Article 5. Physical Development Standards Applicable in All Zones

Div. 5.2. Environmental Standards (AMD)

A. Purpose

The purpose of this Division is to "maintain healthy populations of all native species and preserve the ability of future generations to enjoy the quality natural, scenic, and agricultural resources that largely define our community character" (Chapter 1 of the Joint Jackson and Teton County Comprehensive Plan). This guiding principle shall be achieved through the preservation and enhancement of aquatic, wetland, and terrestrial habitat quality and quantity and by maintaining and restoring healthy populations of all native species. For future generations to enjoy the ecosystem that exists today, the community must manage our impacts to wildlife, the natural resources on which wildlife depend, their aquatic and terrestrial habitats, and wildlife's ability to move through and use these habitats. The prevalence of wildlife and other natural resources central to our ecological, social, and economic character requires a functional and healthy ecosystem. This Division protects all natural resources including native species and habitats.

B. Intent

The intent of this Division is to first avoid, then minimize and mitigate impacts from development to habitats identified through the Natural Resources Assessments process (Sec. 8.2.2). Allowed impacts are intended to cause the least impact to the natural resources present on the site and in the vicinity. Least impact is defined as avoidance and then minimization of impact to natural resources to the greatest extent practicable.

Habitat Protections. Terrestrial and aquatic habitats (inclusive of riparian) provide wildlife with forage, shelter and permeability through human development and use areas throughout the year. With the intention to preserve and protect terrestrial and aquatic habitats for wildlife, this Division protects and minimizes impacts to natural resources and protects habitats from fragmentation, thereby maintaining connectivity, natural resources, and habitats across the landscape.

The Jackson/ Teton County Comprehensive Plan (2020) "Policy 1.1.b Protect wildlife from the impacts of development directs that a tiered system of protection should be established so that the most critical habitat and movement corridors receive the highest level of protection and site-specific study". The Tiered Natural Resources Overlay fulfills this directive.

C. Tiered Natural Resources Overlay (NRO)

1. Establishment of the Tiered Natural Resources Overlay Map

There is hereby established the Tiered Natural Resources Overlay Map, which shall overlay all zones established by these LDRs. All lands within Teton County are within the Tiered Natural Resources Overlay. If any land is omitted from the map, it shall be considered as being within the Mid Tier for the purposes of these Land Development Regulations. Lands owned by government entities shall be subject to the NRO processes in these Land Development Regulations in accordance with Sec 1.5.3. Application to Government Entities.It is important to emphasize that these are tiers and that all habitat within Teton County, WY has

habitat value to some species of wildlife. These tiers were developed based on suitable habitats of focal species (EcoConnect, 2018). The following are the tiers included in the NRO map.

a. Base Tier – Areas mapped within the Base Tier are those with fewer habitat types and/ or habitats that support fewer focal species. These areas tend to have more development present and if undeveloped contain fewer habitat types.

b. Mid Tier – Areas mapped within the Mid Tier are those with a moderate number of habitat types and/ or habitats that some of the focal species depend on. These areas tend to have less development present or if undeveloped only have a few habitat types.

c. High Tier – Areas mapped within the High Tier are those with multiple habitat types and/ or habitats that support multiple focal species. These areas tend to have less development present, are usually near water or contain water, or if undeveloped have multiple habitat types.

2. Protected Natural Resources

Protected Natural Resources are assessed through the Natural Resources Assessments process (Sec. 8.2.2) and are protected in the Base, Mid, and High Tier. The abundance of natural resources in the Base Tier areas of the Tiered NRO are expected to be less than on Mid- and High Tiered areas thereby allowing for a systematic gradation of natural resource assessments between and within subject properties.

5.2.1. Natural Resources Overlay (NRO), Tiered Habitat Protection Standards

A. Applicability

The requirements of this section shall apply to all lots of record, unless exempted below. When conflicts exist between the NRO and SRO, the standards of this Section shall have priority and be achieved to the maximum extent practicable.

1. Zone Specific. A zone-specific standard exempts it from this Division.

2. Agricultural Operations. Agricultural operations and uses meeting the standards for exemption outlined in Section 6.1.3.B. shall be exempt from the standards of this Section.

