

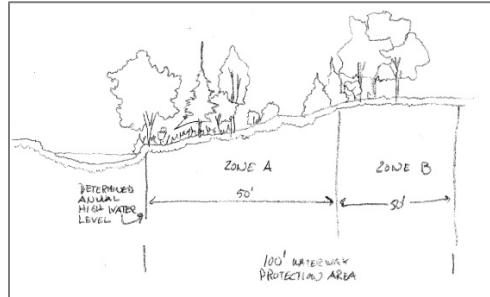
13.76.400: DEVELOPMENT NEAR WATERWAYS PROTECTION:

- A. ~~Buildable Area Requirements: Any buildable area or portion of a buildable area, fence or structure shall not be closer than twenty feet (20') to any manmade drainage, fifty feet (50') to an ephemeral stream or natural drainage channel, or one hundred feet (100') to a perennial stream. The planning commission may grant an exception to this requirement with the consent of the city engineer and the concurrence of any state or federal regulatory body with jurisdiction over such waterways.~~
- B. ~~Existing Waterways: Existing waterways including irrigation ditches, irrigation pipes, storm drain channels, storm drain pipes, and related facilities shall be preserved in function and capacity and a permit is required for any modification to any such waterway.~~
- C. ~~Piping Of Existing Canals And Ditches: Irrigation ditches, also known as "laterals", and canals were historically designed and used as open channel water conveyances, however, urban encroachment has created a need to pipe these facilities. Piping of existing open channel facilities is permissible subject to the following:~~
- ~~1. A permit is required for changing any irrigation canal or ditch, means of conveyance or alignment. Applicant shall provide necessary details to the City Engineer and certify that the proposed changes will not adversely impact the capacity or functioning of the canal or ditch, nor hinder the ability to deliver water to those with a water right.~~
- ~~2. The permit will be subject to the review and approval of the City Engineer and as appropriate the City Attorney.~~
- ~~3. Current and future landowner(s) are responsible for the perpetual and continual maintenance and condition of the piping along and through their property. (Ord. 2014-03, 2-20-2014). ** C. has been relocated below as item F.~~
- A. **Purpose Statement:** This section consists of supplemental regulations pertaining to the development or redevelopment of land uses, near waterways. Protection areas are therefore established within one hundred feet (100') of a natural waterway and twenty feet (20') from a canal system. Development standards within these areas are established to minimize erosion and stabilize stream banks, improve water quality, reduce potential for flood damage, preserve tree canopy, as well as to preserve in function and capacity all man-made canals, ditches and other irrigation facilities. Whenever there is a conflict between the regulations of a base zoning district and those described within this section, the regulations of this section district shall prevail.
- B. **General Provisions:**
1. **Applicability:** The regulations set forth in this section supplement those regulations in the underlying base zoning district. In General, no person shall engage in any ground disturbing activity, development or demolition within 100 feet of a natural water and or 20 feet from a canal on a lot or parcel that will remove, fill, dredge, clear, grub, destroy, armor, terrace, or otherwise impact a waterway protection area through manipulation of soil or other material except as allowed by:
 - a. Provision defined within this section.
 - b. Site plan approval by Planning Commission in conjunction with the site plan approval processes set forth in chapter 13.08 of this title.
 - c. 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 within waterway protection buffer, and
 2. **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. Compliance with the requirements of this section shall not relieve a landowner from compliance with other applicable provisions of Title 13 and Title 17 of this code except as expressly otherwise set forth in this section.
 - b. If a landowner proposes a use or development which is dually located within the areas described in this section and those areas located within the jurisdiction of a federal or state government agency or Salt Lake County, then the landowner shall apply for approvals from both jurisdictions. 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. Salt Lake County utility services 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 located within the areas as described in section 13.76.400E(2).
 - d. A city department or other canal company, irrigation water provider or agency that conducts a use or development within a protection area shall follow the requirements of this section and obtain a waterway protection permit if required.
- C. **Decision Making Authority:**
1. **Community and Economic Development Director (CED director):** Upon receiving a recommendation from the city engineer, The CED Director shall be responsible for implementing and administering the provisions of this section. The CED director:
 - a. 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;
 - b. Shall expedite the permit review process only if an applicant reasonably demonstrates imminent danger to individuals or property is associated with the subject land;
 - c. May adopt reasonable procedures, including approval of general permits, to implement the provisions of this section; and
 - d. May designate one or more staff persons within the department to carry out these responsibilities. Wherever this section refers to the CED director, such reference shall also include the director's designee.
 2. **Technical Review Committee:** The TRC shall review the application for completeness and make recommendation as per the process and procedure set forth in subsection D.
 3. **Appeal Of Decision:** Any person adversely affected by any decision made may, within thirty (30) days, apply for an appeal as per 13.101 Appendix B.
- D. **Review Process and Procedure:**
1. **Waterway Protection Permit:** An application for all activity, as regulated within this section, shall be created and maintained on file by the Community and Economic Development Department.
 2. **Site plan requirements:** To accompany the Waterway Protection Permit application the following site plan elements shall be provided.
 - a. Subject property with all recorded property lines marked and;
 - b. The Annual High Water Line and each protection area as defined, labeled with contour elevations;
 - c. The location and setback of existing and proposed buildings and structures from the AHWL;
 - d. Existing and proposed grades, labeled with contour elevations;
 - e. All trees greater than 2" caliper, with trees proposed for removal highlighted;
 - f. FEMA floodplains, geological faults, high liquefaction areas, and slopes thirty percent (30%) or greater;

