

## Chapter 12.09 WETLANDS

### Sections:

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### 12.09.010 Designation, rating and mapping wetlands.

- (1) Designating Wetlands. Wetlands are those areas, designated in accordance with the Washington State Wetland Identification and Delineation Manual approved federal wetland delineation manual and applicable regional supplements, 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.
- (2) Wetland Ratings. Wetlands shall be rated according to the Department of Ecology wetland rating system found in the Washington State Wetland Rating System documents (Western Washington, Ecology Publication No. 93-7414-06-029) or as revised by Ecology. These documents contain the definitions and methods for determining if the criteria below are met.
  - (a) Wetland Rating Categories.
    - (i) Category I. Category I wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of functions. The following types of wetlands are Category I meet the following criteria:
      - (A) Documented habitat for federal or state-listed endangered or threatened fish, animal, or plant species; Wetlands that perform many functions well (scoring 23 points or more)
      - (B) 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) Wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program (WNHP) or Washington Department of Natural Resources (WDNR);
      - (C) 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) Bogs; or
      - (D) Wetlands of exceptional local significance Mature and old-growth forested wetlands larger than 1 acre;
      - (E) Wetlands in coastal lagoons;
      - (F) Relatively undisturbed estuarine wetlands larger than 1 acre; or
      - (G) Interdunal wetlands that score 8 or 9 habitat points and are larger than 1 acre.
    - (ii) Wetlands that perform many functions well (scoring 23 points or more).

~~(iii)(ii)~~ Category II. Category II wetlands are those not defined as Category I wetlands and that meet the following criteria include:

~~(A) Documented habitats for state listed sensitive plant, fish or animal species;~~

~~(B) Wetlands that contain plant, fish or animal species listed as priority species by the Department of Fish and Wildlife Interdunal wetlands larger than 1 acre of those found in a mosaic of wetlands;~~

~~(A)~~

~~(B) Wetland types with significant functions that may not be adequately replicated through creation or restoration Estuarine wetlands smaller than 1 acre, or disturbed estuarine wetlands larger than 1 acre;~~

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

~~(D) Wetlands possessing significant habitat value based on a score of 22 or more points in the habitat rating system; or~~

~~(E)(C) Documented wetlands of local significance.~~

~~(iv)(iii) 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, 1) wetlands with a moderate level of functions (scores between 16 and 19 points), 2) can often be adequately replaced with a well-planned mitigation project; and 3) interdunal wetlands between 0.1 and 1 acre in size. Wetlands scoring between 16-19 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.~~

~~(v) 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. are those that meet the following criteria:~~

~~(A) Wetlands which do not meet the criteria of a Category I or II wetland; and Isolated wetlands that are less than or equal to two acres in size, and have only one wetland class, and have only one dominant plant species (monotypic vegetation); or~~

~~(vi)(iv) Isolated wetlands that are less than or equal to two acres in size, and have only one wetland class and a predominance of exotic species.~~

(3) Mapping of Wetlands. The approximate location and extent of wetlands are shown on the adopted critical area maps as referenced in BMC 12.08.090(4) and (5).

(4) The identification, classification, extent and location of any wetland shall be determined through the performance of a field investigation by a qualified consultant using the approved Federal wetland delineation manual and applicable regional supplements~~applying the Washington State Wetlands Identification and Delineation Manual as required by RCW 36.70A.175 (Ecology Publication No. 96-94). (Ord. 21-05 § 2, 2005).~~

**12.09.020 Critical areas report – Additional requirements for wetlands.**

In addition to the general critical areas report requirements of BMC 12.08.210, critical areas reports for wetlands must meet the requirements of this section. Critical areas reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

