

# Memorandum

**REPORT TO:** City Commission

**FROM:** Nick Ross, Director of Transportation and Engineering  
Chris Saunders, Community Development Manager  
Erin George, Community Development Director  
Greg Sullivan, City Attorney

**SUBJECT:** A Text Amendment to Replace Division 38.610 (Wetland Regulations) Section 38.410.100 (Watercourse Setback) and Section 38.220.130 (Submittal Materials for Regulated Activities in Wetlands), and Amend Section 38.700.190 U Definitions, and Section 38.700.220 W Definitions within Chapter 38 of the Bozeman Municipal Code, Application 23309

**MEETING DATE:** September 9, 2025

**AGENDA ITEM TYPE:** Community Development - Legislative

**RECOMMENDATION:** Having reviewed and considered the staff report, draft ordinance, public comment, recommendation from the Community Development Board, and all information presented, I hereby adopt the findings presented in the staff report for application 23309 and move to provisionally adopt the ordinance.

**STRATEGIC PLAN:** 6.6 Habitat: Work with partner organizations to identify at-risk, environmentally sensitive parcels contribute to water quality, wildlife corridors, and wildlife habitat.

**BACKGROUND:** Identification of wetlands and mitigation of impacts to wetlands that occur during land development is subject to both federal and local regulation. Federal Regulation pursuant to the Clean Water Act is enforced by the United States Army Corps of Engineers (USACE) and the Environmental Protection Agency. Local regulation occurs per the City's Unified Development Code (UDC), Division 38.610 titled Wetland Regulations. Other sections also interact with 38.610.

The City Commission directed an update to the local regulations be prepared. An explanation of the reasoning and history of the project is presented in the attached staff report.

The City wetlands code and USACE regulations have a general strategy that is summarized by the following priorities: 1) avoid wetlands impacts, 2) where wetlands impacts cannot be avoided, minimize wetlands impacts, and 3) when wetlands impacts are incurred, mitigate the impacts. The City first adopted local regulations to protect wetlands in 2003 by Ordinance 1604. Local regulations have been in effect continuously since their initial

adoption. The local regulations are supplementary to federal regulations in that historically, the City's regulations have also regulated wetlands covered by the Clean Water Act. But there are key differences between the historical federal regulatory scheme and the City's regulations.

Bozeman's regulations require early identification of watercourses, wetlands, and agricultural water user facilities and the earliest development application stages require submittal of this material.

Bozeman's regulations for wetlands are also coordinated with our requirements for protecting watercourses. If a wetland is located within the required setback for a watercourse, then the setback is expanded to include the wetland area. It should also be noted that the City's regulations exclude artificially created wetlands related to irrigation and stormwater facilities. These facilities require periodic maintenance, which is likely to conflict with wetland protection requirements.

This project replaces Division 38.610.020 (Wetland Regulations) and Section 38.410.100 (Watercourse setback) within Chapter 38 of the Bozeman Municipal Code and amends Section 38.220.130 (Submittal materials for regulated activities in wetlands and watercourses). The standards and procedures restrict certain construction and land alterations, require issuance of permits for construction and land alterations, and set necessary administrative procedures integrated with the City's zoning development review procedures.

These regulations apply to any regulated activity that may impact wetlands and/or watercourses as defined in 38.700, known prior to or discovered through the development review process, and verified through a site-specific wetlands or watercourse boundary determination.

Community Development Board is conducting its public hearing on September 8th. Staff will present the results of the Board with the project overview for the City Commission on Sept 9th.

**UNRESOLVED ISSUES:** None

**ALTERNATIVES:**

1. Adoption of proposed ordinance
2. Denial of the proposed ordinance based on findings of non-compliance with the applicable criteria contained within the staff report;
3. Direct modifications to the text within the ordinance.

**FISCAL EFFECTS:** No unusual fiscal effects have been identified. No presently budgeted funds will be changed by this Amendment.

Attachments:

[Sept 8 2025 CDB Wetlands Watercourse Replacement Staff Report.pdf](#)

[Ordinance 2025-xxx Aug 28, 2025.pdf](#)

Report compiled on: August 28, 2025