3. Land in Conservation Easement. Land protected by a conservation easement where proposed development density is equal to or less than one house per 70 acres and the total acreage subject to the easement is 320 acres or more, shall be exempt from the standards of this Section, except that B.3. and B.4. shall apply.

B. Protected Natural Resources. Applies in all Tiers.

1. Waterbodies and Wetlands (Sec. 5.1.1.)

2. Species with Special Federal and State Protections. Protection and process requirements from Endangered Species Act, Bald and Golden Eagle Protection Act (1940), most recent Wyoming Governor's Sage Grouse Executive Order, and other pertinent federal or state species protections on private lands shall be complied with.

3. Trumpeter Swan Nesting and Winter Habitat. Trumpeter swan nesting habitat is the area around, inclusive of waterbody and wetland vegetation, a nest created by a trumpeter swan and are generally found on islands or in extensive stands of emergent vegetation. For the purposes of these LDRs, a known trumpeter swan nest shall be an active trumpeter swan nest. Trumpeter Swan Winter Habitat generally consists of water areas of palustrine-aquatic bed and unconsolidated shore and bottoms, with soft, sub-surface substrates of greater than 2 inches in depth, winter water depths of less than 4.3 feet, watercourse channels of 50 feet in width or more, and banks with little or no shrubbery or tree cover and gradual slopes.

4. Bald Eagle Nesting and Winter Habitat. Bald eagle nesting areas generally occur in mixed aged, multi-storied stands of trees with old-growth attributes, where there are trees suitable for perching. These stands of trees are often located near foraging opportunities such as waterbodies and watercourses. A bald eagle nest is a nest created or used by a bald eagle and is generally located in one of the largest trees in the stand. For the purpose of these LDRs, bald eagle nests are inclusive of occupied, active, and inactive nests. An occupied nest is one in which evidence (such as fresh nest material, droppings, feathers, or prey remains in or below the nest, or the birds themselves) indicates that a pair of eagles is present. An active nest is an occupied nest in which eggs have been laid or young eagles are present, indicating that the mated pair are actively attempting to produce young. An inactive nest is one which occurs within the nesting territory but shows no evidence of occupation and shall be documented as inactive for 5 consecutive seasons to no longer be considered an established nest. Bald eagle crucial winter habitat consists of the bald eagle nesting area, defined as the nest tree and its associated buffer and bald eagle perch and roost sites along the Snake River corridor. Additionally, during times of freezing water surfaces and heavy snow, crucial ungulate winter ranges also serve as bald eagle crucial winter habitat as bald eagles forage on ungulate and livestock carrion.

5. Intact Terrestrial Habitat Patches. Intact terrestrial habitat patches are connected areas of similar overstory vegetation species (e.g. ordinal rank) inclusive of riparian, forest, shrub, grassland and previously disturbed areas. Intact habitat/ vegetation patches are central to preserving and protecting the area's wildlife species. The intent of habitat patch regulations is to limit/ minimize fragmentation of habitat patches from development, maximize existing and remaining patch size, minimize patch edge (created by development) and resulting edge effects, and promote clustering of development both on-site as well as within the vicinity. Intact patches are central to preserving and protecting the area's wildlife species.

a. Ordinal Rank. Intact, naturally occurring (not inclusive of landscaping) habitat patches will be assigned an ordinal rank based on overstory composition. If a patch must be impacted by proposed development, impacts to higher ordinal rank patch types should be first avoided and then minimized based on the areas available for development on the property. Impacts shall be mitigated per Sec. 5.2.2. Habitat Mitigation, Restoration and Enhancement standards. Habitat patches shall be protected in the order specified below.

i. An ordinal ranking number is given for each group of resources, 10 being the highest, or most important to preserve, and 1 being the lowest or best option for locating any site disturbance that must impact habitat patches. Existing development is given an ordinal rank of zero. Replacing existing development with new development, located within the impact area of existing development does not constitute an impact and is considered avoidance. For the purposes of these regulations, in areas of mixed species, overstory is defined as greater than or equal to 25% canopy coverage

