

GENERAL INFORMATION

This handout is for all activities proposed in or adjacent to regulated wetland areas. [Sections 38.710 38.610 and 38.620 BMC](#) includes the wetland and watercourse regulations for the City of Bozeman (City). The regulations provide specific guidelines and methods to identify whether an area is a wetland and to determine the boundary between wetlands and uplands. The City’s wetland regulations apply to both wetlands with direct hydrologic connection to “Waters of the U.S.” and to isolated wetlands with no direct connection to a Water of the U.S., and that exhibit positive wetland indicators for all three wetland parameters.

DIGITAL SUBMITTALS & NAMING PROTOCOL

All parties applying for activity permits proposing action affecting federal, state or City regulated wetlands, watercourse and/or buffers within the City limits must submit the following information in compliance with Section [38.710.120 BMC](#):

1. Create and submit a Planning application using the [ProjectDox portal](#);
 - a. After completing your Development Review Application, you will receive a Notification Letter [\(example\)](#) via email. Please download this document and obtain owner’s signature. Upload as a PDF to the “Documents” folder in ProjectDox.
2. The digital copies must be separated into two categories: Documents and Drawings.
 - a. The Documents folder should include items such as application forms, narrative, response to City comments, supplemental documents, technical reports, easements, legal documents, and other applicable documents.
 - b. The Drawings folder should include items such as site plans, civil plans, utility plans, landscape plans, photometric plans, existing and proposed topography, and other applicable plans. All drawing files must be drawn and formatted for a 24” x 36” sheet file or 11” x 17” sheet file. Plan pages shall be properly oriented in landscape layout and include a north arrow and scale. Refer to our [Quick Guide](#) for additional information;
3. Naming protocol. All files should be numbered and named according to their order listed on your provided Submittal Checklist. File names should start with a numeric value followed by the document name. The numeric value at the beginning of the file name ensures the order in which they are displayed. Refer to our [Quick Guide](#) for additional information;

WETLAND AND WATERCOURSE REVIEW CHECKLIST

All parties applying for activity permits proposing action affecting federal, state, or city-regulated wetlands, watercourses, and/or their setbacks or buffers within the city limits must submit the information in the tables below in compliance with Sections [38.710.120, 38.610, and 38.620](#). (subsections 30, 80, 90, and 100) of the BMC. After the parties provide the required information, the City will review it for compliance with the code. The City will confirm the information with an ‘N/A’ (i.e., not applicable) if the code does not apply to the action, a ‘Yes’ if information is adequate, a ‘No’ if missing, or an ‘Inadequate’ if the submitted material does not meet the required submission. If the review team determines that information is missing or inadequate, the City will request additional information.

Table 1. 38.710.120 Submittal materials for review of activities in or adjacent to wetlands and watercourses

Code Section	Code Requirement
38.710.120.A	<i>An applicant for a permit under this chapter on a site where wetlands and/or watercourses may be present or adjacent to the subject property must submit a wetlands and watercourses delineation report, including the following information:</i>
1	If wetlands or watercourses are not present on or adjacent to the subject property, a letter signed by a qualified wetlands professional must be submitted to the city certifying that there are no wetlands or watercourses within the subject property or adjacent to the property and describing the methods used to determine that wetlands or watercourses do not exist on or adjacent to the property.
Applicant Confirmation	
2	If a wetland or watercourse is present or adjacent to the property, a wetland and watercourse delineation report must be submitted to the city. When required to determine the wetland or watercourse location and function, the delineation report must consider land outside the boundary of the property proposed for development.
a.	The wetland and watercourse delineation report must include the following, which must have been developed within five (5) years of the date of the submission of the report:
(a.1)	Wetland and watercourse descriptions;
Applicant Confirmation	
(a.2)	An Approved Jurisdictional Determination provided by the U.S. Army Corps of Engineers (USACE);
Applicant Confirmation	
(a.3)	A functional assessment of each wetland, or mosaic of wetlands made in compliance with an assessment tool currently accepted by USACE and/or the State of Montana;
Applicant Confirmation	
(a.4)	All data collected must support accurate confirmation of the three positive wetland indicators as included in the definition of wetland at 40.04.070 ;
Applicant Confirmation	
(a.5)	Wetland and watercourse acreages as determined by a licensed surveyor (the review authority may approve the use of other survey-grade GPS methods);
Applicant Confirmation	
(a.6)	Maps that depict property boundaries, watercourse centerlines, ordinary high-water marks delineated in accordance with the procedures specified in the current version of the Ordinary High Water Mark Field Delineation Manual for Rivers and Streams sanctioned by the USACE Omaha District, watercourse setbacks, delineated wetland boundaries and buffers, and wetland acreages;
Applicant Confirmation	
(a.7)	Wetland data forms (U.S. Army Corps of Engineers data forms)

