>▪ Establish covenants limiting use of pesticides within 150 ft of wetland</li> <li>▪ Apply integrated pest management (Note: These examples are not necessarily adequate for minimizing toxic runoff if threatened or endangered species are present at the site.)</li> </ul>

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Disturbance	Required Measures to Minimize Impacts
Stormwater runoff (from parking lots and roads, Commercial/industrial, recreation and residential areas and uses, landscaping and other impermeable surfaces)	<ul style="list-style-type: none"> <li>▪ Retrofit stormwater detention and treatment for roads and existing adjacent development</li> <li>▪ Prevent channelized or sheet flow from lawns that directly enters the buffer</li> <li>▪ <del>Use Low Intensity Development techniques (per PSAT publication on LID techniques)</del> Infiltrate or treat, detain and disperse new runoff from impervious surfaces and lawns</li> </ul>
Change in water regime	<p><del>Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns</del></p>
Pets and human disturbance (from residential areas and recreation)	<ul style="list-style-type: none"> <li>▪ Use privacy fencing</li> <li>▪ <del>OR p</del>Plant dense native vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion.</li> <li>▪ Place wetland and its buffer in a separate tract or protect with a conservation easement</li> <li>▪ Place signs around the wetland buffer every 50-200 ft., and for subdivisions place signs at the back of each residential lot</li> <li>▪ When platting new subdivisions, locate greenbelts, stormwater facilities, or other lower-intensity land uses adjacent to wetland buffers</li> </ul>
Dust (from tilled fields, lands without vegetation and roads)	<p>Use best management practices to control dust</p>
<del>Disruption of corridors or connections</del>	<ul style="list-style-type: none"> <li>▪ <del>Maintain connections to offsite areas that are undisturbed</del></li> <li>▪ <del>Restore corridors or connections to offsite habitats by replanting</del></li> </ul>

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Table 15.04.040-3. Wetland Buffer Width Requirements, in feet not providing a habitat corridor or implementing measures in Table 15.04.040-2.

<u>Wetland Category</u>	<u>Habitat Score 3-5 (Corridor not required)*</u>	<u>Habitat Score 6 - 7 points*</u>	<u>Habitat Score 8 - 9 points *</u>	<u>Buffer width based on special characteristics</u>
<u>Category I and II: Based on rating of wetland functions (and not listed below)</u>	<u>100</u>	<u>150</u>	<u>200</u>	<u>NA</u>
<u>Category I &amp; II: Forested</u>	<u>100</u>	<u>150</u>	<u>200</u>	<u>NA</u>
<u>Category I: Bogs, calcareous fens, and Wetlands of High Conservation Value</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>250</u>
<u>Category I: Alkali</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>200</u>
<u>Category II: Vernal pool</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>200</u>
<u>Category III (all)</u>	<u>80</u>	<u>150</u>	<u>200</u>	<u>NA</u>

<u>Wetland Category</u>	<u>Habitat Score 3-5 (Corridor not required*</u>	<u>Habitat Score 6 - 7 points*</u>	<u>Habitat Score 8 - 9 points *</u>	<u>Buffer width based on special characteristics</u>
<u>Category IV (all)</u>	<u>50</u>	<u>50</u>	<u>50</u>	<u>NA</u>

\*Or latest method of scoring, if the Department of Ecology updates its Wetland Rating

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(c) Wetland Buffer Width Averaging. The Planning Administrator may allow modification of the standard wetland buffer width in accordance with an approved critical area report and the best available science on a case-by-case basis by averaging buffer widths. Averaging of buffer widths may only be allowed where a qualified professional wetland scientist demonstrates that:

- (1) It will not reduce wetland functions or functional performance;
- (2) The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;
- (3) The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and
- (4) The buffer width is not reduced to less than seventy-five (75) percent of the standard width or thirty-five (35) feet whichever is less.