1). Ordinal Rank by Patch Overstory Species

10	Wetlands (scrub-shrub and forested)
9	Wetland (emergent)
8	Deciduous Forest (cottonwood, aspen, etc.)
7	Tall Shrub (non-wetland willow, serviceberry, chokecherry, etc.)
6	Coniferous Forest (spruce, pine, mixed conifer, etc.)
5	Low Shrubs (sagebrush, etc.)
4	Forbs (lupine, cow parsnip, daisy, bluebells, etc.)
3	Grasslands (native grass species)
2	Agricultural Meadow (dominated by agricultural operations or cultivated grasses, current or historic remnants, etc.)
1	Previously disturbed areas
0	Existing development

ii. Patches with Mixed Overstory Species. Patches of habitat containing a mix of overstory species shall be classified as either:

a). The higher ordinal ranking overstory type; or

> **EXAMPLE:** An aspen stand with blue spruce encroachment would be ranked as deciduous (ordinal rank = 8)

b). The ordinal rank of the overstory type with greater than 50% composition of the stand.

6. Wyoming Game and Fish Department (WGFD) Crucial Range and Focal Species Suitable Habitat

Not all lands within WGFD designated crucial wildlife range are crucial habitat for the subject species. "Suitable habitat" (Div. 9.5) found within designated "crucial range" (Div. 9.5) is of importance to species survival and representative of the crucial habitats found within designated crucial range. The majority of the time, the species of concern will be ungulates such as mule deer, moose and elk. However, there may be instances when other species are represented by crucial ranges. A refinement process overlapping these two GIS layers will determine natural resource areas that development should avoid on a property.

7. Wildlife Movement Corridors.

Landscape permeability that allows for wildlife movement corridors, inclusive of local, short-distance and long-distance migrations, are essential to maintaining viable wildlife populations. Wyoming Migration Corridor Executive Order 2020-1 (MCEO) constitutes Wyoming's state-wide strategy for maintaining migration corridor functionality. As of September 20, 2024, one designated migration corridor (Sublette mule deer) and two identified migration corridors (Upper Wind River mule deer and Sublette pronghorn) overlap in Teton County. The MCEO states that these migration corridors are essential to the maintenance of viable mule deer and antelope populations.

For the purposes of these regulations, current and future migration corridors both designated and identified by WGFD are protected natural resources. Additionally, local, short-distance and long-distance migration corridors documented and/or published by state or federal wildlilfe professionals are protected natural resources. Designing development to protect and promote landscape permeability for wildlife is essential to maintaining viable wildlife populations both locally and state-wide.

Development within these wildlife movement corridors and development located within 1/2 mile of an existing or planned wildlife crossing location shall prioritize wildlife permeability through the property and vicinity in the development design. The applicant shall not install development impermeable to wildlife unless no alternative is available and the development is for essential facilities.

C. Setbacks/ Buffer Requirements

1. Trumpeter Swan Habitat Setback Required. There shall be no development or use within 300 feet of Trumpeter Swan winter habitat or nest.

2. Bald Eagle Nesting Habitat Setback Required. Physical development, use, development option, or subdivision shall be prohibited within a radius of 660 feet of a Bald Eagle nest. This setback/buffer may be administratively varied by the Planning Director only under the following circumstances:

   a. Temporary Activities. Temporary activities (including, but not limited to, the use of loud machinery, temporary gravel extraction, grading, wildland/ urban interface mitigation, habitat enhancement, and on-going agricultural activities) outside of the nesting period, defined as February 1st through August 15th may be permitted within the setback/buffer. If the temporary activity requires removal of vegetation, roost trees, or nest trees, screening

shall be preserved. Screening is defined as vegetation that shields line of sight to the nest. A qualified wildlife biologist shall identify the vegetation to be preserved prior to initiating temporary activity.

b. Nest Not Visible. Where the nest would not be visible from the proposed physical development, use, development option, or subdivision, it may be permitted within the setback/buffer under the following circumstances:

i. If it can be demonstrated by a qualified professional that locating the physical development, use, development option, or subdivision outside of the 660 foot setback/buffer is not practical, then the setback may be reduced to no less than 330 feet.

ii. If the proposed physical development, use, development option, or subdivision is an alteration, expansion or addition to an existing use or structure, the proposed development may be within the 660 foot setback/buffer but no closer than the existing physical development, use, development option, or subdivision to be altered, expanded or added to.

