

**17.65.040 Wetlands.**

- A. Purpose. The purpose of section is to regulate land use to avoid adverse effects on wetlands and maintain the functions and values of wetlands in the city.
- B. Regulated Activities. The following activities are regulated if they occur in a regulated wetland or its buffer:
  - 1. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind.
  - 2. The dumping of, discharging of, or filling with any material.
  - 3. The draining, flooding, or disturbing the water level or water table.
  - 4. The placing of obstructions.
  - 5. The construction, reconstruction, demolition, or expansion of any structure.
  - 6. 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.
  - 7. "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.
  - 8. Activities that result in: a significant change of water temperature; a significant change of physical or chemical characteristics of the sources of water to the wetland; a significant change in the quantity, timing or duration of the water entering the wetland; or the introduction of pollutants.
- C. Subdivisions. The subdivision and/or short subdivision of land in wetlands and associated buffers are subject to the following:
  - 1. Land that is located wholly within a wetland or its buffer may not be subdivided.
  - 2. Land that is located partially within a wetland or its buffer may be subdivided provided that an accessible and contiguous portion of each new lot is located outside of the wetland and its buffer and is equal to or greater than the minimum lot size requirements.
- D. Exempt Wetlands. The following wetlands are exempt from the buffer provisions contained in this section and the normal mitigation sequencing process in BMC

17.65.010.M.2, Mitigation Sequencing. They may be filled if impacts are fully mitigated based on provisions in BMC 17.65.040.J, Mitigation Requirements. In order to verify the following conditions, a critical area report for wetlands meeting the requirements in BMC 17.65.040.G, Critical Area Report for Wetlands, must be submitted.

1. All isolated Category III and IV wetlands less than 1,000 square feet that are not associated with riparian areas or buffers; are not part of a wetland mosaic; do not contain habitat identified as essential for local populations of priority species identified by Washington Department of Fish and Wildlife, species of local importance, or aspen stands; and are not a vernal pool or alkali wetland.

E. Partial Exemptions in Wetlands and Wetland Buffers. In addition to the activities listed in BMC 17.65.010.J, Partial Exemptions, the activities listed below are partially exempt in wetlands. These activities do not require submission of a critical area report, provided that such activities do not result in a loss of the functions and values of a wetland or wetland buffer. These activities include:

1. Conservation or preservation of soil, water, vegetation, fish, and/or other wildlife that does not entail changing the structure or functions of the existing wetland.
2. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.
3. Drilling for utilities/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 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.
4. 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.

5. Existing and ongoing agriculture, aquaculture, irrigation, ranching or grazing of animals. Activities that bring an area into agricultural use are not part of an ongoing operation. An operation ceases to be ongoing when the area on which it was conducted has been converted to another use or has lain idle so long that modifications to the hydrological regime are necessary to resume operations.

F. Wetland Buffers.

1. Standard Buffer Widths. The standard buffer widths in the table below have been established in accordance with the best available science. They are based on the category of wetland and the intensity of the adjacent land use as determined by a qualified wetland professional using the Washington State Wetland Rating System for Eastern Washington.
  - a. In determining wetland buffer widths, land use intensity shall be defined as follows:
    - i. High-intensity land uses include commercial, institutional, dense residential (>1 unit/acre), and high-intensity recreation, such as ball fields.
    - ii. Moderate-intensity land uses include residential ( $\leq 1$  unit/acre), moderate-intensity open space, paved trails, and maintained utility corridors.
    - iii. Low-intensity uses include forestry, open space, unpaved trails, and low-maintenance utility corridors.
  - b. The standard buffer widths 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.

**Standard Wetland Buffer Widths.**

Wetland Category	Land Use Intensity		
	Low	Moderate	High
I	150 ft	225 ft	300 ft
II	150 ft	225 ft	300 ft
III	75 ft	110 ft	150 ft
IV	25 ft	40 ft	50 ft

2. **Increased Wetland Buffer Widths.** 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 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 plant or animal species listed by the federal government or the state as endangered, threatened, candidate, sensitive, monitored or documented priority species or habitats, or essential or outstanding habitat for those species or has unusual nesting or resting sites; 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.
  
