

[Title 17E](#) Environmental Standards

[Chapter 17E.070](#) Wetlands Protection

[Section 17E.070.010](#) Title and Purpose

- A. This chapter shall be known and may be cited as the "Spokane Wetlands Protection Code."
- B. This chapter is based on and implements the City of Spokane's comprehensive plan, and shoreline master program as amended from time to time. The purpose of this chapter is to protect the public health, safety and welfare by preserving, protecting and restoring wetlands through the regulation of development and other activities within wetlands and their buffers, ~~and~~ ~~This chapter is~~ not intended to create or otherwise establish or designate any particular person, or class, or group of persons who will or should be especially protected or assisted by the terms or provisions of this chapter. Further, it is the purpose of this chapter through the regulation of development and activities to meet the required goal of no net loss of wetland areas, functions and values.
1. The ~~city~~ City council Council finds that wetlands constitute important natural resources which provide significant environmental functions including:
- a. improving water quality through biofiltration, adsorption, retention and transformation of sediments, nutrients and toxicants;
  - b. maintaining the water regime in a watershed (hydraulic functions) such as reducing peak flows, erosion control, stabilizing stream banks and shorelines and recharging ground water;
  - c. providing general ~~habitat,~~ habitat for invertebrates, amphibians, anadromous fish and resident fish;
  - d. providing habitat to aquatic birds and ~~aquatic~~ mammals ~~and,~~ providing richness of food and supporting food webs; and
  - e. providing a place for education, scientific study and aesthetic appreciation.
- C. The provisions of this chapter shall be liberally construed to effectively carry out its purpose. If any provisions of this chapter conflict with other regulations, ordinances or other authorities, the provision that provides more protection to wetlands and wetland buffers shall apply.

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ORD C34148 Section 73

[Section 17E.070.020](#) Applicability

- A. The requirements of this chapter apply to all activities and development occurring in a wetland or wetland buffer, as defined in this chapter. Property located in a wetland or wetland buffer as defined in this chapter is subject to both its zoning classification regulations and to the additional requirements imposed under this chapter. In any case where there is a conflict between the provisions of the underlying zone and this chapter, the provisions of this chapter shall apply.
- B. Wetlands are those areas, designated in accordance with the most current edition of the [federal wetland delineation manual and applicable regional supplements](#) ~~Washington State Wetland Identification and Delineation Manual~~, that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas created to mitigate conversion of wetlands. All areas within the City meeting the wetland designation criteria in the [federal wetland delineation manual and applicable regional supplements](#) ~~Identification and Delineation Manual~~, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.
- C. Nothing contained in this chapter is intended to be nor shall be construed to create or form the basis for liability on the part of the City, or its officers, officials, employees or agents for any injury or damage resulting from the failure of any owner of property or land to comply with the provisions of this chapter, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued in connection with the implementation or enforcement of this chapter, or by reason of any action or inaction on the part of the City related in any manner to the enforcement of this chapter by its officers, officials, employees or agents.

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ORD C34148 Section 73

[Section 17E.070.030](#) Identification, Designation and Mapping of Wetlands

A. Wetland Maps.

The approximate location and extent of wetlands in the City is compiled in the City's wetlands inventory. Their approximate location is displayed on City maps. The foregoing maps are to be

used as a guide for the City, project applicants and/or property owners, and may be continuously updated as new wetlands are identified. The maps are references and do not provide a final wetlands designation or delineation. Wetlands of any size and state of isolation are regulated under the provisions of this ordinance. Wetlands not shown on City maps or wetlands inventory are presumed to exist in the ~~city~~ City and are protected under the provisions of this chapter. In the event that any of the wetland designations shown on the wetland inventory or maps conflict with the criteria set forth in this chapter, the criteria shall control.

B. Determination of Wetland Boundary.

1. The applicant shall, through the performance of a field investigation by a qualified professional wetland scientist applying the wetland definition provided in this chapter and in [SMC 17A.020.230](#) and as part of the wetlands report requirement found in this chapter, provide a site analysis including: a determination of the exact location of the wetland boundary; an analysis of wetland functions and values; and a wetland rating according to the wetlands rating system criteria adopted in [SMC 17E.070.100](#). Qualified wetland scientists shall perform wetland delineations using the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1987), ~~Interim Regional Supplement: Arid West Wetlands Manual~~ [Final Regional Supplement \(2006/2008\)](#), and ~~Washington State Wetlands Identification and Delineation Manual~~ as revised or supplemented. The director, upon consultation with the ~~department~~ [Department of ecology](#) [Ecology](#), may determine that wetland identification and delineations made prior to adoption of these standards, or for a different use requiring permit changes, require a new determination by a qualified wetland scientist. Wetland determinations are subject to Corps Regulatory Guidance Letter (RGL) 05-02, 2005 and expire after five years from the date of determination and must follow requirements for review by a qualified wetland scientist upon expiration of the five-year limitation.
2. Where an applicant has provided a delineation of a wetland boundary, the department shall verify the accuracy of, and may render adjustments to, the boundary delineation. ~~and the~~ [The](#) applicant may be charged by the department for costs incurred in verifying the accuracy of the delineation. In the event the adjusted boundary delineation is contested by the applicant, the department may, at the applicant's expense, obtain the services of a second wetlands scientist to perform a delineation. The second delineation shall be final, unless appealed to the hearing examiner.

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ORD C34148 Section 73

[Section 17E.070.040](#) Regulated Activities

- A. No regulated activity shall be undertaken in a wetland or wetland buffer without submitting a critical areas checklist as provided ~~at~~ [in SMC 17 E.070.080](#) and first obtaining required permits. Uses and activities in wetlands are only allowed as conditional use permits or planned unit developments under the provisions of the City zoning code. Unless expressly provided otherwise in this chapter, regulated activities include any of the following activities which occur in a wetland or its buffer:
1. Removal, excavation, grading or dredging of soil, sand, gravel [or other similar materials](#).
  2. Dumping, discharging or filling with any material.
  3. Draining ~~or~~, flooding, or disturbing of the water level or water table.
  4. Driving of pilings.
  5. Placing of obstructions.
  6. Construction, reconstruction, demolition or expansion of any structure.
  7. The removal, cutting, clearing, harvesting, shading or intentional burning of any vegetation, including removal of snags or dead or downed woody material, or planting of non-native vegetation that would degrade the wetland, provided that these activities are not part of a forest practice governed under chapter 76.09 RCW and its rules.
  8. Activities that restrict, increase or otherwise measurably alter the hydrology, water quality or limnology of the wetland.
  9. Construction or installation of streets or utilities; and
  10. Construction and maintenance of pervious trails.
- B. Where a regulated activity is proposed which would be partly inside and partly outside a wetland or wetland buffer, a wetland permit shall be required for the entire regulated activity. The standards of this chapter shall apply only to that part of the regulated activity which occurs inside the delineated boundaries of a wetland or a wetland buffer, provided all activities that occur outside a wetland or wetland buffer are prohibited from negatively impacting a wetland or wetland buffer.

