Chapter 30.20 WETLANDS

30.20.005 Purpose

(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; carbon sequestration; thermal refugia, and improving water quality through biofiltration, adsorption, 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 the City.

(c) Establish review procedures for development proposals in and adjacent to wetlands.

(1) Compliance with the provisions of this Chapter does not necessarily constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, Shoreline permits, Hydraulic Project Approval permits, Clean Water Act Section 404 permits and 401 certifications, Ecology Administrative Orders, or NPDES permits). The applicant is responsible for complying with these requirements, apart from the processes established in this Chapter.

30.20.010 Designation, rating, and mapping wetlands.

(a) Identification and Delineation of Wetlands. All areas within the City meeting the wetland definition and designation criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this title. Identification of wetlands and delineation of their boundaries pursuant to this chapter shall be done in accordance with the Environmental Laboratory (1987) "Corps of Engineers Wetland Delineation Manual," Technical Report Y-87-1, U.S. Army Engineer Waterways Experiment Station, Vicksburg, MS and U.S. Army Corps of Engineers 2010 Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys and Coast Region (Version 2.0), ed. J.S. Wakeley, R. W. Lichvar, and C.V. Noble. ERDC/EL TR-10-3. Vicksburg, MS: U.S. Army Engineer Research and Development Center, as amended.

(1) Wetland delineations are valid for five years; after such date the City shall determine whether a revision or additional assessment is necessary.

(2) 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.

(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 for Western Washington document or as revised by Ecology. See Hruby, T (2014) Washington State Wetland Rating System for Western Washington: 2014 Update. (Publication #14-06-029). Olympia, WA: Washington Department of Ecology, as amended.

(1) Wetland ratings are valid for five years; after such date the City shall determined whether a revision or additional rating is necessary.

These documents contain the definitions and methods for determining if the criteria below are met.

(1) Wetland Rating Categories.

Category I. Category I wetlands are:

(A) Relatively undisturbed estuarine wetlands larger than one acre;

(B) Wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR;

(C) Bogs;

(D) Mature and old-growth forested wetlands larger than one acre;

(E) Wetlands in coastal lagoons;

(F) Interdunal wetlands that score eight or nine habitat points and are larger than one acre; and

(G) Wetlands that perform many functions well (scoring 23 points or more).

These wetlands:

(i) Represent unique or rare wetland types;

(ii) Are more sensitive to disturbance than most wetlands;

(iii) Are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or

(iv) Provide a high level of functions.

Category II. Category II wetlands are:

(A) Estuarine wetlands smaller than one acre, or disturbed estuarine wetlands larger than one acre;

(B) Interdunal wetlands larger than one acre or those found in a mosaic of wetlands; or

(C) Wetlands with a moderately high level of functions (scoring between 20 and 22 points).

Category III. Category III wetlands are:

(A) Wetlands with a moderate level of functions (scoring between 16 and 19 points);

(B) Can often be adequately replaced with a well-planned mitigation project; and

(C) Interdunal wetlands between one-tenth and one acre wetlands scoring between 16 and 19 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.

Category IV. Category IV wetlands have the lowest levels of functions (scoring fewer than 16 points) and are often heavily disturbed. These are wetlands that we should be able to replace, or in some cases to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree.

(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 wetlands are shown on the adopted Ruston Environmentally Sensitive Areas map. The City's Environmentally Sensitive Areas Map and National Wetlands Inventory are hereby adopted. Additionally, 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.

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 "Corps of Engineers Wetlands Delineation Manual," Technical Report Y-87-1, U.S. Army Engineer Waterways Experiment Station, Vicksburg, MS and U.S. Army Corps of Engineers 2010 Regional Supplement to the corps of Engineers Wetland Delineation Manual; Western Mountains, Valleys, and Coast Region (Version 2.0), Ed J.S. Wakeley, R.W. Lichvar, and C.V. Noble. ERDC/EL TR-10-3: Vicksburg, MS: U.S. Army Engineer Research and Development Center, as amended.

(Ord. 1456 § 3, Dec. 20th, 2016).

30.20.020 Activities allowed in wetlands.

(a) The activities listed below are allowed in wetlands in addition to those activities listed in, and consistent with, the provisions established in allowed activities, Section 30.10.150, 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:

(1) 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.

