

Appendix B Shoreline Critical Areas Policies and Regulations

APPENDIX B - SHORELINE CRITICAL AREAS POLICIES AND REGULATIONS

1. Policies

- A. Identify and protect critical fish and wildlife habitat from destruction or encroachment of incompatible uses.
- B. Preserve natural wetlands that are important wildlife and game habitat or recreational areas.
- C. Protect life and property by avoiding inappropriate developments in areas susceptible to natural disasters and hazards, such as floodplains and steep slopes.

2. General Regulations

- A. Purpose, intent and applicability.
 - 1. The purpose of this chapter is to designate, classify and protect the functions and values of critical areas within shoreline jurisdiction in a manner consistent with state law while allowing for reasonable use of private property. By adopting this chapter, the City of Colfax acknowledges that critical areas provide a variety of important biological and physical functions that benefit the community and its residents or may pose a threat to human safety or property.

The critical areas within the City of Colfax's shoreline jurisdiction regulated by this section include:

- a. Wetlands as designated in Section 3 of this Appendix B,
 - b. Critical aquifer recharge areas as designated in Section 4 of this Appendix B,
 - c. Fish and wildlife habitat conservation areas as identified in Section 5 of this Appendix B,
 - d. Frequently flooded areas as designated in Section 6 of this Appendix B; and
 - e. Geologically hazardous areas as designated in Section 7 of this Appendix B.
- 2. All areas within the City's shoreline jurisdiction meeting the definition of one or more critical areas, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this Section.
 - 3. Any development proposed on a parcel of land within the critical areas in shoreline jurisdiction shall be subject to project review as required in this section unless specifically exempted.
 - 4. If a critical area is located on a property that is located partly in the City's shoreline jurisdiction and partly in unincorporated Whitman County's shoreline jurisdiction, the City's SMP Administrator shall coordinate with Whitman County in the review of the project. In the event of differences in the regulations, the more restrictive shall take precedence.

- B. Permitted, conditional and prohibited uses.

Uses allowed by Shoreline Exemption, a Shoreline Substantial Development Permit, or by Shoreline Conditional Use Permit, or uses altogether prohibited within critical areas, shall be the

same as those allowed in the underlying zoning district and environment designation as established in this SMP.

C. General Regulations.

1. Shoreline permits or shoreline exemptions, and any other City-required permits, for activities within critical areas in shoreline jurisdiction, shall be subject to review under provisions of this Section unless specifically exempted from a critical areas report in Subsection (C)(3) of this Section. As part of this review, the City shall:
 - a. Verify the information submitted by the applicant;
 - b. Evaluate the project area and vicinity for critical areas;
 - c. Determine whether the proposed project is likely to impact the functions or values of critical areas; and
 - d. Determine if the proposed project adequately addresses the impacts and avoids impacts to the critical area associated with the project.
2. Critical Area Report.
 - a. For those projects determined by the SMP Administrator or designee likely to have an impact to the critical areas, the applicant shall submit a critical areas report identifying the precise limits of the critical area and its function and resource value as part of the application. The report shall be prepared by experts with demonstrated qualifications in the area of concern and shall apply the most current, accurate, and complete scientific and technical information available as part of its analysis. Critical areas reports must contain the following:
 - i. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;
 - ii. A copy of the site plan for the development proposal including:
 - a) A map to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared; and
 - b) In the case of commercial or industrial development, a description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations. No stormwater plan is required for single-family residential construction;
 - iii. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;
 - iv. Identification and characterization of all critical areas, wetlands, waterbodies, and buffers adjacent to the proposed project area;
 - v. A statement specifying the accuracy of the report, and all assumptions made and relied upon;
 - vi. An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;
 - vii. An analysis of site development alternatives including a no development alternative;
 - viii. A description of reasonable efforts made to apply mitigation sequencing pursuant to Subsection 4.3(B)(4) of this SMP to avoid, minimize, and mitigate impacts to critical areas;
 - ix. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with the mitigation plan requirements in 4.3(B)(6) of this SMP, including, but not limited to:

- a) The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area; and
 - b) The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties and the environment.
 - x. A discussion of the performance standards applicable to the critical area and proposed activity;
 - xi. Any additional information required for the critical area as specified in the corresponding section.
 - b. Unless otherwise provided, a critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the SMP Administrator.
3. The following activities shall be allowed in critical areas and their buffers without a critical areas report provided they are conducted using best management practices and at a time and in a manner designed to minimize adverse impacts to the critical area:
- a. Conservation or preservation of soil, water, vegetation, fish, shellfish and other wildlife;
 - b. Outdoor recreational activities which do not involve disturbance of the resource or site area, including fishing, hunting, bird watching, hiking, horseback riding and bicycling;
 - c. Harvesting wild crops in a manner that is not injurious to the natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops or alteration of the resource by changing existing topography, vegetation, water conditions or water sources;
 - d. Education, scientific research and use of nature trails;
 - e. Existing and ongoing agriculture activities, including farming, horticulture, aquaculture, irrigation, ranching or grazing of animals;
 - f. Normal and routine maintenance of legally constructed irrigation and drainage ditches;
 - g. Normal and routine maintenance, repair or operation of existing serviceable structures, facilities or improved areas, not including expansion, change in character or scope or construction of a maintenance road;
 - h. Minor modification (such as construction of a patio, balcony or second story) of existing serviceable structures where the modification does not adversely impact the functions of the critical area.
 - i. Select Vegetation Removal Activities. Select vegetation removal activities are allowed. Accepted vegetation removal activities include: a) removing and controlling invasive or noxious weeds; b) removing trees that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property; or c) removing vegetation to control a fire or halt the spread of disease or damaging insects consistent with the State Forest Practices Act (Chapter 76.09 RCW). Unless otherwise provided, or as a necessary part of an approved alteration, removal of any vegetation or woody debris from a habitat conservation area or wetland shall be prohibited.
 - j. Chemical Applications. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary, as approved by the City, provided that their use shall be restricted in accordance with state Department of Fish and Wildlife Management Recommendations and the regulations of the state Department of Agriculture and the U.S. Environmental Protection Agency;
 - k. Minor Site Investigative Work. Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case,

impacts to the critical area shall be minimized and disturbed areas shall be immediately restored.

