

## Chapter 15.620 WETLANDS

### Sections:

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### **15.620.010 Designation, rating, and mapping wetlands.**

A. Designating Wetlands. Wetlands are those areas, designated in accordance with the Washington State Wetland Identification and Delineation Manual (1997), that are inundated or saturated by surface or ground water 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 within the city meeting the wetland designation criteria in the Identification and Delineation Manual, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.

B. Wetland Ratings. Wetlands shall be rated according to the Washington State Department of Ecology wetland rating system found in the Washington State Wetland Rating System documents Washington State Wetland Rating System for Eastern Washington – Revised (Publication No. 04-06-015, Hruby, T., 2004). These documents contain the definitions and methods for determining if the criteria below are met.

#### 1. Wetland Rating Categories.

- a. Category I. Category I wetlands are those that meet one or more of the following criteria:
  - i. Documented habitat for federal or state listed endangered or threatened fish, animal, or plant species;
  - ii. High-quality native wetland communities, including documented Category I or II quality Natural Heritage wetland sites and sites which qualify as a Category I or II quality Natural Heritage wetland (defined in the rating system documents);
  - iii. High-quality, regionally rare wetland communities with irreplaceable ecological functions, including sphagnum bogs and fens, estuarine, wetlands, or mature forested swamps (defined in the rating system documents); or wetlands of exceptional local significance.
- b. Category II. Washington Department of Fish and Wildlife, U.S. Fish and Wildlife Services, and National Marine Fisheries Services documented habitats for state listed sensitive plant, fish, or animal species:

i. Wetlands that contain fish or animal species listed as priority species by the Washington Department of Fish and Wildlife, or plant species listed as rare by the Washington State Department of Natural Resources;

ii. Wetland types with significant ecological functions as determined by an agency approved functional evaluation methodology that may not be adequately replicated through creation or restoration;

iii. Wetlands possessing significant habitat value based on a score of 22 or more points in the State Department of Ecology habitat rating system; or

iv. Documented wetlands of local significance.

c. Category III. Category III wetlands are those that do not satisfy Category I, II, or IV criteria, and with a habitat value rating of 21 points or less.

d. Category IV. Category IV wetlands are those that meet one or more of the following criteria:

i. Hydrologically isolated wetlands, as determined by the U.S. Army Corps of Engineers Regulatory Branch that are less than or equal to one acre in size, have only one wetland class, and are dominated (greater than 80 percent area cover) by a single, nonnative plant species (monotypic vegetation); or

ii. Hydrologically isolated wetlands that are less than or equal to two acres in size, and have only one wetland class and greater than 90 percent area cover of nonnative plant species.

2. Date of Wetland Rating. Wetland rating categories shall be applied as the wetland exists on the date of adoption of the rating system by the local government, as the wetland naturally changes thereafter, or as the wetland changes in accordance with permitted activities. Wetland rating categories shall not change due to illegal modifications.

C. Mapping. The approximate location and extent of potential wetlands are shown on the critical area maps adopted with this title and listed below. Other maps may also be used as they are developed and subsequently adopted by the city. Soil maps produced by U.S. Department of Agriculture National Resources Conservation Service may be useful in helping to identify potential wetland areas. These maps are to be used as a guide for the city, 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:

1. Ellensburg UGA Wetland Inventory Maps – Figure 2 (Sheets 1 through 6); contained in the city of Ellensburg: Best Available Science Review for Wetlands and Fish and Wildlife Habitat; November 2008; ESA Adolfson.

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 Washington State Wetlands

Identification and Delineation Manual as required by RCW [36.70A.175](#) (Ecology Publication No. 96-94, 1997). [Ord. 4656 § 1 (Exh. O2), 2013.]

