

DRAFT

13.76.400: DEVELOPMENT NEAR CANALS, DITCHES AND NATURAL WATERWAYS:

A. Statement Of Intent: This section intends to provide supplemental regulations or standards pertaining to specific geographic features or land uses, as described, in addition to any applicable "base" or underlying zoning district regulations applicable within a designated area. Whenever there is a conflict between the regulations of a base zoning district and those described within this section, the regulations of this section shall prevail

B. General Provisions:

1. Purpose Statement: To establish waterway protection permitting standards to minimize erosion and stabilize stream banks, improve water quality, preserve fish and wildlife habitat, moderate stream temperatures, reduce potential for flood damage, as well as to preserve in function all man-made canals, ditches and other irrigation facilities.

2. Applicability: The regulations set forth in this section supplement those regulations in the underlying base zoning district. Regulations herein shall govern any use or development conducted within the areas described, unless specifically exempted under the provisions of this section or another provision of this title.

3. Relationship To Other Laws: The requirements of this section shall apply in addition to any other applicable federal, state, county, or city law or regulation.

a. Any use or development within the areas described within this section shall conform to applicable provisions of title 13, of this code and this title. Compliance with the requirements of this section shall not relieve a landowner from compliance with other applicable provisions of this title except as expressly otherwise set forth in this section.

b. If a landowner obtains a permit for a use or development located within the areas described in this section that is also entirely within the jurisdiction of a federal or state government agency or Salt Lake County, then the landowner shall also apply for a waterway protection permit. If the relevant federal, state, or county agency approves the use or development as in compliance with the agency's requirements, then the city shall issue a waterway protection permit, subject to compliance with the federal, state, or county approval and shall not independently review the use or development for compliance with this section.

c. If any portion of a proposed use or development is outside the jurisdiction of a federal, state, or county agency, then the applicant shall comply with the provisions of this section and shall obtain a waterway protection permit if required under the provisions of this section.

d. Salt Lake County shall not be required to obtain a waterway protection permit for any county flood control activity authorized by the Utah code within or along a natural waterway. However, Salt Lake County shall obtain a waterway protection permit for any stream restoration and non-flood control development or other use conducted by the county which is located within the areas described.

e. A city department or other canal company, irrigation water provider or agency that conducts a use or development within the area described shall follow the requirements of this section and obtain a waterway protection permit if required for such use or development.

C. Decision Making Authority:

1. Community Development Director: Upon receiving a recommendation from the City Engineer, the community development director shall be responsible for implementing and administering the provisions of this section. The community development director:

a. may authorize a minor exemption as set forth in subsection C5 and C6

b. May not make any decision involving land use, zoning, subdivision, legal conformity in a zoning district, historic preservation, restoration, rehabilitation, or demolition of any structure except as expressly set forth in this section;

c. Shall expedite the permit review process only if an applicant reasonably demonstrates imminent danger to individuals or property is associated with the subject land;

e. May adopt reasonable regulations, including approval of general permits, to implement the provisions of this section; and

f. May designate one or more staff persons within the department to carry out these responsibilities. Wherever this section refers to the director, such reference shall also include the director's designee.

2. Technical Review Committee: The TRC shall review and make recommendation as per the process and procedure set forth in subsection C

3. Appeal Of Decision: Any person adversely affected by any decision made may, within thirty (30) days after the decision is made, as per 13.101 Appendix B

C.Review Process and Procedure:

1. Waterway Protection Permit Application: A completed application as created and maintained on file by the Community Development Department shall be submitted to the department. The community development director may determine, consistent with the requirements of this section, if other supplementary submittals are needed to render a decision.

2. Site plan requirements:

(1) Subject property with all recorded property lines marked and ;

(2) The annual high water line and each setback line from the AHWL (zone A, 25 feet; zone B, 50 feet; and zone C, 100 feet), elevation, and slope;

(3) The location and setback of existing and proposed buildings and structures from the AHWL;

(4) Existing and proposed grades;

(5) Any nonnative or invasive vegetation identified by location, type, and size, including any area where invasive vegetation is proposed for removal;

(6) 100-year floodplain, past flood hazard areas, geological faults, high liquefaction areas, and slopes thirty percent (30%) or greater;

(7) Such other and further information or documentation as the public utilities director may reasonably deem necessary for proper consideration of a particular application, including, but not limited to, geotechnical and hydrological reports required under subsection E8 of this section.