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ORD C34148 Section 73

[Section 17E.070.050](#) Unregulated Activities

A. The following activities are exempt from the requirement to obtain a permit and are allowed within a wetland or wetland buffer to the extent that they are not prohibited by other local, state or federal law, ~~and~~ do not degrade a wetland or wetland buffer, and are reviewed by the City prior to any action:

1. Conservation or preservation of soil, water, vegetation, fish, shellfish and other wildlife including the planting of native wetland vegetation.
2. Activities having minimal adverse impacts on wetland buffers and no adverse impact on wetlands, including low-intensity, passive recreation activities such as short-term scientific or education activities and sports fishing or hunting.
3. Repair and maintenance of existing drainage ditches which are part of a nonconforming wetland use, provided no expansion or introduction of new adverse impact to the wetland takes place. Maintenance of existing drainage ditches should be limited to removing sediment to the depth recorded at during the last authorized maintenance activity. The use of current best management practices is especially encouraged to improve agricultural practices in and near wetlands.
4. Placement of navigation aids and boundary markers.
5. Placement of boat mooring buoys.
6. Site investigative work necessary for land use application submittal such as surveys, soil logs and other related activities. Disturbance shall be minimized to the greatest extent possible. Examples of minimal impact methods include, but are not limited to, hand dug test pits or hand borings. All subsurface exploration methods shall be approved in advance by the director. In every case, wetland impacts shall be minimized and disturbed areas shall be immediately restored; and

~~7. Normal maintenance of existing utility and street systems, provided that, whenever possible, maintenance activities be confined to late summer and fall. Operation, maintenance or repair of public rights of way, legally existing roads, structures or facilities and associated right of way used in the service of the public to provide transportation, electricity, gas, water, telephone, telegraph, telecommunication, sanitary sewer, stormwater treatment and other public utility services are exempt from this chapter. Operation, maintenance or repair activities that do not require construction permits, if the activity does not further alter or increase impact to, or encroach further within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed operation, maintenance or repair. Operation and vegetation management performed in accordance with best management practices that is part of ongoing maintenance of structures, infrastructure, or utilities, provided that such management actions are part of a regular ongoing maintenance, do not expand further into the critical area, are not the result of an expansion of the structure or utility,~~

~~and do not directly impact endangered species. These ongoing activities are not subject to new or additional mitigation when they do not expand further into the critical area, are not the result of an expansion of the structure or utility, or do not directly impact endangered species. Whenever possible, maintenance activities will be confined to late summer and fall.~~ The following activities are not subject to the provisions of this chapter provided they do not expand further into the critical area, do not alter or increase the impacts to the critical area or buffer, do not directly impact endangered species and do not increase risk to life or property. Whenever possible, maintenance activities will be confined to late summer and fall.

- a. Operation, maintenance or repair of public rights-of-way, legally existing roads, structures or facilities and associated rights-of-way used to provide transportation, electricity, gas, water, telephone, telecommunication, sanitary sewer, stormwater treatment and other public utility;
- b. Operation, maintenance or repair activities that do not require construction permits;
- a-c. Vegetation management performed in accordance with best management practices as part of the ongoing maintenance of structures, infrastructure, or utilities, provided that such management activities are not the result of an expansion of the structure or utility.

- B. Forest practices and conversions shall be governed by chapter 76.09 RCW and rules promulgated thereunder. This permit exemption does not apply where such activities result in the conversion of a wetland or wetland buffer to a use requiring a permit under this chapter.

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ORD C34148 Section 73

Section 17E.070.060 Emergency Activities

- A. Notwithstanding the provisions of this chapter or any other laws to the contrary, the director may allow emergency activities if the:
  - 1. director determines that an imminent threat to public health, safety or the environment will occur if an emergency activity is not allowed; and
  - 2. threat to or loss of wetlands may occur before the normal and usual process ~~is~~ can be followed or activities can be modified ~~under~~ pursuant to the procedures ~~otherwise~~ normally required by this chapter.

B. The exemption for emergencies should not eliminate the need for later mitigation to offset the impacts of emergency activity. Once the immediate threat has been addressed, any adverse impacts on critical areas should be minimized and mitigated.

B.C. Any emergency activity allowed shall:

1. incorporate to the greatest extent practicable the standards and criteria required for non-emergency activities;
2. be limited in duration to the time required to complete the authorized emergency activity, not to exceed ninety days without reapplication; and
3. require the restoration of any wetland altered as a result of the emergency activity within ninety days following the emergency repair, or during the growing season after the emergency repair. Procedures otherwise required by this chapter must be followed for restoration efforts required by the emergency repair in accordance with this chapter.

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ORD C34148 Section 73

#### Section 17E.070.070 Prohibited Activities

Activities that are not regulated activities under [SMC 17E.070.040](#), unregulated activities under [SMC 17E.070.050](#), or emergency activities under [SMC 17E.070.060](#), are prohibited. In order to conduct an otherwise prohibited activity in a wetland or wetland buffer, the applicant must satisfy the requirements for a reasonable use exception as described in [SMC 17E.070.120](#).

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ORD C34148 Section 73

#### Section 17E.070.080 Application Submittal Requirements

- A. A pre-development conference is required for all regulated activities proposed in potential wetland areas and associated buffers per ~~chapter SMC 17G.060~~ [SMC](#). The pre-development conference is intended to acquaint an applicant with standards, requirements, investigation procedures, best management practice and potential review procedures prior to [making submitting an](#) application.
- B. All activities identified in [SMC 17E.070.040](#) shall meet the following application submittal requirements in addition to the application submittal requirements specified in other codes. The

director may modify the submittal requirements based upon reasonable documentation, including BAS, needed to ensure compliance with this chapter, provided no construction activity, clearing or grading has taken place. A written summary of analysis and findings shall be included in any staff report or decision on the underlying permit.

1. Wetlands Report.

This report shall include a written assessment and accompanying maps of the impacted wetland including, at a minimum, wetland delineation and rating as determined by [SMC 17E.070.100](#); existing wetland acreage; proposed wetland impacts; alternatives to wetlands impacts; proposed wetland buffer; vegetative, faunal and hydrological characteristics; soil and substrate conditions and topographic elevations; and shall be submitted as a part of [the](#) permit application.