Code Section	Code Requirement
Applicant Confirmation	
(a.8)	A determination of watercourse status issued by the Gallatin County Conservation District; and
Applicant Confirmation	
(a.9)	A narrative description of how the applicant will first avoid and, if avoidance is not possible, minimize and mitigate impacts to wetlands and watercourses.
Applicant Confirmation	
3.	If development activities are proposed in or adjacent to watercourses or wetlands, the following additional information is required in the wetlands and watercourse delineation report:
a.	A site plan consisting of an accurate scaled drawing which shows:
a.	<ul style="list-style-type: none"> • The boundaries of the subject property; delineated wetland and watercourse boundaries; wetland buffer boundaries; watercourse setbacks; and all existing and proposed structures, roads, trails, and easements. • The site plan must provide a table of existing wetland jurisdictional status, acreage, and respective functional classes for each wetland, previously required wetland buffers and acreage for each wetland, and linear feet of all watercourses. • In addition, all direct impacts to wetlands, watercourses, setbacks, and buffers must be depicted and summarized in a table on the site plan. The summary table must include: <ul style="list-style-type: none"> ○ the wetland/watercourse identification number; labeling of the corresponding wetland buffer or watercourse setback with its width and acreage; ○ the acreage of the subject property and of each wetland, watercourse, and wetland buffer or watercourse setback; ○ notation of the wetland jurisdictional status; ○ proposed impacts within all wetland buffers and watercourses setbacks; and, ○ proposed mitigation methods and acreages.
Applicant Confirmation	
b.	All indirect impacts must be summarized in a narrative section of the application.
Applicant Confirmation	

c.	<p>Application materials for all applicable permits identified in 38.710.020. These permits include, but are not limited to:</p> <ol style="list-style-type: none"> 1. Montana Stream Protection Act (SPA 124 Permit). Administered by the Habitat Protection Bureau, Fisheries Division, Montana Fish, Wildlife and Parks. 2. Stormwater discharge general permit. Administered by the water quality bureau, the state department of environmental quality. 3. Montana Natural Streambed and Land Preservation Act (310 Permit). Administered by the board of supervisors, the county conservation district. 4. Montana Floodplain and Floodway Management Act (Floodplain Development Permit). Administered by the city engineering department. 5. Federal Clean Water Act (404 Permit). Administered by the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency. 6. Federal Rivers and Harbors Act (Section 10 Permit). Administered by the U.S. Army Corps of Engineers. 7. Short-term Water Quality Standard for Turbidity (318 Authorization). Administered by the state Department of Environmental Quality. 8. Montana Land-Use License or Easement on Navigable Waters. Administered by the state department of natural resources and conservation. 9. Montana Water Use Act (Water Right Permit and Change Authorization). Administered by the water rights bureau, the state department of natural resources and conservation
Applicant Confirmation	
4.	Mitigation Report. If, in review of the required submittal materials, the review authority determines adverse impacts to wetlands or watercourses will occur, the following information must be submitted to the city in the form of a mitigation report:
a.	The mitigation report must:
(a.1)	Identify proposed mitigation consistent with the priorities listed in 38.610.100 and the rationale for the applicant's preferred mitigation.
Applicant Confirmation	
(a.2)	Include the following: the name and contact information of the applicant; the name, qualifications, and contact information for the primary author of the mitigation report; a description of the mitigation proposal; a summary of the direct and indirect impacts; identification of all local, state, and federal wetland or watercourse-related permits required for the proposed mitigation; and a vicinity map for the project.
Applicant Confirmation	
(a.3)	An assessment of existing conditions in the area of the proposed mitigation, including vegetation community structure and composition, existing hydroperiod, existing soil conditions, and existing wetland functions.