2. Waterway Delineation: The waterway corridor shall be delineated at the annual high water level.

a. When the annual high water level cannot be found, the top of the channel bank may be substituted if approved by the City Engineer

b. A boundary location or delineation required under this section shall be prepared by a licensed professional hydraulic engineer, hydrologist, wetlands scientist, fluvial geomorphologist, another equivalent qualified environmental science professional, or the City Engineer

3. Determination Of Completeness: Upon receipt of an application for a riparian protection permit, the community development director shall make a determination of completeness of the application

4. Authorized Minor Exceptions: The planning commission may grant an exception to the regulations provided with the consent of the city engineer and the concurrence of any state or federal regulatory body with jurisdiction over such waterways as per 13.08.140.

a. Criteria: A minor exception to this section shall be approved only if the planning Commission finds the exception:

(1) Is of a technical nature (i.e., relief from a dimensional or design standard);

(2) Will not authorize a deviation of more than ten percent (10%) from an otherwise applicable numerical standard;

(3) Is required to compensate for some unusual aspect of the site or proposed use or development generally not shared by landowners in the vicinity;

(4) Supports a goal or objective consistent with any City master plans as may be adopted, subsequent restoration efforts, or the purpose of this section;

(5) Will protect sensitive natural resources or better integrate development with the riparian environment;

(6) Will avoid filling, grading, and construction of retaining walls;

(7) Will result in equal or better protection for the riparian corridor area, considering the provisions of this section, as reasonably determined by the public utilities director; and

(8) Is not likely to:

(A) Interfere with the use and enjoyment of adjacent land;

(B) Create a danger to public health or safety, particularly from flooding or erosion damage;

(C) Change stream bank stability or increase the likelihood of erosion; or

(D) Affect water quality.

b. Conditions May Be Required: In granting a minor exception, the planning commission may attach any conditions necessary to meet the intent of this section. Any performance bond required by such conditions shall be administered as provided in this title and any other applicable provision of this code.

c. Time Limit: The community development director shall prescribe a time limit within which action under the minor exception shall begin. Failure to begin such action within the established time limit shall void the minor exception.

d. Burden Of Proof: The applicant shall have the burden of providing evidence to support a minor exception request.

7. Appeal Of Decision: Any person adversely affected by a final decision may within thirty (30) days after such decision appeal as provided in section 13.101 of this title

D. Permitted Uses Near Natural Waterways:

1. In General: No person shall engage in any ground disturbing use or development on a lot or parcel that will remove, fill, dredge, clear, destroy, armor, terrace, or otherwise alter the waterway protection area through manipulation of soil or other material except as allowed by:

a. This section and, where required by this section; or

b. The U.S. army corps of engineers, Salt Lake County flood control, the Utah state engineer, or any other government agency with jurisdiction over land in the WATERWAY PROTECTION district to the extent provided in subsection A4 of this section.

2. Permitted Use Areas; Developed Land: The following use areas are hereby established for existing developed lots or parcels within the waterway protection area as shown on illustration A of this subsection:

a. Zone A: A "no disturbance area" located between the annual high water line and twenty five feet (25') from the AHWL;

b. Zone B: A "structure limit area" located between twenty five (25) and fifty feet (50') from the AHWL; and

c. Zone C: A "buffer transition area" located between fifty (50) and one hundred feet (100') from the AHWL.

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Illustration A
100 Foot Waterway Protection

3. Permitted Use Area; Undeveloped Land: On a one acre or larger undeveloped lot or parcel within the waterway protection, Zone A, the "no disturbance area" described above, shall be extended to one hundred feet (100') from the AHWL.

4. Permitted Use Table; Developed Land: Permitted uses allowed on a developed lot or parcel within the waterway protection area are shown on table *** . Uses allowed by right are indicated by the letter "P" (permitted); uses which require a waterway protection permit are indicated by the letters "WPP" (permit required); and prohibited uses are indicated by a blank space.

a. Any use or development not shown on this table shall be prohibited unless authorized by a provision of this section or another applicable provision of this title.