### **15.620.020 Critical area report – Additional requirements for wetlands.**

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- A. All [critical areas](#) located within 300 feet of the project area that have been designated by the [city](#) and are shown on [city](#), state, or federal government agency maps and/or reports shall be addressed in a critical area report for [wetlands](#).
- B. Wetland Analysis. A written assessment of the wetland, the appropriate wetland type, and required buffer under the provisions of this chapter.
- C. As provided for under ECC [15.610.110](#), the [director](#) may require additional information to be included in the critical area report when determined to be necessary for the review of the proposed activity. Additional information for [wetlands](#) that may be required includes, but is not limited to, the following:
1. Vegetative, faunal, and hydrologic characteristics;
  2. Soil and substrate characteristics;
  3. Topographic [elevations](#);
  4. A discussion of water sources supplying the wetland and documentation of the hydrologic regime. Such discussion shall include an analysis of existing and future hydrologic regimes and proposed hydrologic regime for enhanced, created, or restored mitigation areas, if provided for in the project. [Ord. 4656 § 1 (Exh. O2), 2013.]

### **15.620.030 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. Activities and uses shall be prohibited in [wetlands](#) and wetland buffers, except as provided for in this chapter.
- C. Category I [Wetlands](#). Activities and uses shall be prohibited from Category I, except as provided for in the public agency and utility exception, reasonable use exception, and [variance](#) sections of this chapter.
- D. Category II and III [Wetlands](#). With respect to activities proposed in Category II and III [wetlands](#), the following standards shall apply:
1. Water-dependent activities may be allowed where there are no practicable alternatives that would have a less adverse impact on the wetland, its buffers and other [critical areas](#).
  2. Where non-water-dependent activities are proposed, it shall be presumed that alternative locations are available, and activities and uses shall be prohibited, unless the [applicant](#) demonstrates that:

a. The basic project purpose cannot reasonably be accomplished and successfully avoid, or result in less adverse impact on, a wetland on another site or sites in the general region; and

b. All alternative designs of the project as proposed, that would avoid or result in less of an adverse impact on a wetland or its buffer, such as a reduction in the size, scope, configuration, or density of the project, are not feasible.

E. Category IV Wetlands. Activities and uses that result in unavoidable and necessary impacts may be permitted in Category IV wetlands and associated buffers in accordance with an approved critical area report and mitigation plan, but only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives. Full compensation for the acreage and loss functions will be provided under the terms established under ECC 15.620.040(F) and (G).

F. Wetland Buffers.

1. Standard Buffer Widths. Required standard wetland buffers, based on wetland category and land use intensity, are as follows:

<b>Wetland Type</b>	<b>Wetland Buffer Width</b>
Category I	150 feet
Category II	100 feet
Category III	50 feet
Category IV	25 feet

2. Measurement of Wetland Buffers. All buffers shall be measured from the wetland boundary as surveyed in the field. The width of the wetland buffer shall be determined according to the wetland category and the proposed land use. 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.

3. Increased Wetland Buffer Widths. In those situations in which a SEPA checklist discloses that the above buffer widths may not be sufficient to mitigate the significant adverse environmental impacts of the proposal on the wetland, the director may invoke the procedures in Chapter 15.270 ECC (SEPA) and WAC 197-11-158. The director may require increased buffer widths in accordance with the recommendations of the experienced, qualified professional wetland scientist who produced the required critical areas report and 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 increased buffer width shall not exceed a maximum of 100 percent increase over the buffer width that would otherwise be required by subsection (F)(1) of this section. This determination shall be based on one or more of the following criteria:

a. A larger buffer is needed to protect other critical areas;

