Chapter 11.80
WETLANDS OVERLAY DISTRICT (WOD)

READER'S NOTE: This proposed text is new; this document does not show current code. Tracked changes show text revisions made by the TAC to the draft presented to the Planning Commission during summer 2020.

Sections

11.80.010 Wetland Designation and Identification

(1) All wetlands in Chelan County meeting the definition of wetlands in RCW 36.70A.030 are designated wetlands.
(2) Identification of wetlands and delineation of their boundaries pursuant to this Chapter shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements in accordance with Chapter 173-22 WAC. All areas within the County meeting wetland identification procedures are hereby designated critical areas and are subject to the provisions of this Chapter. Wetland delineations are valid for five years.
(3) The approximate location and extent of wetlands in the County may be displayed on the National Wetlands Inventory (NWI) Maps and the Chelan County wetland inventory map, as it is developed. Wetland maps, along with other supportive documentation, are to be used as a guide only to the general location and extent of probable wetlands. NWI maps were prepared through photointerpretation of high-altitude aerial photography with limited ground truthing. Therefore, there are wetlands that are not shown on wetland inventory maps and also wetland areas mapped that may not meet wetland determination criteria. Each proposal application must be evaluated by the Administrator to determine the requirement of a site-specific wetland delineation/characterization. In the event that wetland designations shown on resource maps conflict with the criteria set forth in this chapter, the criteria set forth shall take precedence.
(4) Wetland delineation/characterization shall be performed by a qualified professional wetland biologist/consultant and shall be prepared according to Chapter 173-22 WAC.

11.80.020 Regulated Activities

(1) For any regulated activity, a critical areas report may be required to support the requested activity.
(2) The following activities are regulated if they occur in a regulated wetland and/or its buffer:

(A) The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind.
(B) The dumping of, discharging of, or filling with any material.
(C) The draining, flooding, or disturbing the water level or water table.
(D) Pile driving.
(E) The placing of obstructions.
(F) The construction, reconstruction, demolition, or expansion of any structure.
(G) The destruction or alteration of wetland vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland.
(H) "Class IV - General Forest Practices" under the authority of the "1992 Washington State Forest Practices Act Rules and Regulations," WAC 222- 12-030, or as thereafter amended.
(I) Activities that result in:
    (i) A significant change of water temperature;
    (ii) A significant change of physical or chemical characteristics of the sources of water to the wetland;
    (iii) A significant change in the quantity, timing or duration of the water entering the wetland; or
    (iv) The introduction of pollutants.

(3) Subdivisions. The subdivision and/or short subdivision of land in wetlands and associated buffers are subject to the following:
(A) Land that is located wholly within a wetland or its buffer may not be subdivided, unless the lot or tract will be protected by a conservation easement.
(B) Land that is located partially within a wetland or its buffer may be subdivided provided that an accessible and contiguous portion of each new lot is:
    (i) Located outside of the wetland and its buffer; and
    (ii) Meets the minimum lot size requirements of Title 11.

11.80.030 Exemptions and Allowed Uses in Wetlands

In addition to those activities listed in Section 11.77.040, the following activities are exempt from wetlands review or allowed to occur within wetlands.

(1) Activities Allowed in Wetlands. The activities listed below are allowed in wetlands. Exempted activities shall use all reasonable methods to avoid potential impacts to critical areas consistent with the standards and requirements of this chapter and all other applicable laws and regulations. These activities do not require submission of a critical area report, except where such activities result in a loss of the functions and values of a wetland or wetland buffer. These activities include:
(A) Conservation or preservation of soil, water, vegetation, fish, shellfish, and/or other wildlife that does not entail changing the structure or functions of the existing wetland.
(B) The harvesting of wild crops, naturally existing in a wetland, in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.

(C) Drilling for utilities/utility corridors under a wetland, with entrance/exit portals located completely outside of the wetland buffer, provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a licensed hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column will be disturbed.

(D) Enhancement of a wetland through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal unless permits from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Re-vegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

(E) Stormwater management facilities. A wetland or its buffer can be physically or hydrologically altered to meet the requirements of a low impact development (LID), runoff treatment, or flow control best management practices (BMP) if all of the following criteria are met:

(i) The wetland is classified as a Category IV or a Category III wetland with a habitat score of 3-5 points, and

(ii) There will be “no net loss” of functions and values of the wetland with mitigation, and

(iii) The wetland does not contain a breeding population of any native amphibian species, and

(iv) The hydrologic functions of the wetland can be improved as outlined in questions 3, 4, 5 of Chart 4 and questions 2, 3, 4 of Chart 5 in the “Guide for Selecting Mitigation Sites Using a Watershed Approach,” or the wetland is part of a priority restoration plan that achieves restoration goals identified in the Chelan County Shoreline Master Program or other local or regional watershed plan, and

(v) The wetland lies in the natural routing of the runoff, and the discharge follows the natural routing, and

(vi) All regulations regarding stormwater and wetland management are followed, including but not limited to local and state wetland and stormwater codes, manuals, and permits, and

(vii) Modifications that alter the structure of a wetland or its soils will require permits.

(viii) Existing functions and values that are lost would have to be compensated/replaced.

Stormwater LID BMPs required as part of new and redevelopment projects can be considered within wetlands and their buffers. However, these areas may contain features that render LID BMPs infeasible. A site-specific characterization is required to determine if a LID BMP is feasible at the project site.

11.80.040 Wetland Classification and Rating

(1) Wetlands shall be rated according to the Washington Department of Ecology wetland rating system, as set forth in the Washington State Wetland Rating System for Eastern Washington: 2014 Update (Ecology Publication #14-06-030, or as revised and approved by Ecology), which contains the definitions and methods for determining whether the criteria below are met.
    (A) Category I wetlands are: (i) alkali wetlands; (ii) wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; (iii) bogs and calcareous fens; (iv) mature and old-growth forested wetlands over ¼ acre with slow-growing trees; (v) forests with stands of aspen; and (vi) wetlands that perform many functions very well (scores between 22-27). These wetlands are those that (a) represent a unique or rare wetland type; or (b) are more sensitive to disturbance than most wetlands; or (c) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (d) provide a high level of function.
    (B) Category II wetlands are: (i) forested wetlands in the floodplains of rivers; (ii) mature and old-growth forested wetlands over ¼ acre with fast-growing trees; (iii) vernal pools; and (iv) wetlands that perform functions well (scores between 19-21 points). These wetlands are difficult, though 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.
    (C) Category III wetlands have a moderate level of functions (scores between 16-18 points). These wetlands can be often adequately replaced with a well-planned mitigation project. Wetlands scoring between 16-18 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.
    (D) Category IV wetlands have the lowest level of functions (scores fewer than 16 points) and are often heavily disturbed. These are wetlands that we should be able to replace, and in some cases be able to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions and also need to be protected.
(2) Illegal modifications. Wetland rating categories shall not change due to illegal modifications made by the applicant, landowner, or with the applicant's or landowner's knowledge.

11.80.050 Wetland Buffers

(1) Wetland buffer zones shall be required for all activities not deemed to be exempt in Section 11.80.030, contiguous to wetlands.
(2) Buffer Requirements. The following standard buffer widths in Table 1 have been established in accordance with the best available science. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional wetland biologist/consultant using the Washington State Wetland Rating System for Eastern Washington: 2014 Update (Ecology Publication #14-06-030, or as revised and approved by Ecology), and by the level of impact from the proposed land use (Table 2).
(3) Small isolated wetlands in arid landscapes often have a higher value and perform greater functions than in other settings. However, in certain circumstances, applying the buffers in Table 1 may result in buffer areas greater than that of the wetland being protected. In these instances, the

Administrator may consult with the Department of Ecology to determine whether exemptions from mitigation sequencing and/or reduced buffers are warranted.

(4) The buffer widths in Table 1 assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.

Table 1. Standard Wetland Buffer Requirements

Wetland Category	Wetland Type	Level of Land Use Impact	Buffer width (in feet) based on habitat score		
			3-5	6-7	8-9
I	Based on total score; Forested Wetlands	Low	50	75	100
		Moderate	75	110	150
		High	100	150	200
	Bogs; Wetlands of High Conservation Value	Low	125		
		Moderate	190		
		High	250		
	Alkali Wetlands	Low	100		
		Moderate	150		
		High	200		
II	Based on total score; Riparian Forest Wetlands	Low	50	75	100
		Moderate	75	110	150
		High	100	150	200
	Vernal Pools	Low	100		
		Moderate	150		
		High	200		
III	All types of Wetlands	Low	40	75	Use Category II buffer widths
		Moderate	60	110	
		High	80	150	
IV	All types of Wetlands	Low	25		
		Moderate	40		
		High	50		

Table 2. Land Use Impact

Level of Impact from Proposed Land Use	Types of Land Uses
High	• Commercial • Urban • Industrial • Institutional • Retail sales • Residential (more than 1 unit/acre) • Conversion to high-intensity agriculture (dairies, nurseries, greenhouses, cannabis farms, outdoor cannabis production, growing and harvesting crops requiring annual tilling, and raising and maintaining animals, etc.) • High-intensity recreation (golf courses, ball fields, etc.) • Hobby farms
Moderate	• Residential (1 unit/acre or less) • Moderate-intensity open space (parks with biking, jogging, etc.) • Conversion to moderate-intensity agriculture (orchards, hay fields, etc.) • Paved trails • Building of logging roads • Utility corridor or right-of-way shared by several utilities and including access/maintenance road
Low	• Forestry (cutting of trees only) • Low-intensity open space (hiking, bird-watching, preservation of natural resources, etc.) • Unpaved trails • Utility corridor without a maintenance road and little or no vegetation management.