3. **Buffer Averaging.** Buffer averaging to improve wetland protection may be permitted when all of the following conditions are met:
  - a. The wetland has significant differences in characteristics that affect its habitat functions.
  - b. 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 wetland

professional.

- c. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and
  - d. The buffer at its narrowest point is never less than either 75 percent of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.
4. Buffer Averaging for Reasonable Use. Averaging to allow reasonable use of a parcel may be permitted when all of the following are met:
- a. There are no feasible alternatives to the site design that could be accomplished without buffer averaging.
  - b. 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.
  - c. The total buffer area after averaging is equal to the area required without averaging.
  - d. The buffer at its narrowest point is never less than either 75 percent of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.
5. Buffers on Mitigation Sites. All mitigation sites shall have buffers consistent with the buffer requirements of this section. Buffers shall be based on the expected or target category of the proposed wetland mitigation site.
6. Measurement of Wetland Buffers. All buffers shall be measured perpendicular from the wetland boundary as surveyed in the field.
7. Allowed Buffer Uses. In addition to the activities identified in BMC 17.65.040.E, Partial Exemptions in Wetlands and Wetland Buffers, the following uses may be allowed within a wetland buffer, provided they are conducted in a manner that minimizes impacts to the buffer and adjacent wetland:
- a. 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 25

percent of the wetland buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five feet in width for pedestrian use only. Raised boardwalks with non-treated pilings may be acceptable.

- ii. Wildlife-viewing structures.
- b. Stormwater management facilities. Stormwater management facilities are limited to stormwater dispersion outfalls and bioswales. They may be allowed within the outer 25 percent of the buffer of Category III or IV wetlands only, provided that:
  - i. No other location is feasible; and
  - ii. The location of such facilities will not degrade the functions or values of the wetland.
- 8. Impacts to Buffers. Requirements for the compensation for impacts to buffers are outlined in BMC 17.65.040.J, Mitigation Requirements.
- 9. Buffer Maintenance. Except as otherwise specified or allowed in accordance with this section, wetland buffers shall be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive non-native weeds is required for the duration of the mitigation bond.

G. Critical Area Report for Wetlands.

- 1. When Required. If the administrator determines that a wetland may exist within 315 feet of the site of a proposed development, a wetland report, prepared by a qualified professional, shall be required.
- 2. Minimum Standards for Wetland Reports. In addition to the information in BMC 17.65.010.L.1, Minimum Report Contents, a critical area report prepared for wetlands must contain the following information, at a minimum:
  - a. The written report shall include, at a minimum:
    - i. Documentation of any fieldwork performed on the site, including field data sheets for delineations, function assessments, baseline hydrologic data, etc.

- ii. A description of the methodologies used to conduct the wetland delineations, function assessments, or impact analyses including references.
  - iii. For each wetland identified on-site and within 315 feet of the project site provide: the wetland; 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 hydroperiod patterns based on visual cues (e.g. algal mats, drift lines, flood debris, etc.). Provide acreage estimates, classifications, and ratings based on entire wetland complexes, not only the portion present on the proposed project site.
  - iv. A description of the proposed actions including an estimation of acreages of impacts to wetlands and buffers based on the field delineation and survey.
  - v. A conservation strategy for habitat and native vegetation that addresses methods to protect and enhance on-site habitat and wetland functions.
  - vi. An evaluation of the functions of the wetland and adjacent buffer. Include reference for the method used and data sheets.
- b. Site plans for the project must include, at a minimum:
- i. Maps (to scale) depicting delineated and surveyed wetland and required buffers on-site, including buffers for off-site critical areas that extend onto the project site; the development proposal; other critical areas; grading and clearing limits; areas of proposed impacts to wetlands and/or buffers (include square footage estimates).
  - ii. A depiction of the proposed stormwater management facilities and outlets (to scale) for the development, including estimated areas of intrusion into the buffers of any critical areas. The written report shall contain a

discussion of the potential impacts to the wetland(s) associated with anticipated hydroperiod alterations from the project.