2. Topographic Survey.

To the extent not provided in the wetlands report, a topographic site plan, prepared and stamped by a State of Washington licensed surveyor, is required for sites that include a wetland or its buffer. The topographic site plan shall include the following existing physical elements:

- a. Existing topography at two-foot contour intervals on-site, on adjacent lands within twenty-five feet of the site's property lines, and on the full width of abutting public and private rights-of-way and easements.
- b. Terrain and stormwater-flow characteristics within the site, on adjacent sites within twenty-five feet of the site's property lines, and on the full width of abutting public and private rights-of-way and easements.
- c. Location of areas with significant amounts of vegetation, and specific location and description of all trees with trunks six inches or greater in diameter at breast height (dbh) measured four feet, six inches above the ground, and noting their species.
- d. Location and boundaries of all existing site improvements on the site, on adjacent lands within twenty-five feet of the site's property lines, and on the full width of abutting public and private rights-of-way and easements. This shall include the amounts of developmental coverage, including all impervious surfaces (noting total square footage and percentage of site occupied).
- e. Location of all [ongoing](#) grading activities ~~in progress, and as well as~~ all natural and artificial drainage control facilities or systems in existence ~~or on the site,~~ on adjacent lands ~~on the site,~~ within twenty-five feet of the site's property lines, and in the full width of abutting public and private rights-of-way and easements.



- f. Location of all existing utilities (water, sewer, gas, electric, phone, cable, etc.), both above and below ground, on the site, on adjacent lands within twenty-five feet of the site's property lines and in the full width of abutting public rights-of-way; and
- g. ~~Such a~~ Additional information on existing physical elements ~~information for on~~ the site and surrounding area as required by the director to inform a complete review of a project subject to the standards of this chapter.

3. Additional Site Plan Information.

To the extent not provided in the wetlands report, the following site plan information shall also be required for sites that include wetlands and their buffers. Information related to the location and boundaries of wetlands and required buffer delineations shall be prepared by qualified professionals with training and experience in their respective area of expertise as demonstrated to the satisfaction of the director.

- a. Location and boundaries of all wetlands and wetland buffer on the site and on adjacent lands within twenty-five feet of the site's property lines, noting both total square footage and percentage of site.
- b. Location and identification of all wetlands within one hundred feet of the site's property lines.
- c. Location and boundaries of all proposed site improvements on the site, on adjacent lands within twenty-five feet of the site's property lines, and on the full width of abutting public and private rights-of-way and easements. This shall include the amount of proposed land disturbing activities, including amounts of developmental coverage, impervious surfaces and construction activity areas (noting total square footage and percentage of site occupied).
- d. Location of all proposed grading activities and all proposed drainage control facilities or systems on the site or on adjacent lands within twenty-five feet of the site's property lines, and on the full width of abutting public and private rights-of-way and easements.
- e. Location of all proposed utilities (water, sewer, gas, electric, phone, cable, etc.), both above and below ground, on the site, on adjacent lands within twenty-five feet of the site's property lines, in the full width of abutting public rights-of-way, and any proposed extension required to connect to existing utilities, and proposed methods and locations for the proposed development to hook-up to these services; and

- f. Such additional site plan information related to the proposed development as required by the director to [inform a](#) complete review of a project subject to the standards of this chapter.

4. Technical Reports.

To the extent not provided in the wetlands report, technical reports and other studies and submittals shall be prepared as required by the director detailing [on-site](#) soils, [geological](#)[geology](#), hydrology~~ical~~, drainage, plant ecology and botany and other pertinent site information. The reports, studies and submittals shall be used to condition development to prevent potential harm and to protect the critical nature of the site, adjacent properties, and the drainage basin.

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ORD C34148 Section 73

[Section 17E.070.090](#) Posting, Covenants and Recording Conditions

- A. During construction, the director may require conditions to be posted on the site that are visible from public rights-of-way.
- B. The director shall require the boundaries of wetlands and their buffers and any permanent conditions imposed be legibly shown and described in a permanent covenant with the property, which must be acceptable to the director and city attorney and shall be recorded ~~in~~[with](#) the Spokane County auditor's office.
- C. The covenant shall be recorded prior to the issuance of any permit or at the time a plat is recorded.
- D. The covenant shall be permanent unless a revocation is applied for that includes a wetland determination by a qualified wetland scientist that provides evidence the wetland no longer exists. The revocation application must be approved by the director in writing.
- E. The director may require placement of small permanent visible markers to delineate the areas described in subsection B of this section. Said markers shall be posted at intervals required by the director and must be perpetually maintained by the property owner. The markers shall be worded as follow or with alternative language approved by the director: "The area beyond this sign is a critical area or critical area buffer. This sensitive environment is to be protected from alteration or disturbance. Please call the City of Spokane for more information." The location of the markers shall be legibly shown and described in the permanent covenant.

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Section 17E.070.100 Wetlands Rating System

A. Wetlands shall be rated according to the Washington State department of ecology wetland rating system found in the Washington State Wetlands Rating System for Eastern Washington (~~2004~~2014) as revised, ~~together with the Wetlands in Washington State Volume 1 and 2 (2005) as revised.~~ These rating system documents contain the definitions and methods for determining if the criteria in subsections B through E of this section below are met. In using the rating system the City will not consider aspen-dominated forested wetlands larger than one-fourth acre to be Category I Wetlands unless they also meet one or more of the other criteria for a Category I Wetland.

B. Category I Wetlands.

1. These wetlands are not common and make up a small percentage of wetlands in the region. Category I wetlands are those that exhibit these primary characteristics:

- a. Represent a unique or rare wetland type.
- b. Are more sensitive to disturbance than most wetlands.
- c. Are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; and
- d. Provide a high level of function.

2. In eastern Washington Category I Wetlands include but are not limited to the following examples:

- a. Alkali wetlands.
- b. Wetlands of High Conservation Value (formerly called Natural Heritage ~~Program (DNR)~~ Wetlands).
- c. Bogs and Calcareous Fens.
- d. Mature and old-growth forested wetlands over one-fourth acre with slow growing trees; and
- e. Wetlands that perform ~~many functions very well~~ functions at high levels (scores of ~~seventy~~ twenty-two points or more).

C. Category II Wetlands.

Category II wetlands are difficult, although not impossible, to replace and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a relatively high level of protection. Category II wetlands include:

1. forested wetlands in the floodplains of rivers;
2. mature and old-growth forested wetlands over one-fourth acre with fast growing trees;
3. vernal pools; and
4. wetlands that perform functions well (scores between ~~fifty-one~~nineteen and ~~sixty-~~ninetwenty-one points).