iii. When the 660 foot setback/buffer is reduced, the following standards shall apply:

a). Residential and nonresidential lots of record within the 660 foot setback/buffer shall not be increased.

b). The proposed physical development, use, development option, or subdivision activity shall be conducted outside the bald eagle nesting period, defined as February 1st through August 15th.

c. Nest Visible. Where the nest would be visible from the proposed physical development, use, development option, or subdivision, development within the setback/buffer may be permitted only if the following standards are met

i. If it can be demonstrated that locating the physical development, use, development option, or subdivision outside of the 660 foot setback/ buffer is not practible then it shall not be closer to the nest than existing similar physical developments, uses, development options, or subdivisions within 660 feet of the nest. Under no circumstances shall the physical development, use, development option, or subdivision be closer than 330 feet; or if the proposed physical development, use, development option, or subdivision is an alteration expansion or addition, it may be within the 660 foot setback/buffer of the nest but no closer than the existing physical development, use, development option, or subdivision to be altered, expanded or added to; and

ii. Residential and nonresidential lots of record within the 660 foot setback/ buffer shall not be increased; and

iii. The proposed physical development, use, development option, or subdivision within 660 foot setback/buffer shall be screened with trees to shield the line of site to the nest; and

iv. All physical development, use, development option, or subdivision activity shall be conducted outside the bald eagle nesting period, defined as February 1st through August 15th.

d. Exemptions. The Bald Eagle standards do not apply where a bald eagle nest is established subsequent to initiating land disturbing activities pursuant to an approved permit for the specific physical development proposed within the 660 foot setback.

D. Base Tier Natural Resource Protection

1. Applicability. This Section shall apply when:

   a. The entirety of the subject property is within the Base Tier of the Tiered Natural Resources Overlay; or

   b. The proposed limits of any disturbance related to development (including any road or utility improvements) are entirely located within the Base Tier of the Tiered Natural Resources Overlay and a site-level preliminary analysis indicates this is the least impactful location; or

   c. The limits of land disturbance or use (including temporary use) are within an area of existing development and do not expand the area of existing development..

2. Location. The standards of Sec. 5.1.1 Waterbody and Wetland Protection Standards and Sec 5.2.1.C Setback/Buffer Requirements apply at all levels of Natural Resource Protections. Beyond the requirements of Sec. 5.1.1. and 5.2.1.C, there are no additional location requirements for development based on natural resources present on the property. While not a requirement, it is recommended to avoid and minimize fragmentation of large patches of naturally occurring vegetation..

3. Process. A Desktop Checklist shall be prepared and submitted per the requirements in Sec. 8.2.2.

4. Crucial Range and Suitable Habitat. Where applicable, the Desktop Checklist shall include overlaying the Wyoming Game and Fish Department Crucial Range for big game species, wildlife movement corridors and existing and planned wildlife crossings map layers in addition to the focal species suitable habitat layers for Mule Deer, Elk, and Moose (as defined in 9.5) to further inform the location of any land disturbance.

E. Mid Tier Natural Resources Protection

1. Applicability. This section shall apply when:

   a. The subject property is completely located within the Mid Tier of the Tiered Natural Resources Overlay; or,

   b. The subject property is located partially within the Base Tier and partially within the Mid Tier and the proposed limits of disturbance related to the use or development are unknown; or,

c. The proposed limits of any disturbance related to development (including any road or utility improvements) are entirely located within the Mid Tier of the Tiered Natural Resources Overlay and a site-level preliminary analysis presented at the Pre-Application Conference indicates this is the least impactful location; or,

d. The areas of land disturbance or use are within the development area designated by a recorded conservation easement.

2. Location. The limits of land use or disturbance shall be located in the lowest ordinal ranked habitat patch(es) in a manner that creates the least amount of habitat fragmentation as listed in the ordinal ranking shown in Sec. 5.2.1.B.5.a

   a. The limits of land disturbance may be located in a patch without the lowest value if:

      i. If it is clustering near existing development; or

      ii. Sec. 5.1.3 Water Quality Protections prohibits the location; or

      iii. Federal or State protections of a species prohibits the location; or

      iv. A natural hazard identified in Div. 5.4 (Slopes, Unstable Soils, Faults, Floodplains, Wildland Urban Interface) prohibits the location; or

      v. Fully within a previously, County-approved building envelope, or other restriction outside of these LDRs that was put in place prior to May 1, 2025 or

      vi. A Natural Resources Environmental Analysis is completed pursuant to the standards of Sec. 8.2.2.E.3, in which case the Sec. 5.2.1.F, High Tier Protections, inclusive of an Alternatives Analysis, shall apply.