- b. The buffer or adjacent uplands has a slope greater than 15 percent or is susceptible to erosion and standard erosion-control measures will not prevent adverse impacts to the wetland;
  - c. The buffer area has minimal vegetative cover. 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. Where a buffer planting plan is proposed, it shall include densities that are not less than three feet on center for shrubs and eight feet on center for [trees](#) and require monitoring and maintenance to ensure success. Existing buffer vegetation is considered inadequate and will need to be enhanced through additional native plantings and (if appropriate) removal of nonnative [plants](#) when: (i) nonnative or invasive [plant](#) species provide the dominant cover, (ii) vegetation is lacking due to disturbance and wetland resources could be adversely affected, or (iii) enhancement plantings in the buffer could significantly improve buffer functions;
  - d. The standard buffer is less than that which is necessary to protect documented endangered, threatened, or sensitive wildlife species which have a primary association with the wetland;
  - e. The wetland contains [plants](#) listed as sensitive, threatened, or endangered;
  - f. The proposed [development](#) density is greater than two or more residential units per acre and abuts a Category I or II wetland with high habitat value of 29 to 36 points obtained in the wetland [critical areas](#) report; or
  - g. The wetland is associated with a stream segment on the 303d list for pollutants, or has a total daily maximum load for sediment or temperature and the proposal includes removal of [trees](#) and shrubs or untreated stormwater runoff.
4. Wetland Buffer Width Averaging. The [director](#) 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:
- a. It will not reduce wetland functions or functional performance;
  - b. 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;
  - c. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and
  - d. The buffer width is not reduced to less than 75 percent of the standard width or 35 feet.
5. Interrupted Buffer.

- a. Where a legally established, pre-existing use of the buffer exists, those proposed activities that are within the wetland or stream buffer, but are separated from the critical area by an existing permanent substantial improvement, which serves to eliminate or greatly reduce the impact of the proposed activity upon the critical area, are exempt; provided, that the detrimental impact to the critical area does not increase. However, if the impacts do increase, the city shall determine if additional buffer may be required along the impact area of the interruption. Substantial improvements may include developed public infrastructure such as roads and railroads. Substantial improvements may not include paved trails, sidewalks, or parking areas. An allowance for activity in an interrupted buffer may require a critical areas report for the type of critical areas buffer that is affected. In determining whether a critical areas report is necessary, the city shall consider the hydrologic, geologic and/or biological habitat connection potential and the extent and permanence of the interruption.
  - b. Where a legally established, pre-existing structure or use is located within a regulated wetland or stream buffer and where the regulated buffer is fully paved and does not conform to the interrupted buffer provision above, the buffer will end at the edge of the pavement, adjacent to the wetland or stream.
6. Buffer Consistency. All mitigation sites shall have buffers consistent with the buffer requirements of this chapter.
7. Buffer Maintenance. Except as otherwise specified or allowed in accordance with this chapter, wetland buffers and buffers of mitigation sites shall be retained in an undisturbed condition, or shall be maintained as enhanced pursuant to any required permit or approval. Removal of invasive nonnative weeds is required for the duration of the mitigation bond.
8. 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:
  - a. Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.
  - b. Passive Recreation. Passive recreation facilities designed in accordance with an approved critical area report, including:
    - i. Walkways and trails; provided, that those pathways which are generally parallel to the perimeter of the wetland shall be located in the outer 25 percent of the buffer area, and constructed with a surface that does not interfere with the permeability. Raised boardwalks utilizing nontreated pilings area may be acceptable;
    - ii. Wildlife viewing structures; and
    - iii. Fishing access areas down to the water's edge that shall be no larger than six feet.

c. Stormwater Management Facilities. Stormwater management facilities, limited to stormwater dispersion outfalls and bioswales, may be allowed within the outer 25 percent of the buffer of Category III or IV wetlands only; 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. Stormwater management facilities are not allowed in buffers of Category I or II wetlands.

G. Signs and Fencing of Wetlands.

1. Temporary Markers. The outer perimeter of the wetland and buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur and is subject to inspection by the director prior to the commencement of permitted activities. The director shall have the authority to require that temporary fencing be placed on-site to mark the outer perimeter of the wetland and its associated buffer area. This temporary marking, and any required temporary fencing, 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 director may require the applicant to install permanent signs along the boundary of a wetland or buffer.

- a. Permanent signs shall be made of a metal face with a green color background and white letters; attached to a metal post, or another nontreated material of equal durability; made with a sign face no smaller than one foot by one foot square and no larger than two feet by two feet square; and mounted with the bottom of the sign face no less than three feet above and no more than five feet above adjacent grade. Signs must be posted at a minimum of one per lot of record, or on large parcels every 300 feet, or additional signs as required by the director and must remain unobstructed and be maintained by the property owner in perpetuity. The sign(s) shall be worded as follows or with alternative language approved by the director:

Protected Critical Area

Do Not Disturb

Contact the city of Ellensburg

Regarding Uses and Restriction

- b. The provisions of subsection (G)(2)(a) of this section may be modified by the director as necessary to assure protection of sensitive features or wildlife. [Ord. 4656 § 1 (Exh. O2), 2013.]

