CHAPTER 15.04

WETLANDS

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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.

(b) Wetlands Rating Categories: Wetlands shall be rated according to Ecology's Washington State Wetland Rating System for Eastern Washington - 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:

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

(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.

[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:

(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]

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;

(v) Soil and substrate conditions, topographic elevations;

(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.

(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 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 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 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 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

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

(5) 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.

[NOTE: This chapter is continued on the following page.]

Table 15.04.040-1. Wetland Buffers

Wetland Category	Standard Buffer Width 3-4 habitat points*	Additional buffer width if wetland scores 5 habitat points*	Additional buffer width if wetland scores 6-7 habitat points*	Additional buffer width if wetland scores 8-9 habitat points*
Category I: Based on total score	75 ft	Add 15 ft	Add 45 ft	Add 75 ft
Category I: Forested	75 ft	Add 15 ft	Add 45 ft	Add 75 ft
Category I: Bogs	190 ft	NA	NA	NA
Category I: Alkali	150 ft	N/A	NA	NA
Category I: Natural Heritage Wetlands	190 ft	N/A	NA	NA
Category II: Based on total score	75 ft	Add 15 ft	Add 45 ft	Add 75 ft
Category II: Vernal pool	150	NA	NA	NA
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	Add 90 ft
Category IV (all)	40 ft	NA	NA	NA

*If the Department of Ecology updates its Wetland Rating

(BCC 09/20/18)

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	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 ft 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

(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) § 34]

15.04.050 PERFORMANCE STANDARDS-COMPENSATORY MITIGATION REQUIREMENTS.

Compensatory mitigation for alterations to wetlands 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 1: Agency Policies and Guidance and Part 2: Developing Mitigation Plans (Version 1, Ecology Publication #06-06-011a, March 2006), as now existing and hereafter amended.

(a) Mitigation for Lost or Affected Functions. Compensatory mitigation actions shall address functions affected by the alteration 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) 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 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) 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:

(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.

(d) 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.

(e) Mitigation Ratios. Ratios for compensatory mitigation shall be as specified in Table 15.04.050-3. 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 acreage of replacement wetlands and the second specifies the acreage of wetlands altered.

Table 15.04.050-3. Wetland Mitigation Ratios

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

[Ord. 609 (2018) § 35]

15.04.060 PERFORMANCE STANDARDS-SUBDIVISIONS.

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.

(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]