Table 3. Examples of measures to minimize impacts to wetlands and reduce high impact buffer widths

Disturbance	Examples of Measures to Minimize Impacts
Lights	• 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 150 ft of wetland • Apply integrated pest management
Stormwater runoff	• Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters the buffer
Change in water regime	• Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	• Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion • Place wetland and its buffer in a separate tract or within dedicated open space or easement in a subdivision, or protect with a conservation easement, where available
Dust	• Use best management practices to control dust

(5) Increased Wetland Buffer Area Width. Buffer widths shall be increased on a case-by-case basis as determined by the Administrator when a larger buffer is necessary to protect wetland functions and values. This determination shall be supported by appropriate documentation, prepared by a qualified professional wetland biologist/consultant 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:

(A) The wetland is used by a state or federally listed plant or animal species or has essential or outstanding habitat for those species, or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees; or

(B) The adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or

(C) The adjacent land has minimal vegetative cover or slopes greater than 30 percent.

(6) Buffer Modifications. The administrator may allow a one-time administrative buffer modification using one of the following tools:

(A) Impact Minimization Measures. The buffer widths for proposed high impacts land uses can be reduced to the buffer widths for moderate impact land uses under the following conditions:

(i) For wetlands that score 6 points or more for habitat function:

(a) A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other Priority Habitats as defined by the Washington State Department of Fish and Wildlife, where available. The corridor must be protected for the entire distance between the wetland and the Priority Habitat by some type of legal protection such as a conservation easement.

(b) Measures to minimize the impact of different land uses, such as the examples in Table 3, are applied.

(ii) For wetlands that score 3-5 habitat points, only application of the measures in Table 3 are required to reduce the buffer width to those required for moderate impact land uses.

(iii) If an applicant chooses not to apply the measures in Table 3, or is unable to provide a protected corridor where available, then high impact buffer widths must be applied.

(B) Buffer Averaging for Wetland Protection. Buffer averaging to improve wetland protection may be permitted when all of the following conditions are met:

(i) The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a "dual-rated" wetland with a Category I area adjacent to a lower-rated area;

(ii) The buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the wetland and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical areas report from a qualified professional wetland biologist/consultant;

(iii) The total area of the buffer after averaging is equal to the area required without averaging; and

(iv) The buffer at its narrowest point is never less than 75 percent of the required buffer width.

(C) Buffer Averaging for Reasonable Use. Buffer averaging to allow reasonable use of a parcel may be permitted when all of the following are met:

(i) There are no feasible alternatives to the site design that could be accomplished without buffer averaging;

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

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

(iv) The buffer at its narrowest point is never less than 75 percent of the required buffer width.

(D) Buffer Reduction. For those legally created lots, tracts, and parcels that satisfy the criteria outlined below, the Administrator may allow a reduction to the standard buffer widths. The buffer widths may be reduced by no more than twenty-five percent, and in no case shall the buffer width be less than twenty-five feet. The buffer reduction granted shall be the

minimum necessary to afford relief to address hardship issues. All of the following criteria must be satisfied:

(i) The strict application of the bulk, dimensional or performance standards set forth in these requirements significantly interferes with reasonable use of the property;

(ii) The hardship described in subsection (i) of this section is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of this title, and not, for example, from deed restrictions or the applicant's own actions;

(iii) There are no feasible alternatives to the site design that could be accomplished with the impact minimization measures or buffer averaging provisions above; and

(iv) The reduced buffer will not result in degradation of the wetland's functions and values, or includes mitigation measures to address all impacts, as demonstrated by a wetlands report from a qualified professional wetland biologist/consultant; and

(v) That the public interest will not suffer substantial detrimental effect.

(7) To facilitate long-range planning using a landscape approach, the Administrator may identify and pre-assess wetlands using the rating system and establish appropriate wetland buffer widths for such wetlands. These ratings are only valid for 5 years. The Administrator will prepare maps of wetlands that have been pre-assessed in this manner.

(8) Measurement of Wetland Buffers. All buffers shall be measured perpendicular to and horizontal from the delineated wetland boundary. Walkways, driveways, and other paved areas will not be considered buffers or included in buffer area calculations.

(9) Buffers on Mitigation Sites. All wetland mitigation sites shall have buffers consistent with the buffer requirements of this Chapter. Buffers shall be determined based on the expected or target category of the proposed wetland mitigation site.

(10) Buffer Maintenance. Except as otherwise specified or allowed in accordance with this Chapter, wetland buffers shall be retained in an undisturbed or enhanced native vegetation condition. In the case of compensatory mitigation sites, removal of invasive non-native weeds is required for the duration of the mitigation performance assurance surety or bond.

(11) Impacts to Buffers. Requirements for the compensation for impacts to buffers are outlined in Section 11.80.070.

(12) Allowed Buffer Uses. The following uses may be allowed within a wetland buffer in accordance with the review procedures of this Chapter, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:

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

(B) Passive recreation. Passive recreation facilities designed and in accordance with an approved critical area report, including:

(i) Walkways and trails, provided that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five (5) feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.

(ii) Wildlife-viewing structures.
(iii) Educational and scientific research activities.

(C) Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, provided that the maintenance or repair does not increase the footprint or use of the facility or right-of-way.

(D) The harvesting of wild crops, naturally existing within the wetland, in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.

(E) Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column is disturbed.

(F) Enhancement of a wetland buffer through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

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

11.80.060 Wetland Reports

A wetlands report shall be prepared by a qualified professional wetland biologist/consultant when a development activity is proposed in or will impact a wetland or buffer. The expense of preparing the wetland report shall be borne by the applicant. The County may retain independent qualified consultants, at the expense of the applicant, to assist in review of reports. In addition to report elements required by Section 11.77.060, a written wetland report and the accompanying figures and/or plan sheets shall contain the following information, at a minimum:

(1) The written report shall include at a minimum:

(A) For each wetland identified on-site and within 250 feet of the project area, provide: the wetland rating, including a description of and score for each function, per Section 11.77.040; required buffers; hydrogeomorphic classification; wetland acreage from the field delineation (acreages for on-site portion and entire wetland area including off-site portions); Cowardin classification of vegetation communities; habitat elements; soil conditions based on site assessment and/or soil survey information; and to the extent possible, hydrologic information such as location and condition of inlet/outlets (if they can be legally accessed), estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g., algal mats, drift lines, flood debris, etc.). Tabulate acreage estimates,

classifications, and ratings based on entire wetland complexes, not only the portion present on the proposed project site. Methods for the location and mapping of wetland boundaries and wetland areas shall be consistent with common wetland delineation practice standards and meet the approval of the Administrator.

(B) An evaluation of the existing functions and habitat value of each wetland and adjacent buffer. Include reference for the method used and data sheets.

(C) An explanation of the proposed impact actions, including tabulating the area quantity (square feet or acres) of direct impacts to wetlands and wetland buffers based on the field delineation and survey.

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

(2) A copy of the site plan sheet(s) for the project must be included with the written report and must include, at a minimum:

(A) Maps (to scale) overlaid on current aerial photos depicting delineated and surveyed wetlands and required buffers in the project area, including buffers for off-site critical areas that may extend into the project area; the development proposal; other critical areas; grading and clearing limits for all land disturbing project elements; areas of proposed impacts to wetlands and/or buffers (include square footage estimates); and areas of proposed mitigation.

(B) Hydrologic analysis and mapping showing patterns of surface water movement and known subsurface water movement into, through, and out of the project area.

(C) Location of all sample plots, test holes, and hydrologic monitoring stations, numbered to correspond with flagging in the field and field data sheets.

(D) A depiction of the proposed stormwater management facilities and outlets (to scale) for the development, including intrusion into the buffers of any critical areas. The written report shall contain an assessment of the potential impacts to the wetland(s) associated with anticipated hydroperiod alterations from the project.

11.80.070 Wetland Mitigation

(1) Requirements for Compensatory Mitigation:

(A) Compensatory mitigation for alterations to wetlands or buffers shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans--Version 1, (Ecology Publication #06-06- 011b, Olympia, WA, March 2006 or as revised), and Selecting Wetland Mitigation Sites Using a Watershed Approach (Eastern Washington) (Publication #10-06-07, November 2010).