D. Protection of Critical Areas.

1. Any action taken pursuant to this Section shall result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by the most current, accurate, and complete scientific and technical information available.
2. All actions and developments shall be designed and constructed in accordance with mitigation sequencing requirements in Subsection 4.3(B)(4) of this SMP to avoid, minimize, and restore all adverse impacts. Applicants must first demonstrate an inability to avoid or reduce impacts, before restoration and compensation of impacts will be allowed. No activity or use shall be allowed that results in a net loss of the functions or values of critical areas.

E. Mitigation Requirements.

1. The applicant shall avoid all impacts that degrade the functions and values of a critical area or areas. Unless otherwise provided in this Section, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated using the most current, accurate, and complete scientific and technical information available in accordance with an approved critical area report, so as to result in no net loss of critical area functions and values.
2. Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.
3. Mitigation shall not be implemented until after City approval of a critical area report that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical area report.
4. Mitigation Plan Requirements. When mitigation is required, the applicant shall submit for approval by the County a mitigation plan as part of the critical area report. The mitigation plan shall include:
 - a. Environmental Goals and Objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and including:
 - i. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;
 - ii. A review of the most current, accurate, and complete scientific and technical information available supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed; and
 - iii. An analysis of the likelihood of success of the compensation project.

- b. Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this Section have been met.
- c. Detailed Construction Plans. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as:
 - i. The proposed construction sequence, timing, and duration;
 - ii. Grading and excavation details;
 - iii. Erosion and sediment control features;
 - iv. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and
 - v. Measures to protect and maintain plants until established.

These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

- d. Monitoring Program. The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years 1, 3, and 5 after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years.
- e. Contingency Plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

5. Innovative Mitigation.

- a. The City may approve innovative mitigation projects that are based on the most current, accurate, and complete scientific and technical information available. Advance mitigation or mitigation banking are examples of alternative mitigation projects allowed under the provisions of this Section wherein one or more applicants, or an organization with demonstrated capability, may undertake a mitigation project together if it is demonstrated that all of the following circumstances exist:
 - i. Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation of many individual habitat areas;
 - ii. The group demonstrates the organizational and fiscal capability to act cooperatively;
 - iii. The group demonstrates that long-term management of the habitat area will be provided; and
 - iv. There is a clear potential for success of the proposed mitigation at the identified mitigation site.
- b. Conducting mitigation as part of a cooperative process does not reduce or eliminate the required replacement ratios.

F. Review Criteria.

- 1. Any alteration to a critical area, unless otherwise provided for in this Section, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria:

- a. The proposal minimizes the impact on critical areas in accordance with the mitigation sequencing requirements in Subsection 4.3(B)(4) of this SMP;
 - b. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
 - c. The proposal is consistent with the general purposes of this Section and the public interest;
 - d. Any alterations permitted to the critical area are mitigated in accordance with the mitigation requirements in Subsection 2.E of this Appendix B;
 - e. The proposal protects the critical area functions and values consistent with the most current, accurate, and complete scientific and technical information available and results in no net loss of critical area functions and values; and
 - f. The proposal is consistent with other applicable regulations and standards.
2. The City may condition the proposed activity as necessary to mitigate impacts to critical areas and to conform to the standards required by this Section.
 3. Except as provided for by this Section, any project that cannot adequately mitigate its impacts to critical areas in the sequencing order of preferences in Subsection 4.3(B)(4) of this SMP shall be denied.

G. Unauthorized Critical Area Alterations and Enforcement

1. Unauthorized critical area alterations will be addressed by the SMP Administrator consistent with Section 7.4 (Enforcement, Violations, and Penalties) of this SMP and the following.
2. When a critical area or its buffer has been altered in violation of this Section, all ongoing development work shall stop and the critical area shall be restored. The City shall have the authority to issue a stop work order to cease all ongoing development work, and order restoration, rehabilitation, or replacement measures at the owner's or other responsible party's expense to compensate for violation of provisions of this Section.
3. Requirement for Restoration Plan. All development work shall remain stopped until a restoration plan is prepared and approved by the City. Such a plan shall be prepared by a qualified professional using the most current, accurate, and complete scientific and technical information available and shall describe how the actions proposed meet the minimum requirements described in Subsection 4 below. The SMP Administrator shall, at the violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.
4. Minimum Performance Standards for Restoration
 - a. For alterations to critical aquifer recharge areas, frequently flooded areas, wetlands, and habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:
 - i. The historic structural and functional values shall be restored, including water quality and habitat functions;
 - ii. The historic soil types and configuration shall be replicated;
 - iii. The critical area and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The

