

**PLANNING AND ZONING COMMISSION ACTION ITEM  
STAFF SUMMARY  
OCTOBER 5, 2022 PLANNING AND ZONING COMMISSION REGULAR MEETING**

**DATE:** September 30, 2022

**AGENDA ITEM NUMBER:** 5

**ACTION TO BE CONSIDERED:**

Consideration of Resolution No. PZ 10-22, Series of 2022. **(PUBLIC HEARING)**

**A RESOLUTION RECOMMENDING APPROVAL OF AN ORDINANCE  
AMENDING CHAPTER 17 OF THE DILLON MUNICIPAL CODE  
REGARDING MAINTENANCE AND IMPROVEMENT OF EXISTING  
FACILITIES IN WETLAND BUFFER AREAS**

**BACKGROUND / TIME FRAME:**

- 1996 Ordinance 19-96, Series of 1996 Town of Dillon Land Development Code Adoption
- 1997 Summit County Conservation Inventory
- Ord 09-21 Minor Amendments to the Wetland Regulations providing the Wetland Map and Requirements for Wetland Dilatation Reports

**SUMMARY:**

In reviewing the Town’s adopted Wetland Buffer Area permitted uses and activities, found in the Wetland Regulations (Chapter 17, Appendix 17-C, certain aspects of the regulations have been identified. For example, existing site development within some wetland buffer areas approved through the U.S. Army Corps of Engineers and infrastructure installation predating the adoption of the Wetland Regulations are seemingly not addressed in the current regulations. The maintenance and improvement of these sites, without a footprint expansion into the wetland buffer area are reasonable, and prudent such that they do not fall into disrepair. Specifically, there are properties on Little Beaver Trail that received approval for fill placement and development by the Army Corps prior to the adoption of the Town’s Wetland Regulations. Also, the Town possesses recreation pathways, parking lots, and infrastructure in close proximity to potentially wetland areas and needs the ability to maintain and improve this existing infrastructure.

This proposed Code amendment provides for additional language to allow for such maintenance and improvements “provided that such uses are not enlarged and that such maintenance, or repair, surfacing, and resurfacing is done in such a way that avoids or minimizes adverse impacts on wetlands.”

**BUDGET IMPACT:**

None

**STAFF RECOMMENDATION:**

Town staff recommends approval of Resolution PZ 10-22, Series of 2022 with conditions as presented in the resolution.

**MOTION FOR APPROVAL:**

I move we approve Resolution PZ No. 10-22, Series of 2022, A RESOLUTION RECOMMENDING APPROVAL OF AN ORDINANCE AMENDING CHAPTER 17 OF THE DILLON MUNICIPAL CODE REGARDING MAINTENANCE AND IMPROVEMENT OF EXISTING FACILITIES IN WETLAND BUFFER AREAS

**ACTION REQUESTED:**

Motion, Second, Roll Call Vote.

Resolutions require the affirmative vote of a majority of the members present.

**DEPARTMENT HEAD RESPONSIBLE:**

Ned West, AICP, Sr. Town Planner

**RESOLUTION NO. PZ 10-22**

**Series of 2022**

**A RESOLUTION RECOMMENDING APPROVAL OF AN ORDINANCE  
AMENDING CHAPTER 17 OF THE DILLON MUNICIPAL CODE  
REGARDING MAINTENANCE AND IMPROVEMENT OF EXISTING  
FACILITIES IN WETLAND BUFFER AREAS**

**WHEREAS**, pursuant to Section 2-6-70 of the Dillon Municipal Code (“Town Code”), the Planning and Zoning Commission of the Town of Dillon (“Planning Commission”) has initial jurisdiction, except as limited by state statutes and elsewhere in the Town Code, over the subdivision platting of land within the Town, regulations for which are contained in Chapter 17 of the Town Code (“Subdivision Code”); and

**WHEREAS**, there has been prepared a draft ordinance that, if approved by the Town Council, would amend the Town’s Wetlands Regulations set forth in Appendix 17-C of Chapter 17 of the Dillon Municipal Code, and specifically the provisions concerning maintenance and improvement of existing facilities in the wetland buffer area; and

**WHEREAS**, the Planning Commission held a duly-noticed public hearing on the draft ordinance, at which hearing evidence and testimony were entered into the record; and

**WHEREAS**, based on the advice of Town staff and the documents made part of the record of the public hearing, the Planning Commission recommends the Town Council adopt the draft ordinance.