D. Category III Wetlands.

Category III wetlands generally have been disturbed in some ways, and are often smaller, less diverse and/or more isolated from other natural resources in the landscape than Category II wetlands and may not need as much protection as Category I and II Wetlands. Category III wetlands are:

1. vernal pools that are isolated, and
2. wetlands with a moderate level of function (between ~~thirty~~sixteen and ~~fifty~~eighteen points).

E. Category IV Wetlands.

Category IV wetlands have the lowest levels of function (less than ~~thirty~~sixteen points) and are often heavily disturbed. These are wetlands that may be replaced and in some cases improved. These wetlands may provide some important function, and also need to be protected. Category IV wetlands are comprised of one vegetative class other than the forested wetland class.

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ORD C34148 Section 73

[Section 17E.070.110](#) Wetland Buffers

A. Standard Buffer Zone Widths.

Wetland buffer zones shall be required for all regulated activities adjacent to wetlands. Any wetland created, restored or enhanced as compensation for approved wetland alterations shall also include the standard buffer required for the category of the created, restored or enhanced wetland. All buffers shall be measured from the wetland boundary as surveyed in the field pursuant to the requirements of [SMC 17E.070.030](#). The width of the wetland buffer zone shall be determined according to the rating assigned to the wetland in accordance with [SMC 17E.070.100](#) and consistent with Wetlands in Washington State, Volume 2, Protecting and Managing Wetlands, Guidance on Buffers and Ratios (Appendix 8-D) as revised, for wetland category, intensity of impacts, wetland functions, habitat scores or special characteristics. Standard buffer widths will be determined based on an evaluation of the following:

1. Conditions of the wetland.
2. Conditions of the buffer.
3. Proposed land uses adjacent to the buffer; and
4. The functions intended to be protected.

B. Wildlife habitat function is the most susceptible to developmental change and requires the greatest buffer protection. Protection of wildlife habitat functions require twenty-five to seventy-five feet for wetlands with minimal habitat functions and low intensity land uses adjacent to the wetlands, fifty to two hundred feet for wetlands with moderate habitat function and moderate or high intensity land use adjacent to the wetlands, and one hundred fifty to two hundred fifty plus feet for wetlands with high habitat functions depending on the intensity of the adjacent land use. The width of the wetland buffer zone shall be determined from one of the following two alternatives:

1. Alternative 1.

Unless [SMC 17E.070.110\(3\)](#) (Table 17E.070.110-4) applies, width based solely on wetland category as follows:

<b>Table 17E.070.110-1</b>	
<b>Wetland Category</b>	<b>Buffer Width (feet)</b>
Type I	250
Type II	200
Type III	150
Type IV	50

2. Alternative 2.

Alternative 2 provides three buffer widths based on habitat scores. Habitat score refers to the quality of physical structures such as vegetation, open water and connections to other wildlife habitats that are necessary for a wide range of species, including birds, mammals, and amphibians. Where more than one width applies based on score for function or based on special characteristics, the calculation providing the widest buffer

shall be used. Widths are based on wetland category, intensity of impacts from proposed changes in land use, and wetland functions or special characteristics. Land use intensity shall be determined as follows:

**Table 17E.070.110-2. Types of proposed land use that can result in high, moderate, and low levels of impacts to adjacent wetlands.**

<b>Impact from Proposed Change in Land Use</b>	<b>Types of Land Use Based on Common Zoning Designations</b>
High	Commercial, Industrial and Institutional Residential (more than 1 unit/acre) High-intensity Recreation (golf courses, ball fields, etc.) Conversion to High Intensity Agricultural (dairies, nurseries, greenhouses, etc.) <a href="#">Hobby Farms</a>
Moderate	Residential (1 unit/acre or less) Moderate-intensity Active Open Space (parks with biking, jogging, etc.) Conversion to Moderate Intensity Agriculture (orchards, hay fields, etc.) Paved Trails Building of Logging Roads Utility Corridor With Access/Maintenance Road Forestry (cutting of trees only)
Low	Passive Open Space (hiking, bird-watching, etc.) Unpaved Trails Utility Corridor Without Road or Vegetation Management

Table 17E.070.110-3				
Wetland Category	Habitat Score	Wetland Minimum Buffer Width (in feet)		
		Low Impact	Moderate Impact	High Impact
I	29-36	100	150	200
II	20-28	75	110	150
III	<20	50	75	100
IV	-	25	40	50

Table 17 E.070.110-3			
Category of Wetland	Land Use with Low Impact	Land Use with Moderate Impact	Land Use with High Impact
I	125 ft	190 ft	250 ft
II	100 ft	150 ft	200 ft
III	75 ft	110 ft	150 ft
IV	25 ft	40 ft	50 ft

3. If a Type I wetland is classified with at least one of the following special characteristics the following buffer table shall apply:

Table 17E.070.110-4			
Type I Special Characteristics	Low Impact	Moderate Impact	High Impact
Vernal Pool	100	150	200

Vernal Pool With Regional Plan	40	60	80
Natural Heritage Wetland	125	190	250
Bogs	125	190	250
Alkali	100	150	200
Riparian Forest	Buffer width to be based on score for habitat functions or water quality functions		

<u>Table 17E.070.110-4</u>		
<u>Wetland Characteristics</u>	<u>Buffer Widths by Impact of Proposed Land Use (apply most protective if more than one criterion is met)</u>	<u>Other Measures Recommended for Protection</u>
<u>Wetlands of High Conservation Value</u>	<u>Low - 125 ft</u> <u>Moderate – 190 ft</u> <u>High – 250 ft</u>	<u>No additional surface discharges to wetland or its tributaries</u> <u>No septic systems within 300 ft</u> <u>Restore degraded parts of buffer</u>
<u>Bogs</u>	<u>Low - 125 ft</u> <u>Moderate – 190 ft</u> <u>High – 250 ft</u>	<u>No additional surface discharges to wetland or its tributaries</u> <u>Restore degraded parts of buffer</u>
<u>Forested</u>	<u>Buffer size to be based on score for habitat functions or water quality functions</u>	<u>If forested wetland scores high for habitat, need to maintain connectivity to other natural areas</u> <u>Restore degraded parts of buffer</u>
<u>Alkali</u>	<u>Low – 100 ft</u> <u>Moderate – 150 ft</u> <u>High – 200 ft</u>	<u>No additional surface discharges to wetland or its tributaries</u> <u>Restore degraded parts of buffer</u>
<u>High level of function for habitat (score for habitat 8 – 9 points)</u>	<u>Low – 100 ft</u> <u>Moderate – 150 ft</u> <u>High – 200 ft</u>	<u>Maintain connections to other habitat areas</u> <u>Restore degraded parts of buffer</u>
<u>Moderate level of function for habitat (score for habitat 5 - 7 points)</u>	<u>Low – 75 ft</u> <u>Moderate – 110 ft</u> <u>High – 150 ft</u>	<u>No recommendations at this time</u>
<u>High level of function for water quality improvement (8 - 9 points) and low for habitat (less than 5 points)</u>	<u>Low – 50 ft</u> <u>Moderate – 75 ft</u> <u>High – 100 ft</u>	<u>No additional surface discharges of untreated runoff</u>
<u>Not meeting any of the above</u>	<u>Low – 50 ft</u>	<u>No recommendations at this</u>



<a href="#">characteristics</a>	<a href="#">Moderate – 75 ft</a> <a href="#">High – 100 ft</a>	<a href="#">time</a>
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C. Increased Wetland Buffer Zone Width.

