

ORDINANCE NO. 2751

AN ORDINANCE AMENDING CHAPTER 19.06 OF THE MOSES LAKE MUNICIPAL CODE ENTITLED "CLASSIFICATION AND DESIGNATION OF WETLANDS AND REGULATIONS FOR THE CONSERVATION AND PROTECTION OF WETLANDS"

THE CITY COUNCIL OF THE CITY OF MOSES LAKE, WASHINGTON ORDAINS AS FOLLOWS:

Section 1. Chapter 19.06 of the Moses Lake Municipal Code entitled "Classification and Designation of Wetlands and Regulations for the Conservation and Protection of Wetlands" is amended as follows:

19.06.050 Definitions:

- A. Alteration - any activity which materially affects the existing condition of land improvements
- B. Applicant - means the person, party, firm, corporation, or other legal entity that proposes any activity. The applicant is either the owner of the land on which the proposed activity would be located, or the designated representative.
- C. City - means the City of Moses Lake
- D. Clearing - means the removal of brush, grass, ground cover, or other vegetative matter from a site which exposes the surface of the site.
- E. Compensatory Mitigation - means mitigation for wetland losses or impacts resulting from alteration of wetlands and/or their buffers. It includes, but is not limited to, creation, enhancement, and restoration
- F. Creation - means the producing or forming of a wetland through artificial means from an upland (non-wetland) site.
- G. Designated Wetland - means those lands identified through the classification process established by this chapter.
- H. Development - means alteration (see definition for Alteration)
- I. Earth/Earth Material - means naturally occurring rock, soil, stone, sediment, organic material, or combination thereof.
- J. Enhancement - means actions performed to improve the condition of existing degraded wetlands and/or buffers so that the functions they provide are of a higher quality (e.g., increasing plant diversity, increasing wildlife habitat, installing environmentally compatible erosion controls, removing non-indigenous plant or animal species, removing fill material or garbage, etc.).
- K. Erosion - means the wearing away of the earth's surface as a result of the movement of wind, water, or ice.
- L. Excavation - means the manual and or mechanical removal of earth material or fill.
- M. Existing and Ongoing Agricultural Activities - means those activities conducted on lands defined in RCW 84.34.020 (2), and those activities involved in the production of crops and livestock, including but not limited to operation and maintenance of farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities, and normal operation, maintenance or repair of existing serviceable structures, facilities or improved areas. Activities which bring an area into agricultural use are not part of an ongoing activity. An operation ceases to be on going when the area on which it was conducted has been converted to a non-agricultural use or has lain idle more than five (5) years and so long that modifications to the hydrological regime are necessary to resume operations, unless the idle land is registered in a federal or state soils conservation program.

- N. Fill/Fill Material - means a deposit of earth material, placed by human or mechanical means, and which is not defined as solid waste according to RCW 70.95.
- O. Filling - means the act of placing fill material on any surface.
- P. Grading - means any excavating, filling, clearing, leveling, or contouring of the ground surface of a site.
- Q. In-Kind Mitigation - means to replace wetlands with substitute wetlands whose characteristics and functions and values are intended to replicate those destroyed or degraded by a regulated activity.
- R. Mitigation - means to avoid, minimize, or compensate for adverse wetland impacts.
- S. Out-of-Kind Mitigation - means to replace wetlands whose characteristics do not closely approximate those destroyed or degraded by a regulated activity.
- T. Permanent Erosion Control - means continuous on-site and off-site control measures that are needed to control conveyance or deposition of earth, turbidity, or pollutants after development, construction, or restoration.
- U. Restoration - means the re-establishment of a viable wetland from a previously filled or degraded wetland site.
- V. Significant Impact - means a meaningful change or recognizable effect to the ecological function and value of a wetland, which is noticeable or measurable, resulting in a loss of wetland function and value.
- W. Single-Family Residence or Dwelling - means a building or structure, or portion thereof, which is designed for and used to provide a place of residence for human habitation.
- X. Site - means any parcel or combination of contiguous parcels, or right-of-way or combination of contiguous rights-of-way under the applicant's ownership or control where the proposed project impacts a wetland(s).
- Y. Slope - means an inclined earth surface, the inclination of which is expressed as the ratio of horizontal distance to vertical distance.
- Z. Substrate - means the soil, sediment, decomposing organic matter, or combination, located on the bottom surface of the wetland.
- AA. Utility Line - means pipe, conduit, cable, or other similar facility by which services are conveyed to the public or individual recipients. Such services shall include, but are not limited to, water supply, electric power, gas, and communications.
- BB. Wetland(s) - means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including but not limited to, irrigation and drainage ditches, grass lined swales, canals, detention facilities, retention facilities, wastewater treatment facilities, farm ponds, and landscape amenities or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.
- CC. Wetland Buffer Zone - means a designated area contiguous or adjacent to a wetland that is required for the continued maintenance, function, and structural stability of the wetland.

DD. Wetland Specialist - is a person with a minimum of a four (4) year degree in wildlife sciences, biology, environmental science, or an equivalent academic background who also has experience in performing wetland delineations, analysis of wetland functions and values and project impacts, and wetland mitigation and restoration techniques. The person must be familiar with the approved federal Wetland Delineation Manual and applicable regional supplements, the Washington State Wetland Rating System for Eastern Washington, and the City of Moses Lake Wetlands Ordinance.

19.06.120 Wetlands Classification and Ratings Guidelines: A wetland rating and classification shall be established based upon a completed delineation report prepared by a wetland specialist to determine boundary, size, function, and value. Guidelines for preparing a wetland delineation report are defined in Section 19.06.150 of this chapter and the approved federal wetland delineation manual and applicable regional supplements. Guidelines for rating wetlands are defined in the Washington State Department of Ecology Wetland Rating System for Eastern Washington, October 2014, as revised. Wetlands shall be classified in accordance with this rating system.

19.06.150 Wetlands Analysis Report Requirements:

- A. A wetland analysis report shall be prepared by a qualified wetland specialist in accordance with the approved federal Wetland Delineation Manual and applicable regional supplements and submitted to the Community Development Department for review for any proposals adjacent to or within an affected wetland area.
- B. Within the time frame established in Moses Lake Municipal Code Title 20, the Community Development Department shall determine the appropriate wetland category, buffering requirement, and potential mitigation based upon the recommendation of the wetlands report analysis. The wetland analysis report shall be forwarded for review and comment to agencies with expertise or jurisdiction on the proposal, including, but not limited to:
1. Washington State Department of Fish and Wildlife
  2. Washington State Department of Natural Resources
  3. U. S. Fish and Wildlife Service
  4. Washington State Department of Ecology
  5. United States Army Corps of Engineers

Comments received from review agencies within thirty (30) days of circulating the wetland analysis report shall be considered by the Community Development Department.

Section 2. This ordinance shall take effect and be in force five (5) days after its passage and publication of its summary as provided by law.

Adopted by the City Council and signed by its Mayor on January 27, 2015.

  
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Dick Deane, Mayor

ATTEST:

  
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W. Robert Taylor, Finance Director

APPROVED AS TO FORM

  
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Katherine L. Kenison, City Attorney