Applicant Confirmation	
(a.4)	An assessment of the potential changes in wetland hydroperiod for the proposed project.
Applicant Confirmation	
(a.5)	A description of the proposed mitigation actions for wetlands, watercourses, setbacks, and buffer areas, and how the design has been modified to first avoid, and if avoidance is not possible, then minimize or reduce impacts to the wetland hydroperiod. Provide specifications for all proposed compensatory mitigation for unavoidable impacts to wetlands and their buffers, and to watercourses and their setbacks. Include a map and table with all proposed mitigation areas and their required buffers.
Applicant Confirmation	
(a.6)	Field data that documents the existing conditions of the proposed mitigation sites.
Applicant Confirmation	
(a.7)	An analysis of the anticipated post development hydrologic and soil conditions on the project site hydrologic and soil conditions of the mitigation wetlands based on the proposed mitigation (e.g., data that demonstrate hydrologic conditions (e.g. piezometer data, staff/crest gage data, hydrologic modeling, visual observations; data that demonstrate soil conditions (e.g., data from hand-dug or mechanical soil pits or boring results). The applicant may not rely on NRCS soil survey data for establishing existing conditions.
Applicant Confirmation	
(a.8)	A planting plan and schedule by proposed community type and hydrologic 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, nutrient requirements, watering schedule, weed control, and, where appropriate, measures to protect plants from damage.
Applicant Confirmation	
(a.9)	A mitigation monitoring plan must include a period of not less than five years and establish the entity responsible for long-term operations, maintenance, and monitoring and the methods the applicant will use to ensure the mitigation meets the objectives established by the plan.
Applicant Confirmation	
(a.10)	Wetland mitigation performance criteria for mitigation wetlands and buffers (measurable standards reflective of expected development goals established for each year after the mitigation site is established, e.g., "At the end of five years, there will be an 80 percent survival of the planted shrubs and trees").
Applicant Confirmation	
(a.11)	Contingency plans which clearly define courses of action or corrective measures if performance criteria are not met, including strategies for adaptive management and change in mitigation option and the entity responsible for implementing any required contingency plans.

Applicant Confirmation	
b.	The mitigation report must include scaled plan sheet(s) for the mitigation plan. The scaled plan sheet(s) must contain, at a minimum:
(b.1)	The surveyed edges of existing wetlands and buffers; the proposed location and acreage of wetlands and buffer impacts; and the location of proposed wetland and buffer mitigation areas.
Applicant Confirmation	
(b.2)	Surveyed topography at half-foot contour intervals in the area of the proposed mitigation if any grading activity is proposed in the proposed mitigation area.
Applicant Confirmation	
(b.3)	Provide an existing and proposed mitigation design cross-section for the wetland and/or buffer proposed mitigation areas.
Applicant Confirmation	
c.	A description of ongoing management practices that will protect and maintain any nonimpacted wetland areas and the proposed mitigation wetland, watercourse, and buffer areas.
Applicant Confirmation	
38.710.120.B	If agricultural water user facilities are present, then the development application must include application materials required pursuant to 38.710.050 , 38.310.010 , and 38.410.060 .
Applicant Confirmation	
38.710.120.C	An as-built plan of the affected area within six months of completion.
Applicant Confirmation	

Table 2. Sec. 38.620. Watercourse Setbacks

Code section	Code Requirement
38.620.D	<i>The requirements of this section may not be less restrictive than the requirements of the city floodplain regulations or any other applicable regulation of this chapter.</i>
1	The watercourse setbacks must be measured from the ordinary high-water mark as defined in 38.800.160 and as depicted on Figure 38.620-1 . When no ordinary high-water mark is discernible, the watercourse setback must be measured from the top of the watercourse bank.
Applicant Confirmation	