- historic functions and values should be replicated at the location of the alteration;
and
- iv. Information demonstrating compliance with the mitigation plan requirements in Subsection (E) of this Section shall be submitted to the SMP Administrator.
- b. For alterations to flood and geological hazards, the following minimum performance standards shall be met for the restoration of a critical area, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:
 - i. The hazard shall be reduced to a level equal to, or less than, the pre-development hazard;
 - ii. Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and
 - iii. The hazard area and buffers shall be replanted with native vegetation sufficient to minimize the hazard.
5. Site Investigations. The SMP Administrator is authorized to make site inspections and take such actions as are necessary to enforce this Section. The SMP Administrator shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.
 6. Penalties. Any person, party, firm, corporation, or other legal entity convicted of violating any of the provisions of this Section shall be guilty of a misdemeanor. Each day or portion of a day during which a violation of this Section is committed or continued shall constitute a separate offense. Any development carried out contrary to the provisions of this Section shall constitute a public nuisance and may be enjoined as provided by the statutes of the state of Washington. The City may levy civil penalties against any person, party, firm, corporation, or other legal entity for violation of any of the provisions of this Section consistent with Section 7.4 (Enforcement, Violations, and Penalties) of this SMP. The civil penalty shall be assessed by the amount set forth in the Colfax fee schedule.
- H. Signing.
- The outer perimeter of identified critical areas shall be clearly marked throughout construction to ensure that no unauthorized intrusion will occur prior to the commencement of permitted activities. The SMP Administrator may require permanent signs with specific and appropriate wording be installed along the boundary of a critical area as a condition of any permit or approval.
- I. Performance bonds.
- When a performance bond or other surety instrument is attached as a condition of approval to a development permit or review, or any mitigation associated with the project, the applicant shall be required to post a monetary amount determined to be acceptable by the City in addition to the following requirements:
1. The amount shall be one hundred twenty-five percent of the estimated cost of uncompleted actions or the estimated cost of restoring the functions and values of the critical area that is at risk, whichever is greater.
 2. Depletion or collection of bond funds shall not discharge the applicant's or violator's obligation to complete any required mitigation, maintenance, monitoring, or restoration.
 3. Public development proposals shall be exempt from this section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.

4. Failure to satisfy any provisions attached to a development permit under the terms of this chapter shall constitute a default and authorize the city to demand payment of any financial guarantees.

Any funds recovered pursuant to this Section shall be used to complete the required mitigation or other required actions.

3. Wetlands.

A. Designation.

Identification of wetlands and delineation of their boundaries pursuant to this chapter shall be determined by a qualified professional in accordance with the most current approved federal wetland delineation manual and applicable regional supplements. All areas within the City meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this section.

B. Wetland Rating.

Wetlands shall be rated according to the Washington Department of Ecology Wetland Rating System, as set forth in the *Washington State Wetland Rating System for Eastern Washington* (Ecology Publication No. 14-06-030, or as amended and approved by Ecology), which contains the definitions and methods for determining whether the criteria below are met.

Table B.3-1. Wetland Rating Descriptions.

Wetland Category	Description
Category I Wetland	1) alkali wetlands; 2) wetlands that are identified by scientists of the Washington Natural Heritage Program/DNR as wetlands of high conservation value; 3) bogs; 4) mature and old-growth forested wetlands over 1/4 acre with slow-growing trees; 5) forests with stands of aspen; and 6) wetlands that perform many functions very well (scores between 22-27 points). These wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of function.
Category II Wetland	1) forested wetlands in the flood plains of rivers; 2) mature and old-growth forested wetlands over 1/4 acre with fast-growing trees; 3) vernal pools; and 4) wetlands that perform functions well (scores between —19-21 points). These wetlands are difficult, though not impossible, to replace, and provide high levels of some functions.
Category III Wetland	Category III wetlands are wetlands with a moderate level of functions (scores between —16-18 points). Wetlands scoring between 16-18 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.
Category IV Wetland	Category IV wetlands have the lowest level of functions (scores less than 16 points) and are often heavily disturbed. These are wetlands that we should be able to replace, and in some cases be able to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions and also need to be protected.

C. Standard Wetland Buffer Widths.

1. Development near wetlands shall observe the following setbacks from the edge of the wetland. No development or activity shall occur within the required setbacks unless the applicant can demonstrate that the proposed use or activity will not degrade the functions and values of the wetland and other critical areas according to the evaluation criteria from subsection E of this section. In no case shall any buffer be less than seventy-five percent of the required width. The standard buffer widths in Table B.3-2 have been established in accordance with the most current, accurate, and complete scientific and technical information available. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the *Washington State Wetland Rating System for Eastern Washington*.
2. Vegetative buffers shall be measured from the edge of the wetland. The width of the buffer shall be determined according to the wetland type. The standard buffer widths are provided in Table B.3-2 below.
3. The use of the standard buffer widths requires the implementation of the measures in Table B.3-3, where applicable, to minimize the impacts of the adjacent land uses.
4. If an applicant chooses not to apply the mitigation measures in Table B.3-3, then a 33% increase in the width of all buffers is required. For example, a 75-foot buffer with the mitigation measures would be a 100-foot buffer without them.
5. The adequacy of these standard buffer widths presumes the existence of a relatively intact native vegetative community within the buffer zone that is deemed adequate to protect the identified critical area.
 - a. If the vegetation is degraded, then revegetation may be considered with any adjustment to the buffer width.
 - b. Where the use is being intensified, a degraded buffer may be revegetated to maintain the standard width.

Table B.3-2 Wetland Buffer Width Requirements

Wetland Category	Buffer width if wetland scores 3-4 habitat points	Additional buffer width if wetland scores 5 habitat points	Additional buffer width if wetland scores 6-7 habitat points	Additional buffer width if wetland scores 8-9 habitat points
Category I: Based on total score	75 ft	Add 15 ft	Add 45 ft	Add 75 ft
Category I: Forested	75 ft	Add 15 ft	Add 45 ft	Add 75 ft
Category I: Bogs and Wetlands of High Conservation Value	190 ft			
Category I: Alkali	150 ft			
Category II: Based on total score	75 ft	Add 15 ft	Add 45 ft	Add 75 ft
Category II: Vernal pool	150 ft			
Category II: Forested	75 ft	Add 15 ft	Add 45 ft	Add 75 ft
Category III (all)	60 ft	Add 30 ft	Add 60 ft	Add 140 ft
Category IV (all)	40 ft			