(B) Mitigation ratios shall be consistent with Subsection 11.80.080(7) of this Chapter.

(C) Mitigation requirements may also be determined using the credit/debit tool described in Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Eastern Washington: Final Report (Ecology Publication #11-06-015, August 2012 or as revised), consistent with Section 11.80.070(H).

(2) Compensating for Lost or Affected Functions. Compensatory mitigation shall address the functions affected by the proposed project, with an intention to achieve functional equivalency or improvement of functions. The goal shall be for the compensatory mitigation to provide similar wetland and/or buffer functions as those lost, except when either:
    (A) The lost wetland provides minimal functions, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal Washington state watershed assessment plan or protocol; or
    (B) Out-of-kind replacement of wetland type or functions will best meet watershed goals formally identified by the County, such as replacement of historically diminished wetland types.
    (C) Buffers shall be provided for wetland mitigation associated with the mitigated wetland category.

(3) Approaches to Compensatory Mitigation. Mitigation for lost or diminished wetland and buffer functions shall rely on the approaches listed below.
    (A) Wetland mitigation banks. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the mitigation bank instrument. Use of credits from a wetland mitigation bank certified under Chapter 173-700 WAC is allowed if:
        (i) The Administrator determines that it would provide appropriate compensation for the proposed impacts;
        (ii) The impact site is located in the service area of the bank;
        (iii) The proposed use of credits is consistent with the terms and conditions of the certified mitigation bank instrument; and
        (iv) Replacement ratios for projects using bank credits is consistent with replacement ratios specified in the certified mitigation bank instrument.
    (B) In-lieu fee mitigation: Credits from an approved in-lieu fee program may be used when all of the following apply:
        (i) The approval authority determines that it would provide environmentally appropriate compensation for the proposed impacts;
        (ii) The proposed use of credits is consistent with the terms and conditions of the approved in-lieu fee program instrument;
        (iii) Projects using in-lieu fee credits shall have debits associated with the proposed impacts calculated by the applicant's qualified professional wetland biologist/consultant using the credit assessment method specified in the approved instrument for the in-lieu fee program; and
        (iv) The impacts are located within the service area specified in the approved in-lieu fee instrument.
    (C) Permittee-responsible mitigation. In this situation, the permittee performs the mitigation after the permit is issued and is ultimately responsible for implementation and success of the mitigation. Permittee-responsible mitigation may occur at the site of the permitted impacts or at an off-site location within the same watershed. Permittee-responsible mitigation shall be used only if the applicant's qualified professional wetland biologist/consultant demonstrates to the approval authority's satisfaction that the proposed

approach is ecologically preferable to use of a bank or in-lieu fee program, consistent with the criteria in this section.

(4) Types of Compensatory Mitigation. Mitigation for lost or diminished wetland and buffer functions shall rely on a type listed below in order of preference. A lower-preference form of mitigation shall be used only if the applicant's qualified professional wetland biologist/consultant demonstrates to the approval authority's satisfaction that all higher-ranked types of mitigation are not viable, consistent with the criteria in this section.

(A) Restoration. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded wetland. For the purpose of tracking net gains in wetland acres, restoration is divided into:

(i) Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Re-establishment results in a gain in wetland acres (and functions). Activities could include removing fill material, plugging ditches, or breaking drain tiles.

(ii) Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain.

(B) Establishment (Creation). The manipulation of the physical, chemical, or biological characteristics of a site to develop a wetland on an upland or deepwater site where a wetland did not previously exist. Establishment results in a gain in wetland acres. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species.

(i) If a site is not available for wetland restoration to compensate for expected wetland and/or buffer impacts, the approval authority may authorize creation of a wetland and buffer upon demonstration by the applicant's qualified professional wetland biologist/consultant that:

(a) The hydrology and soil conditions at the proposed mitigation site are conducive for sustaining the proposed wetland and that creation of a wetland at the site will not likely cause hydrologic problems elsewhere;

(b) Adjacent land uses and site conditions do not jeopardize the viability of the proposed wetland and buffer (e.g., due to the presence of invasive plants or noxious weeds, stormwater runoff, noise, light, or other impacts); and

(c) The proposed wetland and buffer will eventually be self- sustaining with little or no long-term maintenance.

(C) Enhancement. The manipulation of the physical, chemical, or biological characteristics of a wetland site to heighten, intensify, or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in some wetland functions and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Activities typically consist of planting vegetation, controlling non-native or invasive species, modifying site

elevations or the proportion of open water to influence hydroperiods, or some combination of these activities. Applicants proposing to enhance wetlands or associated buffers shall demonstrate how the proposed enhancement will increase the wetland's and buffer's functions, how this increase in function will adequately compensate for the impacts, and how existing wetland functions at the mitigation site will be protected.

(D) Protection/Maintenance (Preservation). Removing a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This includes the purchase of land or easements, or repairing water control structures or fences. This term also includes activities commonly associated with the term preservation. Preservation does not result in a gain of wetland acres. Permanent protection of a Category I or II wetland and associated buffer at risk of degradation can be used only if:

(i) The approval authority determines that the proposed preservation is the best mitigation option;

(ii) The proposed preservation site is under threat of undesirable ecological change due to permitted, planned, or likely actions that will not be adequately mitigated under existing regulations;

(iii) The area proposed for preservation is of high quality or critical for the health of the watershed or basin due to its location. Some of the following features may be indicative of high-quality sites:

(a) Category I or II wetland rating (using the wetland rating system for western Washington);

(b) Rare or irreplaceable wetland type (for example, bogs, mature forested wetlands, estuarine wetlands) or aquatic habitat that is rare or a limited resource in the area;

(c) The presence of habitat for priority or locally important wildlife species; or also list has provides biological and/or hydrological connectivity;

(d) Provides biological and/or hydrological connectivity; or

(e) Priority sites in an adopted watershed plan.

(iv) Permanent preservation of the wetland and buffer will be provided through a conservation easement or tract held by an appropriate natural land resource manager, such as a land trust.

(v) The approval authority may approve other legal and administrative mechanisms in lieu of a conservation easement if it determines they are adequate to protect the site.

(vi) Ratios for preservation in combination with other forms of mitigation generally range from 10:1 to 20:1, as determined on a case-by-case basis, depending on the quality of the wetlands being impacted and the quality of the wetlands being preserved. Ratios for preservation as the sole means of mitigation generally start at 20:1.

(5) Location of Compensatory Mitigation. Compensatory mitigation actions shall generally be conducted within the same sub-drainage basin and on the site of the alteration except when the applicant can demonstrate that off-site mitigation is ecologically preferable. The following criteria will be evaluated when determining whether the proposal is ecologically preferable. When considering off-

site mitigation, preference should be given to using alternative mitigation, such as a mitigation bank, an in-lieu-fee program, or advance mitigation.

(A) There are no reasonable opportunities on site or within the sub-drainage basin (e.g., on-site options would require elimination of high-functioning upland habitat), or opportunities on site or within the sub-drainage basin do not have a high likelihood of success based on a determination of the capacity of the site to compensate for the impacts. Considerations should include: anticipated replacement ratios for wetland mitigation, buffer conditions and proposed widths, available water to maintain anticipated hydrogeomorphic classes of wetlands when restored, proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts (such as connectivity);

(B) On-site mitigation would require elimination of high-quality upland habitat.

(C) Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the altered wetland.

(D) Off-site locations shall be in the same sub-drainage basin unless:

(i) Established watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the County and strongly justify location of mitigation at another site; or

(ii) Credits from a state-certified wetland mitigation bank are used as compensation, and the use of credits is consistent with the terms of the certified bank instrument;

(iii) Fees are paid to an approved in-lieu fee program to compensate for the impacts.

(E) The design for the compensatory mitigation project needs to be appropriate for its location (i.e., position in the landscape). Therefore, compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland.

(6) Timing of Compensatory Mitigation. It is preferred that compensatory mitigation projects be completed prior to activities that will disturb wetlands. At the least, it is preferred that compensatory mitigation construction shall be completed immediately following disturbance and prior to use or occupancy of the action or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.

(A) The Administrator may authorize a one-time temporary delay in completing construction or installation of the compensatory mitigation when the applicant provides a written explanation from a qualified professional wetland biologist/consultant as to the rationale for the delay. An appropriate rationale would include identification of the environmental conditions that could produce a high probability of failure or significant construction difficulties (e.g., project delay lapses past a fisheries window, or installing plants should be delayed until the dormant season to ensure greater survival of installed materials). The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety, or general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints that preclude implementation of the compensatory mitigation plan. The justification must be verified and approved by the Administrator.