2	<p>The following apply to all developments.</p> <p>a. Setbacks. The following setback requirements must be met:</p> <ol style="list-style-type: none"> 1) East Gallatin River. A minimum 100-foot setback must be provided along both sides of the East Gallatin River. 2) Sourdough/Bozeman Creek and Bridger Creek. A minimum 75-foot setback must be provided along both sides of Sourdough/Bozeman and Bridger Creeks. 3) Other watercourses. A minimum 50-foot setback must be provided along both sides of all other watercourses.
2.a.(4)	All watercourse setbacks must be extended as necessary to address the following additional requirements;
(4.a)	The setback must extend to the delineated boundary of the regulated flood hazard area pursuant to 38.600.130.B where the regulated flood hazard boundary is larger than the setbacks established in this subsection D.2.a (see Figure 38.620-2);
Applicant Confirmation	
(4.b)	The setback must incorporate a minimum 50-foot wetland setback from the delineated boundary of any wetlands adjacent to the watercourse. A larger setback may be established per 38.610 . A wetland is adjacent to a watercourse when some or all of the wetland lies within the required watercourse setback. Figure 38.620-3 .
Applicant Confirmation	
2.c	Allowed encroachments. The watercourse setback is divided into two zones. Zone 1 consists of 60 percent of the setback closest to the watercourse, and Zone 2 consists of the remaining 40 percent of the setback furthest from the watercourse. The following describes exceptions for development in Zone 1 and Zone 2
(1)	On-site stormwater treatment facilities may be located in Zone 2.
Applicant Confirmation	
(2.a)	Trails, and trail-related improvements, such as benches and trail signage, may be placed in Zone 2;
Applicant Confirmation	
(2.b)	Limited, non-looping developed spur trails to the edge of the watercourse may cross all zones. Benches and limited informational/interpretive signage may be placed in Zone 1 at the terminus of spur trails;
Applicant Confirmation	
(2.c)	Due to topography, avoidance of wetlands, or geographical constraints, portions of non-spur trails may be placed in Zone 1. Trail construction within Zone 1, inclusive of watercourse crossings and spur trails may not exceed the length of 300 percent of the width of the applicable watercourse setback per 500 lineal feet of watercourse;
Applicant Confirmation	

(2.d)	All trails must be constructed to minimize bank instability, sedimentation, nutrient and pollution runoff. Trails must be aligned to minimize damage to plant and wildlife habitat; and
Applicant Confirmation	
(2.e)	Trails crossing the watercourse and trail-related bridge structures may be located within all zones provided that the appropriate local, state and federal permits are obtained.
Applicant Confirmation	
(3.a)	(Street) Crossings of active transportation pathways, utility lines, or similar public construction must be minimized to the greatest extent feasible while still complying with other applicable standards of this code;
Applicant Confirmation	
(3.b)	Crossings with direct angles (90 degrees) must be used to the greatest extent feasible instead of oblique crossing angles;
Applicant Confirmation	
(3.c)	Construction must be capable of withstanding 100-year flood events; and
Applicant Confirmation	
(3.d)	A bank stabilization plan for all watercourse crossings must be prepared and approved by the review authority prior to site preparation and installation of the improvement.
Applicant Confirmation	
(4)	Outlets from stormwater treatment facilities may pass through all zones, provided that all required permits are obtained. Stormwater facilities must be designed to prevent the discharge of untreated stormwater directly into a watercourse.
Applicant Confirmation	
(5)	Ongoing control of noxious weeds by the property owner is required and activities required within limits outlined in any approved noxious weed control plan may occur in all zones.
Applicant Confirmation	
2.d	Setback planting. To ensure watercourse setback function, a setback planting plan must be prepared by a qualified landscape professional and must be reviewed and approved by the review authority prior to the commencement of development or site preparation. The plan must include a schedule, and plantings must be depicted on the plan as follows

