

Div. 5.1. General Environmental Standards

The purpose of this Division is to maintain healthy populations of native species and preserve and enhance water and air quality. Wildlife and natural resources are an essential component of the character of the community.

5.1.1. Waterbody and Wetland Buffers (1/1/15)

A. Purpose

This Section establishes the protection standards for waterbodies and wetlands. In order to protect the community as a whole from potential negative impacts caused by physical development and use that may affect these resources or their functions, this Section prohibits physical development and use on and within a certain distance of these resources.

B. Findings

Waterbodies and wetlands provide critical functions in controlling flood waters, providing wildlife habitat, cleansing the water resources, and contributing to the special scenic quality of Teton County.

C. Resource Definitions

1. **Waterbodies.** Waterbodies are natural features (i.e., rivers, streams, lakes) that convey or contain surface water.
 - a. **River.** River means the Snake River, the Gros Ventre River, the Hoback River, or the Buffalo River.
 - b. **Stream.** Stream means a body of running water that is neither one of the identified rivers nor an irrigation ditch, and has one or more of the following characteristics:
 - i. **Flow Level.** Has an average annual flow of 3 cfs. or greater including return water from subirrigation practices.
 - ii. **Habitat.** Provides a winter habitat for trumpeter swans or serves as a cutthroat trout spawning area.
 - c. **Natural Lake/Pond.** A natural lake/pond means a body of standing water, usually at least 6 feet deep, which was created by natural processes.
 - d. **Riparian Plant Community.** Riparian plant communities associated with watercourses shall be delineated using Youngblood, A.P., Padgett, W.G. and Winward, A.K., "Riparian Community Type Classification of Eastern Idaho-Western Wyoming," USDA Forest Service, Intermtn. Reg., R4-Ecol-85-01, Ogden, UT, 1985, and the U.S. Department of Interior Fish and Wildlife Service publication: "National List of Plant Species that Occur in Wetlands: Northwest (Region 9)," Biol. Rept. 88 (26.9), May 1988.

- e. **Wetlands.** Wetlands mean an area where water is at, near, or above the land surface long enough to support aquatic or hydrophytic vegetation and which has soils indicative of wet conditions. Determination of wetlands shall be according to the 1989 Army Corps of Engineers definition of jurisdictional wetlands. This definition excludes irrigation induced wetlands.

D. No Development, Setbacks/Buffers Required

Due to the risk of severe negative impacts on the community at large if waterbodies and wetlands are wholly or partially developed, and the necessity to protect the natural functions of these resources, physical development and use of these resources is prohibited in most cases and a setback/buffer is required. Demonstration of compliance with wetland standards must be provided by a qualified professional.

1. **Development Prohibited.** Physical development and use in waterbodies and wetlands is prohibited except for essential facilities as specified below.
2. **Setback/Buffer Required.** All physical development and use is required to be setback from specified resources as follows:
 - a. **Rivers.** 150 feet.
 - b. **Streams.** Along streams, physical development and use shall be located out of the riparian plant community, but in no case shall the required setback be less than 50 feet or more than 150 feet.
 - c. **Natural Lake/Pond.** Adjacent to natural lakes or ponds, physical development and use shall be located out of the riparian plant community, but in no case shall the required setback be less than 50 feet or more than 150 feet.
 - d. **Wetlands.** 30 feet.
 - e. **Measurement.** Setbacks shall be measured from the mean high water or top of bank, whichever is farthest from the thread of the watercourse or the center of the waterbody.
 - f. **Buffer.** The area protected by the setback is the "buffer" and shall remain free from physical development and use, parking, and open storage of vehicles, refuse, or any other material. Terrain disturbance for bona fide agricultural purposes, flood protection, wildlife habitat enhancement, or public pathways are permitted in the buffer upon receipt of applicable permits.
 - g. **Land Protected by a Conservation Easement.** Land protected by a conservation easement, where proposed development density is one unit per 70 acres or less and the total acreage subject to the easement is 320 acres or more, shall be exempt from certain stream setbacks required by this Subsection. The stream setback for land under a conservation easement may vary based upon the wildlife, agricultural, and scenic

analyses performed as part of the design of the easement. Under no circumstances, however, shall the setback from streams be less than 50 feet.