- (1) Wetland Analysis. In addition to the minimum required contents of BMC 12.08.210, Critical areas reports – Requirements, a critical areas report for wetlands shall contain an analysis of the wetlands including the following site- and proposal-related information at a minimum:
  - (a) 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:
    - (i) The project area of the proposed activity;
    - (ii) Wetland delineation and required buffers;
    - (iii) Existing wetland acreage;
    - (iv) Wetland category; vegetative, faunal, and hydrologic characteristics;
    - (v) Soil and substrate conditions; and
    - (vi) Topographic elevations, at five-foot contours.
  - (b) Proposed mitigation, if needed, including a written assessment and accompanying maps of the mitigation area, including the information detailed in BMC 12.08.250, Mitigation plan requirements.
- (2) Additional Information May Be Required. When appropriate, the planning director may also require the critical areas report to include an evaluation by the 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. (Ord. 21-05 § 2, 2005).

**12.09.030 Performance standards – General requirements.**

- (1) 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 values of the wetland and other critical areas.
- (2) Activities and uses shall be prohibited from wetlands and wetland buffers, except as provided for in this title.
- (3) 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.
- (4) Category II. With respect to activities proposed in Category II wetlands, the following standards shall apply:
  - (a) Water-dependent activities [as provided for under the City's Shoreline Master Program](#) may be allowed where there are no ~~practicable-feasible~~ alternatives that would not have a less adverse impact on the wetland, [its buffers](#) and other critical areas.
  - (b) 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:

- (i) 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
  - (ii) 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.
- (5) Category III and IV Wetlands. Activities and uses that result in unavoidable and necessary impacts may be permitted in Category III and IV wetlands and associated buffers in accordance with an approved critical areas report and mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant’s objectives.
- (6) Wetland Buffers.

(a) Land Use Intensity. Wetland buffers in the City of Buckley are determined based on the category of the wetland and the land use intensity proposed. Land use impact “intensity” is based on development types and the estimated impact based on the proposed change in land use.

<u>Land Use Impact "Intensity" Based on Development Types</u>	
<u>Rating of impact from proposed changes in land use</u>	<u>Types of land uses that cause the impact based on common zoning categories</u>
<u>High</u>	<u>Commercial, Urban, Industrial, Institutional, Retail Sales, Residential with more than 2 units/acre, New agriculture (high- intensity processing such as dairies, nurseries and green houses, raising and harvesting crops requiring annual tilling, raising and maintaining animals), High intensity recreation (golf courses, ball fields), hobby farms</u>
<u>Moderate</u>	<u>Residential with 2 units/acre or less, Moderate-Intensity Open Space (parks), New agriculture (moderate-intensity such as orchards and hay fields)</u>
<u>Low</u>	<u>Forestry, Open space (low-intensity such as passive recreation and natural resources preservation)</u>

~~(a)(b) Standard~~ Buffer Widths. The City of Buckley establishes the following ~~The standard~~ buffer widths based on category and land use intensity, as defined above. These buffer widths presume the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the wetland functions and values at the time of the proposed activity. ~~If the vegetation is inadequate then 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:

Alternative 2 Buffer Widths, Based Upon Category and Land Use Intensity		
Category ( <del>2004-2014</del> Wrn. WA Rating System)	Total Points in Rating System	Alternative 2 Buffer Category + Land Use Intensity (lo/mod/hi)
I	<del>&gt;70</del> <u>23</u>	lo 150, mod 225, hi 300
II	<del>51-69</del> <u>20-22</u>	lo <del>100</del> <u>150</u> , mod <del>150</del> <u>225</u> , hi 300
III	<del>30-50</del> <u>16-19</u>	lo <del>25</del> <u>50</u> , mod <del>25</del> <u>75</u> , hi <del>50</del> <u>100</u>
IV	<del>&lt;30</del> <u>16</u>	lo <del>10</del> <u>25</u> , mod <del>10</del> <u>30</u> , hi <del>25</del> <u>50</u>

(b)(c) 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.

(d) Modification of Buffer Widths. The buffer widths of BMC 12.09.030(6)(b) may be decreased through buffer width averaging in BMC 12.09.030(6)(e) or reduction mechanisms of this section.