(d) Buffer Uses. The following uses may be permitted 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. In the outer twenty-five (25) percent of wetland buffers, passive recreation facilities designed and in accordance with an approved critical area report, including pedestrian-only walkways, trails and wildlife viewing structures constructed with a surface that does not interfere with the permeability.

~~(3) Stormwater Management Facilities. Stormwater management facilities, limited to stormwater dispersion outfalls and bioswales, may be allowed within the outer twenty five (25) percent of the buffer of Category III or IV wetlands, provided that:~~

~~(i) No other location is feasible; and~~

~~(ii) The location of such facilities will not degrade the functions or values of the wetland.~~

~~{Ord. 609 (2018) S 34}~~

~~(3) Stormwater management facilities. A wetland or its buffer can be physically or hydrologically altered to meet the requirements of a Low Impact Development (LID) methodology or Flow Control BMP if ALL of the following criteria are met:~~

- ~~a) The wetland is classified as a Category IV or a Category III wetland with a habitat score of 3-5 points.~~
- ~~b) There will be no net loss of functions and values of the wetland.~~
- ~~c) The wetland does not contain a breeding population of any native amphibian species.~~
- ~~d) The hydrologic functions of the wetland can be improved as outlined in questions 3, 4, and 5 of Chart 4 and questions 2, 3, and 4 of Chart 5 in Selecting Mitigation Sites Using a Watershed Approach, [Eastern Washington] (Ecology Publication [#09-06-032 or #10-06-007], or as revised); or the wetland is part of a restoration plan intended to achieve restoration goals identified in a shoreline master program or a local or regional watershed plan.~~

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- e) The wetland lies in the natural routing of the runoff, and the discharge follows the natural routing.
- f) All regulations regarding stormwater and wetland management are followed, including but not limited to local and state wetland and stormwater codes, manuals, and permits.
- g) Modifications that alter the structure of a wetland or its soils will require permits. Existing functions and values that are lost will need to be compensated.

(4) Stormwater LID BMPs required as part of new and redevelopment projects may potentially be authorized within wetlands and their buffers. However, these areas may contain features that render LID BMPs infeasible. A site-specific characterization is required to determine whether an LID BMP is feasible at the project site.

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**15.04.050 PERFORMANCE STANDARDS-COMPENSATORY MITIGATION REQUIREMENTS.**

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 the following: Washington State Department of Ecology's Guidance on Wetland Mitigation in Washington State, Part 12: Agency Policies and Guidance and Part 2: Developing Mitigation Plans (Version 1, Ecology Publication #06-06-011ba, March 2006), or as revised, and selecting Wetland Mitigation Sites Using a Watershed Approach [Eastern Washington, (Ecology Publication #10-06-007), or as revised]. ~~as now existing and hereafter amended.~~

(a) Mitigation for Lost or Affected Functions. Compensatory mitigation actions shall address functions affected by the alteration, with an intention to achieve functional equivalency or improvement and shall provide similar wetland functions as those lost, except when out-of-kind replacement will best meet formally identified watershed goals, such as replacement of historically diminished wetland types.

(b) Mitigation requirements may be determined using the Credit-Debit Method described in Calculating Credits and Debits for

Compensatory Mitigation in Wetlands of Eastern Washington (Ecology Publication #10-06-015), or as revised.

(c) Plantings used in mitigation actions shall be native species appropriate to Benton County.

(d) Preference of Mitigation Actions. Mitigation actions that require compensation by replacing, enhancing, or substitution shall occur in the following order of preference:

(1) Restoring wetlands on upland sites that were formerly wetlands.

(2) Creating wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of non-native introduced species. This should only be attempted when there is a consistent source of hydrology and it can be shown that the ~~subdrface~~ surface and subsurface hydrologic regime is conducive for the wetland community that is being designed.

(3) Enhancing significantly degraded wetlands in combination with restoration or creation. Such enhancement should be part of a mitigation package that includes replacing the impacted area meeting appropriate ratio requirements.