3. Development of Essential Facilities

- a. **Waterbodies.** Certain water dependent uses, bona fide stream restoration and enhancement, and essential road or utility crossings must be located in or adjacent to waterbodies. These may be permitted provided all physical development meet the following requirements.
 - i. **Flood Control, Irrigation, or Essential Crossings.** Only physical development that is essential to flood control or irrigation, bona fide stream restoration and enhancement, or essential road or utility crossings shall be permitted.
 - ii. **Not for Human Habitation.** Structures shall not be intended or designed for human habitation.
 - iii. **Minimize Negative Impacts on Wildlife.** All physical development and use shall be designed to minimize negative impacts on wildlife.
- b. **Wetlands.** Wetlands may be physically developed or used under the following circumstances. Notwithstanding, receipt of a local permit does not absolve an applicant from obtaining all other State or Federal permits necessary to develop wetlands.
 - i. **High-Intensity Use Degrades Wetland/ Wetland Agriculture-Induced.** Where the intensity of adjoining use(s) cause the retained wetlands to become degraded habitats and the wetland area is suitable for physical development or use due to planning, location, and other factors, or where the wetland is induced by irrigation.
 - ii. **Necessary to Reshape Wetland to Provide Building Site.** Where, due to the shape of the lot of record and its interaction with topography, it is necessary to reshape the wetland boundary to provide a building envelope, filling up to 5% of the wetland on the lot of record, not to exceed 1 acre, is permitted.
 - iii. **Essential Crossings When No Alternate Site.** Essential utility and road crossings shall be permitted to impact wetlands where it is demonstrated that the proposed crossings cannot be practically located without impacting wetlands.
 - iv. **Wetland Impacts Require Mitigation.** When wetlands that are not irrigation induced are impacted in accordance with this Section, the following mitigation standards shall apply.
 - a). **All Practical Measures to Reduce Impact.** It shall be demonstrated that reasonable project modification measures have been taken to reduce wetland loss and degradation.

- b). **On-Site Mitigation Wherever Practicable.** On-site mitigation shall be provided wherever practicable. Where it is demonstrated that on-site mitigation is not practicable, off-site mitigation shall be permitted. All mitigation shall be at a ratio of 2 acres of new wetland for every one acre of wetland impacted. The new wetlands shall restore lost wetland functions and values. A wetland scientist or other professional with experience in wetland creation shall prepare the Habitat Enhancement Plan, pursuant to 5.2.1.E.2.b., and shall be responsible for implementation of the plan as approved.
- c). **Encroachment Into the Buffer.** Encroachment into the buffer is permitted in accordance with this Section and does not require wetland mitigation for impacts to the buffer.
- d). **Wetland Replanting.** The new wetland area shall be planted with a hydric tolerant mix of seeds in suitable areas, wetland plants, and suitable seed bank soils. A wetlands biologist, or other professional with experience in wetland creation, shall certify the planting plan.
- e). **Persistence.** It shall be demonstrated that the created or restored wetland will be at least as persistent as the impacted wetland system it replaces.
- f). **Buffer.** Buffers in accordance with this Section shall be provided around wetlands that are created pursuant to this Subsection.

5.1.2. Wildlife Friendly Fencing (1/1/15)

A. Findings

Fencing is a structural element that can create an impediment for wildlife movement, resulting in both injuries to wildlife and damage to the fencing.

B. Applicability

New fences erected after September 12, 2006 shall comply with the standards of this Section. If over 50% of the linear feet of an existing fence is replaced, the fence shall be considered "new" and shall abide by the standards of this Section. Except that the following shall be exempt from the provision of this Section:

1. Repair, or relocation of prior or existing agricultural fences; and
2. Fences built for new riding arenas, as defined in these LDRs.

C. Fencing Height

Fencing, for purposes other than livestock control, shall be no higher than 38 inches above the ground. Fencing for livestock control shall be no higher than 42 inches above the ground. For both of the above fence types, spacing between the top two wires or top pole/rail and adjacent wire shall be at least 12 inches.