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF DILLON, COLORADO, AS FOLLOWS:**

**Section 1.** Pursuant to Section 2-6-70 of the Dillon Municipal Code, the Planning Commission hereby recommends that the Town Council adopt the amendments to Wetland Regulations contained in Appendix 17-C of Chapter 17 of the Dillon Municipal Code as proposed in the draft Ordinance attached to this resolution as Exhibit A.

**APPROVED AND ADOPTED THIS 5<sup>TH</sup> DAY OF OCTOBER, 2022, BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF DILLON, COLORADO.**

**PLANNING AND ZONING COMMISSION,  
TOWN OF DILLON**

By: \_\_\_\_\_  
Alison Johnston, Chairperson

ATTEST:

---

Michelle Haynes, Secretary to the Commission

**EXHIBIT A**

**DRAFT**

**ORDINANCE NO. \_\_\_\_-22  
Series of 2022**

**AN ORDINANCE AMENDING CHAPTER 17 OF THE DILLON MUNICIPAL CODE REGARDING MAINTENANCE AND IMPROVEMENT OF EXISTING FACILITIES IN WETLAND BUFFER AREAS**

**WHEREAS**, the Town Council desires to amend the provisions of the Town’s Wetlands Regulations, set forth in Appendix 17-C of Chapter 17 of the Dillon Municipal Code, concerning maintenance and improvement of existing facilities in the wetland buffer area; and

**WHEREAS**, the Planning and Zoning Commission studied a draft of this Ordinance in a public hearing at its October 5, 2022 meeting, at which public hearing evidence and testimony were received, and after such public hearing recommended that the Town Council adopt the same by Resolution No. PZ 10-22, Series of 2022; and

**WHEREAS**, the Town Council held a public hearing on this Ordinance on \_\_\_\_\_, 2022, at which evidence and testimony were received, and after such public hearing finds that the Ordinance should be adopted.

**NOW, THEREFORE, BE IT ORDAINED, BY THE TOWN COUNCIL OF THE TOWN OF DILLON, COLORADO, AS FOLLOWS:**

**Section 1.** Section 5 of the Wetland Regulations set forth in Appendix 17-C of Chapter 17 of the Dillon Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

**5. WETLAND BUFFER AREA.**

5.1 WBA created. Within the Town the WBA is hereby created.

5.2 WBA general. In general terms, the WBA is intended to create a buffer area in which native vegetation is maintained and human activities and disturbance of the WBA is kept to a minimum.

5.3 WBA boundaries. As generally depicted on Exhibit A, the WBA boundary shall be:

- A. One hundred fifty (150) feet from the edges of fen wetlands;

B. Seventy-five (75) feet from the edges of wetlands containing principal water bodies, because of their role as habitat; and

C. Fifty (50) feet from the edges of all other wetlands.

5.4 Wetlands Delineation Report. All applicants for development of a lot or lots containing a wetland or abutting a Wetlands District shall obtain a precise delineation of WBA boundaries, specifically identifying fen wetlands, wetlands containing principal ~~principle~~ water bodies, and all other wetlands, through the completion of a full field survey applying the standards of the 1987 U.S. Army Corps of Engineers Wetlands Delineation Manual. The applicant shall submit a report and scaled drawing of the precise delineation to the Town Engineer for review in concurrence with the development application. If determined accurate by the Town Engineer, the precise delineation shall serve to delineate the WBA boundaries with respect to the proposed development in lieu of the depiction on Exhibit A.