(1)	Zone 1 must be (re)vegetated with new or existing native materials suited for a riparian area based on the following. One hundred percent of the disturbed areas of Zone 1 must be planted with a ground cover of native riparian trees, sedges, forbs, and grasses suited for the area. In addition, a minimum of one shrub for every ten linear feet and one tree for every 30 linear feet of the watercourse must be planted along each side of the watercourse. Grouping or clumping of trees and shrubs as appropriate in a riparian area is encouraged. Species that are appropriate to the soil hydrologic conditions are required. Tree and shrub species selected must be suitable for the climate and for planting in a riparian area with an emphasis on native species. Incorporation of existing healthy vegetation of types required in this section within the setback planting plan is encouraged.
Applicant Confirmation	
(2)	Zone 2: Disturbed areas of Zone 2 must be revegetated with new or existing native grasses suited for the area. Plantings in this area must be maintained in a natural state consistent with the approved setback planting plan and managed for good plant health.
Applicant Confirmation	
(3-5)	<i>Criteria under special exemptions.</i>
(6)	Use of native grasses, forbs, sedges, trees, and other herbaceous plants in areas of disturbance (e.g., bridges, culverts, utilities installation, trails) within the watercourse setback is required.
Applicant Confirmation	
<i>See the remaining sections of this code for other exemptions, relief, and restrictions</i>	

Table 3. [Sec. 38.610.030, 38.610.080, 38.610.090, and 38.610.100](#) Additional Submittal Materials for Regulated Activities in Wetlands

Code Section	Code Requirement
38.610.030.A	
1 & 2	Wetland delineation must be prepared by a qualified wetland professional. A qualified wetland professional is an individual with a minimum of a bachelor's degree in a water resource-related field, five years' experience in a wetland-related field, and/or a professional wetland scientist certification.
Applicant Confirmation	<i>Provide this information. Once we are satisfied that these criteria are met, we will maintain a roster of qualified personnel. If you are on that roster, we will not ask for this information again.</i>
38.610.080.A	<i>The review authority may approve an application under this division 38.610 after having considered the applicant's documentation of:</i>
1	The functions and values described in 38.610.030 and as determined by a USACE accepted method of functional assessment of the wetland that may be affected by the proposed regulated activity;
Applicant Confirmation	
2	The extent and permanence of adverse effects of the regulated activity on the wetland and any associated watercourse;
Applicant Confirmation	

Code Section	Code Requirement
3	Any proposed mitigation, and
Applicant Confirmation	
4.a	The applicant's demonstration that any unavoidable adverse impacts on the wetland have been minimized;
Applicant Confirmation	
4.b.1&2	The applicant's demonstration the activity will result in minimal impairment to any wetland function, including plant, animal, or other wildlife species listed as threatened, endangered under federal law or, species of concern, potential concern, or species of the state:
Applicant Confirmation	
38.610.080.B	Minimum Wetland Buffer. All development must provide a minimum wetland buffer of 25 feet from the edge of the delineated wetland, wherein any disturbance to the wetland buffer, including construction activities, is prohibited. The review authority may require a larger wetland buffer based on the wetland delineation report.
Applicant Confirmation	
38.610.090	<i>The review authority may require mitigation as provided for in 38.610.100 and impose conditions of approval for proposed regulated activities that are necessary to mitigate impacts to wetlands, or which are necessary to mitigate infringement upon wetlands and wetland buffers, or negative indirect or direct effects on the functionality of wetlands and wetland buffers. Conditions of approval may include but are not limited to, the following:</i>
A	Notwithstanding the minimum wetland buffer, requiring a wetland buffer of a size appropriate for the proposed activity and the regulated wetland as determined by the review authority;
Applicant Confirmation	
B	Requiring structures be appropriately supported and elevated or otherwise protected against hazards;
Applicant Confirmation	
C	Modifying proposals for waste disposal, stormwater, or water supply facilities;
Applicant Confirmation	
D	Requiring protective covenants between the landowner and the city regarding the future development, use, and subdivision of lands, including but not limited to the preservation of undeveloped areas as open space and restrictions on vegetation removal;
Applicant Confirmation	
E	Requiring a protective covenant between the landowner and the city stating the measures that will be taken to protect all water resources, mitigation, and buffer areas;