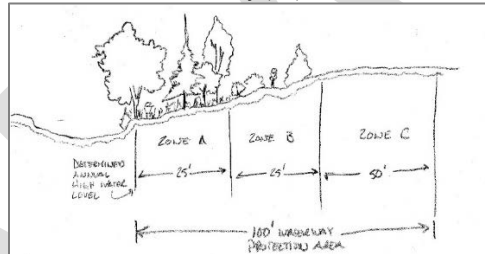
- g. Such other and further information or documentation as the city engineer may reasonably deem necessary for proper consideration of a particular application, including, but not limited to, geotechnical and hydrological reports required under subsection F8 of this section.
3. Annual High Water Level: The waterway corridor delineated at the elevation of water during annual high water level. The AHWL is to be located at the horizontal soil and vegetative boundary that distinguishes between predominantly aquatic and predominantly terrestrial lands.
- a. A boundary location or delineation required under this section shall be prepared by a qualified licensed professional engineer or qualified environmental scientist.
- b. When the AHWL level cannot be found, the City Engineer may approve the AHWL delineation which meets the intent of this section.
4. Determination Of Completeness: Upon receipt of an application for a waterway protection permit, the TRC shall make a determination of completeness of the application and remit the application the CED director for review.

E. Waterway Protection Areas

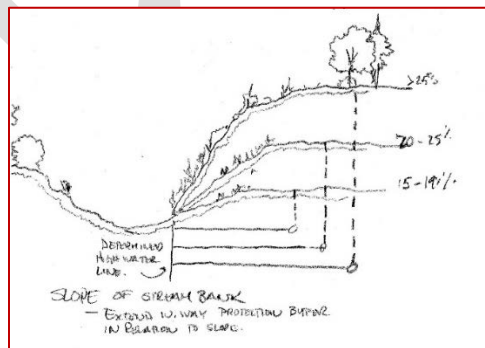
1. Undeveloped Land: The following protection areas are established for undeveloped lots of record, created after the adoption date of this ordinance:
- a. Big Cottonwood, Heughs Canyon Creek, Spring Creek:
- Area A: located between the AHWL and fifty feet (50') from the AHWL; and
 - Area B: located between fifty (50') one hundred feet (100') from the AHWL



- b. Upper, Jordan and Salt Lake Canals: refer to 2(b) of this section
2. Developed Land: The following protection areas are established for existing and developed lots or parcels
- a. Big Cottonwood, Heughs Canyon Creek, Spring Creek:
- Area A: located between the AHWL and twenty-five feet (25') from the AHWL;
 - Area B: located between twenty-five (25') and fifty feet (50') from the AHWL; and
 - Area C: located between fifty (50') and one hundred feet (100') from the AHWL.



- b. Upper, Jordan and Salt Lake Canals:
- Area A: located between the AHWL and top of bank; and
 - Area B: located between the AHWL and twenty feet (20') from the AHWL
3. Steep Slope And Soil Stability Standards: Steep slopes are vulnerable to erosion and rely on vegetation to help stabilize the area. Area A as described in this section shall be expanded in relation to the steepness of the slope as provided in Figure C
- a. As part of a WWPP, when unstable soils are suspected or observed, regardless of the slope the city engineer may require a geotechnical report and increase the no disturbance line or setbacks for structures or buildings from the AHWL to ensure safety



F. Permitted Uses and Activities by Area:

1. Undeveloped Land: Permitted uses and activities allowed on an undeveloped lot of record established on or after the adoption date of this ordinance are shown on Chart 13.76.401
- a. Any use or development not shown on this table shall be prohibited unless determined by The Director, upon recommendation by the City Engineer, to be substantially similar in use to those shown as permitted.