(i) The buffer widths recommended for land uses with "high intensity" impacts to wetlands can be reduced to those recommended for "moderate intensity" impacts under the conditions identified below.

(A) For wetlands that score moderate or high for habitat (6 points or more), the width of the buffer around the wetland can be reduced if the following measures to minimize the impacts of different land uses on wetlands are applied.

Disturbance	Required Measures to Minimize Impacts
Lights	<ul style="list-style-type: none"> <li>Direct lights away from wetland</li> </ul>
Noise	<ul style="list-style-type: none"> <li>Locate activity that generates noise away from wetland</li> <li>If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source</li> <li>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</li> </ul>
Toxic runoff	<ul style="list-style-type: none"> <li>Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</li> <li>Establish covenants limiting use of pesticides within 150 ft of wetland</li> <li>Apply integrated pest management</li> </ul>
Stormwater runoff	<ul style="list-style-type: none"> <li>Retrofit stormwater detention and treatment for roads and existing adjacent development</li> </ul>

Disturbance	Required Measures to Minimize Impacts
	<ul style="list-style-type: none"> <li>• <a href="#">Prevent channelized flow from lawns that directly enters the buffer</a></li> <li>• <a href="#">Use Low Intensity Development techniques (for more information refer to BMC 14.30 and the Stormwater Management Manual)</a></li> </ul>
<a href="#">Change in water regime</a>	<ul style="list-style-type: none"> <li>• <a href="#">Infiltrate or treat, detain and disperse into buffer new runoff from surfaces and new lawns</a></li> </ul>
<a href="#">Pets and Human disturbance</a>	<ul style="list-style-type: none"> <li>• <a href="#">Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion</a></li> <li>• <a href="#">Place wetland and its buffer in a separate tract or protect with a conservation easement</a></li> </ul>
<a href="#">Dust</a>	<ul style="list-style-type: none"> <li>• <a href="#">Use best management practices to control dust</a></li> </ul>

~~(c)~~(e) Wetland Buffer Width Averaging. The planning director may also allow modification of the ~~standard~~ wetland buffer width in accordance with an approved critical areas 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 wetlands consultant demonstrates that:

- (i) It will not reduce wetland functions or values;
- (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;
- (iv) The buffer width is not reduced to less than 50 percent of the ~~standard~~ [high intensity buffer](#) width or 50 feet, whichever is greater, except for buffers ~~between-for~~ Category III and IV wetlands and low or moderate intensity land uses; and
- (v) Buffer width averaging is being conducted and/or implemented within or on the property where the averaging is being requested.

~~(d)~~(f) Buffer Uses. In addition to those allowed uses listed within BMC 12.08.160, 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:

- (i) Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife;

- (ii) Passive Recreation. Passive recreation facilities designed and in accordance with an approved critical areas report, including:
    - (A) Walkways and trails, pursuant to BMC 12.08.160(3)(c)(i) and (ii); and
    - (B) Wildlife viewing structures; and
    - (C) Fishing access areas.
  - (iii) Stormwater Management Facilities. Stormwater management facilities, limited to stormwater dispersion outfalls, detention facilities and bioswales, may be allowed; provided, that:
    - (A) Alternate locations have been considered and been demonstrated to not be feasible; and
    - (B) The location of such facilities will not degrade the functions or values of the wetland.
    - (C) Stormwater detention facilities are not allowed in buffers of Category I or II wetlands.
- (7) Signs and Fencing of Wetlands.
- (a) 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 inspected 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.
  - (b) Permanent Signs. As a condition of any permit or authorization issued pursuant to this chapter, the planning director shall require the applicant to install permanent signs along the boundary of a wetland or buffer.  
Permanent signs shall be made of a metal face and attached to a metal post, or another material of equal durability. Signs must be posted at an interval of one per lot or every 100 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 director:
    - Protected Wetland Area
    - Do Not Disturb
    - Contact the City of Buckley Regarding Uses and Restriction
  - (c) Fencing.
    - (i) The planning director may require the applicant to install a permanent fence at the edge of the wetland buffer when fencing will prevent future impacts to the wetland.
    - (ii) The applicant shall be required to install a permanent fence around the wetland or buffer when domestic grazing animals are present or may be introduced on-site.
    - (iii) Fencing installed as part of a proposed activity or as required in this subsection (7)(c) of this section 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. 21-05 § 2, 2005).