3. Fragmentation.

   Fragmentation is the breaking up of continuous habitats by development. Avoiding and minimizing fragmentation of a habitat patch is central to the goal of maximizing existing and remaining patch size, minimizing patch edge, and resulting edge effects caused by development, while also clustering development both on-site as well as within the context of the neighboring vicinity. The avoidance and minimization of fragmentation caused by development shall be quantified for patch overstories with an ordinal rank of 4 and above by comparing existing conditions and proposed conditions based on the four criteria below. For the purpose of this section of the LDRs similar species means those of similar ordinal rank.

   a. Number of Existing Patches. Number of existing habitat patches categorized as defined in Sec. 5.2.1.B.5.

   b. Habitat Patch Size. Size of each habitat patch (e.g., acres) inclusive of patch areas that extend beyond the property boundary (see Sec. 5.2.1.D-F [Base-, Mid- and High Tier NR Protection] for further guidance);

c. Edge Length. The length of edge adjacent to development on the property (the linear distance of the boundary between habitat patches and human development inclusive of driveways); and

d. Perimeter Area Ratio. Perimeter to area ratio is the total edge to patch area ratio (e.g., feet: square feet) of the patches to be affected by proposed development.

4. Process. An Environmental Review shall be prepared per the requirements in Sec. 8.2.2.

5. Crucial Range and Suitable Habitat. The Natural Resources Environmental Review shall include overlaying the Wyoming Game and Fish Department Crucial Range for big game species, the wildlife movement corridors, and existing and planned wildlife crossings map layers in addition to the focal species suitable habitat layers for Mule Deer, Elk, and Moose (as defined in 9.5) to further inform the location of any land disturbance.

6. Required Mitigation. Impacts to natural resources shall be mitigated pursuant to Section 5.2.2.B.

F. High Tier Natural Resources Protection

1. Applicability. This Section shall apply when:

a. The subject property is completely located within the High Tier of the Tiered Natural Resources Overlay; or,

b. The subject property is partially located within the High Tier and partially located within a lower tier of the Tiered Natural Resources Overlay and the proposed limits of disturbance are unknown; or,

c. The proposed limits of any disturbance related to the use or development (including any road or utility improvements) are entirely or partially located within the High Tier of the Tiered Natural Resources Overlay.

2. Location. A land disturbance or use shall be located in the lowest ordinal ranked habitat patch(es) in a manner that creates the least amount of habitat fragmentation.

a. Minimization of Impact. The impact of development and use shall be minimized by locating the development or use where it has the least impact to natural resources.

b. Crucial Range and Suitable Habitat. The environmental analysis shall include overlaying the Wyoming Game and Fish Department Crucial Range for big game species, wildlife movement corridors, and existing and planned wildlife crossings map layers in addition to the focal species suitable habitat layers for Mule Deer, Elk, and Moose (as defined in Div. 9.5) to further inform the location of any land disturbance.

c. Cluster Development. Development and uses shall be clustered to avoid fragmentation and dispersed development across the property. Clustering adjacent to existing or approved development on neighboring properties as appropriate is encouraged. For the purposes of these LDRs, the term clustering is defined as the consolidation of development in order to minimize fragmentation of habitats.

d. Single Development Area. A parcel or lot of record developed subject to this Section shall only have one development area or shall demonstrate that alternative proposed development areas minimize impacts to high ordinal ranking habitats.