**15.620.040 Performance standards – Compensatory mitigation requirements.**

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Compensatory mitigation for [alterations](#) to [wetlands](#) shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with the State [Department](#) of Ecology Guidelines for Developing Freshwater [Wetlands](#) Mitigation Plans and Proposals, 1994, as revised.

A. Mitigation shall be required in the following order of preference:

1. Avoiding the impact altogether by not taking a certain action or parts of an action.
2. Minimizing 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. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
4. Reducing or eliminating the impact over time by preservation and maintenance operations.
5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.

B. Mitigation for Affected Functions or Functions Lost as a Result of the Proposed Activity.

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 by the proposed activity, except when:

1. The lost wetland provides minimal functions as determined by a site-specific function assessment, 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 will best meet formally identified watershed goals, such as replacement of historically diminished wetland types.

C. 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 nonnative 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.

D. 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 stream reach, subbasin, or drift cell.

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 unless:
  - a. Established watershed goals for water quality, flood or conveyance, habitat, or other wetland functions have been established and strongly justify location of mitigation at another site; or
  - b. Credits from a state certified wetland mitigation bank are used as mitigation and the use of credits is consistent with the terms of the bank's certification.

E. 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.

The director may authorize a one-time temporary delay, up to 120 days, in completing minor construction and landscaping when environmental conditions could produce a high probability of failure or significant construction difficulties. 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, and general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints which preclude implementation of the mitigation plan. The justification must be verified and approved by the city and include a financial guarantee.

F. Mitigation Ratios.

1. Acreage Replacement Ratios. The following ratios shall apply to creation or restoration 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. These ratios do not apply to remedial actions resulting from unauthorized alterations; greater ratios shall apply in those cases. These ratios do not apply to the use of credits from a state certified wetland mitigation bank. When credits from a certified bank are used, replacement ratios should be consistent with the requirements of the bank's certification. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered.
  - a. Category I: 6 to 1;

- b. Category II: 3 to 1;
  - c. Category III: 2 to 1;
  - d. Category IV: 1 1/2 to 1.
2. Increased Replacement Ratio. The [director](#) may increase the ratios under the following circumstances:
- a. Uncertainty exists as to the probable success of the proposed restoration or creation;
  - b. A significant period of time will elapse between impact and replication of wetland functions;
  - c. Proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted; or
  - d. The impact was an unauthorized impact.
- G. [Wetlands](#) Enhancement as Mitigation.
1. Impacts to wetland functions may be mitigated by enhancement of existing significantly degraded [wetlands](#), but must be used in conjunction with restoration and/or creation. [Applicants](#) proposing to enhance [wetlands](#) must [produce](#) a critical area report that identifies how enhancement will increase the functions of the degraded wetland and how this increase will adequately mitigate for the loss of wetland area and function at the impact site. An enhancement proposal must also show whether existing wetland functions will be reduced by the enhancement actions.
  2. At a minimum, enhancement acreage shall be double the acreage required for creation or restoration under subsection (F) of this section. The ratios shall be greater than double the required acreage where the enhancement proposal would result in minimal gain in the performance of wetland functions and/or result in the reduction of other wetland functions currently being provided in the wetland.
  3. Mitigation ratios for enhancement in combination with other forms of mitigation shall range from 6:1 to 3:1 and be limited to Class III and Class IV [wetlands](#).
- H. 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 Chapter [173-700](#) WAC;
    - b. The [director](#) 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, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions. [Ord. 4656 § 1 (Exh. O2), 2013.]

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**The Ellensburg City Code is current through Ordinance 4671, passed March 17, 2014.**

Disclaimer: The City Clerk's Office has the official version of the Ellensburg City Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.