Table B.3-3 Required measures, where applicable, to minimize impacts to wetlands

Disturbance	Required Measures to Minimize Impacts
Lights	Direct lights away from wetland
Noise	<ul style="list-style-type: none"> • Locate activity that generates noise away from wetland • If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source • For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
Toxic runoff	<ul style="list-style-type: none"> • Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150 ft of wetland • Apply integrated pest management
Stormwater runoff	<ul style="list-style-type: none"> • Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters the buffer
Change in water regime	Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	<ul style="list-style-type: none"> • Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion. • Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	Use best management practices to control dust

D. Increased Buffer Widths.

Buffer widths may be increased if the SMP Administrator finds, on a case-by-case basis and based upon the most current, accurate, and complete scientific and technical information available, at least one of the following applies:

1. A larger buffer is necessary to maintain viable populations of existing species; or
2. The wetlands are used by species proposed or listed by the federal government or the state as endangered, threatened, rare, sensitive or being monitored as habitat for those species or have unusual nesting or resting sites; or
3. The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts; or
4. The adjacent land has minimal vegetative cover or slopes greater than twenty-five percent.

E. Buffer averaging.

Buffer averaging to improve wetland protection may be permitted when all of the following are met:

1. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a "dual-rated" wetland with a Category I area adjacent to a lower-rated area.

2. The buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the wetland and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical areas report from a qualified wetland professional.
3. The total buffer area after averaging is equal to the area required without averaging.
4. The buffer at its narrowest point is never less than either $\frac{3}{4}$ of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.

F. Measurement of Wetland Buffers.

All buffers shall be measured perpendicular from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Only fully vegetated buffers will be considered. Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers or included in buffer area calculations.

G. Buffers on Mitigation Sites.

All mitigation sites shall have buffers consistent with the buffer requirements of this section. Buffers shall be based on the expected or target category of the proposed wetland mitigation site.

H. Buffer Maintenance.

Except as otherwise specified or allowed in accordance with this section, wetland buffers shall be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive non-native weeds is required for the duration of the mitigation bond (Subsection 2.1 of this Appendix B).

I. Allowed Buffer Uses.

In addition to the uses listed in Subsection 1.2(D)(3), the following additional uses may be allowed within a wetland buffer in accordance with the review procedures of this section, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:

1. Passive recreation facilities designed and in accordance with an approved critical area report, including:
 - a. Walkways and trails, provided that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer area except for spurs to viewing platforms, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five (5) feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.
 - b. Wildlife-viewing structures.
2. Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to

determine whether the ground water connection to the wetland or percolation of surface water down through the soil column is disturbed.

3. Enhancement of a wetland buffer through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.
4. Stormwater management facilities are limited to stormwater dispersion outfalls and bioswales. They may be allowed within the outer twenty-five percent of the buffer of Category III or IV wetlands only; provided, that:
 - a. No other location is feasible; and
 - b. The location of such facilities will not degrade the functions or values of the wetland; and
 - c. Stormwater management facilities are not allowed in buffers of Category I or II wetlands.
5. Non-Conforming Uses. Repair and maintenance of non-conforming uses or structures, where legally established within the buffer, provided they do not increase the degree of nonconformity.
6. Shoreline residential access. A private access pathway constructed of pervious materials may be installed, a maximum of four (4) feet wide, through a wetland buffer to the OHWM of a shoreline waterbody. Impervious materials may be used as needed to construct a safe, tiered pathway down a slope. Raised boardwalks may also be constructed through wetland areas to reach the shoreline waterbody consistent with regulations in this article. A railing may be installed on one edge of the pathway, a maximum of 36 inches tall and of open construction. Pathways to the shoreline should take the most direct route feasible consistent with appropriate safety standards.

J. Compensatory Mitigation.

1. Compliance with State and Federal Standards. Projects that propose compensation for wetland acreage and/or functions losses are subject to State and/or Federal regulations. Compensatory mitigation for alterations to wetlands shall provide for no net loss of wetland functions and values. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with the mitigation plan requirements of Subsection 2.E of this Appendix B and Subsection 4.3(B)(6) of this SMP, as well as *Wetland Mitigation in Washington State--Part 2: Developing Mitigation Plans--Version 1* (Ecology Publication No. 06-06-011b, Olympia, WA, March 2006, or as amended), and *Selecting Wetland Mitigation Sites Using a Watershed Approach* (Eastern Washington) (Publication No. 10-06-07, November 2010).
2. Wetland Mitigation Ratios. Mitigation ratios shall be consistent with Table B.3-4 of this Section. Preferences for mitigation types and location should be consistent with *Wetland Mitigation in Washington State--Part 2: Developing Mitigation Plans--Version 1* (Ecology Publication No. 06-06-011b, Olympia, WA, March 2006, or as amended).

Table B.3-4 Wetland Mitigation Ratios

Category and Type of Wetland	Creation or Re-establishment	Rehabilitation	Enhancement
Category I: Bog, Wetlands of High Conservation Value	Not considered possible	Case-by-case	Case-by-case
Category I: Forested	6:1	12:1	24:1
Category I: Based on functions	4:1	8:1	16:1
Category II	3:1	6:1	12:1
Category III	2:1	4:1	8:1
Category IV	1.5:1	3:1	6:1