3. Fragmentation.

Fragmentation is the breaking up of continuous habitats by development. Avoiding and minimizing fragmentation of a habitat patch is central to the goal of maximizing existing and remaining patch size and minimizing patch edge and resulting edge effects caused by development, while also clustering development both on-site as well as within the context of the neighboring vicinity. The avoidance and minimization of fragmentation caused by development shall be quantified for patch overstories with an ordinal rank of 4 and above by comparing existing conditions and proposed conditions based on the four criteria below. For the purpose of this section of the LDRs similar species means those of similar ordinal rank.

a. Number of Existing Patches. Number of existing habitat patches categorized as defined in Sec. 5.2.1.B.5.

b. Habitat Patch Size. Size of each habitat patch (e.g., acres) inclusive of patch areas that extend beyond the property boundary (see Sec. 5.2.1.D-F [Base-, Mid- and High Tier NR Protection] for further guidance);

c. Edge Length. The length of edge adjacent to development on the property (the linear distance of the boundary between habitat patches and human development inclusive of driveways); and

d. Perimeter Area Ratio. Perimeter to area ratio is the total edge to patch area ratio (e.g., feet: square feet) of the patches to be affected by proposed development.

4. Required Mitigation. Impacts to natural resources shall be mitigated pursuant to Section 5.2.2.B.

5. Process. An Environmental Analysis shall be prepared per the requirements in Sec. 8.2.2.

5.2.2. Habitat Mitigation, Restoration and Enhancement

A. Purpose

The purpose and intent of the habitat mitigation, restoration, and enhancement protection standards are to distinguish between projects initiated as a requirement of development impacts, projects initiated to improve an area of previously degraded habitat, and projects intended to enhance existing natural resources.

Habitat mitigation is the replacement and augmentation of natural resources lost to development. Habitat restoration is the process of returning a disturbed site to the previous natural state. Habitat enhancement is a stand-alone project intended to improve the existing natural resources and habitat. For all three project types, the proposed resulting natural resources shall be the same as previously found at that site or that of a higher ordinal rank cover type.

B. Habitat Mitigation Standards

1. Definition

    a. Mitigation is required when protected natural resources are negatively impacted and/ or removed because of development or use. Mitigation shall restore and/ or enhance pre-existing native habitats through vegetative cover type planting(s) of native species.

        i. Landscaping with non-native species is not habitat mitigation.

2. Applicability. This Section shall apply to any habitat mitigation required by this Division.

    a. Amount. The amount of required mitigation is established based on the following:

        i. Mitigation for New Impact. Vegetative cover type planting(s) required for mitigation shall be calculated based on new impacts to natural resources; existing approved disturbance shall not be included in the mitigation calculation. Vegetative cover types of an ordinal ranking of 4 and above shall be mitigated.

        ii. Mitigation Calculation. For every 1 unit (e.g. square foot or acre) of habitat within the limits of a land disturbance or use, 2 corresponding units of vegetative cover type planting(s) shall be provided.

    b. Location. Habitat Mitigation shall not be proposed within 50 feet of a structural component of either existing or proposed development and shall not be allowed within a lawn or ornamental landscaped area..

    c. Terrestrial Natural Resources Exemption: Terrestrial natural resources are defined as non- wetland cover types. The following shall be exempt from mitigation requirement:

        i. When a development area impacts less than 200 sq ft of terrestrial natural resources.

ii. Within the Base Tier Natural Resource Protections, no mitigation is required for terrestrial natural resources.

3. Double Mitigation for Violation. Double mitigation is required for unpermitted impacts (Div. 8.9) . When violations occur, both mitigation as well as reclamation of the original site may be required. A mitigation plan shall be prepared in accordance with Sec. 5.2.2.B.7.

4. Maintain or Increase Ordinal Ranking. Required mitigation shall maintain or improve the ordinal ranking of the natural resources impacted by development pursuant to the standards below.

   a. Ordinal ranking of natural resources is determined by Sec. 5.2.1.B.5.a.

   b. Mitigation shall increase the size of an existing habitat patch(es) or replace those impacted at the rate noted in 5.2.2.B.2. or 5.2.2.B.3.

   c. If possible, mitigation shall be designed to reduce the edge to area ratio of the habitat patch being enlarged.

      > **EXAMPLE:** Mitigation with aspen trees is proposed and there is an option to increase the size of an existing aspen stand versus plant aspen elsewhere on the property. The mitigation that increases the size of the existing stand should be prioritized.

   d. Mitigation shall be designed to be naturally viable. Naturally viable is defined as the ability to persist in a healthy state without maintenance such as watering or fencing. Naturally viable may be determined based on the avoidance of pressures from other species such as growth above the browse height or a percent cover. Mitigation may require temporary irrigation and/or fencing in order to establish the plantings.