- b. Uses proposed on undeveloped land abutting a canal shall adhere to Chart 13.76.402, Abutting Upper, Jordan and Salt Lake Canals

CHART 13.76.401

USES ALLOWED ON UNDEVELOPED LAND

Abutting Big Cottonwood Creek, Heughs Canyon Creek, Spring Creek:				
	Activites and Uses	Area A (50 ft)	Area B	Comments
	New primary or accessory structures as allowed by underlying land use zone	-	P	See subsection D9 Df of this section
	Any action not constituting emplacement of a structure or a ground disturbing activity	P	P	
	Manual removal of trash, storm debris, invasive plants and fallen trees by the landowner	P	P	
	Minor ground disturbing activity	P	P	See subsection G1, 2 and 4 of this section
	Pruning or tree removal within utility easements by responsible entity	P	P	
	Maintenance of existing landscaping including tree and shrub pruning	P	P	
	Planting or replanting noninvasive trees and vegetation	P	P	See Tree Selection Guide on file with department
	Tree and or stump removal and replacement of live trees	WPP	P	See subsection G5, 13.77.090
	Activities approved by U.S. army corps of engineers or state engineer	WPP	P	See subsection B2b of this section
	Herbicide, pesticide and fertilizer application	-	P	in accordance with best management practices
	Commercial parking lot	-	WPP/P	See subsection B1b of this section
	Public utilities work	WPP/P	WPP/P	See subsection H3 of this section
	Trail on publicly owned right of way	WPP	WPP	See subsection I of this section
	Leach field, stormwater retention pond, and detention basin	-	-	
Note: 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 (-).				

2. Developed Land: Permitted uses and activities on a developed lot or parcel within the waterway protection area are shown on Chart 13.76.402.
- Any use or development not shown on this table shall be prohibited unless determined by the CED Director, upon recommendation of the City Engineer, to be substantially similar in use to those shown as permitted.
 - Maintenance, upkeep and use of any lawfully established land use, development, or structure existing on or after the **** effective codify date **** which is found to be in violation of these provisions shall be deemed legal, non-conforming and is authorized to continue as provided in this Section **13.76.400** of this Title.

CHART 13.76.402

USES ALLOWED ON DEVELOPED LAND

Abutting Big Cottonwood Creek, Heughs Canyon Creek, Spring Creek:					
	Activities and Uses	Area A	Area B	Area C	Comments
	New primary or accessory structures as allowed by underlying land use zone	-	-	P	See subsection D9 Df and E1b of this section
	Maintenance or expansion of a lawfully established structure or use	WPP	WPP	P	See subsection G, F2(b) of this section
	Any action not constituting development emplacement of a structure or a ground disturbing activity except as otherwise set forth on this table	P	P	P	
	Manual removal of trash, storm debris, invasive plants and fallen trees by the landowner	P	P	P	
	Removal of debris or trees with heavy equipment	WPP	WPP	WPP	See subsections E3 and E4 of this section
	Minor ground disturbance, grading activities	WPP	WPP	P	See subsections H1 G Df and E1b of this section
	Pruning or tree removal within utility easement by responsible entity	P	P	P	

Maintenance of existing landscaping including tree and shrub pruning, pathways	P	P	P	
Planting or replanting noninvasive trees and vegetation	P	P	P	see Tree Selection Guide on file with department
Tree and or stump removal and replacement of live trees	WPP	P	P	See subsection G5, 13.77.090
Activities approved by U.S. army corps of engineers or state engineer	P	P	P	See subsection D7g of this section
Herbicide, pesticide and fertilizer application	-	P	P	in accordance with best management practices
Public Works and utilities	WPP/P	WPP/P	WPP/P	See subsection E11 of this section
Trail maintenance or expansion on publicly owned right of way	WPP	WPP	P	See subsection E9 of this section
Leach field, septic system	-	-	WPP	
stormwater retention pond, and detention basin	-	P	P	
Outside Storage of chemicals, salts and fuels	-	-	-	
Maintenance of existing fence	P	P	P	
Open fence, new	WPP	P	P	
Open patio, deck, stairways and paths, new	WPP	P	P	See subsections D8, Df and E1b of this section. Any decking not allowed within Zone A
Compost from yard debris	-	P	P	
Commercial parking lot	-	-	WPP	see subsection D9 of this section
Low impact stream crossing	WPP	na	na	
Maintenance of existing irrigation and flood control devices	WPP	WPP	P	
Installation and maintenance of erosion control devices	WPP	WPP	WPP	