The City may require increased buffer zone widths on a case-by-case basis as determined by the director when a larger buffer is necessary to protect wetland functions and values. This determination shall be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the wetland. The documentation must include but not be limited to the following criteria:

1. The wetland is used by a plant or animal species listed by the federal government or the state as endangered, threatened, sensitive or documented priority species or habitats, or essential or outstanding potential habitat for those species, or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees; or
2. The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts; or
3. The adjacent land has minimal vegetative cover or slopes greater than thirty percent.

D. Reduction of Standard Wetland Buffer Zone Width.

The City may reduce the standard wetland buffer zone width on a case-by-case basis as determined by the director, consistent with Wetlands in Washington State, Volume 2, Protecting and Managing Wetlands, Guidance on Buffers and Ratios (Appendix 8-D) as revised, if for wetlands that score:

1. moderate or high for habitat ([twenty-five](#) points or more for the habitat functions) the width of the buffer can be reduced if the following criteria are met:
  - a. a relatively undisturbed vegetative corridor of at least one hundred feet in width is protected between the wetland and any other priority habitats; and
  - b. the protected area is preserved by means of easement, covenant or other measure;
  - c. measures identified in [SMC 17E.070.110\(c\)\(2\)](#) (Table 17E.070.110-5) are taken to minimize the impact of any proposed land use or activity.
2. less than [twenty-five](#) points for habitat, the buffer width can be reduced to that required for moderate land-use impacts by applying the following measures to minimize the impacts of the proposed land uses or activities:

<b>Table 17E.070.110-5</b>
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Disturbance	Examples of Measures Used to Minimize Impacts
Light	Direct lights away from wetland
Noise	Locate activity that generates noise away from wetland
Toxic Runoff	Route all new untreated runoff away from wetland while ensuring wetland is not dewatered, establish covenants limiting use of pesticides within one hundred fifty feet, may apply integrated pest management
Stormwater Runoff	Retrofit stormwater detention and treatment for roads and existing adjacent development, prevent channelized flow from lawns that directly enters buffer
Change in Water Regime	Infiltrate or treat, detain, and disperse <u>into</u> buffer new runoff from impervious surfaces and new lawns
Pets and Human Disturbance	Use privacy fencing; <u>plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion; place wetland and its buffer in a separate tract</u> <del>plant appropriate vegetation to discourage disturbance</del>
Dust	Use best management practices to control dust

E. Standard Buffer Width Averaging.

Wetlands may contain significant variations in sensitivity due to existing physical characteristics that may justify buffer width averaging. Standard wetland buffer zones may be modified by averaging buffer widths or a combination of averaging and reduction. Wetland buffer width averaging shall be allowed only where the applicant demonstrates all of the following:

1. Averaging will provide the necessary biological, chemical and physical support necessary to protect the wetland in question, taking into account the type, intensity, scale and ~~landscape~~ location of the proposed land use.
2. The land uses causing the least disturbance would be located adjacent to areas where buffer width is reduced and that such land uses are guaranteed in perpetuity by covenant, deed restriction, easement or other legally binding mechanism.

3. The total area contained within the wetland buffer after averaging is not less than that contained with the standard buffer prior to averaging. In no instance shall the buffer width be reduced by more than fifty percent of the standard buffer or be less than twenty-five feet.

F. Wetland Buffer Maintenance.

Except as otherwise specified wetland buffer zones shall be retained in their natural condition and free from mowing or other cutting activity, except for the removal of noxious weeds. Where buffer disturbances have occurred before or during construction, revegetation with native vegetation shall be required.

G. Permitted Uses in a Wetland Buffer Zone.

Regulated activities shall not be allowed in a buffer zone except for the following:

1. Activities having minimal adverse impacts on buffers and no adverse impacts on wetlands. These may include low-intensity, passive recreational activities such as trails, non-permanent wildlife watching blinds, short-term scientific or education activities, and sport fishing or hunting. Pervious pedestrian trails may be allowed in a wetland for minor crossings only and with minimal impacts. Trails may be allowed in the outer twenty-five percent of a wetland buffers and should be designed to avoid removal of significant trees. Such trails are limited to no more than five feet in width.
2. Stormwater management facilities, including biofiltration swales, designed according to the City of Spokane Stormwater Management Manual as revised, and [chapter 17D.060 SMC](#), Stormwater Facilities, if no reasonable alternative on-site location is available within the meaning of [SMC 17E.070.130](#), and if sited and designed so that the buffer zone as a whole provides the necessary biological, chemical and physical protection to the wetland in question, taking into account the scale and intensity of the proposed land use. Biofiltration swales will take into account the scale and intensity of the proposed land use, be located in the outer twenty-five percent of a Category III or IV wetland buffer provided that no other location is feasible, and will not degrade the functions and values of the wetland or its buffer.

H. Structural Setbacks from Buffers.

Unless otherwise provided, buildings and other accessory structures shall be set back a distance of ten feet from the edges of all delineated critical area buffers protecting fish and wildlife habitat conservation and wetland protection areas. The director may reduce the structural setback limit by up to five feet if construction, operation and maintenance of the building do not create a risk of negative impacts on the adjacent buffer area. Approval of a reduction of the structural setback from the buffer line shall be provided in writing by the director. The following uses may be allowed in the structural setback area:

1. Landscaping.

2. Uncovered decks.
3. Roof eaves and overhangs, maximum of twenty-four inches.
4. Pervious unroofed stairways and steps.
5. Impervious ground surfaces, such as driveways and patios.

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ORD C34148 Section 73

[Section 17E.070.120](#) Reasonable Use Exceptions

- A. Regulated activities shall not be authorized within a wetland or wetland buffer except where it can be demonstrated that an extraordinary hardship exists, or the impact is both unavoidable and necessary, or that all reasonable economic uses are denied, as defined below:

1. Extraordinary Hardship.

With respect to Category I and II wetlands, an applicant must demonstrate that denial of the permit would impose an extraordinary hardship on the part of the applicant brought about by circumstances peculiar to the subject property [and not as a direct result of actions taken by the current or previous owner\(s\)](#).