5. 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 units (e.g. square feet or acre) of new wetland for every one unit 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 Mitigation Plan, pursuant to 5.2.2.B.7.

   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 hydrophytic mix of native seeds in suitable areas, wetland plants, and suitable seed bank soils. A wetlands scientist, 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 achieve long term success without human intervention such as watering or fencing.

f. Buffer. Buffers in accordance with this Section shall be provided around wetlands that are created pursuant to Sec. 5.1.1.E.

6. Preferred Method. Mitigation required by this Division shall be provided by one or a combination of the methods identified below. The methods are listed in order of priority, and the highest priority method shall be used unless it is impractical, or the mitigation requirement specifies a different method. Alternate methods such as augmenting existing habitat shall be considered on a case-by-case basis.

a. On-Site, In-Kind. Replacement of the naturally occurring habitats or vegetative cover types impacted by the proposed development on site, in an area of existing lesser quality or degraded habitat or vegetative cover type, shall be the preferred method.

b. On-Site, Out-of-Kind. If the developer can demonstrate that it is not practical to create the habitats or vegetative cover types impacted, then creation of habitats or vegetative cover types other than what is impacted shall be allowed on site if the applicant can demonstrate that greater environmental benefits would be provided. Creation of a higher-ranking cover type, as listed in 5.2.1.B.5.a may be one of several acceptable methods of demonstrating greater environmental benefit.

c. Off-Site, In-Kind, Private Land. Off site mitigation/habitat enhancement shall only be allowed if on-site conditions do not favor successful establishment of the required habitats or vegetative cover types (improper soil conditions, hydrology, etc), or if the habitats or vegetative cover types created would be isolated or impaired by the effects of neighboring development. All off-site mitigation/habitat enhancement efforts shall be located as close to the impacted site as practicable while still replacing lost habitat functions. In addition, off-site mitigation/ habitat enhancement efforts proposed under this option shall be located on private land encumbered by a conservation easement to ensure that the created habitats or vegetative cover types are not converted into developed areas in the future. If the proposed mitigation/ habitat enhancement site is not currently encumbered by a conservation easement, a new conservation easement, that meets the standards of Sec. 7.3.5. Record of Conservation Area Restriction, and which is acceptable to an organization qualified to hold and enforce conservation easements, would meet this requirement. If offsite mitigation/habitat enhancement

is proposed, the applicant shall be responsible for obtaining written agreement from the owner of the proposed off-site property to allow the proposed mitigation/habitat enhancement efforts to occur.

d. Off-Site, Out-of-Kind, Private Land. The same criteria outlined in 5.2.2.B.6.c for offsite, in-kind, private land shall apply, with the addition that the creation of habitats or vegetative cover types other than what is impacted shall be allowed off-site if the applicant can demonstrate that greater environmental benefits would be provided. Creation of a higher-ranking cover type, as listed in 5.2.1.B.5.a may be one of several acceptable methods of demonstrating greater environmental benefit.

7. Habitat Mitigation Plan

a. An application that requires mitigation pursuant to this Division shall include a Habitat Mitigation Plan.

b. The Habitat Mitigation Plan shall be prepared by a qualified environmental professional as defined by Subsection 8.2.2.G.

c. The Habitat Mitigation Plan shall:

i. Quantify the amount of habitat impacted by ordinal ranking; and

ii. Calculate the required vegetative cover types planting(s) required for mitigation; and

iii. Detail the method, species, plant origin, location, and design of the proposed vegetative cover types planting(s); and

iv. If applicable, detail why a higher priority mitigation method is impractical; and

v. Include the monitoring plan and metrics for determining successful natural viability of native plants; and

vi. Estimate the cost of installing and maintaining the vegetative cover types planting(s) until such time as it is naturally viable. A performance bond for the installation and maintenance of the mitigation may be required pursuant to Sec. 8.2.11; and

vii. If vegetative cover types planting(s) are proposed to be located in existing habitats deemed degraded, the plan shall document how the existing habitat patch meets the definition of degraded. For these purposes, the definition of degraded means that the area is unable to support the species which would naturally be present.

