

# Article 5. Physical Development Standards Applicable in All Zones

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## 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 Protection standards

#### A. Purpose

This Section establishes the protection standards for waterbodies and wetlands. In order to protect the environment as a whole from potential negative impacts caused by physical development and use that may affect these resources or their functions, this Section limits 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. Applicability

The requirements of this section shall apply to all lots of record. See Division 1.6 of these Land Development Regulations for relationship between regulations.

#### D. Protected Resources

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 Fork River.
    - i. **Natural Channel.** A natural channel is a perennial, intermittent or ephemeral watercourse, with defined bed, banks and ordinary high-water mark.

**EXAMPLE:** A natural channel of the Snake River was cut off from its natural source by the levee, however groundwater surfaces and flows through the historic channel seasonally during the spring. The applicable setback from the channel would be that of an intermittent stream.

- b. **Stream.** Stream means a body of water flowing through a defined bed or channel that is neither one of the four named rivers nor an irrigation ditch. A stream may be perennial, intermittent, or ephemeral.
    - i. **Stream Types**

- a). **Perennial Stream.** A perennial stream conveys water year-round.

**EXAMPLE:** Fish Creek and Flat Creek are perennial streams.

- b). **Intermittent Stream.** An intermittent stream conveys water seasonally on an annual basis.

**EXAMPLE:** A foothill stream that flows each spring during snow-melt, but is dry each fall is an intermittent stream e.g., Jensen Creek.

- c). **Ephemeral Stream.** An ephemeral stream flows only briefly during and following a period of rainfall, or other event, in the immediate locality and that does not occur annually.

**EXAMPLE:** A low angle stream that flows during periods of rapid snow-melt, which do not occur seasonally, but occur often enough to create a perceptible ordinary high-water mark is an ephemeral stream e.g., Timber Gulch Creek in Wilson Canyon. A manmade channel to convey stormwater, such as a bioswale, gutter, or borrow ditch is not an ephemeral stream. Ephemeral stream setbacks are intended to reduce flood risk.

- c). **Natural Lake/Pond.** A natural lake/pond means a body of standing water, which was created by natural processes.
- d). **Irrigation Ditch.** Any man made channel utilized to convey irrigation water, diverted from any manmade or natural water source water, for the specific purpose of, and/or as a direct result of, beneficial use and as adjudicated by the State Engineers Office. Surface waters in an irrigation ditch can be controlled through a headgate or other manmade structure.

- 2. **Wetlands.** Wetlands are areas that are inundated or saturated by surface or ground water 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. Identification of wetlands shall be according to the 1987 Corps of Engineers Wetlands Delineation Manual, and the 2010 Western Mountains, Valleys, and Coast Regional Supplement. These regulations shall protect all natural wetlands regardless of size or classification by federal or other regulatory bodies. This definition excludes irrigation induced wetlands.

#### E. 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

## 5.1.1. Waterbody and Wetland Protection standards

qualified professional certified in wetland delineations through a recognized, professional certification program such as the Society of Wetland Scientist Professional Certification Program.

1. **Development and Use 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. The river setback shall apply from the ordinary high-water mark of the Snake River, Gros Ventre River, Hoback River, and Buffalo Fork River. Where a levee is in place the river setback shall be measured from the top of the levee on the river side.
    - i. **Natural Channel.** The river setback shall apply to a natural channel of one of the rivers listed in a above.
    - ii. **Remnant Channel.** The river setback shall not apply to a channel that no longer has a natural source from the river. The setback applicable to such a channel shall be one of the stream setback types.
  - b. **Streams.** Along streams, physical development and use shall be located out of the following setback/ buffer area:
    - i. **Perennial Stream.** 100 feet.
    - ii. **Intermittent Stream.** 100 feet.
    - iii. **Ephemeral Stream.** 30 feet.
  - c. **Natural Lake/Pond.** 100 feet. Adjacent to natural lakes or ponds, physical development and use shall be located out of the setback/ buffer area. ~~7~~
  - d. **Wetlands.** 50 feet. Adjacent to wetlands, physical development and use shall be located out of the setback/buffer area.
  - e. **Irrigation Ditch.** 15 feet (see Sec. 7.7.4. Irrigation Ditch Systems and Design). Adjacent to irrigation ditches, physical development and use shall be located out of the setback/buffer area.
  - f. **Measurement.** Setbacks shall be measured from the ordinary high water mark or top of bank, whichever is farthest from the thread of the watercourse or the center of the waterbody.
  - g. **Buffer.** The area protected by the setback is the “buffer” and shall remain free from physical development and use. Mowing of vegetation, parking, open storage of vehicles, storage of refuse, or storage of any other material shall be prohibited in the buffer. Terrain disturbance for bona fide agricultural purposes as defined in Section 6.1.3.B., flood protection, wildlife habitat enhancement, or public pathways are permitted in the buffer upon receipt of applicable permits.

### 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 within the setback/buffer area provided all physical development meet the following requirements and shall be minimized to the greatest extent possible.
  - 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.
    - a). **Essential Crossings.** Infrastructure that is deemed essential may be located in, across, or adjacent to a water body if there is not practicable alternative. It is not required that the subject road or utility cross within and then out of the waterbody setback for it to be deemed an essential crossing. Crossing means traversing within the natural resource setback/buffer boundary line.
  - 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 Degraded 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 and/or access.** Where, due to the shape of the parcel or 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 parcel or lot of record, not to exceed 0.5 acre, may be 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.

**5.1.2. Wildlife Friendly Fencing** (12/8/21)

**5.1.3. Wild Animal Feeding** (1/23/23)

**5.1.4. Air Quality** (7/19/16)

**5.1.5. Water Quality** (1/1/15)

**5.1.6. Manmade Features** (1/23/23)