(2) 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.

(3) Drilling for utilities under a wetland provided that the drilling does not interrupt the groundwater 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 groundwater connection to the wetland or percolation of surface water down through the soil column is disturbed.

(4) 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.

(5) Educational and scientific research activities that do not result in altering the structure or functions of the wetland.

(6) Normal and routine maintenance and repair of any existing, legally established public or private facilities within an existing right-of-way, provided that the maintenance or repair does not expand the footprint of the facility or right-of-way and has no adverse effect on the wetland or buffer.

(7) 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,

Western Washington (Ecology Publication #09-06-032, 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.

(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.

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.

(Ord. 1456 § 3, Dec. 20th, 2016).

30.20.025 Regulated uses and activities in wetlands.

In general, changes in land use that would adversely affect wetland functions or established buffers, or eliminate portions of wetlands or buffers as the result of fill or grading, to also include the following:

(a) The activities below are regulated if they occur in a 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 of 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 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 timing, frequency, depth, or duration of water entering or within the wetland

(D) The introduction of pollutants

30.20.027 Exceptions and Emergencies

(a) Exceptions. If the application of these regulations would prohibit public facilities such as utilities within a wetland and/or buffer due to a specific service provision or design constraint, the agency or utility may apply for an exception. Exceptions applications must address mitigation sequencing, and include information meeting the review criteria according to the following:

(1) There is no other practical alternative to the proposed development with less impact on the critical areas;

(2) The application of the critical area regulations would unreasonably restrict the ability to provide utility services to the public;

(3) The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

(4) The proposal attempts to protect and mitigate impacts to the critical area functions and values consistent with best available science; and

(5) The proposal is consistent with other applicable regulations and standards.

(b) Emergencies. Emergencies are those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventive action in a timeframe too short to allow for compliance with the requirements of the critical areas regulations. Emergency actions are required to use reasonable methods to address the emergency with the least possible impact to the critical area. The Planning Director will require review of the action to determine whether it was beyond the scope of the exemption and may require permits after the fact, which may include restoration or compensatory mitigation.

30.20.030 Critical area report—Additional requirements for wetlands.

In addition to the general critical area report requirements of Section 30.10.210, critical area reports for wetlands must meet the requirements of this section. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

(a) Preparation by a Qualified Professional. A critical area report for wetlands shall be prepared by a qualified professional. (See definition of Qualified Professional)

(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 and recommended buffers within 300 feet of the project area; and

(3) All shoreline areas, water features, floodplains, and other critical areas, and related buffers within 300 feet of the project area.

(c) Wetland Analysis. In addition to the minimum required contents of Critical Area Reports—Requirements, Section 30.10.210, a critical area report for wetlands shall contain an analysis of the wetlands including the following site- and proposal-related information at a minimum:

(1) A written assessment and accompanying maps of the wetlands and buffers within 300 feet of the project area, including the following information at a minimum:

(A) Wetland delineation and required buffers;

(B) Existing wetland acreage;

(C) Wetland category;

(D) Vegetative, faunal, and hydrologic characteristics;

(E) Soil and substrate conditions;

(F) Topographic elevations at two-foot contours; and

(G) 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 — drift lines, algal layers, moss lines, and sediment deposits).

(2) A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land use activity.

(3) A habitat and native vegetation conservation strategy that addresses methods to protect and enhance on-site habitat and wetland functions.

(4) Functional evaluation for the wetland and adjacent buffer using a local or state agency staff-recognized method and including the reference of the method and all data sheets.

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

(A) Existing and proposed wetland acreage;

(B) Vegetative and faunal conditions;

(C) 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;

(D) Relationship within watershed and to existing waterbodies;

(E) Soil and substrate conditions, topographic elevations;

(F) Existing and proposed adjacent site conditions;

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

(H) Property ownership; and

(I) Associated wetlands and related wetlands that may be greater than 300 feet from the subject project.

(6) A scale map of the development proposal site and adjacent area. A discussion of ongoing management practices that will protect wetlands after the project site has been developed; including proposed monitoring and maintenance programs.