Abutting Upper, Jordan and Salt Lake Canals

Activities and Uses	Area A	Area B	Comments
New primary or accessory structures as allowed by underlying land use zone	-	-	See subsection D9 Df and E1b of this section
Maintenance or expansion of a lawfully established structure or use	P	P	See subsection G, F2(b) of this section
Any action not constituting development emplacement of a structure or a ground disturbing activity except as otherwise set forth on this table	P	P	
Manual removal of trash, storm debris, invasive plants and fallen trees by the landowner	P	P	
Removal of trees, live dead or fallen with heavy equipment	-	WPP	See subsections E3 and E4 of this section
Minor ground disturbance, grading activities	-	WPP	See subsections H1 G Df and E1b of this section
Pruning or tree removal within utility easement by responsible entity	P	P	
Maintenance of existing landscaping including tree and shrub pruning, pathways	P	P	
Planting or replanting noninvasive trees and vegetation	P	P	see Tree Selection Guide on file with department
Tree and or stump removal and replacement of live trees		WPP	See subsection G5, 13.77.090
Herbicide, pesticide and fertilizer application	-	P	in accordance with best management practices
Public Works and utilities	WPP/P	WPP/P	See subsection E11 of this section
Trail maintenance or expansion on publicly owned right of way			See subsection E9 of this section
Leach field, septic system	-	-	
stormwater retention pond, and detention basin	-	WPP	
Outside Storage of chemicals, salts and fuels	-	-	
Maintenance of existing fence	P	P	
Open fence, new	-	P	

Open patio, deck, stairways and paths, new	-	WPP	See subsections D8, Df and E1b of this section. Any decking not allowed within Zone A
Compost from yard debris	-	P	
Commercial parking lot	-	-	see subsection D9 of this section
Low impact canal crossing	WPP	na	
Maintenance of existing irrigation and flood control devices	P	P	
Installation and maintenance of erosion control devices	WPP	WPP	
Note: 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 (-).			

3. Public Works and Utilities: In addition to the uses listed on the foregoing tables, the city public works and utility providers may work within the waterway protection area as provided herein:
 - a. Emergency Work: Emergency work to protect an immediate threat to continuity of services, life or land is permitted. Work shall adhere to the following procedures
 - i. The utility undertaking the work shall notify the city of activity within twenty-four (24) hours thereafter.
 - ii. Any stream channel or riparian area damaged as a result of utility work shall be restored. The community and economic development department shall issue a WPP for such restoration work and shall inspect and approve the work undertaken
 - iii. 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 without a Waterway Protection Permit:
 - i. Channel or riparian restoration;
 - ii. Maintenance, including storm drainage system, irrigation structures, utility and street work;
 - iii. Projects approved by the city, 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;
 - iv. Public gathering places such as amphitheaters and gazebos located on publicly owned land;
 - v. Maintenance access roads; and
 - vi. Utility service devices such as stormwater lift stations and irrigation structures.
 - c. Equipment: Plans submitted for a WPP 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 project engineer shall develop construction design details and standards applicable to projects approved under this subsection.

G. **Use, Activity and Development Standards:** The following standards are established and shall be conducted as per WPP approval and shall be consistent with any other federal or state regulations.