3. Credit/Debit Method. To more fully protect functions and values, and as an alternative to the mitigation ratios in Table B.3-4, the SMP Administrator may allow mitigation based on the “credit/debit” method developed by the Department of Ecology in *“Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Eastern Washington: Final Report”* (Ecology Publication #11-06-015, August 2012, or as amended).
4. Impacts to wetland buffers shall be mitigated at a 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.
5. Wetland Mitigation Banks.
 - a. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:
 - i. The bank is certified under RCW Ch. 90.84 or WAC Ch. 173-700,
 - ii. The SMP Administrator determines that the wetland mitigation bank can provide appropriate compensation for the authorized impacts, and
 - iii. The proposed use of credits is consistent with the terms and conditions of the bank’s certification.
 - b. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank’s certification.
 - c. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank’s certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions.
6. Advance Mitigation. Mitigation for projects with pre-identified impacts to wetlands may be constructed in advance of the impacts if the mitigation is implemented according to federal rules, State policy on advance mitigation, and State water quality regulations.
7. Monitoring. Mitigation monitoring shall be required for a period necessary to establish that performance standards have been met, but not for a period less than five years. If a scrub-shrub or forested vegetation community is proposed, monitoring may be required for ten years or more. The project mitigation plan shall include monitoring elements that ensure certainty of success for the project’s natural resource values and functions. If the mitigation goals are not obtained within the initial five-year period, the applicant remains responsible for restoration of the natural resource values and functions until the mitigation goals agreed to in the mitigation plan are achieved.

4. Critical aquifer recharge areas.

A. Designation.

Critical aquifer recharge areas are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). Critical aquifer recharge areas have prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water. These areas include the following:

1. Wellhead Protection Areas. Wellhead protection areas may be defined by the boundaries of the ten-year time of ground water travel or boundaries established using alternate criteria approved by the Department of Health in those settings where ground water time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290-135.
2. Sole Source Aquifers. Sole source aquifers are areas designated by the U.S. Environmental Protection Agency pursuant to the federal Safe Drinking Water Act.
3. Susceptible Ground Water Management Areas. Susceptible ground water management areas are areas that have been designated as moderately or highly vulnerable or susceptible in an adopted ground water management program developed pursuant to Chapter 173-100 WAC.
4. Special Protection Areas. Defined pursuant to WAC 173-200-090.
5. Moderately or Highly Vulnerable or Highly Susceptible Aquifer Recharge Areas. Aquifer recharge areas that are moderately or highly vulnerable or highly susceptible to a degradation or depletion due to hydrogeologic characteristics are those areas delineated by a hydrogeologic study prepared in accordance with the state Department of Ecology guidelines or meeting the criteria established by the Department of Ecology.

B. General Regulations.

1. In areas within shoreline jurisdiction designated as high susceptibility for aquifer contamination, all uses shall be connected to the City's sewer system. No new uses on a septic system are permitted in high susceptibility areas of critical aquifer recharge.
2. For shoreline uses or modifications locating within the critical aquifer recharge area and requiring site plan review, a disclosure form indicating activities and hazardous materials that will be used shall be provided for review and approval.
3. Impervious surfaces shall be minimized within the critical aquifer recharge areas.
4. Best management practices as defined by state and federal regulations shall be followed by commercial and industrial uses located in the critical aquifer recharge areas of shoreline jurisdiction to ensure that potential contaminants do not reach the aquifer.
5. A spill prevention and emergency response plan shall be prepared and submitted for review and approval by the city.

C. Prohibited Uses.

The following shall be prohibited uses within a critical aquifer recharge area:

1. Landfills, including hazardous waste, municipal solid waste, special waste, wood waste, inert waste, and demolition waste.

2. Underground injection wells of Classes I, III, and IV and subclasses 5F01, 5D03, 5F04, 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells.
3. Mining of metals and hard rock. Sand and gravel mining shall also be prohibited from critical aquifer recharge areas rated as highly susceptible or vulnerable.
4. Wood treatment facilities that allow any portion of the treatment process to occur over natural or manmade permeable surfaces.
5. Facilities that store, process, or dispose of radioactive substances.
6. Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source.
7. Activities that would significantly reduce the recharge to aquifers that are a source of significant baseflow to a regulated stream.
8. Activities that are not connected to an available sanitary sewer system in areas associated with sole source aquifers.

5. Fish and wildlife habitat conservation areas.

A. Designation.

All areas within Colfax's shoreline jurisdiction meeting one or more of the following criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this section and shall be managed consistent with the most current, accurate, and complete scientific and technical information available, such as the Washington Department of Fish and Wildlife's Management Recommendations for Priority Habitat and Species. Fish and wildlife habitat conservation areas shall include:

1. Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association.
2. State priority habitats and areas associated with state priority species.
3. Habitats and species of local importance.
4. Naturally occurring ponds under twenty acres.
5. Waters of the state. Including lakes, rivers, ponds, streams, inland waters, and all other surface waters and watercourses within the state of Washington as classified in WAC 222-16-030.
6. Lakes, ponds, rivers, and streams planted with game fish by a government or tribal entity.
7. State natural area preserves and natural resource conservation areas.
8. Land essential for preserving connections between habitat blocks and open spaces.

B. Mapping.

The following maps are hereby adopted to provide geographic information about known or suspected habitat conservation areas:

1. Washington Department of Fish and Wildlife Priority Habitat and Species Maps;
2. Washington Department of Natural Resources, Official Water Type Reference Maps, as amended;

3. Washington Department of Natural Resources State Natural Area Preserves and Natural Resource Conservation Area Maps; and
4. City of Colfax habitat maps.

These maps are to be used as a guide for the city, project applicants, and property owners, and will be periodically updated as new information becomes available. They are a reference and do not provide a final critical area designation.