- H. Identification and Delineation. Identification of wetlands and delineation of their boundaries shall be done at the time of application by a qualified wetland professional at the applicant's expense, in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the city meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this section. Wetland delineations are valid for five years; after such date the city shall determine whether a revision or additional assessment is necessary.
- I. Rating. 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 (Ecology Publication #04-06-015, or as revised and approved by Ecology).
  - 1. Wetland rating categories shall not change due to illegal modifications made by the applicant or with the applicant's knowledge.
- J. Mitigation Requirements.
  - 1. Mitigation Sequencing. Before impacting any wetland or its buffer, an applicant shall demonstrate compliance with BMC 17.65.010.M.2, Mitigation Sequencing.
  - 2. Requirements for Compensatory Mitigation. Compensatory mitigation for alterations to wetlands 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).
  - 3. 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 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 city, such as replacement of historically diminished wetland types.
4. Preference of Mitigation Actions. Mitigation for lost or diminished wetland and buffer functions shall rely on the types below in the following order of preference:
- a. Restoration (re-establishment and rehabilitation).
  - b. Creation (establishment) of wetlands on disturbed upland sites.
    - i. If a site is not available for wetland restoration to compensate for expected wetland and/or buffer impacts, the administrator may authorize creation of a wetland and buffer upon demonstration by the applicant's qualified wetland scientist 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) The proposed mitigation site does not contain invasive plants or noxious weeds or that such vegetation will be completely eradicated at the site;
      - (c) Adjacent land uses and site conditions do not jeopardize the viability of the proposed wetland and; and
      - (d) The proposed wetland and buffer will eventually be self-sustaining with little or no long-term maintenance.
  - c. Enhancement. Enhancement of significantly degraded wetlands in combination with restoration or creation. Enhancement should be part of a mitigation package that includes replacing the altered area and meeting appropriate ratio requirements. Applicants proposing to enhance wetlands or associated buffers shall demonstrate:
    - i. How the proposed enhancement will increase the wetland's/buffer's functions;

- ii. How this increase in function will adequately compensate for the impacts; and
  - iii. How all other existing wetland functions at the mitigation site will be protected.
- d. Preservation. Preservation of high-quality, at-risk wetlands as compensation is generally acceptable when done in combination with restoration, creation, or enhancement, provided that a minimum of 1:1 acreage replacement is provided by re-establishment or creation. 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 altered and the quality of the wetlands being preserved. Preservation of high-quality, at-risk wetlands and habitat may be considered as the sole means of compensation for wetland impacts when the below criteria are met. All preservation sites shall include buffer areas adequate to protect the habitat and its functions from encroachment and degradation.
  - i. The area proposed for preservation is of high quality. The following features may be indicative of high-quality sites: Category I or II wetland; rare wetland type; the presence of habitat for priority or locally important wildlife species; and priority sites in an adopted watershed plan.
  - ii. Wetland impacts will not have a significant adverse impact on habitat for listed fish, or other ESA-listed species.
  - iii. There is no net loss of habitat functions within the watershed or basin.
  - iv. Mitigation ratios for preservation as the sole means of mitigation shall generally start at 20:1. Specific ratios should depend upon the significance of the preservation project and the quality of the wetland resources lost.
  - v. Permanent preservation of the wetland and buffer will be provided through a conservation easement or tract held by a land trust.
  - vi. The impact area is small (generally <math>< \frac{1}{2}</math>acre) and/or impacts are occurring to a low-functioning system (Category III or IV wetland).

5. Location of Compensatory Mitigation. Compensatory mitigation actions shall be conducted within the same sub-drainage basin and on the site of the alteration except when all of the paragraphs below apply. In that case, mitigation may be allowed off-site within the subwatershed of the impact site. When considering off-site mitigation, preference should be given to using alternative mitigation, such as a mitigation bank or advanced mitigation. Compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland.
  - a. There are no reasonable opportunities on site or within the sub-drainage basin, 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.
  - 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 city 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.
6. Timing of Compensatory Mitigation. It is preferred that compensatory mitigation projects be completed prior to activities that will disturb wetlands. At the least, compensatory mitigation 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.