(B) Bonding according to the provisions of Section 11.77.050(1) for the cost of uncompleted activities is an acceptable alternative to completion where a contract to complete the work is in force.

(7) Wetland Mitigation Ratios:

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

(8) Buffer Mitigation Ratios. Impacts limited to buffers shall be mitigated at a minimum 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

(9) Credit/Debit Method. To more fully protect functions and values, and as an alternative to the mitigation ratios found in the joint guidance "Wetland Mitigation in Washington State Parts I and II" (Ecology Publication #06-06-011a-b, Olympia, WA, March, 2006), the Administrator may allow mitigation based on the "credit/debit" method developed by the Department of Ecology in "Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Eastern Washington: Final Report" (Ecology Publication #11-06-015, August 2012, or as revised).

11.80.080 Compensatory Mitigation Plan and Monitoring

(1) Compensatory Mitigation Plan. When a project involves wetland and/or buffer impacts, a compensatory mitigation plan prepared by a qualified professional wetland biologist/consultant shall be required. The expense of preparing the mitigation plan shall be borne by the applicant. The County may retain independent qualified consultants, at the expense of the applicant, to assist in review of the plan. The plan shall meet the following minimum standards:

(A) Wetland Critical Area Report. A critical area report for wetlands must accompany or be included in the compensatory mitigation plan and include the minimum parameters described in Section 11.80.050.

(B) Compensatory Mitigation Report. The report must include a written report and plan sheets that must contain, at a minimum, the following elements. Full guidance can be found in Wetland Mitigation in Washington State– Part 2: Developing Mitigation Plans (Version 1) (Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as revised).

(C) The written report must contain, at a minimum:

(i) The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s) of the compensatory mitigation report; a description of the proposal; a summary of the impacts and proposed

compensation concept; identification of all the local, state, and/or federal wetland-related permit(s) required for the project; and a vicinity map for the project.

(ii) Description of how the project design has been modified to avoid, minimize, or reduce adverse impacts to wetlands.

(iii) Description of the existing wetland and buffer areas proposed to be impacted. Include acreage (or square footage), water regime, vegetation, soils, landscape position, surrounding lands uses, and functions. Also describe impacts in terms of acreage by Cowardin classification, hydrogeomorphic classification, and wetland rating, based on Section 11.80.060 of this Chapter.

(iv) Description of the compensatory mitigation site, including location and rationale for selection. Include an assessment of existing conditions: acreage (or square footage) of wetlands and uplands, water regime, sources of water, vegetation, soils, landscape position, surrounding land uses, and functions. Estimate future conditions in this location if the compensation actions are NOT undertaken (i.e., how would this site progress through natural succession?).

(v) Surface and subsurface hydrologic conditions, including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas.

(vi) Include illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions

(vii) A description of the proposed actions for compensation of wetland and upland areas affected by the project. Include overall goals of the proposed mitigation, including a description of the targeted functions, hydrogeomorphic classification, and categories of wetlands.

(viii) A description of the proposed mitigation construction activities and timing of activities.

(ix) Performance standards (measurable standards for years post- installation) for upland and wetland communities, a monitoring schedule, and a maintenance schedule and actions proposed by year.

(x) A discussion of ongoing management practices that will protect wetlands after the development project has been implemented, including proposed monitoring and maintenance programs (for remaining wetlands and compensatory mitigation wetlands).

(xi) Pursuant to Section 11.77.050(1), a financial guarantee of the entire compensatory mitigation project, including the following elements, is required: site preparation, plant materials, construction materials, installation oversight, maintenance twice per year for up to five (5) years, annual monitoring field work and reporting, and contingency actions for a maximum of the total required number of years for monitoring. The financial guarantee shall run concurrent with the prescribed monitoring period

(xii) Proof of establishment of Notice on Title for the wetlands and buffers on the project site, including the compensatory mitigation areas.

(D) The scaled plan sheets for the compensatory mitigation must contain, at a minimum:

(i) Surveyed edges of the existing wetland and buffers, proposed areas of wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation actions.

(ii) Existing topography, ground-proofed, at one or two-foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed to create the compensation area(s). Also existing cross-sections of on-site wetland areas that are proposed to be impacted, and cross-section(s) (estimated one- foot intervals) for the proposed areas of wetland or buffer compensation.

(iii) Conditions expected from the proposed actions on site, including future hydrogeomorphic types, vegetation community types by dominant species (wetland and upland), and future water regimes.

(iv) Required wetland buffers for existing wetlands and proposed compensation areas. Also, identify any zones where buffers are proposed to be reduced or enlarged outside of the standards identified in this Chapter.

(v) A planting plan for the compensation area, including all species by proposed community type and water regime, size and type of plant material to be installed, spacing of plants, typical clustering patterns, total number of each species by community type, and timing of installation.

(2) Monitoring. Mitigation performance monitoring shall be done to the guidance and applicable content standards (denoting means and methods) of Corps of Engineers Regulatory Guidance Letter 08-03 which has been determined by Ecology to be consistent with Washington's interagency wetland mitigation guidance. The monitoring period is determined by the Administrator consistent with this section. Mitigation monitoring shall be required for a period necessary to establish that performance standards have been met. For mitigation containing exclusively herbaceous vegetation a minimum monitoring period of one year may be prescribed or until performance criteria are met. For mitigation containing scrub-shrub vegetation, three to five years or until performance criteria are met. Monitoring shall be required for a minimum of five years, and potentially more years, when any of the following conditions apply:

(A) The project does not meet the performance standards identified in the mitigation plan;

(B) The project does not provide adequate replacement for the functions and values of the impacted critical area;

(C) The project results in unanticipated changes to hydrology of the impacted and/or mitigated wetland;

(D) The project involves establishment of mixed scrub-shrub and forested plant communities, which require longer time for establishment; or

(E) The project involves wetland creation.

(3) Monitoring Reports. Monitoring Reports shall be submitted at site completion (as-built) and annually for up to three years following construction and every two years thereafter pursuant to the approved monitoring period.

(4) Advance Mitigation. Mitigation for projects with pre-identified impacts to wetlands may be constructed in advance of the impacts if the mitigation is implemented according to federal rules, state policy on advance mitigation, and state water quality regulations consistent with Interagency Regulatory Guide: Advance Permittee - Responsible Mitigation (Ecology Publication #12-06-015, Olympia, WA, December 2012).

(5) Alternative Mitigation Plans. The Administrator may approve alternative wetland mitigation plans that are based on best available science, such as priority restoration plans that achieve restoration goals identified in the SMP. Alternative mitigation proposals must provide an equivalent or better level of protection of wetland functions and values than would be provided by the strict application of this chapter. The Administrator shall consider the following for approval of an alternative mitigation proposal:
    (A) The proposal uses a watershed approach consistent with Selecting Wetland Mitigation Sites Using a Watershed Approach (Eastern Washington) (Ecology Publication #10-06-07, November 2010).
    (B) Creation or enhancement of a larger system of natural areas and open space is preferable to the preservation of many individual habitat areas.
    (C) Mitigation according to Section 11.80.070(4) is not feasible due to site constraints such as parcel size, stream type, wetland category, or geologic hazards.
    (D) There is clear potential for success of the proposed mitigation at the proposed mitigation site.
    (E) The plan shall contain clear and measurable standards for achieving compliance with the specific provisions of the plan. A monitoring plan shall, at a minimum, meet the provisions in Section 11.80.070(9).
    (F) The plan shall be reviewed and approved as part of overall approval of the proposed use.
    (G) A wetland of a different type may be justified based on regional needs or functions and values; the replacement ratios may not be reduced or eliminated unless the reduction results in a preferred environmental alternative.
    (H) Mitigation guarantees shall meet the minimum requirements as outlined in Section 11.80.070(9)(C)(ix).
    (I) Qualified professionals in each of the critical areas addressed shall prepare the plan.
    (J) The County may consult with agencies with expertise and jurisdiction over the critical areas during the review to assist with analysis and identification of appropriate performance measures that adequately safeguard critical areas.

Chapter 11.80
WETLANDS OVERLAY DISTRICT (WOD)

READER'S NOTE: This proposed text is new; this document does not show current code. Tracked changes show text revisions made by the TAC to the draft presented to the Planning Commission during summer 2020.

Sections

11.80.010 Wetland Designation and Identification

(1) All wetlands in Chelan County meeting the definition of wetlands in RCW 36.70A.030 are designated wetlands.
(2) Identification of wetlands and delineation of their boundaries pursuant to this Chapter shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements in accordance with Chapter 173-22 WAC. All areas within the County meeting wetland identification procedures are hereby designated critical areas and are subject to the provisions of this Chapter. Wetland delineations are valid for five years.
(3) The approximate location and extent of wetlands in the County may be displayed on the National Wetlands Inventory (NWI) Maps and the Chelan County wetland inventory map, as it is developed. Wetland maps, along with other supportive documentation, are to be used as a guide only to the general location and extent of probable wetlands. NWI maps were prepared through photointerpretation of high-altitude aerial photography with limited ground truthing. Therefore, there are wetlands that are not shown on wetland inventory maps and also wetland areas mapped that may not meet wetland determination criteria. Each proposal application must be evaluated by the Administrator to determine the requirement of a site-specific wetland delineation/characterization. In the event that wetland designations shown on resource maps conflict with the criteria set forth in this chapter, the criteria set forth shall take precedence.
(4) Wetland delineation/characterization shall be performed by a qualified professional wetland biologist/consultant and shall be prepared according to Chapter 173-22 WAC.