TABLE **

USES ALLOWED BY AREA ON DEVELOPED LOTS

<u>Use</u>	<u>Zone A</u>	<u>Zone B</u>	<u>Zone C</u>	<u>Comments</u>
<u>Maintenance and use of any lawfully established use, development, or structure existing on January 15, 2008; any use, development, or structure established thereafter shall be authorized only as provided in this section</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>See subsection D6 of this section</u>
<u>Any action not constituting development or a ground disturbing activity except as otherwise set forth on this table</u>	<u>P</u>	<u>P</u>	<u>P</u>	-
<u>Maintenance of existing lawn and garden areas</u>	<u>P</u>	<u>P</u>	<u>P</u>	-
<u>Herbicide, pesticide and fertilizer application in accordance with best management practices</u>	<u>P</u>	<u>P</u>	<u>P</u>	-
<u>Replanting noninvasive vegetation</u>	<u>P</u>	<u>P</u>	<u>P</u>	-
<u>Maintenance tree pruning</u>	<u>P</u>	<u>P</u>	<u>P</u>	-
<u>Minor ground disturbing activity</u>	<u>WPP</u>	<u>P</u>	<u>P</u>	<u>See subsections D7 and E1b of this section</u>
<u>Manual removal of trash, storm debris, and fallen, dead, or diseased trees</u>	<u>P</u>	<u>P</u>	<u>P</u>	
<u>Invasive plant removal</u>	<u>P</u>	<u>P</u>	<u>P</u>	
<u>Planting noninvasive vegetation</u>	<u>P</u>	<u>P</u>	<u>P</u>	
<u>Maintenance of existing fence or structure</u>	<u>P</u>	<u>P</u>	<u>P</u>	
<u>Pruning or tree removal within utility easement by</u>	<u>P</u>	<u>P</u>	<u>P</u>	

<u>Use</u>	<u>Zone A</u>	<u>Zone B</u>	<u>Zone C</u>	<u>Comments</u>
<u>responsible entity</u>				
<u>Tree removal and replacement</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>Permitted with some exceptions; see subsection E4 of this section</u>
<u>Activities approved by U.S. army corps of engineers or state engineer</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>See subsection D7g of this section</u>
<u>Open fence, new</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>See subsections D8 and E1b of this section</u>
<u>Open patio/deck</u>	<u>WPP</u>	<u>P</u>	<u>P</u>	
<u>Minimal grading</u>	<u>-</u>	<u>P</u>	<u>P</u>	<u>See subsection D8 of this section</u>
<u>Compost from yard debris</u>	<u>-</u>	<u>P</u>	<u>P</u>	
<u>Mechanized removal of fallen, dead, or diseased trees</u>	<u>-</u>	<u>P</u>	<u>P</u>	
<u>Use or development allowed by underlying district</u>	<u>-</u>	<u>-</u>	<u>P</u>	<u>See subsection D9 of this section</u>
<u>Commercial parking lot</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>Not permitted; see subsection D9 of this section</u>
<u>Leach field, stormwater retention pond, and detention basin</u>	<u>-</u>	<u>-</u>	<u>-</u>	
<u>Public utilities work</u>	<u>WPP/P</u>	<u>WPP/P</u>	<u>WPP/P</u>	<u>See subsection D11 of this section</u>
<u>New construction or maintenance of access stairs, landscape walls, and paths</u>	<u>WPP</u>	<u>P</u>	<u>P</u>	<u>See subsection E1 of this section, particularly subsection E1b of this section for permitted new construction</u>
<u>Low impact stream crossing</u>	<u>WPP</u>	<u>-</u>	<u>-</u>	
<u>Maintenance of existing irrigation and flood control devices</u>	<u>P</u>	<u>WPP</u>	<u>WPP</u>	
<u>Installation and maintenance of erosion control devices</u>	<u>WPP</u>	<u>WPP</u>	<u>WPP</u>	
<u>Building replacement and expansion</u>	<u>WPP</u>	<u>WPP</u>	<u>P</u>	<u>See subsection E2 of this section</u>
<u>Removal of debris or trees with heavy equipment</u>	<u>WPP</u>	<u>WPP</u>	<u>WPP</u>	<u>See subsections E3 and E4 of this section</u>
<u>Trail on publicly owned right of way</u>	<u>WPP</u>	<u>WPP</u>	<u>P</u>	<u>See subsection E9 of this section</u>

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129 5. Permitted Use Table; Undeveloped Land: Permitted uses allowed on an undeveloped lot or parcel within the water protection areas
130 are shown on table *** of this subsection. Uses allowed by right are indicated by the letter "P"; uses which require a riparian
131 protection permit are indicated by the letters "WPP"; and prohibited uses are indicated by a blank space.