(c) Mitigation shall focus on the best possible outcome for compensating for impacts to functions and values within the wetland environment. The location of the compensatory mitigation action shall be preferred in the order referenced below:

1) Preferential consideration shall be given to on-site mitigation measures that replace the impacted functions, and in areas where non-native vegetation is present adjacent to existing native vegetation to the extent practicable.

2) Off-site compensatory mitigation located in the same watershed and that addresses limiting factors or identified critical needs for Water Resource Inventory Area (WRIA) or comprehensive resource management plans, as applicable.

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3) Alternative off-site mitigation programs such as mitigation banks or in-lieu fee programs as established by the county or city. This includes future mitigation banking opportunities, developed in coordination with the county.

(~~de~~) Type and Location of Mitigation. Unless it is demonstrated that a higher level of ecological functioning would result from an alternate approach, compensatory mitigation for ecological functions shall be either in-kind and on-site, or in-kind and within the same sub-basin. Mitigation actions shall be conducted within the same subdrainage basin and on the site as the alteration except when all of the following apply:

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(1) There are no reasonable on-site or in-subdrainage basin opportunities or on-site and in-subdrainage basin opportunities do not have a high likelihood of success, after a determination of the natural capacity of the site to mitigate for the impacts. Consideration should include: anticipated wetland mitigation replacement ratios, buffer conditions and proposed widths, hydrogeomorphic classes of on-site wetlands when restored, proposed flood storage capacity, 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 subdrainage basin.

(~~ed~~) Mitigation Timing. Mitigation projects shall be completed with an approved monitoring plan prior to activities that will disturb wetlands. In all other cases, mitigation shall be completed immediately following disturbance and prior to use or occupancy of the activity or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.

(~~fe~~) Mitigation Ratios. Ratios for compensatory mitigation shall be 15-55

as specified in Table 15.04.050-~~1~~<sup>3</sup> for wetlands without special characteristics and Table 15.04.050-2 for wetlands with special characteristics<sup>1</sup>. The ratios shall apply to creation, restoration, rehabilitation, or enhancement that is in-kind, is on-site, is the same category, is timed prior to or concurrent with alteration, and has a high probability of success. Greater ratios may apply in those cases of remedial actions resulting from unauthorized alterations. The first number specifies the

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<sup>1</sup> Some types of wetlands have special characteristics that determine their rating category according to Ecology's rating system (see Hruby, 2014a; Hruby, 2014b). The Washington wetland rating system was designed to differentiate between wetlands based on their sensitivity to disturbance, their significance, their rarity, our ability to replace them, and the functions they provide. The first four criteria can be considered as values that are somewhat independent of the functions provided by a wetland. Wetlands with Special Characteristics (as identified in Ecology's rating system) have an importance or value that may supersede their functions or that is not addressed by the rating of functions.

~~the~~ acreage of replacement wetlands and the second specifies the acreage of wetlands altered.

**Table 15.04.050-13. Wetland Mitigation Ratios**

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

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[Ord. 609 (2018) § 35]

Notes:

- Ratios for rehabilitation, preservation, and enhancement may be reduced when combined with 1:1 replacement through re-establishment or creation. See Table 6B-2 in Wetland Mitigation in Washington State - Part 1: Agency Policies and Guidance -Version 2 (Ecology et al., 2021 or as revised).
- All proposed preservation sites need to be consistent with the following preservation criteria:
  - a. The Planning Administrator determines that the proposed preservation is the best mitigation option;
  - b. The proposed preservation site is under threat of undesirable ecological change due to permitted, planned, or likely actions that will not be adequately mitigated under existing regulations;

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c. The area proposed for preservation is of high quality or critical for the health and ecological sustainability of the watershed or sub-basin. Some of the following features may be indicative of high-quality sites:

- i. Category I or II wetland rating
- ii. Rare or irreplaceable wetland type [e.g., vernal pools, alkali wetlands] or aquatic habitat that is rare or a limited resource in the area
- iii. The presence of habitat for threatened or endangered species (state, federal, or both)
- iv. Provides biological and/or hydrological connectivity to other habitats
- v. Priority sites identified in an adopted watershed plan.

d. Permanent preservation of the wetland and buffer shall be provided through a legal mechanism such as a conservation easement or tract held by an appropriate natural land resource manager/land trust.

e. The Planning Administrator may approve another legal and administrative mechanism in lieu of a conservation easement if it is determined to be adequate to protect the site.