11.80.020 Regulated Activities

(1) For any regulated activity, a critical areas report may be required to support the requested activity.
(2) The following activities are regulated if they occur in a regulated wetland and/or its buffer:

(A) The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind.
(B) The dumping of, discharging of, or filling with any material.
(C) The draining, flooding, or disturbing the water level or water table.
(D) Pile driving.
(E) The placing of obstructions.
(F) The construction, reconstruction, demolition, or expansion of any structure.
(G) The destruction or alteration of wetland vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland.
(H) "Class IV - General Forest Practices" under the authority of the "1992 Washington State Forest Practices Act Rules and Regulations," WAC 222- 12-030, or as thereafter amended.
(I) Activities that result in:
    (i) A significant change of water temperature;
    (ii) A significant change of physical or chemical characteristics of the sources of water to the wetland;
    (iii) A significant change in the quantity, timing or duration of the water entering the wetland; or
    (iv) The introduction of pollutants.

(3) Subdivisions. The subdivision and/or short subdivision of land in wetlands and associated buffers are subject to the following:
(A) Land that is located wholly within a wetland or its buffer may not be subdivided, unless the lot or tract will be protected by a conservation easement.
(B) Land that is located partially within a wetland or its buffer may be subdivided provided that an accessible and contiguous portion of each new lot is:
    (i) Located outside of the wetland and its buffer; and
    (ii) Meets the minimum lot size requirements of Title 11.

11.80.030 Exemptions and Allowed Uses in Wetlands

In addition to those activities listed in Section 11.77.040, the following activities are exempt from wetlands review or allowed to occur within wetlands.

(1) Activities Allowed in Wetlands. The activities listed below are allowed in wetlands. Exempted activities shall use all reasonable methods to avoid potential impacts to critical areas consistent with the standards and requirements of this chapter and all other applicable laws and regulations. These activities do not require submission of a critical area report, except where such activities result in a loss of the functions and values of a wetland or wetland buffer. These activities include:
(A) Conservation or preservation of soil, water, vegetation, fish, shellfish, and/or other wildlife that does not entail changing the structure or functions of the existing wetland.
(B) The harvesting of wild crops, naturally existing in a wetland, in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.

(C) Drilling for utilities/utility corridors under a wetland, with entrance/exit portals located completely outside of the wetland buffer, provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a licensed hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column will be disturbed.

(D) Enhancement of a wetland through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal unless permits from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Re-vegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

(E) Stormwater management facilities. A wetland or its buffer can be physically or hydrologically altered to meet the requirements of a low impact development (LID), runoff treatment, or flow control best management practices (BMP) if all of the following criteria are met:

(i) The wetland is classified as a Category IV or a Category III wetland with a habitat score of 3-5 points, and

(ii) There will be "no net loss" of functions and values of the wetland with mitigation, and

(iii) The wetland does not contain a breeding population of any native amphibian species, and

(iv) The hydrologic functions of the wetland can be improved as outlined in questions 3, 4, 5 of Chart 4 and questions 2, 3, 4 of Chart 5 in the "Guide for Selecting Mitigation Sites Using a Watershed Approach," or the wetland is part of a priority restoration plan that achieves restoration goals identified in the Chelan County Shoreline Master Program or other local or regional watershed plan, and

(v) The wetland lies in the natural routing of the runoff, and the discharge follows the natural routing, and

(vi) All regulations regarding stormwater and wetland management are followed, including but not limited to local and state wetland and stormwater codes, manuals, and permits, and

(vii) Modifications that alter the structure of a wetland or its soils will require permits.

(viii) Existing functions and values that are lost would have to be compensated/replaced.

Stormwater LID BMPs required as part of new and redevelopment projects can be considered within wetlands and their buffers. However, these areas may contain features that render LID BMPs infeasible. A site-specific characterization is required to determine if a LID BMP is feasible at the project site.

11.80.040 Wetland Classification and Rating

(1) Wetlands shall be rated according to the Washington Department of Ecology wetland rating system, as set forth in the Washington State Wetland Rating System for Eastern Washington: 2014 Update (Ecology Publication #14-06-030, or as revised and approved by Ecology), which contains the definitions and methods for determining whether the criteria below are met.
    (A) Category I wetlands are: (i) alkali wetlands; (ii) wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; (iii) bogs and calcareous fens; (iv) mature and old-growth forested wetlands over ¼ acre with slow-growing trees; (v) forests with stands of aspen; and (vi) wetlands that perform many functions very well (scores between 22-27). These wetlands are those that (a) represent a unique or rare wetland type; or (b) are more sensitive to disturbance than most wetlands; or (c) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (d) provide a high level of function.
    (B) Category II wetlands are: (i) forested wetlands in the floodplains of rivers; (ii) mature and old-growth forested wetlands over ¼ acre with fast-growing trees; (iii) vernal pools; and (iv) wetlands that perform functions well (scores between 19-21 points). These wetlands are difficult, though 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.
    (C) Category III wetlands have a moderate level of functions (scores between 16-18 points). These wetlands can be often adequately replaced with a well-planned mitigation project. Wetlands scoring between 16-18 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.
    (D) Category IV wetlands have the lowest level of functions (scores fewer than 16 points) and are often heavily disturbed. These are wetlands that we should be able to replace, and in some cases be able to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions and also need to be protected.
(2) Illegal modifications. Wetland rating categories shall not change due to illegal modifications made by the applicant, landowner, or with the applicant's or landowner's knowledge.

11.80.050 Wetland Buffers

(1) Wetland buffer zones shall be required for all activities not deemed to be exempt in Section 11.80.030, contiguous to wetlands.
(2) Buffer Requirements. The following standard buffer widths in Table 1 have been established in accordance with the best available science. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional wetland biologist/consultant using the Washington State Wetland Rating System for Eastern Washington: 2014 Update (Ecology Publication #14-06-030, or as revised and approved by Ecology), and by the level of impact from the proposed land use (Table 2).
~~(3) The buffer widths for proposed high impacts land uses can be reduced to the buffer widths for moderate impact land uses under the following conditions:~~
    ~~(A) For wetlands that score 6 points or more for habitat function:~~

Commented [CW1]: Moved to buffer modification section below.

~~(i) A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other Priority Habitats as defined by the Washington State Department of Fish and Wildlife, where available. The corridor must be protected for the entire distance between the wetland and the Priority Habitat by some type of legal protection such as a conservation easement.~~

~~(ii) Measures to minimize the impact of different land uses, such as the examples in Table 3, are applied.~~

~~(B) For wetlands that score 3-5 habitat points, only application of the measures in Table 3 are required to reduce the buffer width to those required for moderate impact land uses.~~

~~(C) If an applicant chooses not to apply the measures in Table 3, or is unable to provide a protected corridor where available, then high impact buffer widths must be applied.~~

~~(4)~~(3) Small isolated wetlands in arid landscapes often have a higher value and perform greater functions than in other settings. However, in certain circumstances, applying the buffers in Table 1 may result in buffer areas greater than that of the wetland being protected. In these instances, the Administrator may consult with the Department of Ecology to determine whether exemptions from mitigation sequencing and/or reduced buffers are warranted.

~~(5)~~(4) The buffer widths in Table 1 assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.

Table 1. Standard Wetland Buffer Requirements

Wetland Category	Wetland Type	Level of Land Use Impact	Buffer width (in feet) based on habitat score		
			3-5	6-7	8-9
I	Based on total score; ~~and~~ Forested Wetlands	Low	50	75	100
		Moderate	75	110	150
		High	100	150	200
	Bogs; ~~and~~ Wetlands of High Conservation Value	Low	125		
		Moderate	190		
		High	250		
	Alkali Wetlands	Low	100		
		Moderate	150		
		High	200		
II	Based on total score; ~~and~~ Riparian Forest Wetlands	Low	50	75	100
		Moderate	75	110	150
		High	100	150	200
	Vernal Pools	Low	100		
		Moderate	150		
		High	200		
III	All types of Wetlands	Low	40	75	Use Category II buffer widths
		Moderate	60	110	
		High	80	150	
IV	All types of Wetlands	Low	25		
		Moderate	40		
		High	50		

Table 2. Land Use Impact

Level of Impact from Proposed Land Use	Types of Land Uses
High	• Commercial • Urban • Industrial • Institutional • Retail sales • Residential (more than 1 unit/acre) • Conversion to high-intensity agriculture (dairies, nurseries, greenhouses, cannabis farms, outdoor cannabis production, growing and harvesting crops requiring annual tilling, and raising and maintaining animals, etc.) • High-intensity recreation (golf courses, ball fields, etc.) • Hobby farms
Moderate	• Residential (1 unit/acre or less) • Moderate-intensity open space (parks with biking, jogging, etc.) • Conversion to moderate-intensity agriculture (orchards, hay fields, etc.) • Paved trails • Building of logging roads • Utility corridor or right-of-way shared by several utilities and including access/maintenance road
Low	• Forestry (cutting of trees only) • Low-intensity open space (hiking, bird-watching, preservation of natural resources, etc.) • Unpaved trails • Utility corridor without a maintenance road and little or no vegetation management.

