



GREATER SALT LAKE
Municipal Services
District

Planning and Development Services

2001 S. State Street N3-600 • Salt Lake City, UT 84190-4050

Phone: (385) 468-6700 • Fax: (385) 468-6674

<https://msd.utah.gov/agendas/>

Mountainous Planning District Planning Commission

Public Meeting Agenda

Thursday, September 2, 2021 4:00 P.M.

Location: Due to the current COVID-19 pandemic, the Public Hearing will occur electronically with no physical location, as authorized by Utah Code Ann. § 52-4-207(5) and written determinations issued by the Chair of the Mountainous Planning District Planning Commission. The public can join the Public Meeting via live broadcast using Cisco Webex.

Join meeting in WebEx

Meeting number (access code): 961 841 420

<https://slco.webex.com/join/wgurr>

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UPON REQUEST, WITH 5 WORKING DAYS NOTICE, REASONABLE ACCOMMODATIONS FOR QUALIFIED INDIVIDUALS MAY BE PROVIDED. PLEASE CONTACT WENDY GURR AT 385-468-6707. TTY USERS SHOULD CALL 711.

The Planning Commission Public Meeting is a public forum where, depending on the agenda item, the Planning Commission may receive comment and recommendations from applicants, the public, applicable agencies and County staff regarding land use applications and other items on the Commission’s agenda. In addition, it is where the Planning Commission takes action on these items, which may include: approval, approval with conditions, denial, continuance or recommendation to other bodies as applicable.

BUSINESS MEETING

- 1) Approval of the August 5, 2021 Planning Commission Meeting Minutes.
(Motion/Voting)
- 2) Other Business Items (as needed)

PUBLIC HEARING(S)

(Continued from May 6, June 3, and July 1, 2021) - An ordinance amending the following sections of the Salt Lake County Code of Ordinances, 2001: 19.12.020 (permitted uses in the FR zone), 19.12.030(g) (conditional uses in the FR zone), and 19.54.020 (permitted uses in the FA zone) to have uniform regulations in the FR and FA zones with regards to animal uses and their associated impacts on adjoining properties, the environment, and the well-being of animals; and making other related changes. **Presenter:** Zach Shaw (Motion/Voting)

The Planning Commission will act on the proposed ordinance amendments after taking comments from the public during their respective public hearings. Public comments will be provided pursuant to the planning commissions' rules of conduct. Public comments will be limited to three minutes per person. The public is also invited to review and inspect the proposed ordinances at <https://www.utah.gov/pmn/index.html> under the respective Planning Commissions' agendas.

ADJOURN

Rules of Conduct for the Planning Commission Meeting

1. Applications will be introduced by a Staff Member.
2. The applicant will be allowed up to 15 minutes to make their presentation.
3. The Community Council representative can present their comments.
4. Persons in favor of, or not opposed to, the application will be invited to speak.
 - a. Speakers will be called to the podium by the Chairman.
 - b. Because the meeting minutes are recorded it is important for each speaker to state their name and address prior to making any comments.
 - c. All comments should be directed to the Planning Commissioners, not to the Staff or to members of the audience.
 - d. For items where there are several people wishing to speak, the Chairman may impose a time limit, usually 2 minutes per person, or 5 minutes for a group spokesperson.
5. Persons opposed to the application will be invited to speak.
6. The applicant will be allowed 5 minutes to provide concluding statements.
 - a. After the hearing is closed, the discussion will be limited to the Planning Commission and the Staff.

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FR/FA ORDINANCE AMENDMENT

Public Body: Mountainous Planning District Planning Commission

Meeting Date: September 2, 2021

Request: Update to the FR and FA zoning districts to address horses and other animals

Planner: Jim McNulty

Legal Counsel: Zach Shaw

Planning Staff Recommendation: Approval with revisions to address public input

DESCRIPTION OF THE PROBLEM

A common question throughout the public comment process is whether a problem exists that needs solving. The problems with the current ordinances have been manifest in the Hi Country Estates area, but they involve ordinances that affect other areas of the unincorporated county. First, there is confusion about what permits are required (if any) in Hi Country Estates to have horses and other animals, what the process is to obtain such permits, and why the process is different depending on what zone a property owner is in.