132 a. Any use or development not shown on this table shall be prohibited unless authorized by a provision of this section or another
133 applicable provision of this title.
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TABLE 21A.34.130-3
USES ALLOWED ON UNDEVELOPED LAND

<u>Use</u>	<u>Area A (100 Foot Setback Area)</u>	<u>Comments</u>
<u>Maintenance and use of any lawfully established structure or use existing on January 15, 2008; any use, development, or structure established thereafter shall be authorized only as provided in this section</u>	<u>P</u>	<u>See subsection D6 of this section</u>
<u>Any action not constituting development or a ground disturbing activity except as otherwise set forth on this table</u>	<u>P</u>	
<u>Maintenance of existing lawn and garden areas</u>	<u>P</u>	
<u>Herbicide, pesticide and fertilizer application in accordance with best management practices</u>	<u>P</u>	
<u>Replanting noninvasive vegetation</u>	<u>P</u>	
<u>Maintenance tree pruning</u>	<u>P</u>	
<u>Minor ground disturbing activity</u>	<u>P</u>	<u>See subsections D7, E1b and E4 of this section</u>
<u>Manual removal of trash, storm debris, and fallen, dead, or diseased trees</u>	<u>P</u>	
<u>Pruning or tree removal within utility easement by responsible entity</u>	<u>P</u>	
<u>Tree removal or replacement</u>	<u>P</u>	
<u>Invasive plant removal</u>	<u>P</u>	
<u>Planting noninvasive vegetation</u>	<u>P</u>	
<u>Maintenance of existing fence or structure</u>	<u>P</u>	
<u>Activities approved by U.S. army corps of engineers or state engineer</u>	<u>P</u>	
<u>Commercial parking lot</u>	<u>-</u>	<u>Not permitted; see subsection D9 of this section</u>
<u>Leach field, stormwater retention pond, and detention basin</u>	<u>-</u>	
<u>Public utilities work</u>	<u>WPP/P</u>	<u>See subsection D11 of this section</u>
<u>Trail on publicly owned right of way</u>	<u>WPP</u>	<u>See subsection E9 of this section</u>

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6. Uses Allowed By Right On Developed Land; All Areas: The following uses may be conducted on a lot or parcel within Zone A, B, or C without a waterway protection permit:

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a. Maintenance and use of any lawfully established structure or use existing on ****incorporation date**** any use, development, or structure established thereafter shall be authorized only as provided in this section;

142 b. Maintenance of lawns and gardens, including benches and pathways;

143 c. Application of herbicide, pesticide, and fertilizer, subject to applicable state and federal regulations and in accordance with best
144 management practices identified by the department of public utilities;

145 d. Replanting of vegetation with noninvasive species identified by the public utilities director;

146 e. Maintenance pruning of existing trees; and

147 f. Any other activity which is not a development or other ground disturbing activity.

148 7. Uses Allowed By Right On Developed Or Undeveloped Land; Area A: The following minor ground disturbing activities shall be
149 allowed by right in a residential district on a developed or undeveloped lot or parcel within zone A without a riparian protection
150 permit;

151 a. Manual removal of trash, storm debris, and fallen, diseased, or dead trees or other vegetation by the landowner;

152 b. Pruning or removal of trees within a utility easement by the responsible entity;

153 c. Tree removal and replacement as provided in subsection E4 of this section;

154 d. Removal of invasive plants;

155 e. Planting of noninvasive vegetation shown on a list of approved and prohibited vegetation within riparian protection areas
156 published by the department of public utilities and/or the urban forester;

157 f. Maintenance of an existing fence or structure within the original footprint if:

158 (1) Further stream bank armoring is not required; and

159 (2) Soil is not unstable due to steep slope movement; and

160 g. Construction activities approved by the U.S. army corps of engineers under the federal clean water act or the river and harbors act,
161 or by the Utah state engineer under the stream alteration permit program as set forth in subsection A4 of this section.

162 8. Uses Allowed By Right On Developed Land; Area B: Uses allowed within area B on a developed lot or parcel without a riparian
163 protection permit include:

164 a. Any use described in subsection D4 of this section;

165 b. Open fencing approved under a general permit promulgated by the public utilities director;

166 c. Construction of open patios which do not involve an existing grade change of more than two feet (2') and decks which are not
167 higher than two feet (2') above grade;

168 d. Minimal grading;

169 e. Compost from yard debris; and

170 f. Mechanized removal of fallen, dead, or diseased trees as provided in subsection E4 of this section.