d. Habitat Mitigation Monitoring Reports. Landowners or their agents are required to provide habitat mitigation, and shall develop quantifiable goals and objectives by which to measure mitigation success over the course of three years. Landowners shall monitor the success of the mitigation for three years post completion of the mitigation work and submit a monitoring report to the County after the third year for certification. Documentation of

annual monitoring visits and progress shall be maintained by the landowner and available upon request by Planning Director. In the case of a mitigation project that is not naturally viable (e.g., has not met its success criteria) within the three-year timeframe, monitoring and adaptive management shall continue at the discretion of the Planning Director. The Planning Director may require the submittal of annual monitoring reports if deemed appropriate. Performance bonds will not be released until habitat mitigation is established.

C. Habitat Restoration Standards

1. Definition.

   a. Habitat Restoration. Habitat restoration is the process of returning a site to the previous natural state or that of a higher ordinal rank cover type. Habitat restoration may be required by the Planning Director when neither habitat mitigation nor habitat enhancement are appropriate.

2. Restoration Standards. To be considered habitat restoration, a project shall meet the following standards.

   a. Existing Site Degraded. The existing site is degraded, meaning it is not currently supporting the species that would naturally be present.

   b. Return to Natural State. The project shall be designed to establish a defined, historical state in a manner that emulates the function, diversity and dynamics of the specific natural resource. Projects shall be designed to move a degraded natural resource toward higher functional complexity that characterizes an intact system.

   c. Stream Restoration . Stream restoration projects must follow the minimum WYDEQ Clean Water Act Section 401 Certification, Best Management Practices, and monitoring standards. A stream restoration project must demonstrate functional lift pursuant to the WY Stream Quantification Tool.

   d. Habitat Restoration Reports. Applicants proposing to provide habitat restoration(s) shall develop quantifiable goals and objectives by which to measure restoration success. Landowners shall monitor the success of the habitat restoration(s) post project completion and submit a monitoring report to the County after completion. The length of time for which monitoring is required will be determined by the Planning Director based on the project criteria. Documentation of monitoring visits and progress shall be maintained by the landowner or agent and made available upon request by Planning Director. In the case of a habitat restoration project that is not naturally viable (e.g., has not met its success criteria) within the determined timeframe, monitoring and adaptive management shall continue at the discretion of the Planning Director. The Planning Director may require annual monitoring reports if deemed appropriate.

D. Habitat Enhancement Standards

1. Definition.

a. Habitat Enhancement is the creation and/ or expansion of aquatic, wetland, riparian and terrestrial habitat types identified by cover type that maintains or improves the ordinal ranking relative to the cover types impacted and present in the enhancement project location pursuant to the requirements of this Section. Habitat enhancement projects are stand-alone projects intended to improve the existing natural resources and habitat and are not required mitigation.

2. Habitat Enhancement Standards. To be considered habitat enhancement, a project must meet the following standards

   a. Existing Site. The existing site is degraded or functioning at a sub-optimal level. This means that the site is unable to support the species that would naturally be present or could be improved to provide a higher level of habitat functionality.

   b. Enhancement to a Natural State. The project shall be designed to establish a defined natural state in a manner that emulates the function, diversity and dynamics of the specific natural resource. Projects shall be designed to move a degraded or sub-optimal natural resource toward higher functional complexity characterizing an intact system.

   c. Stream Enhancement. Stream enhancement projects shall follow the minimum WYDEQ Clean Water Act Section 401 Certification, Best Management Practices, and monitoring standards. A stream enhancement project shall demonstrate functional lift. One option for demonstrating functional lift is through the use of the WY Stream Quantification Tool (USACE 2018).

   d. Habitat Enhancement Monitoring Reports. Applicants proposing to provide habitat enhancement(s) shall develop quantifiable goals and objectives by which to measure enhancement success. Landowners shall monitor the success of the habitat enhancement(s) three years post project completion and submit a monitoring report to the Planning Director after the third year for certification. Documentation of monitoring visits and progress shall be maintained by the landowner or agent and made available upon request by the Planning Director. In the case of a habitat enhancement project that is not naturally viable (e.g., has not met its success criteria) within the three-year timeframe, monitoring and adaptive management will continue at the discretion of the Planning Director. County Planning may require annual monitoring reports if deemed appropriate.