2. Unavoidable and Necessary Impacts.

With respect to all other wetlands, the following provisions shall apply. For water-dependent activities, unavoidable and necessary impacts can be demonstrated when there are no practicable alternatives which would not:

- a. involve a wetland or which would not have less adverse impact on a wetland;
- b. have other significant adverse environmental consequences.

3. Stormwater management facilities will be considered in wetland buffers with overflow into wetlands or wetland buffers, subject to regulation under the City of Spokane Stormwater Management Manual as revised, [chapter 17D.060 SMC](#), Stormwater Facilities, and all other applicable provisions in this chapter.

4. Where non-water-dependent activities are proposed, the applicant must demonstrate that:

- a. the basic project purpose cannot reasonably be accomplished using an alternative site in the general region that is available to the applicant and may feasibly be used to accomplish the project;

- b. a reduction in the size, scope, configuration or density of the project as proposed and all alternative designs of the project as proposed that would avoid, or result in less, adverse impact on a wetland of its buffer will not accomplish the basic purpose of the project; and
- c. in cases where the applicant has rejected alternatives to the project as proposed due to constraints such as zoning, deficiencies of infrastructure, or parcel size, the applicant has made a reasonable attempt to remove or accommodate such constraints.

B. Reasonable Use.

If an applicant for a development proposal demonstrates to the satisfaction of the director that application of the standards of this chapter would deny all reasonable economic use of the property, development as conditioned shall be allowed if the applicant also demonstrates all of the following to the satisfaction of the director:

1. That the proposed development is water-dependent or requires access to the wetland as a central element of its basic function, or is not water-dependent but has no practicable alternative pursuant to this section.
2. That no reasonable use with less impact on the wetland and its buffer is possible.
3. That there is no feasible on-site alternative to the proposed development, including reduction in density, planned unit development and/or revision of road and lot layout that would allow a reasonable economic use with less adverse impacts to wetlands and wetland buffers.
4. That the proposed development will not jeopardize the continued existence of species listed by the federal government or the state as endangered, threatened, sensitive or documented priority species or priority habitats.
5. That any and all alterations to wetlands and wetland buffers will be mitigated as provided in [SMC 17E.070.040](#) [SMC 17E.070.130](#).
6. That there will be no damage to nearby public or private property and no threat to the health or safety of people on or off the property; and
7. That the inability to derive reasonable economic use of the property is not the result of actions by the applicant, or the present or prior owner of the property, in segregating or dividing the property and creating the undevelopable condition after the effective date of this chapter.

- C. Mitigation will be required for impacts to a wetland or wetland buffer caused by unavoidable and necessary, extraordinary hardships, and reasonable use exceptions to standards.

- D. Prior to granting any special exception under this section, the director shall make written findings on each of the items listed above.

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ORD C34148 Section 73

[Section 17E.070.130](#) Mitigation

Wetland mitigation shall be consistent with Wetland Mitigation in Washington State, Parts 1 and 2 (2006) as amended from time to time, to provide consistency for applicants who must also apply for state and federal permits.

A. Conditions.

As a condition of any permit or approval allowing alteration of wetlands or associated buffers, the applicant will engage in the restoration, creation, rehabilitation, enhancement or preservation of wetlands in order to offset the impacts resulting from the applicants or violators actions. The applicant will develop an appropriate mitigation plan that provides for mitigation measures as outlined below. Wetland mitigation means the use of any or all of the following action listed in descending order of preference (mitigation sequencing):

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 during the life of the action.
5. Compensating for the impact by replacing, enhancing or providing substitute resources or environments; or
6. Monitoring the impact and the compensation project and taking appropriate corrective measures. Mitigation may include a combination of the above measures.

B. Performance Standards.

Compensatory mitigation must follow a mitigation plan which includes the components listed in subsection D of this section. All mitigation plans must meet the minimum performance standards set forth in subsection C of this section.

C. Wetlands Restoration, Creation, Rehabilitation, Enhancement and Preservation.

1. Any person who degrades wetlands must restore, create, rehabilitate, ~~or~~ enhance, or preserve equivalent areas or greater areas of wetlands than those altered in order to compensate for loss of wetland acreage or functions.
2. Acreage Replacement Ratio.  
The following standard ratios apply to compensatory wetland mitigation that is in-kind. If a proposal seeks to eliminate a functional wetland through development, that loss must be compensated through creation or restoration mitigation. This strategy meets the no net loss standard for wetland function and value. The first number specifies the acreage of wetlands requiring replacement and the second specifies the acreage of wetlands altered.

<b>Category and Type of Wetland Impacts</b>	<b>Type of Wetland Mitigation</b>				
	<b>Re-establishment or Creation</b>	<b>Rehabilitation Only [1]</b>	<b>Re-establishment or Creation (R/C) and Rehabilitation (RH) [1]</b>	<b>Re-establishment or Creation (R/C) and Enhancement (E) [1]</b>	<b>Enhancement Only [1]</b>
All Category IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1
All Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
Category II Forested	4:1	8:1	1:1 R/C and 4:1 RH	1:1 R/C and 6:1 E	16:1
Category II Vernal Pool	2:1 Compensation must be seasonally ponded wetland	4:1 Compensation must be seasonally ponded wetland	1:1 R/C and 2:1 RH	Case-by-case	Case-by-case

All Other Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
Category I Forested	6:1	12:1	1:1 R/C and 10:1 RH	1:1 R/C and 20:1 E	24:1
Category I – Based on Score for Functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category I Natural Heritage Site	Not considered possible [2]	6:1 Rehabilitation of a Natural Heritage Site	R/C not considered possible [2]	R/C not considered possible [2]	Case-by-case
Category I Alkali	Not considered possible [2]	6:1 <del>Rehabilitation</del> Rehabilitation of an alkali wetland	R/C not considered possible [2]	R/C not considered possible [2]	Case-by-case
Category I Bog	Not considered possible [2]	6:1 Rehabilitation of a bog	R/C not considered possible [2]	R/C not considered possible [2]	Case-by-case

[1] These ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement.

[2] ~~Natural heritage sites~~ Wetlands with a high conservation value and, alkali wetlands are considered irreplaceable wetlands because they perform functions that cannot be replaced through compensatory mitigation. Impacts to such wetlands would therefore result in a net loss of some functions no matter what kind of compensation is proposed.



3. Increased Replacement Ratio.

The standard replacement ratio may be increased under the following circumstances:

- a. High degree of uncertainty as to the probable success of the proposed restoration or creation.
- b. Significant period of time between destruction and replication of wetland functions.
- c. Projected losses in functional value and other uses, such as recreation, scientific research and education, are relatively high.
- d. Not possible to create or restore same type of wetland.
- e. Off-site compensation is offered.