171 9. Uses Allowed By Right On Developed Land; Area C: Uses allowed within Zone C on a developed lot or parcel without a riparian
172 protection permit include any use or development allowed by the underlying district or as set forth in subsections D7 and D8, or E1b
173 of this section, except a leach field, stormwater retention pond, detention basin, or commercial parking lot.

10. Uses Allowed By Right On Undeveloped Land: Uses allowed on undeveloped land shall be as authorized by the underlying base zoning district, except within residential districts, the research park district, public lands districts, and the institutional and urban institutional district. Within such districts the following shall apply:

a. The one hundred foot (100') nondisturbance area requirement as described in subsection D3 of this section; and

b. The use and development standards set forth in subsection E of this section.

11. Public Utilities Work: In addition to the uses listed on the foregoing tables, the city may complete work within the waterway protection area as provided in this subsection.

a. Emergency Work: Emergency work to protect an immediate threat to life or land is allowed without a riparian protection permit.

(1) The city department undertaking the work shall notify the public utilities director of activity within twenty four (24) hours thereafter.

(2) Any stream channel or riparian area damaged as a result of city work shall be restored. The community development department shall issue a riparian protection permit for such restoration work and shall inspect and approve the work undertaken.

(3) Temporary emergency structures, sandbags, and other emergency related materials shall be removed from the site in a timely manner.

b. Other Work: The following work may be undertaken within a waterway protection area subject to the issuance of a riparian protection permit as provided in this subsection:

(1) Matters of public safety;

(2) Work to protect life or property in an emergency;

(3) Flood control;

(4) Channel or riparian restoration;

(5) Maintenance, including storm drainage system, irrigation structures, utility and street work;

(6) Public utilities projects approved by the City Manager, including, but not limited to, new utility or street work; bridge maintenance, repair, replacement, or new construction; public trails, such as bike and pedestrian paths located on publicly owned land;

(7) Public gathering places such as amphitheaters and gazebos located on publicly owned land;

(8) Maintenance access roads; and

(9) Utility service devices such as stormwater lift stations and irrigation structures.

c. Equipment: Plans submitted for a riparian protection permit shall include a description of equipment to be used for any work proposed. Such equipment shall be sufficiently sized for the task and chosen to minimize any impact to a stream channel and the riparian corridor area.

d. Construction Design Standards: The department of public utilities shall develop construction design standards applicable to projects approved under this subsection.

208 E. Use And Development Standards: Other uses and development standards within the WATERWAY PROTECTION district shall
209 be conducted as provided in this subsection and shall be consistent with any WATERWAY PROTECTION master plan as may be
210 adopted.

211 1. Area A: Development within area A shall conform to the standards set forth in this subsection.

212 a. Developed Lot In A Residential District: On a developed lot in a residential district, no new construction shall occur closer than
213 twenty five feet (25') to the annual high water level, except as permitted by this subsection.

214 b. Allowed Minor Ground Disturbing Activities: The following activities shall be allowed in a residential district within area A if
215 heavy equipment is not used and as provided by a riparian protection permit:

216 (1) New construction or maintenance of access stairs, landscape walls; and/or paths between vertical levels within area A and no
217 more than one per level in terraced areas;

218 (2) An open permeable patio or deck not located within a streambed and constructed in a manner that:

219 (A) Will not impede any high water flow above the AHWL;

220 (B) Does not change existing grade; and

221 (C) Is not greater than one hundred fifty (150) square feet;

222 (3) Low impact stream crossings;

223 (4) Construction of open fences, beyond the AHWL in any area within the WATERWAY PROTECTION district, if approved by the
224 public utilities director or as authorized by a general permit promulgated by the director;

225 (5) Maintenance of existing irrigation and flood control devices; and

226 (6) Installation and maintenance of erosion control devices, approved, if necessary, by the U.S. army corps of engineers, Salt Lake
227 County flood control, the Utah state engineer or any other government authority with jurisdiction. Such erosion controls may include
228 armoring, if, as reasonably determined by the approving authority:

229 (A) The armoring is authorized or required by the public utilities director and/or one or more of the foregoing government
230 authorities;

231 (B) The armoring is necessary to protect the structural integrity of an existing structure on the land or significant loss of land area due
232 to erosion;

233 (C) The landowner has reasonably exhausted less intrusive methods to prevent significant land damage;

234 (D) The armoring is placed only where necessary to prevent significant land damage in the foreseeable future; and

235 (E) The proposed armoring will not negatively impact other adjacent or downstream land.