**12.09.040 Performance standards – Mitigation requirements.**

- (1) Mitigation shall achieve equivalent or greater biological functions. Mitigation for alterations to wetlands shall achieve equivalent or greater biologic functions.
- (2) Mitigation shall result in no net loss. Wetland mitigation actions shall not result in a net loss of wetland area or functions and values except when the following criteria are met:
  - (a) The lost wetland area provides minimal functions and the mitigation action(s) results in a net gain in wetland functions as determined by a site-specific function assessment; or
  - (b) The lost wetland area provides minimal functions as determined by a site-specific function assessment and other replacement habitats provide greater benefits to the functioning of the watershed, such as riparian habitat restoration and enhancement; or
  - (c) Out-of-kind replacement will best meet formally identified regional goals, such as replacement of historically diminished wetland types.
- (3) Preference of Mitigation Actions. Mitigation actions that require compensation by replacing, enhancing, or substitution shall occur in the following order of preference:
  - (i) Enhancing on-site degraded wetlands.
    - (A) Restoring wetlands on upland sites that were formerly wetlands and/or have been degraded.
  - (ii) Creating wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of exotic introduced species.
- (4) Mitigation Ratios.
  - (a) Acreage Replacement Ratios. The following ratios shall apply to creation or restoration that is in-kind, on-site, the same category, timed prior to or concurrent with alteration, and has a high probability of success. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered.

<b>Wetland Category</b>	<b>Replacement Ratio</b>	<b>Enhancement Ratio</b>		
Category I	3:1	6:1		
Category II	2:1	4:1		
Category III	1.5:1	3:1		
Category IV	1:1	2:1		
<b><i>Category and type of wetland</i></b>	<b><i>Creation or re-establishment</i></b>	<b><i>Rehabilitation</i></b>	<b><i>Enhancement</i></b>	
<i>Cat. I: Bog, natural heritage site</i>	<i>Not considered possible</i>	<i>Case by case</i>	<i>Case by case</i>	
<i>Cat. I: mature forest</i>	<i>6:1</i>	<i>12:1</i>	<i>24:1</i>	
<i>Cat. I based on functions</i>	<i>4:1</i>	<i>8:1</i>	<i>16:1</i>	
<i>Cat. II</i>	<i>3:1</i>	<i>6:1</i>	<i>12:1</i>	
<i>Cat. III</i>	<i>2:1</i>	<i>4:1</i>	<i>8:1</i>	
<i>Cat. IV</i>	<i>1.5:1</i>	<i>3:1</i>	<i>6:1</i>	

- (5) Wetlands Enhancement as Mitigation.
  - (i) Impacts to wetlands may be mitigated by enhancement of existing significantly degraded wetlands. Applicants proposing to enhance wetlands must produce a critical areas 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. (Ord. 21-05 § 2, 2005).

**12.09.050 Performance standards – Subdivisions.**

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

- (1) Land that is located wholly within a wetland or its buffer may not be subdivided.
- (2) Land that is located partially within a wetland or its buffer may be subdivided; provided, that:
  - (a) Each lot and/or parcel created through the subdivision process shall maintain a minimum buildable lot area not including a wetland or buffer area which totals 75 percent of the minimum lot size area for the zoning district where located; and
  - (b) Meets the minimum lot size requirements of BMC Title 19.
- (3) 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. Loss of wetlands shall be mitigated in accordance with this title. (Ord. 21-05 § 2, 2005).