C. Critical Area Report - Additional Requirements.

In addition to the general critical area report requirements, the following elements must be met:

1. Preparation by a Qualified Professional. A critical areas report for a habitat conservation area shall be prepared by a qualified professional who is a biologist with experience preparing reports for the relevant type of habitat;
2. Areas Addressed in Report. The following areas shall be addressed in a critical area report for habitat conservation areas:
 - a. The project area of the proposed activity;
 - b. All habitat conservation areas and recommended buffers within 300 feet of the project area; and
 - c. All shoreline areas, floodplains, and other critical areas, and related buffers within 300 feet of the project area.
3. Habitat Management Plan. An investigation of the project area to evaluate the potential presence or absence of designated critical fish or wildlife species or habitat. The habitat management plan shall be based on the most current, accurate, and complete scientific and technical information available and best management practices. It shall be designed to achieve specific habitat objectives and shall include, at a minimum:
 - a. A detailed description of vegetation on and adjacent to the project area;
 - b. Identification of any species of local importance, priority species, or endangered, threatened, sensitive or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;
 - c. A discussion of any federal, state or local special management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;
 - d. A detailed discussion of the potential impact on habitat by the project, including potential impact to water quality;
 - e. A discussion of measures, including avoidance, minimization and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity; and
 - f. A discussion of continuing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.

D. General Requirements.

1. Alterations shall not degrade the functions and values of habitat. A habitat conservation area may be altered only if the proposed alteration of the habitat or the mitigation

proposed does not degrade the functions and values of the habitat. Any approval of alterations or impacts to a habitat conservation area shall be supported by the most current, accurate, and complete scientific and technical information available.

2. Non-indigenous species shall not be introduced. No plant, wildlife or fish species not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a state or federal permit or approval.
3. Mitigation Shall Result in Contiguous Corridors. Mitigation sites shall be located to achieve contiguous wildlife habitat corridors in accordance with a mitigation plan that is part of the critical area report to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.
4. Approvals of Activities May be Conditioned. The SMP Administrator shall condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary to minimize or mitigate any potential adverse impacts. Conditions may include, but are not limited to, the following:
 - a. Establishment of buffer zones;
 - b. Preservation of critically important vegetation;
 - c. Limitation of access to the habitat area, including fencing to deter unauthorized access;
 - d. Seasonal restriction of construction activities;
 - e. Establishment of a duration and timetable for periodic review of mitigation activities; and
 - f. Requirement of a financial guarantee, when necessary, to ensure completion and success of proposed mitigation.
5. Mitigation Shall Achieve Equivalent or Greater Biological Functions. Mitigation of alterations to habitat conservation areas shall achieve equivalent or greater biologic functions and shall include mitigation for adverse impacts upstream or downstream of the development proposal site. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis.
6. Buffers.
 - a. Establishment of Buffers. The SMP Administrator shall require the establishment of buffer areas for activities in, or adjacent to, habitat conservation areas in shoreline jurisdiction, when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation, or areas identified for restoration, established to protect the integrity, functions, and values of the affected habitat. Required buffer widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby, and shall be consistent with the management recommendations issued by the state Department of Fish and Wildlife. Specific buffers for streams are established in Subsection 5.E(2) below.
 - b. Increased habitat buffers. The SMP Administrator may require increased buffer widths in accordance with recommendations of a qualified professional biologist and the most current, accurate, and complete scientific and technical information available when it is determined that a larger buffer is necessary to protect habitat area functions and values due to site specific characteristics.
 - c. Habitat buffer averaging. The SMP Administrator may allow the recommended habitat area buffer width to be reduced in accordance with a critical area report, the most current, accurate, and complete scientific and technical information available, and the

management recommendations issued by the Washington Department of Fish and Wildlife, only if:

- i. It will not reduce habitat functions;
 - ii. It will provide additional natural resource protection, such as buffer enhancement;
 - iii. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and
 - iv. The buffer area width is not reduced by more than twenty-five percent (25%) in any location.
- d. Seasonal Restrictions. When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Larger buffers may be required and activities may be further restricted during the specified season.
7. Signs and Fencing of Habitat Conservation Areas.
- a. Temporary Markers. The outer perimeter of the habitat conservation area or buffer and the limits of those areas to be disturbed pursuant to a development permit shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur, and verified by the SMP Administrator prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction, and shall not be removed until permanent signs, if required, are in place.
 - b. Permanent Signs. As a condition of any development permit issued pursuant to this Chapter, the SMP Administrator may require the applicant to install permanent signs along the boundary of a habitat conservation area or buffer. If required, permanent signs shall be made of a metal face and attached to a metal post, or another material of equal durability. Signs must be posted at an interval of one per lot or every 50 linear feet, whichever yields the greater amount of signs, and must be maintained by the property owner in perpetuity. The sign shall be worded as follows or with alternative language approved by the SMP Administrator:

*“Habitat Conservation Area Do Not Disturb
Contact City of Colfax Regarding Uses and Restrictions”*
 - c. Fencing.
 - i. As a condition of any development permit, the SMP Administrator may require the applicant to install a permanent fence at the edge of the habitat conservation area or buffer when fencing will prevent future impacts to the habitat conservation area.
 - ii. The applicant shall be required to install a permanent fence around the habitat conservation area or buffer when domestic grazing animals are present or may be introduced on site.
 - iii. Fencing installed as part of a proposed activity or as required in this Paragraph shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.
8. Subdivisions. The subdivision and short subdivision of land in habitat conservation areas and associated buffers in shoreline jurisdiction is subject to the following:
- a. Land that is located wholly within a habitat conservation area or its buffer may not be subdivided.
 - b. Land that is located partially within a habitat conservation area or its buffer may be divided provided that an accessible and contiguous portion of each new lot:
 - i. Is located outside of the habitat conservation area and its buffer; and
 - ii. Meets the minimum lot size requirements of Colfax’s zoning code (Title 17).

- c. Access roads and utilities serving a proposed subdivision or other property may be permitted within the habitat conservation area and associated buffers only if the SMP Administrator determines that no other feasible alternative exists and these facilities are otherwise established consistent with the provisions of this Chapter.