7. Wetland Mitigation Ratios<sup>1</sup>:

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

<sup>1</sup> Ratios for rehabilitation and enhancement may be reduced when combined with 1:1 replacement through creation or re-establishment. See Table 1b, Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance--Version 1, (Ecology Publication #06-06-011a, Olympia, WA, March 2006 or as revised).

8. 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).
9. Compensatory Mitigation Plan. When a project involves wetland and/or buffer impacts, a compensatory mitigation plan prepared by a qualified professional shall be required and approved by the city. The plan must 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 BMC 17.65.040.G, Critical Area Report for Wetlands.
  - 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).

- i. The written report must contain, at a minimum:
  - (a) 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.
  - (b) Description of how the project design has been modified to avoid, minimize, or reduce adverse impacts to wetlands.
  - (c) 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.
  - (d) 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?).
  - (e) 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.
  - (f) A description of the proposed mitigation construction activities and timing of activities.
  - (g) A discussion of ongoing management practices that will protect wetlands after the project site has been

developed, including proposed monitoring and maintenance programs (for remaining wetlands and compensatory mitigation wetlands).

- (h) A bond estimate for the entire compensatory mitigation project, including the following elements: site preparation, plant materials, construction materials, installation oversight, maintenance twice per year for up to five years, annual monitoring field work and reporting, and contingency actions for a maximum of the total required number of years for monitoring.
  - (i) Proof of recording a document indicating the presence of wetlands and buffers on the project site, including compensatory mitigation areas, consistent with BMC 17.65.010.K.3, Recording of Critical Areas and Buffers.
- ii. The scaled plan sheets for the compensatory mitigation must contain, at a minimum:
- (a) 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.
  - (b) Existing topography, ground-proofed, at 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.
  - (c) Surface and subsurface hydrologic conditions, including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas. Also, illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions.

- (d) 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.
  - (e) 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.
  - (f) A plant schedule 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, timing of installation.
  - (g) Performance standards (measurable standards reflective of years post-installation) for upland and wetland communities, monitoring schedule, and maintenance schedule and actions by each biennium.
10. Buffer Mitigation Ratios. Impacts to buffers shall be mitigated at a 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.
  11. Protection of the Mitigation Site. The area where the mitigation occurred and any associated buffer shall be protected consistent with BMC 17.65.010.K, General Critical Area Protective Measures.
  12. Monitoring. Mitigation monitoring shall be required for a period necessary to establish that performance standards have been met, but not for a period less than five years. The project mitigation plan shall include monitoring elements that ensure certainty of success for the project's natural resource values and functions. If the mitigation goals are not obtained within the initial five-year period, the applicant remains responsible for restoration of the natural resource values and functions until the mitigation goals agreed to in the mitigation plan are achieved.
  13. Wetland Mitigation Banks.
    - a. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

- i. The bank is certified under state rules;
    - ii. The administrator determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and
    - iii. The proposed use of credits is consistent with the terms and conditions of the certified bank instrument.
  - b. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the certified bank instrument.
  - c. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the certified bank instrument. In some cases, the service area of the bank may include portions of more than one adjacent drainage basin for specific wetland functions.
14. 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.

K. Unauthorized Alterations and Enforcement.

- 1. Minimum Performance Standards for Restoration. The following minimum performance standards shall be met for the restoration of a wetland, provided that if the violator can demonstrate that greater functions and habitat values can be obtained, these standards may be modified:
  - a. The historic structure, functions, and values of the affected wetland shall be restored, including water quality and habitat functions.
  - b. The historic soil types and configuration shall be restored to the extent practicable.
  - c. The wetland and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration.
  - d. Information demonstrating compliance with other applicable provisions of this chapter.