Table 3. Examples of measures to minimize impacts to wetlands and reduce high impact buffer widths

Disturbance	Examples of Measures to Minimize Impacts
Lights	• 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 150 ft of wetland • Apply integrated pest management
Stormwater runoff	• Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters the buffer
Change in water regime	• Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	• Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion • Place wetland and its buffer in a separate tract or within dedicated open space or easement in a subdivision, or protect with a conservation easement, where available
Dust	• Use best management practices to control dust

~~(6)~~(5) Increased Wetland Buffer Area Width. Buffer widths shall be increased on a case-by-case basis as determined by the Administrator when a larger buffer is necessary to protect wetland functions and values. This determination shall be supported by appropriate documentation, prepared by a qualified professional wetland biologist/consultant 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:

(A) The wetland is used by a state or federally listed plant or animal species or has essential or outstanding habitat for those species, or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees; or

(B) The adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or

(C) The adjacent land has minimal vegetative cover or slopes greater than 30 percent.

(6) Buffer Modifications. The administrator may allow a one-time administrative buffer modification using one of the following tools:

(A) Impact Minimization Measures. The buffer widths for proposed high impacts land uses can be reduced to the buffer widths for moderate impact land uses under the following conditions:

(i) For wetlands that score 6 points or more for habitat function:

Commented [CW2]: Added a third option for administrative buffer reduction. Added language to ensure the buffer can only be modified one time using one of the modification tools.

Commented [CW3]: Moved here from former subsection 3 above.

(a) A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other Priority Habitats as defined by the Washington State Department of Fish and Wildlife, where available. The corridor must be protected for the entire distance between the wetland and the Priority Habitat by some type of legal protection such as a conservation easement.

(b) Measures to minimize the impact of different land uses, such as the examples in Table 3, are applied.

(ii) For wetlands that score 3-5 habitat points, only application of the measures in Table 3 are required to reduce the buffer width to those required for moderate impact land uses.

(iii) If an applicant chooses not to apply the measures in Table 3, or is unable to provide a protected corridor where available, then high impact buffer widths must be applied.

~~(D)~~(B) Buffer Averaging for Wetland Protection. Buffer averaging to improve wetland protection may be permitted when all of the following conditions are met:

(i) The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a "dual-rated" wetland with a Category I area adjacent to a lower-rated area;

(ii) The buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the wetland and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical areas report from a qualified professional wetland biologist/consultant;

(iii) The total area of the buffer after averaging is equal to the area required without averaging; and

(iv) The buffer at its narrowest point is never less than ~~either~~ 75 percent~~¾~~ of the required buffer width.

~~(E)~~(C) Buffer Averaging for Reasonable Use. Buffer averaging to allow reasonable use of a parcel may be permitted when all of the following are met:

(i) There are no feasible alternatives to the site design that could be accomplished without buffer averaging;

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

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

(iv) The buffer at its narrowest point is never less than ~~either~~ 75 percent~~¾~~ of the required buffer width.

(D) Buffer Reduction. For those legally created lots, tracts, and parcels that satisfy the criteria outlined below, the Administrator may allow a reduction to the standard buffer widths. The buffer widths may be reduced by no more than twenty-five percent, and in no case shall the buffer width be less than twenty-five feet. The buffer reduction granted shall be the

Commented [CW4]: This modification is for hardships. Current code includes this type of modification, but it is limited to lots created before 1999. We removed the year limitation to allow any lot that meets the criteria to be eligible.

If a lot cannot meet these criteria the owner can apply for a variance.

minimum necessary to afford relief to address hardship issues. All of the following criteria must be satisfied:

(i) The strict application of the bulk, dimensional or performance standards set forth in these requirements significantly interferes with reasonable use of the property;

(ii) The hardship described in subsection (i) of this section is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of this title, and not, for example, from deed restrictions or the applicant's own actions;

(iii) There are no feasible alternatives to the site design that could be accomplished with the impact minimization measures or buffer averaging provisions above; and

(iv) The reduced buffer will not result in degradation of the wetland's functions and values, or includes mitigation measures to address all impacts, as demonstrated by a wetlands report from a qualified professional wetland biologist/consultant; and

(v) That the public interest will not suffer substantial detrimental effect.

Commented [CW5]: This ensures that applicants must attempt one of the other modification methods before asking for a buffer reduction.

(7) To facilitate long-range planning using a landscape approach, the Administrator may identify and pre-assess wetlands using the rating system and establish appropriate wetland buffer widths for such wetlands. These ratings are only valid for 5 years. The Administrator will prepare maps of wetlands that have been pre-assessed in this manner.

(8) Measurement of Wetland Buffers. All buffers shall be measured perpendicular to and horizontal from the delineated wetland boundary. Walkways, driveways, and other paved areas will not be considered buffers or included in buffer area calculations.

(9) Buffers on Mitigation Sites. All wetland mitigation sites shall have buffers consistent with the buffer requirements of this Chapter. Buffers shall be determined based on the expected or target category of the proposed wetland mitigation site.

(10) Buffer Maintenance. Except as otherwise specified or allowed in accordance with this Chapter, wetland buffers shall be retained in an undisturbed or enhanced native vegetation condition. In the case of compensatory mitigation sites, removal of invasive non-native weeds is required for the duration of the mitigation performance assurance surety or bond.

(11) Impacts to Buffers. Requirements for the compensation for impacts to buffers are outlined in Section 11.80.070.

(12) Allowed Buffer Uses. The following uses may be allowed within a wetland buffer in accordance with the review procedures of this Chapter, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:

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

(B) Passive recreation. Passive recreation facilities designed and in accordance with an approved critical area report, including:

(i) Walkways and trails, provided that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five (5) feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.

(ii) Wildlife-viewing structures.
(iii) Educational and scientific research activities.

(C) Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, provided that the maintenance or repair does not increase the footprint or use of the facility or right-of-way.

(D) The harvesting of wild crops, naturally existing within the wetland, in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.

(E) Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column is disturbed.

(F) Enhancement of a wetland buffer through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

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

11.80.060 Wetland Reports

A wetlands report shall be prepared by a qualified professional wetland biologist/consultant when a development activity is proposed in or will impact a wetland or buffer. The expense of preparing the wetland report shall be borne by the applicant. The County may retain independent qualified consultants, at the expense of the applicant, to assist in review of reports. In addition to report elements required by Section 11.77.060, a written wetland report and the accompanying figures and/or plan sheets shall contain the following information, at a minimum:

(1) The written report shall include at a minimum:

(A) For each wetland identified on-site and within 250 feet of the project area, provide: the wetland rating, including a description of and score for each function, per Section 11.77.040; required buffers; hydrogeomorphic classification; wetland acreage ~~based on a professional survey~~ from the field delineation (acreages for on-site portion and entire wetland area including off-site portions); Cowardin classification of vegetation communities; habitat elements; soil conditions based on site assessment and/or soil survey information; and to the extent possible, hydrologic information such as location and condition of inlet/outlets (if they can be legally accessed), estimated water depths within the wetland, and estimated

Commented [CW6]: Removed requirement to use surveyor and added text below to allow use of common wetland delineation practices.

hydroperiod patterns based on visual cues (e.g., algal mats, drift lines, flood debris, etc.). Tabulate acreage estimates, classifications, and ratings based on entire wetland complexes, not only the portion present on the proposed project site. Methods for the location and mapping of wetland boundaries and wetland areas shall be consistent with common wetland delineation practice standards and meet the approval of the Administrator.

(B) An evaluation of the existing functions and habitat value of each wetland and adjacent buffer. Include reference for the method used and data sheets.

(C) An explanation of the proposed impact actions, including tabulating the area quantity (square feet or acres) of direct impacts to wetlands and wetland buffers based on the field delineation and survey.

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

(2) A copy of the site plan sheet(s) for the project must be included with the written report and must include, at a minimum:

(A) Maps (to scale) overlaid on current aerial photos depicting delineated and surveyed wetlands and required buffers in the project area, including buffers for off-site critical areas that may extend into the project area; the development proposal; other critical areas; grading and clearing limits for all land disturbing project elements; areas of proposed impacts to wetlands and/or buffers (include square footage estimates); and areas of proposed mitigation.