236 2. Area B: Replacement, rebuilding, or expansion of a building within areas A and B shall conform to the standards set forth in this
237 subsection.

238 a. Replacement Buildings: Replacement or rebuilding of a preexisting structure in area A and/or B shall require a riparian protection
239 permit and is allowed, consistent with the continuation of nonconforming uses and noncomplying structures as set forth in chapter
240 21A.38 of this title, if:

241 (1) The structure replaces a preexisting structure with the same type of structure or a structure of lesser impact pursuant to underlying
242 zoning district standards;

243 (2) No portion of the footprint of the new structure is any nearer to the AHWL than the nearest point of the preexisting structure to
244 the AHWL;

245 (3) The total square footage of the portion of the footprint of the new structure to be located within area A and/or B does not exceed
246 the total square footage of the footprint of the old structure as it was located within area A and/or B;

247 (4) The new structure:

248 (A) Does not require further armoring of the stream bank; and

249 (B) Is not located in any unstable area due to movement of a steep slope, unstable soils, or geological activity along a fault that will
250 not support the structural footprint; and

251 (C) Complies with applicable requirements of the underlying zoning district and any other applicable city regulation except as
252 otherwise set forth in this section.

253 b. Building Expansion: Notwithstanding any other provision of this title to the contrary, an existing structure (not including a deck,
254 patio, or similar structure) may be expanded by up to twenty five percent (25%) in area A or B as provided by a riparian protection
255 permit if such expansion does not result in any structure being built closer to the AHWL than any portion of the existing structure.

256 (1) The foregoing rule shall also apply to a replacement structure.

257 (2) As a tradeoff for allowing expansion or replacement with a larger structure, the public utilities director shall require, as a
258 condition of the riparian protection permit, that the landowner spend five percent (5%) of the project cost on stream bank restoration
259 or specify a minimum number of linear feet of stream bank that shall be restored based on the size of the expansion and consistent
260 with any WATERWAY PROTECTION master plan as may be adopted and any subsequent restoration project applicable to the
261 entire stream corridor.

262 3. Use Of Heavy Equipment In Areas A And B: Heavy equipment may be used in areas A and B as provided by a riparian protection
263 permit issued pursuant to standards promulgated by the public utilities director to minimize and mitigate impacts from the use
264 thereof, and subject to any applicable federal, state, and county requirements.

265 4. Tree Removal And Replacement: Trees located in area A, B, or C which are fallen, diseased, or dead, or which are less than two
266 inches (2") in caliper, may be removed without a riparian protection permit so long as replacement trees are planted in the same area.

267 a. Trees which are removed shall be replaced as follows:

268 (1) For trees six inches (6") in caliper or less: One to one (1:1);

269 (2) For trees six (6) to eight inches (8") in caliper: Two to one (2:1); and

270 (3) For trees eight inches (8") or greater in caliper: Three to one (3:1).

271 (4) Any replacement tree which does not survive for at least one year shall be replaced again.

272 b. Removal of live trees is prohibited without approval from the public utilities director. In determining whether a live tree should be
273 removed, the director shall consult with the zoning administrator and the urban forester.

274 c. Replacement trees shall be an approved species and size shown on the list of approved and prohibited vegetation within riparian
275 protection areas published by department of public utilities and/or the urban forester and shall have the following minimum size:

276 (1) Deciduous trees shall have a minimum trunk size of two inches (2") in caliper, and
277 (2) Evergreen trees shall have a minimum size of five feet (5') in height.

278 d. Any tree which is more than two inches (2") in caliper shall not be removed unless authorized by a riparian protection permit.

279 e. The director may promulgate a general permit for tree stump removal in any area within the WATERWAY PROTECTION
280 district. Removal of any tree stump located within twenty five feet (25') of the annual high water line shall be approved by the urban
281 forester.

282 5. Development On Undeveloped Residential Lots Or Parcels: Development on an undeveloped residential lot or parcel which is one
283 acre or larger and located within area A, B, or C shall meet the requirements of this subsection.