It appears that the understanding among Hi Country Estates property owners is that all properties are "horse" properties. However, in the FR zone, where horses are a conditional use, there are currently only nine conditional use permits (and over 190 lots that are zoned FR, albeit all of these do not have horses); in the FA zone, where horses are a permitted use, there are currently only 1 or 2 permits (and approximately 301 lots that are zoned FA, albeit all of these do not have horses). Without the necessary applications filed and permits in place, properties with horses are in violation of County ordinance. Unfortunately, Code Enforcement staff is placed in a situation that puts the County at risk and creates the potential of hostility between neighbors when some property owners are in compliance with County ordinance, while others are not.

The second problem that currently exists is desire for commercial uses and confusion about certain commercial uses on property in Hi Country I and II, expressed in a number of public comments. The FA zone only allows personal use of horses and other animals. The FR zone ordinance does not explicitly limit animal uses to personal use. Under these existing parameters, those that desire to have commercial boarding operations and other commercial animal uses must attempt to rezone their property to the FR zone, then apply for a conditional use permit and argue ambiguities in the ordinance before the planning commission. Salt Lake County has already seen one such application to rezone from FA to FR (which was denied) in Hi Country II. Staff is concerned that similar applications will come in the future from property owners desiring commercial uses on their property, which could result in a patchwork of FR-zoned property in the midst of FA-zoned property, further heightening tension between incompatible commercial and residential uses. At minimum, clarification on what commercial-type animal uses are permitted would help resolve current disputes over such uses.

A related problem involves the number of horses permitted in both zones. The FA zone currently allows 4 horses no matter the size of the property. The FR zone does not have an express limit on the number of horses, but indicates that the planning commission can set a limit. This discrepancy likewise encourages property owners to rezone their property from FA to FR to accommodate more horses (including for boarding purposes), resulting in a patchwork of zoning and heightened tension between neighbors over incompatible zoning and uses.

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A fourth problem arose in the context of the rezoning application from FA to FR referenced in the previous two paragraphs—the impact of more horses on perennial and ephemeral streams in the area. Attached as Appendix A to this Staff Report is a thorough summary of this problem. In the rezone application, County Public Works recommended denial of the application because of this problem. Rather than get continuous applications to rezone property and continuous opposition to the same from the County, it makes more sense to remove the incentive to rezone by having uniform standards between the two zones.

In summary, if the County does nothing to update its FR/FA ordinances, the following will potentially occur: 1) property owners in the FR zone must go through a more expensive, time-consuming process to obtain a conditional use permit, a process that is an incentive to not come into compliance, resulting in some property owners who are compliant, others that aren't, neighbor disputes over this situation, and the County at risk for selective enforcement; 2) property owners in the FA zone who want commercial uses and/or more horses on their property, who apply to rezone their property to FR, resulting in a patchwork of zoning and heightened neighbor disputes over impacts of more horses; 3) Continued disputes over commercial animal uses because of a lack of clarity in the ordinance over what commercial uses are allowed and how to mitigate the impacts of such uses; 4) increase of horses in close proximity to streams and heightened risk to the County of significant penalties for not adopting standards to mitigate the impacts of those increases.

PROPOSED REVISIONS TO DRAFT ORDINANCE (in response to public input)

The Planning Commission received significant input from members of the public in response to the proposed draft ordinance. Staff has carefully studied all of this input and has strived to balance the interests of the public with the issues outlined above and proposes the following revisions to the draft ordinance:

1. Eliminate the 300' setback and adopt a simpler approach to properties with streams on or adjacent to the properties, namely that such properties be allowed a maximum of four horses regardless of the size of the property. Most of these properties in Hi Country impacted by streams are zoned FA, which currently only allows four horses, so there is no meaningful reduction.
2. Retain the proposed 100' setback for all properties with streams, with the following explicit exception: existing structures that lawfully exist now may remain as legal noncomplying structures. The 100' setback is necessary to address the water quality problems outlined in Appendix A, but the noncomplying structure exception holds harmless lawfully existing structures. Also, the 100' setback is consistent with FCOZ requirements, which govern much of the Hi Country area and other areas zoned FR and FA.
3. A Trail Riding business is consistent with the Commercial Recreation use in the FR zone, so it would be a permitted use in both zones so long as it complies with other regulations that govern a business, such as parking, signage, lighting, business licensing, etc. Boarding horses (or other animals) for compensation is incompatible with other uses in both zones, both residential uses and the limited commercial uses in the FR and FA zones (the allowed commercial uses are primarily home-based). Allowing such boarding would be a significant expansion of the current character of the zone, and such higher-intensity incompatible uses are likely to foster disputes, as have already taken place.
4. Retain the proposed two horses per acre but exclude from acreage those improvements/areas that do not support animals, namely driveways, the footprint of a home and accessory structures that do not house animals, and the 100' setbacks in #2.
5. Responding to public comment about nuisances on properties with animals, Staff recommends that Applicant shall submit a manure management plan, which shall address mitigation of stormwater runoff, odor, and flies, and shall include the following:

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- a. Clean-up of manure in stalls and off-site deposit of the same on a weekly basis. Manure storage or composting is not allowed except as Salt Lake County Health Department General Sanitation Regulation explicitly permits composting.
 - b. Siting of stalls to protect surface water, drainageways, wellheads, streams and irrigation ditches.
 - c. Bedding system such as stall mats, hay, wood shavings, and/or wood pellets
- 6 Each water system or district must approve of having animals within their respective jurisdictions. For example, Herriman City HP Well #1 (DWSP Zone 4), Riverton City Green Well (DWSP Zone 4), etc.
- 7 The following provisions are clarified to apply to the protected watershed:
- a. "The area proposed for such use is not a protected watershed area, as determined by the health department's watershed regulation..." See Sections 19.12.020(F)(1) and 19.54.020(C)(1)
 - b. "Household pets, provided the area proposed for animals is not in a protected watershed area, primary water supply recharge area, or drinking water source protection area, as determined by the Salt Lake County health department or Utah Department of Environmental Quality..." See Section 19.12.020(G)
- 8 Other provisions in the draft ordinance remain, including the following:
- a. Streamlined permitted use process for both zones.
 - b. Current permits recognized notwithstanding ordinance changes.

RESPONSES TO PUBLIC QUESTIONS/CONCERNS

In addition to responding to public input by recommending changes to the draft ordinance, Staff provides the following responses to questions and concerns raised by the public.

1. Lack of notice. Many members of the public raised concerns that they were not notified of the proposed changes. Utah Code Section 17-27a-205 outlines the required notice for an amendment to a land use regulation. It provides:

(1) Each county shall give:

- (a) notice of the date, time, and place of the first public hearing to consider the adoption or modification of a land use regulation; and
- (b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be:

- (a) mailed to each affected entity at least 10 calendar days before the public hearing;
- (b) posted:
 - (i) in at least three public locations within the county; or
 - (ii) on the county's official website; and
- (c) (i) posted on the Utah Public Notice Website created in Section 63A-16-601, at least 10 calendar days before the public hearing

These notice requirements were followed. The same statute allows but does not require mailing of the notice to all property owners affected by the proposed amended land use regulation. As much of the private property within the unincorporated Salt Lake County is zoned FR or FA, the cost to mail notice to all affected property owners would be significant. Moreover, in this day of social media, staff fully expected "the word to get out" about the proposed ordinance, for there to be significant public input, and for there to be changes to the proposed ordinance based on that input; those expectations have been realized. Staff fully expects additional public input to be provided in response to this staff report and consideration of that input to be made by the Commission before a recommendation to the County Council is made. Staff fully expects additional public input to be provided to the Council and for due consideration of the same before a final decision is made. This is the

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very process that State law envisions for proposed land use regulations, with the goal of making a balanced decision based in part from the significant public input that is provided.

