

CITY OF FIFE, WASHINGTON

ORDINANCE NO. 1804

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON, AMENDING 17.17.020 OF THE FIFE MUNICIPAL CODE TO DEFINE “MONITOR SPECIES”**

WHEREAS, it is important that specific terms be defined within the Fife Municipal Code to ensure uniformity of understanding and application;

WHEREAS, 17.17.020(H) currently uses the term “monitor species”, which is not defined anywhere in the chapter; now, therefore,

THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Section 17.17.020 of the Fife Municipal Code is hereby amended to read as follows:

**17.17.020 Definitions.**

A. “Administrative authority” means those public officials authorized by this chapter to administer the provisions and employ the procedures set forth in this chapter.

B. “Applicant” means a person who files an application for permit under this chapter and who is either the owner of the land on which that proposed activity would be located, a contract vendee, a lessee of the land, the person who would actually control and direct the proposed activity, or the authorized agent of such a person.

C. “Best management practices” means conservation practices or systems of practices and measures that:

1. Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment;

2. Minimize adverse impacts to surface water and groundwater flow, circulation patterns, and to the chemical, physical, and biological characteristics of wetlands.

D. “Categories I, II, III, IV wetlands” means the Puget Sound region wetland rating system developed by the Department of Ecology. Wetland rating categories shall be applied as the wetland exists on the date of adoption of the rating system by the local government, as the wetland may naturally change thereafter, or as the wetland may change in accordance with permitted activities. Wetland rating categories shall not be altered to recognize illegal modifications. The criteria for the rating system are:

1. Category I Criteria.

a. Documented habitat for endangered or threatened plant, fish, or animal species or for potentially extirpated plant species recognized by state or federal agencies; or

b. High quality native wetland communities, including documented Category I or II quality natural heritage wetland sites and sites which qualify as a Category I or II quality natural heritage wetland; or

c. High quality, regionally rare wetland communities with irreplaceable ecological functions, including sphagnum bogs and fens, estuarine, wetlands, or mature forested swamps; or

d. Wetlands of exceptional local significance. The criteria for such a designation shall be developed and adopted by the city. The criteria may include, but not be limited to, rarity, groundwater recharge areas, significant habitats, unique educational sites or other specific functional values within a watershed or other regional boundary.

2. Category II Criteria.

a. Wetlands that do not contain features outlined in Category I; and

b. Documented habitats for sensitive plant, fish or animal species recognized by federal or state agencies; or

c. Rare wetland communities which are not high quality; or

d. Wetland types with significant functions which may not be adequately replicated through creation or restoration. In the Puget Sound planning area, these wetlands may be demonstrated by the following characteristics:

i. Significant peat systems; or

ii. Forested swamps that have three canopy layers, excluding monotypic stands of red alder averaging eight inches diameter at breast height or less; or

iii. Significant spring-fed systems;

e. Wetlands with significant habitat value based on diversity and size, which are defined as:

i. Ten acres or greater in size; and two or more wetland classes together with open water at any time during a normal year; or

ii. Ten acres or greater in size; and three or more wetland classes; and five or more subclasses of vegetation in a dispersed pattern; or

iii. Five acres or greater in size; and 40 percent to 60 percent open water at any time during a normal year; and two or more subclasses of vegetation in a dispersed pattern;

f. Wetlands contiguous with salmonid fish-bearing waters, including streams where flow is intermittent; or

g. Wetlands with significant use by fish and wildlife.

3. Category III Criteria. Category III are wetlands that do not contain features outlined in Category I, II or IV.

4. Category IV Criteria.

a. Wetlands which do not meet the criteria of a Category I or II wetland; and

b. Hydrologically isolated wetlands that are less than or equal to two acres in size, and have only one wetland class and have only one dominant plant species (monotypic vegetation); or

c. Hydrologically isolated wetlands that are less than or equal to two acres in size, and have only one wetland class and a predominance of exotic species.

E. "Compensation project" means actions necessary to replace project-induced wetland and wetland buffer losses, including land acquisition, planning, construction plans, monitoring and contingency actions.

F. "Compensatory mitigation" means replacing project induced wetland losses or impacts, and includes, but is not limited to, the following:

1. Restoration. Actions performed to reestablish wetland functional characteristics and processes which have been lost by alterations, activities, or catastrophic events within an area where a wetland formerly existed, but which no longer meet the definition of a wetland.

2. Creation. Actions performed to intentionally establish a wetland at a site where it did not formerly exist.

3. Enhancement. Actions performed to improve the condition of existing degraded wetlands so that the functions they provide are of a higher quality.

G. "Conservation easement" means a reservation or encumbrance on a particular piece of real property that precludes building improvement(s) intended for human habitation or other structures or activities that would frustrate the primary purpose of the easement as a buffer.

H. "Critical habitat" means habitat necessary for the survival of endangered, threatened, rare, sensitive or monitor species.