5.5 Prohibited activities within the WBA. The following activities are prohibited within the WBA, unless specifically approved by the Town pursuant to Section 11 of these regulations, "Variance Procedures."

A. New building construction, erection or placement or increase in size of an existing building footprint.

B. New road construction.

C. Placement of material such as soil or gravel, except as provided in Section 5.6.

D. Removal or excavation of material such as soil, gravel or vegetation, except as provided in Section 5.6.

E. Vegetative cutting or clearing, except for maintenance of forest health as determined by the Town in consultation with the US Forest Service or Colorado State Forest Service.

F. Storage of hazardous materials/waste.

G. Construction of water improvement facilities such as detention ponds, unless located on non-wetland areas of the WBA. Approval by applicable regulatory agencies must be obtained.

5.6 Permitted uses and activities within the WBA.

A. Maintenance, ~~and~~ repair, surfacing, and resurfacing of existing streets, roads, highways, parking lots, recreation paths, sidewalks, structures, and public utilities, provided that such uses are not enlarged and that such maintenance, ~~or~~ repair, surfacing, and resurfacing is done in such a way that avoids or minimizes adverse impacts on wetlands.

B. Parks, when left in a natural state, wildlife and nature preserves, recreational uses limited to natural surface hiking and educational uses.

C. Public infrastructure, other than buildings and electrical substations, but including public utilities, signs, streets, roads, parking lots, recreation paths, sidewalks, and bridges, provided that:

1. There is no practicable alternative route outside the wetland;
2. The public need cannot be met by existing facilities or the modification thereof;
3. The proposed facility is designed to allow the unimpeded circulation of water in the wetland, control runoff from paved surfaces and otherwise minimize adverse impacts on the wetland;
4. Any filling, excavating or draining that is necessary for the construction of the proposed facility must be done in a way that minimizes adverse impacts on the wetland;
5. Erosion control measures are implemented in accordance with the Town Erosion and Sedimentation Control Standards; and
6. Underground utilities are installed in watertight conduits sufficient to maintain the existing hydrology and to contain pipeline breaks.

D. Stormwater collection, provided that there is no practicable alternative site outside the Wetlands District and that a plan is prepared by the applicant and approved by the Planning and Zoning Commission listing steps for monitoring surface and subsurface water quality and a schedule of periodic maintenance of the facility while in use as a stormwater collection facility; and further provided that net flow does not exceed the wetland's natural water storage capacity and that the stormwater undergoes pretreatment as described in subparagraph (2) to prevent silt, debris and pollutants from entering the wetland.



1. No permit for stormwater collection use of a wetland shall involve decreasing the wetland's natural water storage capacity or placing more than twenty-five percent (25%) of the surface area of a constructed collection basin in the Wetlands District. The natural outflow from a Wetlands District shall not be changed so as to increase or decrease the normal pool elevation.

2. Pre-treatment measures may include sedimentation basins, vegetated swales and buffer strips. Riprap made of natural rock may be used only where vegetation cannot control erosion. Storm drains may not discharge directly into a wetland. Lining of swales with paving materials shall not be permitted.

3. No more than one (1) constructed collection basin may be placed within a single Wetlands District.

4. No permit shall be granted for stormwater collection use of a wetland buffer area subject to divided ownership unless the applicant first obtains and records an easement of use from the owners of all other affected properties.

**Section 2.** If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Town Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

**Section 3.** All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

**Section 4.** The repeal or modification of any provision of the Municipal Code of the Town of Dillon by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any prior penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

**Section 5.** Effective Date. This Ordinance shall take effect five days after publication following final passage.

**INTRODUCED, READ AND ORDERED PUBLISHED BY TITLE ONLY  
THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2022.**

**PASSED, ADOPTED AND APPROVED AND ORDERED PUBLISHED BY  
TITLE ONLY THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2022.**

**TOWN OF DILLON,**  
a Colorado municipal corporation

\_\_\_\_\_  
Carolyn Skowyra, Mayor

**ATTEST:**

\_\_\_\_\_  
Adrienne Stuckey, Town Clerk