4. Decreased Replacement Ratio.

The standard replacement ratio may be decreased under the following circumstances: scientifically supported evidence which demonstrates that no net loss of wetland function or value is attained under the decreased ratio. In all cases, a minimum acreage replacement ratio of 1:1.5 is required.

5. Wetland Enhancement.

- a. Any applicant proposing to degrade wetlands may propose to enhance existing wetlands in order to compensate for wetland losses. Applicants proposing to enhance wetlands must identify how enhancement conforms with the overall goals and requirements of the wetlands protection program.
- b. A wetlands enhancement compensation project will be considered, if enhancement for one function and value will not degrade another function or value. Acreage replacement ratios may be increased up to one hundred percent to recognize existing functional values. Category I wetlands may not be enhanced.

6. In-kind/Out-of-kind Mitigation.

In-kind mitigation must be provided except where the applicant can demonstrate that:

- a. the wetland system is already degraded and out-of-kind replacement will result in a wetland with greater functional value;
- b. technical problems such as exotic vegetation and changes in watershed hydrology make implementation of in-kind mitigation impossible.

Where out of-kind replacement is accepted, greater acreage replacement ratios may be required to compensate for lost functional values.

7. On-site/Off-site Mitigation.

On-site mitigation shall be provided except where the applicant can demonstrate that:

- a. the hydrology and ecosystem of the original wetland and those who benefit from the hydrology and ecosystem will not be damaged by the on-site loss; and
- b. on-site mitigation is not scientifically feasible due to problems with hydrology, soils, or factors such as other potentially adverse impacts from surrounding land uses; or
- c. existing functional values at the site of the proposed restoration are significantly greater than lost wetland functional values; or
- d. established goals for flood storage, flood conveyance, habitat or other wetland functions have been established and strongly justify location of mitigation measures at another site.

8. Mitigation Outside of Primary Drainage Basin.

Wetland creation or restoration must occur within the same primary drainage basin as the wetland loss occurred, unless the applicant can demonstrate that:

- a. the hydrology and ecosystem of the original wetland and those who benefit from the hydrology and ecosystem will not be substantially damaged by the loss within that primary drainage basin; and
- b. in-basin mitigation is not scientifically feasible due to problems with hydrology, soils or other factors such as other potentially adverse impacts from surrounding land uses; or
- c. existing functional values in a different primary drainage basin are significantly greater than lost wetland functional values; or
- d. established goals for flood storage, flood conveyance, habitat or other wetland functions have been established and strongly justify location of mitigation measures in a different primary drainage basin.

9. Mitigation Site Selection.

In selecting mitigation sites, applicants [are encouraged to utilize \*Selecting Wetland Mitigation Sites Using a Watershed Approach \(Eastern Washington\) \(Publication #10-06-07, November 2010\)\*. Applicants](#) must pursue siting in the following order of preference:

- a. Upland sites which were formerly wetlands.
- b. Degraded upland sites generally having bare ground or vegetative cover consisting primarily of exotic introduced species, weeds or emergent vegetation; and

- c. Other upland sites.

10. Timing.

Where feasible, mitigation projects are to be completed prior to activities that will disturb wetlands. Bonding is required if mitigation projects cannot be completed prior to project completion. Construction of mitigation projects must be timed to reduce impacts to existing wildlife and flora.

D. Components of Mitigation Plans.

All wetland restoration, creation, rehabilitation, enhancement and/or preservation projects required pursuant to this chapter, either as a permit condition or as the result of an enforcement action, must follow a mitigation plan prepared by qualified wetland professionals meeting City requirements. The applicant or violator must receive written approval of the mitigation plan prior to commencement of any wetland restoration, creation or enhancement activity. The mitigation plan must contain at least the following components:

1. Baseline Information.

- a. A written assessment and accompanying maps of the impacted wetland including, at a minimum:

- i. Wetland delineation.
- ii. Existing wetland acreage.
- iii. Proposed wetland impacts.
- iv. Vegetative, faunal and hydrologic characteristics.
- v. Soil and substrate conditions; and
- vi. Topographic elevations.

- b. If the compensation site is different from the impacted wetland site, baseline information should also include:

- i. the watershed.
- ii. surface hydrology,
- iii. existing and proposed adjacent land uses,
- iv. proposed buffers; and
- v. ownership.

2. Environmental Goals and Objectives.

A written report must be provided identifying:

- a. goals and objectives and ~~describing~~[project description](#);
- b. site selection criteria;
- c. compensation goals;
- d. target evaluation species and resource functions;
- e. dates for beginning and completion; and
- f. a complete description of the functions and values sought in the new wetland.

The goals and objectives must be related to the functions and values of the original wetland, or if out-of-kind, the type of wetland to be emulated. The report must also include an analysis of the likelihood of success of the compensation project at duplicating the original wetland, and the long-term viability of the project, based on the experiences of comparable projects, if any.

3. Monitoring Program.

Specific measurable criteria approved by the director, ~~are~~ [shall be](#) provided for evaluating whether the goals and objectives of the project are being achieved, and for determining when and if remedial action or contingency measures should be implemented. Such criteria may include water quality standards, survival rates of planted vegetation, species abundance and diversity targets, habitat diversity indices, or other ecological, geological or hydrological criteria. The mitigation plan manager must assure work is completed in accordance with the mitigation plan and, if necessary, the contingency plan. The monitoring program will continue for at least five years from the date of plant installation. Monitoring will continue for ten years where woody vegetation (forested or shrub wetlands) is the intended result. These communities take at least eight years after planting to reach eighty percent canopy closure. Reporting for a ten year monitoring period shall occur in years one, two, three, five seven and ten. Monitoring in all instances shall be bonded. Reporting results of the monitoring data to the director is the responsibility of the applicant.

4. Detailed Construction Plans.

Written specifications and descriptions of mitigation techniques are to be provided, as specified by the director.

5. Construction Oversight.

The construction of the mitigation project will be monitored by a qualified wetlands professional to insure that the project fulfills its goals.

6. Contingency Plan.

The plan must identify potential courses of action that can be taken when monitoring or evaluation indicates project performance standards are not being met.

7. Permit Conditions.

Any mitigation plan prepared pursuant to this section becomes part of the **any** permit application or approval.