2. Public Comment: The problem Staff seeks to address is overstated and is an overreaction to the complaints of a few. Response: For Staff's response to this concern, See Summary of the Problem in this Staff Report.
3. Public Comment: Differences between the FR and FA zones are appropriate and reflect differences in the areas zoned as such. For example, property owners in Hi-Country II note that the FA zone is better tailored for the streams that run through Hi-Country II. Response: Staff agrees that the 4-horse limit that currently exists in the FA zone is appropriate for properties with streams on or adjacent to them, which is reflected in the proposed revisions to the ordinance update. However, as noted in the summary of the problem, the current differences in the regulations encourage the FA properties in Hi Country II wishing to have more horses and boarding uses to rezone to the FR zone, which currently does not have a defined 4-horse cap or an explicit limit to personal use. This very scenario has already taken place, and Staff expects more such scenarios in the future, which could lead to a patchwork of zoning in Hi Country II and more disputes regarding incompatible uses.
4. Public Comment: Ordinance changes should only apply to the protected watershed. Response: Members of the public questioned the need for water quality protections for property that is not in the protected watershed. Appendix A of this Staff Report addresses those questions. Additionally, the current FR zone and proposed ordinance updates already recognize that animals are not allowed at all inside the protected watershed (with certain limited exceptions outlined in Salt Lake County Health Department Regulation 14). See Salt Lake County Code 19.12.030(G)(1) and the proposed amendments to Sections 19.12.020(F)(1) and 19.54.020(C)(1). One purpose of the proposed ordinance amendments is to address the water quality concerns outside the protected watershed, as explained in Appendix A.
5. Public Comment: Differences between east-side and west-side canyons should be reflected in the proposed ordinance. Response: The proposed ordinance update does acknowledge different application of the ordinances to the protected watershed, which primarily exists in the eastern portion of the unincorporated county and not the western portion—animals are not allowed in the protected watershed. See current Salt Lake County Code 19.12.030(G)(1) and the proposed amendments to Sections 19.12.020(F)(1) and 19.54.020(C)(1). Creating distinct standards for the FR and FA zones for the east and west sides of the unincorporated county is problematic because State law requires that regulations for each zoning district be uniform; it would not be appropriate to have distinct sets of regulations for the FR or FA zones for the east and west sides of the unincorporated county.
6. Public Comment: The proposed ordinance is inconsistent with uses of Salt Lake County's Rose and Yellow Fork Canyon recreation areas. Response: Members of the public suggested that Salt Lake County would be in violation of its own ordinance by allowing equestrian use of these areas because of the streams that flow through them. The proposed ordinance's 100' setback requirement applies to the housing of animals within 100' of a stream, where the impacts of animals is most concentrated. Allowing recreational use of the Rose and Yellow Fork Canyon recreational areas, where impacts are dispersed and far less concentrated than the housing of animals, does not violate the proposed ordinance.
7. Public Comment: Salt Lake County's failure to keep livestock off its property in the Rose and Yellow Fork Canyon recreation areas is a larger contributor to water quality problems than property owners in Hi Country I and II. Response: Salt Lake County is attempting to address all causes of water quality problems, including attempts to resolve problems with livestock wandering onto its property.
8. Public Comment: What are the federal regulations to which Staff keeps referring? Response: See Appendix A of this Staff Report.
9. Public Comment: Noxious weeds have a significant impact on water quality, and Salt Lake County should enforce its noxious weed ordinances. Response: Salt Lake County Health Department reports that the County does not have an ordinance that specifically enforces or identifies regulations to noxious weeds. We have a state law, the Utah Noxious Weed Act, which requires each county to have a noxious

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weed supervisor (program manager in our case) which implements a program to prevent the spread of noxious weeds, provides education on noxious weeds and their identification and control of them, maps noxious weeds and maintains data on those infestations. The law does state specifics regarding enforcement of noxious weed control and outlines landowners' responsibility. Salt Lake County Health Department often defers to the applicable city weed ordinance when it gets complaints and will do the research to provide the complainant with the contact info for the jurisdiction they live in. The following is a link that outlines the State's noxious weed program.