E. Development Standards for Specific Species or Habitats.

In addition to the general requirements of Subsection D, the following standards shall be required for specific habitat conservation areas:

1. Endangered, threatened, and sensitive species.
 - a. No development shall be allowed within a habitat conservation area or buffer with which state or federally endangered, threatened, or sensitive species have a primary association.
 - b. Approval for alteration of land adjacent to a habitat conservation area or its buffer where endangered, threatened, and sensitive species have a primary association shall not occur prior to consultation with the state Department of Fish and Wildlife and the appropriate federal agency.
 - c. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules, WAC 232-12-292, and any activity proposed within eight hundred feet, or within two thousand six hundred forty feet and in a shoreline foraging area, of a verified nest territory or communal roost shall include a habitat management plan developed by a qualified professional. The habitat management plan shall be approved by the U.S. Fish and Wildlife Service prior to any final permit approvals.
2. Streams.
 - a. Establishment of buffers and setbacks. Buffers shall be established for habitats that include aquatic and terrestrial ecosystems that mutually benefit each other and that are located adjacent to rivers, perennial or intermittent streams, seeps and springs. A building setback shall be established adjacent to those rivers or perennial streams that are functionally separated from their associated uplands by an impervious concrete lining.
 - b. Activities Shall Not Degrade the Functions and Values of Buffers and Setbacks.
 - i. Unless otherwise allowed in this Chapter, all structures and activities shall be located outside of the buffer. A proposed activity may only be permitted in a buffer if the applicant can show that the activity, including associated mitigation measures, will not degrade the functions and values of the buffer and other critical areas.
 - ii. Unless otherwise allowed in this Chapter, all buildings shall be located outside of the building setback. Other improvements may be allowed in the building setback so long as mitigation is provided for any adverse impacts.
 - c. Classification. Streams are classified using the Permanent Water Typing System described in WAC 222-16-030, and as follows:
 - i. Type S- Type S waters are shorelines of the state
 - ii. Type F- Type F waters are perennial or seasonal, fish-bearing waters
 - iii. Type Np- Type Np waters are nonfish-bearing perennial waters
 - iv. Type Ns- Type Ns waters are nonfish-bearing seasonal waters
 - d. Standard Buffers or Building Setbacks.
 - i. Recommended buffer or building setback widths are shown in Table B.5-1. A stream shall have the required buffer or setback width, unless a greater width is required pursuant to Subsection 5.E(3)(e), or a lesser width is allowed pursuant to Subsection 5.E(3)(f) of this SMP.

- ii. Spring Flat Creek, a tributary of the South Fork Palouse River in a concrete-lined channel, shall have a 15-foot building setback from the ordinary high water mark or the top of the concrete-lined channel wall within shoreline jurisdiction, unless a greater width is required pursuant to Subsection 16.55.705(D)(3)(e), or a lesser width is allowed pursuant to Subsection 16.55.705(D)(3)(f).
- iii. Widths shall be measured outward, on the horizontal plane, from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified. The SMP Administrator may waive the requirement to provide a formal delineation of a stream’s ordinary high water mark if compliance with these regulations can be demonstrated without that information, or if the applicant can clearly demonstrate that the proposed activity is outside of the stream buffer.
- iv. Where an action is proposed in an environment designation that is separated from the shoreline by a different environment designation, the only buffer or building setback that applies in the landward designation is that buffer which is specified for that designation and which is measured from the ordinary high water mark.

Table B.5-1 Standard Shoreline Buffers or Building Setbacks

Environment Designation	Shoreline Waters ¹ (Type S)
All Designations	For water-dependent developments, no buffer or setback. Apply mitigation sequencing to avoid and minimize adverse impacts during development siting.
Urban Conservancy	South Fork Palouse River – a buffer the smaller of: <ul style="list-style-type: none"> • 75 feet • The waterward edge of an improved public road North Fork and Mainstem Palouse River – a buffer the smaller of: <ul style="list-style-type: none"> • 100 feet • The waterward edge of an improved public road
Shoreline Residential	A buffer the smaller of: <ul style="list-style-type: none"> • The landward edge of the toe of a levee • 75 feet
Shoreline Parks	A buffer the smaller of: <ul style="list-style-type: none"> • The landward edge of the toe of a levee • 75 feet
High Intensity	South Fork Palouse River: a buffer of 50 feet North Fork and Mainstem Palouse River – a buffer the smaller of: <ul style="list-style-type: none"> • The landward edge of the toe of a levee • 60 feet
Flume	No buffer required; building setback of 15 feet from the top of the concrete-lined channel wall. Fences, parking, yards and other improvements are allowed in the setback if authorized by other agencies and regulations.

¹ Shoreline (Type S) stream buffers or setbacks are based on existing conditions in each environment designation

- e. **Increased Buffer or Building Setback Width.** The buffer or setback width shall be increased, as follows:
 - i. When the SMP Administrator determines that the standard width is insufficient to prevent habitat degradation and to protect the structure and functions of the stream; or
 - ii. When the SMP Administrator determines that the width is insufficient to protect human life and development from frequently flooded areas, geologically hazardous areas, or channel migration zones.

- f. **Buffer Width Averaging.** The SMP Administrator may allow the buffer width of a stream to be reduced in accordance with a critical area report only if:
- i. The width reduction will not reduce stream habitat functions, including those of non-fish habitat;
 - ii. The width reduction will not degrade the habitat;
 - iii. The proposal will provide additional habitat protection;
 - iv. The total buffer area of each stream on the development proposal site is not decreased;
 - v. The buffer width is not reduced by more than 25% in any one location;
 - vi. The buffer width reduction will not be located within another critical area or associated buffer; and
 - vii. The reduced buffer width is supported by the most current, accurate, and complete scientific and technical information available.

The width of the building setback may not be averaged, but may be reduced through a Shoreline Variance.