- The ratios provided in Table 15.04.050 -1 are for permanent, direct impacts to wetlands. For recommended ratios for other types of impacts (e.g., long-term temporary, conversions), see Chapters 6B4.4 through 6B4.8 of Wetland Mitigation in Washington State - Part 1: Agency Policies and Guidance - Version 2 (Ecology et al., 2021 or as revised).
- The category of impacted wetland is based on scores for functions. Compensation ratios in this table generally do not apply when impacts involve a wetland whose category is based on special characteristics. Compensation ratios for impacts to wetlands with special characteristics are provided in Table 15.04.050-2 below.

**Table 15.04.050-2. Compensation Ratios for Wetlands with Special Characteristics**

<u>Category and Type of Wetland</u>	<u>Re-establishment or Creation</u>	<u>Re-habilitation</u>	<u>Preservation /Enhancement</u>	<u>Enhancement</u>
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<u>Category and Type of Wetland</u>	<u>Re-establishment or Creation</u>	<u>Re-habilitation</u>	<u>Preservation /Enhancement</u>	<u>Enhancement</u>
<u>Category I forested</u>	<u>6:1</u>	<u>12:1</u>	<u>24:1</u>	<u>24:1</u>
<u>Category II forested</u>	<u>3:1</u>	<u>6:1</u>	<u>12:1</u>	<u>12:1</u>
<u>Bogs and calcareous fens</u>	<u>NA</u>	<u>NA</u>	<u>24:1</u>	<u>NA</u>
<u>Wetlands of High Conservation Value</u>	<u>Consult with WA DNR</u>	<u>Consult with WA DNR</u>	<u>24:1</u>	<u>Consult with WA DNR</u>
<u>Alkali wetlands</u>	<u>NA 2:1</u>	<u>NA 4:1</u>	<u>24:1</u>	<u>NA 8:1</u>
<u>Vernal pools</u>	<u>Case by case or 3:1 for re-establishment of a seasonally ponded wetland</u>	<u>Case by case or 6:1 for re-establishment of a seasonally ponded wetland</u>	<u>16:1 (preservation of a vernal pool complex)</u>	<u>16:1 (enhancement of both wetlands and uplands within a vernal pool complex)</u>

Note: Methods of compensation are limited for certain wetlands with special characteristics. Some of these wetland types only occur naturally and have never been successfully created or rehabilitated. Some may take more than a lifetime to reestablish. Thus, avoidance is the best regulatory approach when addressing these wetlands. Refer to Chapter 6B.5 of Wetland Mitigation in Washington State - Part 1: Agency Policies and Guidance -Version 2 (Ecology et al., 2021 or as revised) for more information on methods of compensation and ratios for wetlands with special characteristics.

**15.04.060 PERFORMANCE STANDARDS-SUBDIVISIONS.**

15.04.060

The subdivision and short subdivision of land in wetlands and associated buffers is subject to the following:

(a) Land that is located wholly within a wetland or its buffer may not be subdivided.

(b) 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:

(1) Located outside of the wetland and its buffer; and

(2) Meets the minimum lot size requirements of the applicable zoning designation.

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15.04.080

(c) Access roads and utilities serving the proposed subdivision may be permitted within the wetland and associated buffers only if the County determines that no other feasible alternative exists and when consistent with this chapter.

[Ord. 609 (2018) § 36]

**15.04.070 SEVERABILITY.** If any provision of this Chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.

[Ord. 609 (2018) § 64]

**15.04.080 EFFECTIVE DATE** This Chapter shall take effect and be in full force upon its passage and adoption.

[Ord. 609 (2018) § 65]