<https://ag.utah.gov/farmers/plants-industry/noxious-weeds-program/>

Salt Lake County does have an ordinance that regulates "weedy" vegetation greater than 6 " tall. This is primarily for wildfire control. MSD Planning and Development Services enforces this ordinance. The following link outlines the requirements of this ordinance.

https://library.municode.com/ut/salt_lake_county/codes/code_of_ordinances?nodeId=TIT9HESA_CH9.60WERE

10. Public Comment: What is the basis for the proposed 100' setback? Response: See Appendix A. In addition to the studies referenced in Appendix A, the 100' setback is consistent with stream setbacks in the Foothills and Canyon Overlay Zone, which already overlays much of the FR and FA zoned property in the unincorporated county.
11. Public Comment: Proposed setbacks don't account for the topography of Hi Country II (where streams are located) in which the flatter areas that are ideal for pastures are close to the streams; setbacks make pastures and animal housing impossible/impractical. Response: Staff recognizes the validity of this concern and proposes two changes to address it: 1) Eliminate the proposed 300' setback and just adopt the 4 horse maximum that currently exists in the FA zone for properties with streams (recognizing that Hi Country II where the streams are primarily located currently has the 4-horse maximum of the FA zone; and 2) Explicitly recognize that lawfully existing structures will continue to remain lawful as legal noncomplying structures. This balances the existing property rights of property owners with the water quality concerns outlined in Appendix A.
12. Public Comment: How are the perennial and ephemeral streams that are referenced in the proposed ordinance update defined, determined, and mapped? Response: The proposed ordinance defines perennial and ephemeral streams in accordance with the definitions of such terms outlined in Salt Lake County Code Section 19.72.200 (the definitions section of the Foothills and Canyons Overlay Zone). Under that section both types of streams are defined in accordance with United States Geological Services topographic maps. In the following link, Staff has mapped such streams, consistent with this definition, for the Hi Country I and II areas:
<https://gslmsd.maps.arcgis.com/apps/webappviewer/index.html?id=fe15827707de44b3b92becce08529cb3> For other unincorporated areas of Salt Lake County, USGS topographical maps can be found at either of the following links: <https://ngmdb.usgs.gov/topoview/> or <https://apps.nationalmap.gov/downloader/#/>
13. Public Comment: What commercial uses are allowed under the proposed ordinance updates? How are commercial uses defined? Response: The proposed revisions clarify that trail riding is akin to the currently allowed commercial recreation use and is allowed, but that boarding for compensation is not allowed. The proposed ordinance also indicates that breeding, riding academy, public stable, rodeo grounds, feeding operations, and manure operations are not permitted.
14. Public Comment: Commercial uses are not prohibited in the FR zone. Response: Staff researched commercial uses in the FR zone, noted that commercial recreation is an acknowledged use in that zone, that trail riding is akin to that use, and that trail riding be added to the list of permitted uses in the FR zone. Staff concludes that the other commercial uses listed in the proposed ordinance would materially

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change the character and purposes of the FR and FA zones. *See* Salt Lake County Code Sections 19.12.010 and 19.54.010.

15. Public Comment: What are the bases of the proposed limits on animals? What local jurisdictions' ordinances were consulted? What best practices were consulted? Response: *See* Appendix B of this Staff Report.
16. Public Comment: Proposed ordinance will cause loss of greenbelt status. Response: The proposed ordinance updates retain the ability to have animals, retain the right to keep lawfully existing structures that may be out of compliance with the proposed ordinance, and retain the rights granted in current permits.
17. Public Comment: How will the proposed ordinance updates be enforced? How will selective enforcement be avoided? Response: The proposed ordinance updates will be enforced in the same manner as all other zoning ordinances in the unincorporated Salt Lake County. Code enforcement officers investigate complaints about ordinance violations and make note of other violations during their day-to-day duties. Under Utah law, a successful selective enforcement action requires an intentional and deliberate plan of government officials to enforce the law selectively against the claimant. *See Pleasant Grove City v. Orvis*, 572 Utah Adv. Rep. 13 (2007) at Footnote 9. Such is not the case with any of Salt Lake County or Municipal Service District's enforcement activities.
18. Public Comment: What is the appeals process if members of the public do not agree with decisions related to the proposed ordinances? Response: It is unclear to Staff whether this question relates to: 1) an appeal of a County Council decision to adopt the proposed ordinance updates, or 2) an appeal of a land use decision approving or denying an application for animal uses. The answer to the first question is outlined in Utah Code Section 17-27a-801, especially subparagraphs (3)(a) and (5). The answer to the second question is outlined in Salt Lake County Code Section 19.92.050.