(B) Hydrologic analysis and mapping showing patterns of surface water movement and known subsurface water movement into, through, and out of the project area.

(C) Location of all sample plots, test holes, and hydrologic monitoring stations, numbered to correspond with flagging in the field and field data sheets.

(D) A depiction of the proposed stormwater management facilities and outlets (to scale) for the development, including intrusion into the buffers of any critical areas. The written report shall contain an assessment of the potential impacts to the wetland(s) associated with anticipated hydroperiod alterations from the project.

11.80.070 Wetland Mitigation

(1) Requirements for Compensatory Mitigation:

(A) Compensatory mitigation for alterations to wetlands or buffers shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans--Version 1, (Ecology Publication #06-06- 011b, Olympia, WA, March 2006 or as revised), and Selecting Wetland Mitigation Sites Using a Watershed Approach (Eastern Washington) (Publication #10-06-07, November 2010).

(B) Mitigation ratios shall be consistent with Subsection 11.80.080(7) of this Chapter.

(C) Mitigation requirements may also be determined using the credit/debit tool described in Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Eastern Washington: Final Report (Ecology Publication #11-06-015, August 2012 or as revised), consistent with Section 11.80.070(H).

(2) Compensating for Lost or Affected Functions. Compensatory mitigation shall address the functions affected by the proposed project, with an intention to achieve functional equivalency or improvement of functions. The goal shall be for the compensatory mitigation to provide similar wetland and/or buffer functions as those lost, except when either:
    (A) The lost wetland provides minimal functions, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal Washington state watershed assessment plan or protocol; or
    (B) Out-of-kind replacement of wetland type or functions will best meet watershed goals formally identified by the County, such as replacement of historically diminished wetland types.
    (C) Buffers shall be provided for wetland mitigation associated with the mitigated wetland category.

(3) Approaches to Compensatory Mitigation. Mitigation for lost or diminished wetland and buffer functions shall rely on the approaches listed below.
    (A) Wetland mitigation banks. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the mitigation bank instrument. Use of credits from a wetland mitigation bank certified under Chapter 173-700 WAC is allowed if:
        (i) The Administrator determines that it would provide appropriate compensation for the proposed impacts;
        (ii) The impact site is located in the service area of the bank;
        (iii) The proposed use of credits is consistent with the terms and conditions of the certified mitigation bank instrument; and
        (iv) Replacement ratios for projects using bank credits is consistent with replacement ratios specified in the certified mitigation bank instrument.
    (B) In-lieu fee mitigation: Credits from an approved in-lieu fee program may be used when all of the following apply:
        (i) The approval authority determines that it would provide environmentally appropriate compensation for the proposed impacts;
        (ii) The proposed use of credits is consistent with the terms and conditions of the approved in-lieu fee program instrument;
        (iii) Projects using in-lieu fee credits shall have debits associated with the proposed impacts calculated by the applicant's qualified professional wetland biologist/consultant using the credit assessment method specified in the approved instrument for the in-lieu fee program; and
        (iv) The impacts are located within the service area specified in the approved in-lieu fee instrument.
    (C) Permittee-responsible mitigation. In this situation, the permittee performs the mitigation after the permit is issued and is ultimately responsible for implementation and success of the mitigation. Permittee-responsible mitigation may occur at the site of the permitted impacts or at an off-site location within the same watershed. Permittee-responsible mitigation shall be used only if the applicant's qualified professional wetland biologist/consultant demonstrates to the approval authority's satisfaction that the proposed

approach is ecologically preferable to use of a bank or in-lieu fee program, consistent with the criteria in this section.

(4) Types of Compensatory Mitigation. Mitigation for lost or diminished wetland and buffer functions shall rely on a type listed below in order of preference. A lower-preference form of mitigation shall be used only if the applicant's qualified professional wetland biologist/consultant demonstrates to the approval authority's satisfaction that all higher-ranked types of mitigation are not viable, consistent with the criteria in this section.

(A) Restoration. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded wetland. For the purpose of tracking net gains in wetland acres, restoration is divided into:

(i) Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Re-establishment results in a gain in wetland acres (and functions). Activities could include removing fill material, plugging ditches, or breaking drain tiles.

(ii) Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain.

(B) Establishment (Creation). The manipulation of the physical, chemical, or biological characteristics of a site to develop a wetland on an upland or deepwater site where a wetland did not previously exist. Establishment results in a gain in wetland acres. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species.

(i) If a site is not available for wetland restoration to compensate for expected wetland and/or buffer impacts, the approval authority may authorize creation of a wetland and buffer upon demonstration by the applicant's qualified professional wetland biologist/consultant that:

(a) The hydrology and soil conditions at the proposed mitigation site are conducive for sustaining the proposed wetland and that creation of a wetland at the site will not likely cause hydrologic problems elsewhere;

(b) Adjacent land uses and site conditions do not jeopardize the viability of the proposed wetland and buffer (e.g., due to the presence of invasive plants or noxious weeds, stormwater runoff, noise, light, or other impacts); and

(c) The proposed wetland and buffer will eventually be self- sustaining with little or no long-term maintenance.

(C) Enhancement. The manipulation of the physical, chemical, or biological characteristics of a wetland site to heighten, intensify, or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in some wetland functions and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Activities typically consist of planting vegetation, controlling non-native or invasive species, modifying site

elevations or the proportion of open water to influence hydroperiods, or some combination of these activities. Applicants proposing to enhance wetlands or associated buffers shall demonstrate how the proposed enhancement will increase the wetland's and buffer's functions, how this increase in function will adequately compensate for the impacts, and how existing wetland functions at the mitigation site will be protected.

(D) Protection/Maintenance (Preservation). Removing a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This includes the purchase of land or easements, or repairing water control structures or fences. This term also includes activities commonly associated with the term preservation. Preservation does not result in a gain of wetland acres. Permanent protection of a Category I or II wetland and associated buffer at risk of degradation can be used only if:

(i) The approval authority determines that the proposed preservation is the best mitigation option;

(ii) The proposed preservation site is under threat of undesirable ecological change due to permitted, planned, or likely actions that will not be adequately mitigated under existing regulations;

(iii) The area proposed for preservation is of high quality or critical for the health of the watershed or basin due to its location. Some of the following features may be indicative of high-quality sites:

(a) Category I or II wetland rating (using the wetland rating system for western Washington);

(b) Rare or irreplaceable wetland type (for example, bogs, mature forested wetlands, estuarine wetlands) or aquatic habitat that is rare or a limited resource in the area;

(c) The presence of habitat for priority or locally important wildlife species; or also list has provides biological and/or hydrological connectivity;

(d) Provides biological and/or hydrological connectivity; or

(e) Priority sites in an adopted watershed plan.

(iv) Permanent preservation of the wetland and buffer will be provided through a conservation easement or tract held by an appropriate natural land resource manager, such as a land trust.

(v) The approval authority may approve other legal and administrative mechanisms in lieu of a conservation easement if it determines they are adequate to protect the site.

(vi) Ratios for preservation in combination with other forms of mitigation generally range from 10:1 to 20:1, as determined on a case-by-case basis, depending on the quality of the wetlands being impacted and the quality of the wetlands being preserved. Ratios for preservation as the sole means of mitigation generally start at 20:1.

(5) Location of Compensatory Mitigation. Compensatory mitigation actions shall generally be conducted within the same sub-drainage basin and on the site of the alteration except when the applicant can demonstrate that off-site mitigation is ecologically preferable. The following criteria will be evaluated when determining whether the proposal is ecologically preferable. When considering off-

site mitigation, preference should be given to using alternative mitigation, such as a mitigation bank, an in-lieu-fee program, or advance mitigation.

(A) There are no reasonable opportunities on site or within the sub-drainage basin (e.g., on-site options would require elimination of high-functioning upland habitat), or opportunities on site or within the sub-drainage basin do not have a high likelihood of success based on a determination of the capacity of the site to compensate for the impacts. Considerations should include: anticipated replacement ratios for wetland mitigation, buffer conditions and proposed widths, available water to maintain anticipated hydrogeomorphic classes of wetlands when restored, proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts (such as connectivity);

(B) On-site mitigation would require elimination of high-quality upland habitat.

(C) Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the altered wetland.

(D) Off-site locations shall be in the same sub-drainage basin unless:

(i) Established watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the County and strongly justify location of mitigation at another site; or

(ii) Credits from a state-certified wetland mitigation bank are used as compensation, and the use of credits is consistent with the terms of the certified bank instrument;

(iii) Fees are paid to an approved in-lieu fee program to compensate for the impacts.

(E) The design for the compensatory mitigation project needs to be appropriate for its location (i.e., position in the landscape). Therefore, compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland.