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

(8) Title Notification. All activity in critical area protection areas shall be accompanied by a title.

(d) Additional Information. When appropriate, the Planning Director may also require the critical area report to include an evaluation by the 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.

(1) If the development proposal site contains or is within a wetland area, the applicant shall submit an affidavit, which declares whether the applicant has knowledge of any illegal alteration to any or all wetlands on the proposed site and whether the applicant previously had been found in violation of this title. If the applicant has been found previously in violation, the applicant shall declare whether such violation has been corrected to the satisfaction of the jurisdiction.

(2) The Planning Director 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 title.

(Ord. 1456 § 3, Dec. 20th, 2016).

30.20.040 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) Activities and uses shall be prohibited in wetlands and wetland buffers, except as provided for in this title.

(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 title.

(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 nonwater-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, and 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 Section 30.20.050(f) and (g).

(f) Wetland Buffers.

(1) Standard Buffer Widths. The standard buffer widths presume the existence of a relatively intact native vegetation community in the buffer area adequate to protect the wetland functions and values at the time of the proposed activity. If the vegetation is inadequate, then the buffer width shall be increased or the buffer should be planted to maintain the standard width. Required standard wetland buffers, based on wetland category and land use intensity, are as follows:

Table 1. Width of buffers, in feet, needed to protect wetlands from impacts of proposed land uses

Category of wetland	Land use with low impact*	Land use with moderate impact*	Land use with high impact*
I	200	250	300
II	150	225	300
III	75	110	150
IV	35	40	50

* See Table 2 below for types of land uses that can result in low, moderate, and high levels of impacts to wetlands

Table 2. Levels of impacts from proposed land use types

Level of impact from proposed land use	Types of land use
High	• Commercial • Urban • Industrial • Institutional • Mixed-use developments • Residential (more than 1 unit/acre) • Roads: federal and state highways, including on-ramps and exits, state routes, and other roads associated with high-impact land uses • Railroads • Agriculture with high-intensity activities (dairies, nurseries, greenhouses, growing and harvesting crops requiring annual tilling, raising and maintaining animals, etc) • Open/recreational space with high-intensity uses (golf courses, ball fields, etc) • Solar farms (utility scale)
Moderate	• Residential (1 unit/acre or less) • Roads: Forest Service roads and roads associated with moderate-impact land uses • Open/recreational space with moderate-intensity uses (parks with paved trails or playgrounds, biking, jogging, etc) • Agriculture with moderate-intensity uses (orchards, hay fields, light or rotational grazing, etc.) • Utility corridor or right-of-way used by one or more utilities and including access/maintenance road • Wind farm
Low	• Natural resource lands (forestry/silviculture–cutting of trees only, not land clearing and removing stumps) • Open/recreational space with low-intensity uses (unpaved trails, hiking, birdwatching, etc.) • Utility corridor without a maintenance road and little or no vegetation management • Cell tower

(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. The Planning Director shall 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. This determination shall be based on one or more of the following criteria:

(A) A larger buffer is needed to protect other critical areas, including

(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; or

(C) The buffer area has minimal vegetative cover. In lieu of increasing the buffer width where existing buffer vegetation is inadequate to project 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 non-native plants when:

(i) non-native 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 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.

(E) 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.

(F) The land has slopes greater than 30 percent.

Existing buffer vegetation is considered "inadequate" when:

(i) Non-native 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.

(4) Wetland Buffer Width Averaging. The Planning 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.

(A) Averaging of buffer widths may only be allowed where a qualified professional wetland scientist demonstrates that:

(i) It will not reduce wetland functions or functional performance;

(ii) 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;

(iii) The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

(iv) The buffer width is not reduced to less than 75 percent of the required width or 75 feet for Category I and II, 50 feet for Category III, and 35 feet for Category IV, whichever is greater.

(v) 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 area report from a qualified wetland professional.

(B) Averaging to allow reasonable use of a parcel may be permitted when all of the following are met:

(i) No feasible alternatives to the site design could be accomplished without buffer averaging.

(ii) The averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a critical area report from a qualified wetland professional.

(iii) The total buffer area after averaging is equal to the area required without averaging.