Applicant Confirmation	
F	Requiring erosion control and stormwater best management practices (BMPs);
Applicant Confirmation	
G	Clustering structures or development;
Applicant Confirmation	
H	Restricting fill, deposit of soil, and other activities which may be detrimental to a wetland;
Applicant Confirmation	
I	Modifying the project design to ensure a reliable source and flow of water to the regulated wetland;
Applicant Confirmation	
J	Requiring or restricting maintenance of a regulated wetland area for the purpose of maintaining wetland functions;
Applicant Confirmation	
K	Requiring a mitigation monitoring report to be submitted to the review authority (the period and frequency of the reporting will be determined on a case-by-case basis); and
Applicant Confirmation	
L	Requiring that all reasonable effort be made to limit indirect impacts to vegetation and hydrological connectivity in the site design.
Applicant Confirmation	
38.610.100.A	Adverse wetland impacts must be mitigated regardless of wetland jurisdictional status in the following order of priority except as may be required or authorized by the USACE for wetlands within USACE jurisdiction:
1	Impacts must be mitigated on-site where feasible to do so. Using an approved wetland functional assessment methodology, the replacement function and value of the on-site mitigation wetland must meet or exceed the functions and values of the impacted wetland. If conditions are not suitable for establishing on-site mitigation, the review authority may authorize an alternative mitigation as described in subsections A.2-6. On-site mitigation must be conducted in accordance with methods and standards established by the USACE. Factors the review authority may consider in determining feasibility of on-site mitigation include but are not limited to: available area; the availability and reliability of water to serve the mitigation site; soil and vegetation types; wetland size and functional class; existing and future land use; compliance with adopted land use plans; and the city's current and future planned transportation network.
Applicant Confirmation	

2	If mitigation is not suitable on-site, impacts must be mitigated through the purchase of wetland mitigation credits from a wetland bank authorized by the USACE and which is located within the East Gallatin River watershed.
Applicant Confirmation	
3	If an authorized wetland bank is not available in the East Gallatin watershed, impacts must be mitigated through the purchase of wetland mitigation credits from a wetland bank authorized by USACE and which is located within the Gallatin River watershed; .
Applicant Confirmation	
4	If a wetland bank is not available within the Gallatin River watershed, the developer must provide a proportional payment to an in-lieu fee wetland mitigation provider authorized by the USACE to develop wetland mitigation projects within the Gallatin River watershed; and
Applicant Confirmation	
5	If a wetland in-lieu fee provider authorized by the USACE is not available within the Gallatin River watersheds, the developer must obtain wetland mitigation credits from the geographically nearest wetland bank authorized by the USACE.
Applicant Confirmation	

SITE PLAN SUBMITTAL REQUIREMENTS

All site plans must be drawn and formatted for a 24" x 36" sheet file or 11" x 17" sheet file. Site plan pages shall be properly oriented in landscape layout and include a north arrow and scale.

All applicable items noted below shall be addressed on the site plan:

Applicant (Check)	Site Plan Checklist	City Staff (Check)
<input type="checkbox"/>	1. North arrow, site address, tax parcel number and map scale used.	<input type="checkbox"/>
<input type="checkbox"/>	2. All property line boundaries and dimensions. Property owner is responsible for knowing their property line locations and flagging them onsite if requested.	<input type="checkbox"/>
<input type="checkbox"/>	3. All existing and proposed structures; include all areas to be disturbed.	<input type="checkbox"/>
<input type="checkbox"/>	4. All means, existing vehicular and pedestrian ingress and egress to and from the site, such as driveways, streets and fire access roads, including existing road names and existing City and State right-of-way.	<input type="checkbox"/>
<input type="checkbox"/>	5. All easements encroaching onto the property (e.g., utility, road, railroad, etc.)	<input type="checkbox"/>

Applicant (Check)	Site Plan Checklist	City Staff (Check)
<input type="checkbox"/>	6. Location of all existing and proposed utilities such as septic tanks, drainfields, sewer lines, water lines, wells, gas lines, underground and overhead electric lines.	<input type="checkbox"/>
<input type="checkbox"/>	7. Location of any delineated critical areas and buffers (e.g., wetlands, ponds, streams, seasonal drainages, flood plain, high groundwater, trees, special habitat, etc.).	<input type="checkbox"/>

APPLICATION FEE

For most current application fee, see [Schedule of Community Development fees](#). Fees are typically adjusted in January.

CONTACT US

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