(6) Timing of Compensatory Mitigation. It is preferred that compensatory mitigation projects be completed prior to activities that will disturb wetlands. At the least, it is preferred that compensatory mitigation construction shall be completed immediately following disturbance and prior to use or occupancy of the action or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.

(A) The Administrator may authorize a one-time temporary delay in completing construction or installation of the compensatory mitigation when the applicant provides a written explanation from a qualified professional wetland biologist/consultant as to the rationale for the delay. An appropriate rationale would include identification of the environmental conditions that could produce a high probability of failure or significant construction difficulties (e.g., project delay lapses past a fisheries window, or installing plants should be delayed until the dormant season to ensure greater survival of installed materials). The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety, or general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints that preclude implementation of the compensatory mitigation plan. The justification must be verified and approved by the Administrator.

(B) Bonding according to the provisions of Section 11.77.050(1) for the cost of uncompleted activities is an acceptable alternative to completion where a contract to complete the work is in force.

(7) Wetland Mitigation Ratios:

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

(8) Buffer Mitigation Ratios. Impacts limited to buffers shall be mitigated at a minimum 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

(9) Credit/Debit Method. To more fully protect functions and values, and as an alternative to the mitigation ratios found in the joint guidance "Wetland Mitigation in Washington State Parts I and II" (Ecology Publication #06-06-011a-b, Olympia, WA, March, 2006), the Administrator may allow mitigation based on the "credit/debit" method developed by the Department of Ecology in "Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Eastern Washington: Final Report" (Ecology Publication #11-06-015, August 2012, or as revised).

11.80.080 Compensatory Mitigation Plan and Monitoring

(1) Compensatory Mitigation Plan. When a project involves wetland and/or buffer impacts, a compensatory mitigation plan prepared by a qualified professional wetland biologist/consultant shall be required. The expense of preparing the mitigation plan shall be borne by the applicant. The County may retain independent qualified consultants, at the expense of the applicant, to assist in review of the plan. The plan shall meet the following minimum standards:
   (A) Wetland Critical Area Report. A critical area report for wetlands must accompany or be included in the compensatory mitigation plan and include the minimum parameters described in Section 11.80.050.
   (B) Compensatory Mitigation Report. The report must include a written report and plan sheets that must contain, at a minimum, the following elements. Full guidance can be found in Wetland Mitigation in Washington State– Part 2: Developing Mitigation Plans (Version 1) (Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as revised).
   (C) The written report must contain, at a minimum:
      (i) The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s) of the compensatory mitigation report; a description of the proposal; a summary of the impacts and proposed

compensation concept; identification of all the local, state, and/or federal wetland-related permit(s) required for the project; and a vicinity map for the project.

(ii) Description of how the project design has been modified to avoid, minimize, or reduce adverse impacts to wetlands.

(iii) Description of the existing wetland and buffer areas proposed to be impacted. Include acreage (or square footage), water regime, vegetation, soils, landscape position, surrounding lands uses, and functions. Also describe impacts in terms of acreage by Cowardin classification, hydrogeomorphic classification, and wetland rating, based on Section 11.80.060 of this Chapter.

(iv) Description of the compensatory mitigation site, including location and rationale for selection. Include an assessment of existing conditions: acreage (or square footage) of wetlands and uplands, water regime, sources of water, vegetation, soils, landscape position, surrounding land uses, and functions. Estimate future conditions in this location if the compensation actions are NOT undertaken (i.e., how would this site progress through natural succession?).

(v) Surface and subsurface hydrologic conditions, including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas.

(vi) Include illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions

(vii) A description of the proposed actions for compensation of wetland and upland areas affected by the project. Include overall goals of the proposed mitigation, including a description of the targeted functions, hydrogeomorphic classification, and categories of wetlands.

(viii) A description of the proposed mitigation construction activities and timing of activities.

(ix) Performance standards (measurable standards for years post- installation) for upland and wetland communities, a monitoring schedule, and a maintenance schedule and actions proposed by year.

(x) A discussion of ongoing management practices that will protect wetlands after the development project has been implemented, including proposed monitoring and maintenance programs (for remaining wetlands and compensatory mitigation wetlands).

(xi) Pursuant to Section 11.77.050(1), a financial guarantee of the entire compensatory mitigation project, including the following elements, is required: site preparation, plant materials, construction materials, installation oversight, maintenance twice per year for up to five (5) years, annual monitoring field work and reporting, and contingency actions for a maximum of the total required number of years for monitoring. The financial guarantee shall run concurrent with the prescribed monitoring period

(xii) Proof of establishment of Notice on Title for the wetlands and buffers on the project site, including the compensatory mitigation areas.

(D) The scaled plan sheets for the compensatory mitigation must contain, at a minimum:

(i) Surveyed edges of the existing wetland and buffers, proposed areas of wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation actions.

(ii) Existing topography, ground-proofed, at one or two-foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed to create the compensation area(s). Also existing cross-sections of on-site wetland areas that are proposed to be impacted, and cross-section(s) (estimated one- foot intervals) for the proposed areas of wetland or buffer compensation.

(iii) Conditions expected from the proposed actions on site, including future hydrogeomorphic types, vegetation community types by dominant species (wetland and upland), and future water regimes.

(iv) Required wetland buffers for existing wetlands and proposed compensation areas. Also, identify any zones where buffers are proposed to be reduced or enlarged outside of the standards identified in this Chapter.

(v) A planting plan for the compensation area, including all species by proposed community type and water regime, size and type of plant material to be installed, spacing of plants, typical clustering patterns, total number of each species by community type, and timing of installation.

(2) Monitoring. Mitigation performance monitoring shall be done to the guidance and applicable content standards (denoting means and methods) of Corps of Engineers Regulatory Guidance Letter 08-03 which has been determined by Ecology to be consistent with Washington's interagency wetland mitigation guidance. The monitoring period is determined by the Administrator consistent with this section. Mitigation monitoring shall be required for a period necessary to establish that performance standards have been met. For mitigation containing exclusively herbaceous vegetation a minimum monitoring period of one year may be prescribed or until performance criteria are met. For mitigation containing scrub-shrub vegetation, three to five years or until performance criteria are met. Monitoring shall be required for a minimum of five years, and potentially more years, when any of the following conditions apply:

(A) The project does not meet the performance standards identified in the mitigation plan;

(B) The project does not provide adequate replacement for the functions and values of the impacted critical area;

(C) The project results in unanticipated changes to hydrology of the impacted and/or mitigated wetland;

(D) The project involves establishment of mixed scrub-shrub and forested plant communities, which require longer time for establishment; or

(E) The project involves wetland creation.

(3) Monitoring Reports. Monitoring Reports shall be submitted at site completion (as-built) and annually for up to three years following construction and every two years thereafter pursuant to the approved monitoring period.

(4) Advance Mitigation. Mitigation for projects with pre-identified impacts to wetlands may be constructed in advance of the impacts if the mitigation is implemented according to federal rules, state policy on advance mitigation, and state water quality regulations consistent with Interagency Regulatory Guide: Advance Permittee - Responsible Mitigation (Ecology Publication #12-06-015, Olympia, WA, December 2012).

(5) Alternative Mitigation Plans. The Administrator may approve alternative wetland mitigation plans that are based on best available science, such as priority restoration plans that achieve restoration goals identified in the SMP. Alternative mitigation proposals must provide an equivalent or better level of protection of wetland functions and values than would be provided by the strict application of this chapter. The Administrator shall consider the following for approval of an alternative mitigation proposal:
    (A) The proposal uses a watershed approach consistent with Selecting Wetland Mitigation Sites Using a Watershed Approach (Eastern Washington) (Ecology Publication #10-06-07, November 2010).
    (B) Creation or enhancement of a larger system of natural areas and open space is preferable to the preservation of many individual habitat areas.
    (C) Mitigation according to Section 11.80.070(4) is not feasible due to site constraints such as parcel size, stream type, wetland category, or geologic hazards.
    (D) There is clear potential for success of the proposed mitigation at the proposed mitigation site.
    (E) The plan shall contain clear and measurable standards for achieving compliance with the specific provisions of the plan. A monitoring plan shall, at a minimum, meet the provisions in Section 11.80.070(9).
    (F) The plan shall be reviewed and approved as part of overall approval of the proposed use.
    (G) A wetland of a different type may be justified based on regional needs or functions and values; the replacement ratios may not be reduced or eliminated unless the reduction results in a preferred environmental alternative.
    (H) Mitigation guarantees shall meet the minimum requirements as outlined in Section 11.80.070(9)(C)(ix).
    (I) Qualified professionals in each of the critical areas addressed shall prepare the plan.
    (J) The County may consult with agencies with expertise and jurisdiction over the critical areas during the review to assist with analysis and identification of appropriate performance measures that adequately safeguard critical areas.