(iv) The buffer width is not reduced to less than 75 percent of the required width or 200 feet for Category I, 150 feet for Category II, 75 feet for Category III, and 35 feet for Category IV, whichever is greater.

(5) Buffer Consistency. All mitigation sites shall have buffers consistent with the buffer requirements of this chapter.

(6) Buffer Maintenance. Except as otherwise specified or allowed in accordance with this title, wetland buffers shall be retained in an undisturbed or enhanced condition. Removal of invasive non-native weeds is required for the duration of the mitigation bond.

(7) Buffer Uses. The following uses may be permitted within a wetland buffer in accordance with the review procedures of this title, 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 and in accordance with an approved critical area report, including:

(i) Walkways and trails, provided that those pathways that 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) Storm Water Management Facilities. Storm water management facilities, limited to storm water 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.

Storm water management facilities are not allowed in buffers of Category I or II wetlands.

(D) Educational and scientific research activities

(E) 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.

(F) 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.

(G) 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 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 would be disturbed.

(H) 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 should 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.

(I) Repair and maintenance of legally established non-conforming uses or structures, provided they do not increase the degree of nonconformity.

(8) Functionally Disconnected Buffer Area. Buffers may exclude areas that are functionally and effectively disconnected from the wetland by an existing public or private road or legally established development, as determined by the Planning Director. Functionally and effectively disconnected means that the road or other significant development blocks the protective measures provided by a buffer.

Significant developments shall include built public infrastructure such as roads and railroads, and private developments such as homes or commercial structures. The Planning Director] shall evaluate whether the interruption will affect the entirety of the buffer. Individual structures may not fully interrupt buffer function. In such cases, the allowable buffer exclusion should be limited in scope to just the portion of the buffer that is affected. Where questions exist regarding whether a development functionally disconnects the buffer, or the extent of that impact, the Planning Director may require a critical area report to analyze and document the buffer functionality.

(9) Overlapping Critical Area Buffers. If buffers for two critical areas overlap (such as buffers for a stream and a wetland), the wider buffer applies.

(g) Signs and Fencing of Wetlands.

(1) Temporary Markers. The outer perimeter of the wetland or 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 Planning Director

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 Planning Director 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 per lot or every 50 feet, whichever is less, and must be maintained by the property owner in perpetuity. The sign shall be worded as follows or with alternative language approved by the Planning Director:

Protected Wetland Area

Do Not Disturb

Contact City of Ruston

Regarding Uses and Restrictions

(B) The provisions of subsection (a) may be modified as necessary to assure protection of sensitive features or wildlife.

(3) Fencing

(A) The Planning Director shall determine if fencing is necessary to protect the functions and values of the critical area. If found to be necessary, the Planning Director shall condition any permit or authorization issued pursuant to this chapter to require the applicant to install a permanent fence at the edge of the wetland buffer, when fencing will prevent future impacts to the wetland.

(B) The applicant shall be required to install a permanent fence around the wetland or buffer when adjacent activities could degrade the wetland or its buffer. Examples include domestic animal grazing, unauthorized access by humans or pets, etc.

(C) 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. 1456 § 3, Dec. 20th, 2016).

30.20.050 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 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, such as project redesign, relocation, or timing, to avoid or reduce impacts;

(3) Rectifying the impact to wetlands, critical aquifer recharge areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project;

(4) Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;

(5) Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;

(6) Compensating for the impact to wetlands, critical aquifer recharge areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and

(7) Monitoring the hazard or other required mitigation and taking remedial action when necessary.

(b) 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:

Specific fencing may be required to prevent damage to habitat by either livestock or people, and the type of fence may vary depending on the nature of the site conditions and the type of habitat. Care should be taken so that fencing does not interfere with species migration.

(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 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.

(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, sub-basin, or drift cell. Mitigation actions shall be conducted within the same subdrainage basin and on the site as the alteration except when the 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, hydro geomorphic 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 Planning 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 that preclude implementation of the mitigation plan. The justification must be verified and approved by the City and include a financial guarantee.

(f) 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

(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 (g). 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 rations 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 planning 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. 1456 § 3, Dec. 20th, 2016).

30.20.060 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 RMC Title 25, zoning.

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

(Ord. 1456 § 3, Dec. 20th, 2016).