8. Performance Bonds and Demonstration of Competence.

The applicant must provide demonstration of administrative, supervisory and technical competence, financial resources and scientific expertise of sufficient standing to successfully execute the mitigation plan. The applicant will name a mitigation project manager and provide the qualifications of each team member involved in preparing, implementing and supervising the mitigation plan. This includes educational background **and**, areas of expertise, training and experience with comparable projects. In addition, bonds ensuring fulfillment of the mitigation project, **the** monitoring program, and any contingency measures must be posted in the amount of one hundred twenty-five percent of the expected **project** cost of mitigation, plus a factor to be determined to allow for inflation during the time the project is being monitored. An administration fee for the mitigation project may be assessed to reimburse the City for costs incurred during the course of the monitoring program.

9. Consultation With Other Agencies.

Applicants are encouraged to consult with federal, state, local agencies having expertise or interest in a mitigation proposal.

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ORD C34148 Section 73

[Section 17E.070.140](#) Mitigation Banking

Mitigation banking shall be consistent with chapter 90.84 RCW. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts when the:

- A. bank is certified under chapter 173-700 WAC;
- B. director, in consultation with the **department** [Department](#) of **ecology** [Ecology](#), determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; **and**,
- C. proposed use of credits is consistent with the terms and conditions of the bank's certification.

Replacement ratios for projects using bank credits shall be consistent with replacement ratios **as** specified in the bank's certification. Credits from a certified wetland mitigation bank may be used to compensate for impacts located with the service area specified in the bank's certification. In some cases, the service

area of the bank may include portions of more than one adjacent drainage basin for specific wetland functions.

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ORD C34148 Section 73

[Section 17E.070.150](#) Incentives and Stewardship Options

A. On-site Density Transfer or Clustering.

For residential development proposals on lands containing potential or identified critical areas, including wetland areas and buffers, the applicant may apply for planned unit development (PUD) under [chapter 17G.070 SMC](#). The maximum number of dwelling units (DU) for a lot or parcel that contains a wetland area and buffer is determined by the site's zoning and by the density bonus allowed in [chapter 17G.070 SMC](#). The use of residential density transfer or clustering through the use of planned unit developments (PUDs) including bonus density is encouraged as a means to protect and preserve wetlands, wetland buffers and fish and wildlife habitat conservation areas. The provisions of [chapter 17G.070 SMC](#) shall control the use of density transfer or clustering, planned unit developments and bonus density.

B. Property Tax and Income Tax Advantages.

1. Property Tax Relief.

The Spokane County ~~assessor~~ [Assessor](#) shall consider the wetland areas and associated buffers contained within this chapter when determining the fair market value of land. Any owner of a wetland area who has dedicated a conservation easement or entered into a perpetual conservation restriction with a department of the local, state or federal government or a nonprofit organization to permanently control some or all ~~the~~ uses and activities within these areas may request that the Spokane County ~~assessor~~ [Assessor](#) reevaluate that specific area consistent with those restrictions and provisions of open space land current use taxation (see RCW 84.40.030).

2. Federal Income Tax Advantages.

There are significant federal income tax advantages that can be realized by an individual or estate for gifts of real property for conservation purposes to local governments or non-profit organizations, such as land trusts. The specific rules on federal income tax deductions can be found in section 170 of the Internal Revenue Code.

C. Stewardship Options.

1. The Spokane County conservation district offers stewardship information, classes and technical assistance to property owners. Programs include shoreline stewardship, forestry, small acreage conservation agriculture, water resources, and soil information.

2. Spokane County conservation futures program, initiated in 1994, is funded by a property tax assessed for each home in the county. This tax money is earmarked solely for the acquisition of property and development rights. These funds acquire lands or future development rights on lands for public use and enjoyment. The conservation areas are defined areas of undeveloped land primarily left in its natural condition. These areas may be used for passive recreational purposes, to create secluded areas, or as buffers in urban areas. Conserved lands include wetlands, farmlands, steep hillsides, river corridors, viewpoints and wildlife habitats and corridors.

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ORD C34148 Section 73

[Section 17E.070.160](#) Administration

- A. The department director identified in [chapter 17A.010 SMC](#) (“Director”) shall administer and interpret the provisions of this chapter, except as specifically provided. The director is authorized to adopt, in accordance with administrative procedures set by ordinance, such rules as are necessary to implement the requirements of this chapter and to carry out the duties of the director hereunder. Except as otherwise provided in this chapter, the administrative procedures set forth in [chapter 17G.010 SMC](#) and [chapter 17G.060 SMC](#) shall apply to this chapter.
- B. The director may also consult with other City departments and state and federal agencies as necessary to obtain additional technical and environmental review assistance.
- C. The director shall review and analyze all applications for all permits or approvals subject to this chapter. Such applications shall be approved only after the director is satisfied the applications comply with this chapter.
- D. Every City department issuing a permit for development on parcels containing a wetland or buffer shall require the use of best management practices to prevent impacts to wetlands and buffers and to meet the intent of this chapter. Departments shall require mitigation to address unavoidable impacts. All such City departments shall maintain records documenting compliance with this subsection.
- E. Except as otherwise stipulated in this chapter, the administrative procedures set forth in [chapter 17A.010 SMC](#) apply to this chapter.

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ORD C34148 Section 73

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[Section 17E.070.170](#) Violations

- A. It is a violation of this chapter to fail to comply with any provision of this chapter or with any term of any permit condition or approval issued pursuant to this chapter.
- B. It is a violation of this chapter to fail to comply with any order issued pursuant to this chapter or to remove or deface any sign, notice, complaint or order required by or posted in accordance with this chapter.
- C. It is a violation of this chapter to misrepresent any material fact in any application, on plans, or in any other information submitted to obtain any determination, authorization, permit condition or approval under this chapter.
- D. It is a violation of this chapter to aid and abet, counsel, encourage, hire, command, induce or otherwise procure another to violate or fail to comply with this chapter.
- E. Violations of this chapter are subject to the penalties set forth in [chapter 1.05 SMC](#).

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ORD C34148 Section 73

[Section 17E.070.180](#) Authority to Enforce

- A. The director is authorized to enforce this chapter and may call upon other appropriate City departments to assist in enforcement.
- B. It is the intent of this chapter to place the obligation of complying with its requirements upon the owner, occupier or other person responsible for the condition of the wetland, buffer, land, premises, building or structure within the scope of this chapter.
- C. No provision ~~of~~ or term used in this chapter is intended to impose any duty upon the City or any of its officers or employees that would subject them to damages in a civil action.
- D. Nothing contained in this chapter is intended to be nor shall be construed to create or form the basis for liability on the part of the City or its officers, officials, employees or agents for any injury or damage resulting from the failure of any owner of property or land to comply with the provisions of this chapter, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued in connection with the implementation or enforcement of this chapter, or by reason of any action or inaction on the part of the City related in any manner to the enforcement of this chapter by its officers, officials, employees or agents.

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ORD C34148 Section 73

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