1. Area A: Minor Ground Disturbing Activities shall be allowed if heavy equipment is not used:
 - a. New construction or maintenance of access stairs and paths using natural materials
 - b. Minimal Ground Disturbance; maximum cut, fill of 6"
 - c. An open permeable patio using natural materials and constructed in a manner that:
 - (i) Will not impede any high water flow above the AHWL;
 - (ii) Does not change the existing grade; and
 - (iii) Is not greater than one hundred fifty (150) square feet;
 - d. Low impact stream crossings;
 - e. Construction of open fencing which is non-parallel to waterway;
 - f. Maintenance of existing irrigation and flood control devices; and
 - g. Installation and maintenance of erosion control devices, approved, if necessary, by the U.S. army corps of engineers, Salt Lake County flood control, the Utah state engineer or any other government authority with jurisdiction.
2. Area B:
 - a. Open, paver or flagstone patios which do not involve footings or foundations or existing grade change of more than two feet (2'), and floating surface decks with pre-cast deck block footings measuring no higher than two feet (2') above existing grade
 - b. Minimal Ground Disturbance; maximum cut, fill of 24"
 - c. Replacement of a structure within Area A and/or B shall require a WPP and is allowed, consistent with the continuation of a legal, nonconforming uses and structures as set forth in chapter 13.88 of this title, if all of the following apply:
 - (i) The structure replaces a preexisting use or lesser impact of a similar use pursuant to compliance with the underlying zoning district standards;
 - (ii) No portion of the footprint of the replacement structure is any closer to the AHWL than the nearest point of the preexisting footprint;
 - (iii) 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 the total square footage of the original footprint;
 - (iv) Does not require further armoring of the stream bank; and
 - (v) Is not located in any unstable area due to movement of a steep slope, unstable soils, or geological activity along a fault that will not support the structural footprint.
3. Existing Structure Maintenance of Expansion: Notwithstanding any other provision of this title to the contrary, an existing structure (including a deck, patio, or similar structure) may be maintained or expanded by up to twenty five percent (25%) of the structure's footprint in area A or B as provided by a WPP if such expansion does not result in any structure being built closer to the AHWL than any portion of the existing structure.
 - a. As a tradeoff for allowing expansion or replacement with a larger structure, The Director shall require, as a condition of the WPP, that the landowner spend five percent (5%) of the project cost on stream bank restoration or specify a minimum number of linear feet of stream bank that shall be restored based on the size of the expansion and consistent with any purpose or goals of the General Plan or as may be adopted and any subsequent restoration project applicable to the waterway corridor. Completion of required work to be verified by the city engineer.
4. Use Of Heavy Equipment In Areas B: Heavy equipment may be used in area B as provided by a WPP issued pursuant to standards promulgated by the public utilities director to minimize and mitigate impacts from the use thereof, and subject to any applicable federal, state, and county requirements.

- 186 5. Tree Removal And Replacement: Trees located in areas A, B, or C as described in this section are protected and regulated as Community Trees. Removal and
187 replacement of Community Trees are regulation under section 13.77.090 of this title.
188 a. The Director may review and approve a general permit for tree stump removal with area B or C. Removal of any tree stump located within zone A (25') of
189 the AHWL shall be approved by the city engineer.
- 190 H. **Piping of Existing Canals and Ditches:** Irrigation ditches, also known as "laterals", and canals were historically designed and used as open channel water
191 conveyances, however, urban encroachment has created a need to pipe these facilities. Piping of existing open channel facilities is permissible subject to the
192 following:
193 1. A WPP approval and signed recordable instrument, kept on file with the department ("Irrigation Protection Agreement") is required for altering size or
194 alignment of any irrigation canal, ditch, or other means of conveyance.
195 2. The permit will be subject to the review and approval of the City Engineer and as appropriate the City Attorney; and
196 3. The Irrigation Protection Agreement shall be recorded against title of the property conveying the purpose of perpetual and continual maintenance and condition
197 of the facility within the subject property.
- 198 I. **Trails:** Trails may be established along a publicly owned right of way within any area located in the Waterway Protection Area
199 1. A WPP shall be required for a trail located in area A.
200 2. Public access to private land adjoining a stream channel shall be prohibited unless authorized by the landowner or pursuant to an access easement.

201 **13.08.150: SPECIAL EXCEPTIONS AUTHORIZED:**

202 The following special exceptions are authorized under this title:

- 203 ~~—A. Development Near Waterways: The Planning Commission may grant an exception to the buildable area or portion of a buildable area as set forth in section~~
204 ~~13.76.400 of this title upon receipt of a positive recommendation from the Community Development Director and the Technical Review Committee. The recommendation~~
205 ~~shall be based upon the following:~~
206 ~~—1. Consent of any State or Federal regulatory body with jurisdiction over such waterways;~~
207 ~~—2. The location and age of existing structures within the same base flood elevation;~~
208 ~~—3. The current base flood elevation as per FEMA regulations;~~
209 ~~—4. Proposed measures to protect and preserve the existing riparian corridor;~~
210 ~~—5. An approved tree removal permit as required by section 13.77.090 of this title; and;~~
211 ~~—6. Submittal by the property owner of a natural hazards disclosure and acknowledgment form. (Ord. 2019-04, 2-28-2019)~~
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