- g. **Buffer Mitigation.** Mitigation of adverse impacts to buffers shall result in equivalent functions and values on a per function basis, be located as near the alteration as feasible, and be located in the same sub-drainage basin as the habitat impacted.
- h. **Alternative Mitigation for Stream Buffers.** The requirements set forth in this Section may be modified at the SMP Administrator's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected sub-drainage basin as a result of alternative mitigation measures.
- i. **Uses and modifications allowed in stream buffers.** The following uses are allowed in stream buffers provided that mitigation sequencing is demonstrated, and any adverse impacts to ecological functions are mitigated.
- i. **Accessories to water-dependent uses.** Uses, developments and activities accessory to water-dependent uses should be located outside any applicable standard or reduced buffer unless at least one of the following is met:
 - a) Proximity to the water-dependent project elements is critical to the successful implementation of the facility's purpose and the elements are supportive of the water-dependent use and have no other utility (e.g., a road to a boat launch facility, facilities that support aquaculture);
 - b) The proposed accessory would be located in a park or on other public lands where high-intensity, water-oriented recreational development is already legally established, and the accessory would not conflict with or limit opportunities for other water-oriented uses;
 - c) The accessory use, development or activity can be located upland of the water-dependent use; or
 - d) The applicant's lot/site has topographical constraints where no other location of the development is feasible (e.g., the water-dependent use or activity is located on a parcel entirely or substantially encumbered by the required buffer).

In these circumstances, uses and modifications accessory to water-dependent uses must be designed and located to minimize intrusion into the buffer. All other accessory uses, developments and activities proposed to be located in a shoreline buffer must obtain a Shoreline Variance unless otherwise allowed by other regulations in this Section or in this SMP.

- ii. **Water-oriented public access and recreation facilities.** New development and redevelopment of water-oriented public access and recreation structures are allowed in stream buffers provided the applicant can demonstrate that the design applies

mitigation sequencing and appropriate mitigation is provided to ensure no net loss of ecological functions. Applicants shall submit a management plan that specifically addresses compliance with Sections 4.3 (Environmental Protection), 4.4 (Shoreline Vegetation Conservation), 4.5 (Water Quality, Stormwater and Nonpoint Pollution), and Appendix B (Shoreline Critical Areas Policies and Regulations) of this SMP. The City may review and condition the project to fully implement the policies of the Shoreline Management Act and this Master Program.

- iii. Temporary agricultural equipment and facilities. New agricultural equipment and facilities, excluding buildings, may be placed in a buffer if the following conditions are satisfied:
 - a) Placement of the equipment and facilities must support an existing agricultural use.
 - b) The equipment and facilities may only be in the buffer on a temporary or seasonal basis, a maximum of eight (8) months in a running 12-month period.
 - c) Placement outside of a buffer is not feasible because it would be located on a property owned by another landowner or it would interfere with another agricultural or authorized use.
 - d) The location of the proposed equipment and facilities is on an already altered site, and would not result in harm to or removal of native vegetation.
 - e) Best management practices are utilized to prevent adverse impacts to water quality or other ecological functions.
- iv. Shoreline residential access. A private access pathway constructed of pervious materials may be installed, a maximum of four (4) feet wide, through the stream buffer to the OHWM. Impervious materials may be used as needed to construct a safe, tiered pathway down a slope. Raised boardwalks may also be constructed through wetland areas to reach the shoreline waterbody consistent with regulations in this Chapter. A railing may be installed on one edge of the pathway, a maximum of 36 inches tall and of open construction. Pathways to the shoreline should take the most direct route feasible consistent with appropriate safety standards.

6. Frequently flooded areas.

A. Designation.

This Section shall apply to all frequently flooded areas in shoreline jurisdiction. Frequently flooded areas shall include the following:

1. Areas of Special Flood Hazard. Areas identified by the Federal Insurance Administration Flood Insurance Study for the City of Colfax and accompanying maps, including Federal Emergency Management Agency flood insurance rate maps.
2. Areas Identified by the SMP Administrator. Areas of special flood hazard identified by the SMP Administrator based on review of base flood elevation and floodway data available from federal, state, local agency, or other valid sources when base flood elevation data has not been provided by the Federal Insurance Administration.

B. Standards.

Applicants for development within frequently flooded areas shall comply with provisions of the City's flood damage prevention ordinance (Chapter 15.44 CMC).

7. Geologically hazardous areas.

According to the best information available, the City of Colfax is not aware of any seismic or mine hazard areas within the City boundaries; however, this does not preclude landowners from investigation and due diligence in these regards. If geologically hazardous areas are determined to be present in shoreline jurisdiction, the following regulations shall apply.

A. Buffers.

1. Standard buffer. A minimum twenty-five-foot buffer shall be established from the top, toe or sides of an identified geological hazard, including landslide hazard areas, seismic hazard areas, mine hazard areas, landfills or steep slope areas (forty percent or greater), except as specified below. The buffer may be increased if necessary to protect public health, safety and welfare, based on information contained in a geotechnical report prepared by a qualified geotechnical engineer.
2. Reduced Buffer. Buffer zones may be decreased in size provided the geotechnical report substantiates the following findings:
 - a. The proposed development will not create a hazard to the subject property, surrounding properties or rights-of-way, erosion or sedimentation to off-site properties or bodies of water.
 - b. The proposal uses construction techniques that minimize destruction of existing topography and natural vegetation.
 - c. The proposal mitigates all impacts identified in the geotechnical report.

B. Activities Allowed in Seismic and Mine Hazard Areas.

1. Construction of new buildings with less than two thousand five hundred square feet of floor area or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly;
2. Additions to existing single-story residences that are two hundred fifty square feet or less; and
3. Installation of fences.

C. In any geologically hazardous area, new development and creation of new lots that would cause foreseeable risk from geological conditions after application of Subsections (A)(1) and (2) during the life of the development is prohibited.