284 a. The no disturbance setback for such lots shall be increased to one hundred feet (100').

285 (1) If the depth of the lot or parcel is less than two hundred feet (200'), then the setback shall be reduced by the ratio of the actual lot
286 depth to two hundred feet (200').

287 (2) The development potential (density) located within area B and C may be transferred to the balance of the subject lot or parcel and
288 the minimum lot size in the zoning district may be reduced by the zoning administrator, on advice and consultation with the public
289 utilities director, to accommodate such additional density. In the alternative, the development potential (density) may be applied to an
290 adjacent lot or parcel within the control or ownership of the applicant.

291 b. When a new structure is proposed to be constructed on a lot or parcel with a reduced setback as a result of this subsection, the
292 zoning administrator, on advice and consultation with the public utilities director, may reduce required front and side yard setbacks
293 by a factor of twenty five percent (25%); provided, however, that the setback shall not be reduced by more than the ratio calculated
294 under subsection E5a(2) of this section.

295 c. In all cases the minimum nondisturbance setback shall be at least fifty feet (50').

296 6. Development In Nonresidential Districts: A required setback on a lot or parcel located in a nonresidential district may be reduced
297 to allow development within twenty five feet (25') of a stream if the stream is daylighted as provided in subsection E7 of this section.

298 7. Incentives For Stream Bank Restoration Or Daylighting In Nonresidential Districts: Any applicant for a project that daylights a
299 stream or completes a city approved stream bank restoration program for at least fifty feet (50') along a stream in a riparian corridor
300 shall be allowed to build within twenty five feet (25') of the AHWL, subject to a riparian protection permit approved by the public
301 utilities director, so long as the applicant:

302 a. Incorporates best practice stormwater management facilities to reduce water pollution as specified by the public utilities director;

303 b. Agrees to monitor and control trash, litter, and other pollutants along the stream; and

304 c. Installs an amenity in the corridor such as a plaza, benches, trail, and/or sidewalk that is open to and accessible by the public.

305 8. Steep Slope And Soil Stability Standards: As part of a riparian protection permit, the public utilities director may require a
306 geotechnical report and impose greater setbacks for structures or buildings from the structure limit line to ensure safety. When
307 unstable soils are suspected, regardless of the slope, the public utilities director may require a geotechnical report, increase the no
308 disturbance line, and impose greater setbacks for a structure or building from the structure limit line to ensure safety.

309 a. Replacement or repair of an existing retaining structure shall require a riparian protection permit.

310 b. Each proposed project shall be reviewed on an individual basis.

311 9. Trails: Trails may be established along a publicly owned right of way within any area located in the WATERWAY PROTECTION
312 district.

313 a. A riparian protection permit shall be required for a trail located in area A.

314 b. Public access to private land adjoining a stream channel shall be prohibited unless authorized by the landowner or pursuant to an
315 access easement.

316
317 A. Buildable Area Requirements: Any buildable area or portion of a buildable area, fence or structure shall not be closer than
318 twenty feet (20') to any manmade drainage, fifty feet (50') to an ephemeral stream or natural drainage channel, or one hundred
319 feet (100') to a perennial stream. The planning commission may grant an exception to this requirement with the consent of the
320 city engineer and the concurrence of any state or federal regulatory body with jurisdiction over such waterways.

321
322 B. Existing Waterways: Existing waterways including irrigation ditches, irrigation pipes, storm drain channels, storm drain pipes,
323 and related facilities shall be preserved in function and capacity and a permit is required for any modification to any such
324 waterway.

325
326 C. Piping Of Existing Canals And Ditches: Irrigation ditches, also known as "laterals", and canals were historically designed and
327 used as open channel water conveyances, however, urban encroachment has created a need to pipe these facilities. Piping of
328 existing open channel facilities is permissible subject to the following:

329 1. A permit is required for changing any irrigation canal or ditch, means of conveyance or alignment. Applicant shall provide
330 necessary details to the City Engineer and certify that the proposed changes will not adversely impact the capacity or
331 functioning of the canal or ditch, nor hinder the ability to deliver water to those with a water right.

332 2. The permit will be subject to the review and approval of the City Engineer and as appropriate the City Attorney.

333 3. Current and future landowner(s) are responsible for the perpetual and continual maintenance and condition of the piping
334 along and through their property. (Ord. 2014-03, 2-20-2014)