I. "Developable area" means land outside of wetlands and wetland buffers.

J. "Development proposal" means all activity relating to the use and/or development of land requiring a permit or approval from the city, including, but not limited to: commercial or residential permit; franchise right-of-way permit; grading and clearing permit; mixed use approval; planned unit development; shoreline conditional use permit; shoreline substantial development per-

mit; shoreline variance; short subdivision; special use permit; subdivision; flood hazard permit; unclassified use permit; utility and other use permit; variance; rezone; or any subsequently required permit or approval not expressly exempted by this chapter.

K. "Emergent wetland" means a regulated wetland with at least 30 percent of the surface area covered by erect, rooted, herbaceous vegetation as the uppermost vegetative strata.

L. "Existing and on-going agriculture" includes those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops or livestock, for example the operation and maintenance of farm and stock farms or drainage ditches, operation and maintenance of ditches, irrigation systems, irrigation laterals, canals, or irrigation drainage ditches, changes between agricultural activities, and normal maintenance, repair, or operation of existing serviceable structures, facilities, or improved areas. Activities which bring an area into agricultural use are not part of an on-going operation. An operation ceases to be ongoing when the area on which it is conducted is converted to a nonagricultural use or has lain idle for more than five years, unless the idle land is registered in a federal or state soils conservation program, or unless the activity is maintenance of irrigation ditches, laterals, canals, or drainage ditches related to an existing and ongoing agricultural activity. Forest practices are not included in this definition.

M. "Exotic" means any species of plants or animals that are foreign to the planning area.

N. "Extraordinary hardship" means strict application of this chapter and/or programs adopted to implement this chapter by the city would prevent all reasonable use of the parcel.

O. "Federal manual for identifying and delineating jurisdictional wetlands" means the manual prepared by the federal interagency committee for wetland delineation in 1989.

P. "Forested wetland" means a regulated wetland with at least 20 percent of the surface area covered by woody vegetation greater than 20 feet in height.

Q. "Functions, beneficial functions, or functions and values" means the beneficial roles served by wetlands including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, groundwater recharge and discharge, erosion control, wave attenuation, historical and archaeological and aesthetic value protection, and recreation. These beneficial roles are not listed in order of priority.

R. "High intensity land use" includes land uses which are associated with moderate or high levels of human disturbance or substantial wetland impacts including, but not limited to, residential densities higher than four units per acre, multifamily residential, active recreation, and commercial and industrial land uses.

S. "High quality wetlands" are those regulated wetlands which meet the following criteria:

1. No, or isolated, human alteration of the wetland topography;
2. No human-caused alteration of the hydrology or else the wetland appears to have recovered from the alteration;
3. Low cover and frequency of exotic plant species;
4. Relatively little human-related disturbance of the native vegetation, or recovery from past disturbance;
5. If the wetland system is degraded, it still contains a viable and high quality example of a native wetland community; and
6. No known major water quality problems.

T. "Hydric soil" means a soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in the "federal manual for identifying and delineating jurisdictional wetlands".

U. "Hydrophytic vegetation" means macrophytic plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. The presence of hydrophytic vegetation shall be determined following the methods described in the "federal manual for identifying and delineating jurisdictional wetlands".

V. "In-kind compensation" means to replace wetlands with substitute wetlands whose characteristics closely approximate those destroyed or degraded by a regulated activity. It does not mean replacement "in-category".

W. "Isolated wetlands" means those regulated wetlands which:

1. Are outside of and not contiguous to any 100-year floodplain of a lake, river, or stream; and

2. Have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water.

X. "Low intensity land use" includes land uses which are associated with low levels of human disturbance or low wetland impacts, including, but not limited to, passive recreation, open space, or most types of agricultural or forest management land uses.

Y. "Major structures and improvements" mean projects which require a threshold determination and environmental documentation under the city's environmental policy act.

Z. "Maps and inventory" means that series of maps maintained by the city department of community development for the purpose of graphically depicting the boundaries of wetland, and the associated report entitled, "wetland inventory, City of Fife" of October, 1991.

AA. "Mitigation" includes avoiding, minimizing or compensating for adverse impacts. Mitigation for individual actions may include a combination of measures. Mitigation, in the following order of preference, is:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;

2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

3. Rectifying the impact by repairing, rehabilitating or restoring the affected environment;

4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;

6. Monitoring the impact and the compensation project and taking appropriate corrective measures.

BB. "Monitor species" means a taxa of potential concern; species that are managed by the Washington Department of Fish and Wildlife as needed, and are classified as such for one or more of the following reasons:

1. They were classified as endangered, threatened, or sensitive within the previous five years.
2. They require habitat that is of limited availability during some portion of their life cycle.
3. They are indicators of environmental quality.
4. There are unresolved taxonomic questions that may affect their candidacy for listing as endangered, threatened, or sensitive species.

CC. "Native vegetation" means plant species which are indigenous to the area in question.

DD. "Off-site compensation" means to replace wetlands away from the site on which a wetland has been impacted by a regulated activity.

EE. "On-site compensation" means to replace wetlands at or adjacent to the site on which a wetland has been impacted by a regulated activity.

FF. "Out-of-kind compensation" means to replace wetlands with substitute wetlands whose characteristics do not closely approximate those destroyed or degraded by a regulated activity. It does not refer to replacement "out-of-category".

GG. "Practicable alternative design" means an alternative project design that is reasonable and capable of being carried out after taking into consideration: cost, existing technology, and logistics in light of overall project purposes, and having less impacts on wetlands. It includes, but is not limited to: reducing density, phasing of project development, change in timing of activities, revision of road and utility and lot layout.

HH. "Regulated activities" means any of the following activities which are directly undertaken or originate 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, discharging, or filling with any material;
3. The draining, flooding, or disturbing of the water level or water table;

4. The driving of pilings;
5. The placing of obstructions;
6. The construction, reconstruction, demolition, or expansion of any structure;
7. The destruction or alteration of wetlands vegetation that would alter the character of a regulated wetland; provided, that these activities are not part of a forest practice governed under Chapter 76.09 RCW and its rules; or
8. Activities that result in a significant change of water temperature, a significant change of physical or chemical characteristics of wetland water sources, including quantity, or the introduction of pollutants.

II. "Regulated wetlands" means ponds 20 acres or less, including their submerged aquatic beds, and those lands defined as wetlands under the Federal Clean Water Act, 33 U.S.C. Section 1251 et seq., and rules promulgated pursuant thereto and shall be those areas that are inundated or saturated by surface or groundwater 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. Regulated wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands created as mitigation and wetlands modified for approved land use activities shall be considered as regulated wetlands. All Category I wetlands shall be considered regulated wetlands. Regulated wetlands do not include Category II and III wetlands less than 2,500 square feet and Category IV wetlands less than 10,000 square feet. Regulated wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. The applicant shall bear the burden of proving that the site was not previously a wetland. For identifying and delineating a regulated wetland, Fife shall consider the "federal manual for identifying and delineating jurisdictional wetlands."

JJ. "Repair or maintenance" means an activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design are not included in this definition.

KK. "Scrub-shrub wetland" means a regulated wetland with at least 30 percent of its surface area covered by woody vegetation less than 20 feet in height as the uppermost strata.

LL. "Serviceable" means presently useable.

MM. "Unavoidable and necessary impacts" are impacts to regulated wetlands that remain after a person proposing to alter regulated wetlands has demonstrated that no practicable alternative exists for the proposed project.

NN. "Water-dependent" means requiring the use of surface water that would be essential to fulfill the purpose of the proposed project.

OO. "Wetland" for the purposes of inventory, incentives, and nonregulatory programs, means those lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For the purposes of this definition, wetlands must have one or more of the following attributes:

1. At least periodically, the land supports predominantly hydrophytes;
2. The substrate is predominantly undrained hydric soil; and
3. The substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year. "Wetland buffers" or "wetland buffer zones" is an area that surrounds and protects a wetland from adverse impacts to the functions and values of a regulated wetland.

PP. "Wetland edge" means the boundary of a wetland as delineated based on the definitions contained in this chapter.

Section 2. Each and every provision of this Ordinance shall be deemed severable. In the event that any portion of this Ordinance is determined by final order of a court of competent jurisdiction to be void or unenforceable, such determination shall not affect the validity of the remaining provisions thereof, provided the intent of this Ordinance can still be furthered without the invalid provision.

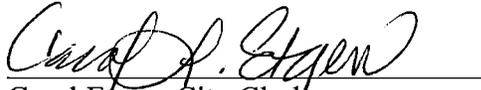
Section 3. This Ordinance shall be in full force and effect five (5) days after publication as required by law. A summary of this Ordinance may be published in lieu of the entire Ordinance, as authorized by State law.

Introduced the 9<sup>th</sup> day of Oct, 2012.

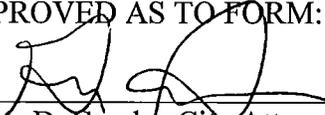
Passed by the City Council on the 23<sup>rd</sup> day of Oct 2012.

  
David K. Zabell, City Manager

ATTEST:

  
Carol Etgen, City Clerk

APPROVED AS TO FORM:

  
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Loren D. Combs, City Attorney  
*as atty*

Published: 10/25/12  
Effective Date: Oct 30<sup>th</sup>, 2012.

**Ad Order Confirmation**

**Ad Order Number** 0001346167  
**PO Number** ORD 1789-1812,1815/6/9  
**Customer Account** 220218AIM  
**Customer** CITY OF FIFE  
ACCOUNTS PAYABLE,5411 23RD ST E,  
FIFE WA 98424-2061 USA

**Phone Number** 253-922-2489  
**Phone Number 2**  
**Customer Fax**

**Payment Method**  
**Total Amount** \$1,317.39  
**Payment Amt** \$0.00  
**Amount Due** \$1,317.39

**Ad Number** 0001346167-01  
**Sales Rep.** legals  
**Blind Box**  
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**Proofs** 0  
**Ad Size** 2.0 X 122 Li  
**Invoice Text:** ORD 1789-1812,1815,1816,1819  
**Affidavits** 1  
**Placement** Legal  
**Position** Legals-001

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Product	Start Date	Stop Date	# Inserts
The News Tribune	10/25/2012	10/25/2012	1

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