Planning Commission Staff Recommendation

Staff recommends that the planning commission recommend to the Salt Lake County Council approval of the amended ordinance with the revisions proposed in this Staff Report.

APPENDIX A

EPA Compliance Evaluation Inspection (CEI) of Salt Lake County's Municipal Separate Storm Sewer System (MS4) Stormwater Program

Background information-As part of the Federal Clean Water Act amendment, Salt Lake County was permitted as a Phase 1 Municipal Separate Storm Sewer System (MS4) in 1995, allowing the County to discharge municipal stormwater to water bodies of the State. With oversight from the EPA, this permit is regulated by the Utah Division of Water Quality (DWQ) under the Utah Pollutant Discharge Elimination System (UPDES) Jordan Valley Municipalities Permit No. UTS000001. This permit is typically renewed every five years. The permits were issued to the County in 2001, 2006, 2013 and 2020.

The Salt Lake County Stormwater Program was audited for the first time on June 26th and 27th, 2007 by the State DWQ. During this audit, the DWQ identified nine deficiencies with corrective actions in a final report dated August 19th, 2009. The County submitted a final response plan on September 11th, 2009 and began correcting the identified deficiencies.

The next Compliance Evaluation Inspection (CEI) occurred when the County was contacted by the EPA on February 17th, 2012 and informed of their intent to conduct a comprehensive evaluation inspection of Salt Lake County's stormwater MS4 program and 2006 permit on the week of March 5-9, 2012, which they did. Four EPA inspectors conducted an inspection that week to review plans and records of randomly selected sites within the unincorporated County as well as County-wide facilities. In summary, the EPA identified 48 total findings (44 that required corrective actions and 4 recommendations) during their inspection in a report to the County dated June 20th, 2012.

The County submitted a corrective action plan to the EPA on August 31, 2012 that addressed all 48 findings. The County proceeded to implement the corrective action plan.

On February 2nd, 2015, the County received a letter from the Department of Justice (DOJ) stating they "were prepared to bring a federal court action against the County of Salt Lake....for violations of the Clean Water Act" and violations of its UPDES permit pertaining to the 2012 CEI.

The court action placed Salt Lake County under a Consent Decree requiring a fine be paid and the stormwater program be brought into compliance with its existing UPDES Permit. Specifically, the final Consent Decree required payment of a \$280,000 fine (\$140,000 to the EPA & \$140,000 to the State DWQ). The fine to the EPA was paid on May 6th, 2016.

In addition, as part of the Consent Decree, there were 27 compliance requirements, including the need to update existing stormwater ordinances, including fines and penalties for enforcement related activities for violations of the Clean Water Act. The compliance requirements at that time were met and Salt Lake County was released from the Consent Decree April 6, 2019.

The County was issued a new UPDES Permit on February 26, 2020, which contained new language detailing increased requirements of municipal bodies to regulate stormwater with respect to nutrient loads and to specifically address how they were planning to protect "Impaired Waterbodies" within their respective jurisdictions.

Impaired Waterbodies in Salt Lake County

The State of Utah defines the need to protect surface waters in UAC Rule 317-2-1A. This rule reads:

"Whereas the pollution of the waters of this state constitute a menace to public health and welfare, creates public nuisances, is harmful to wildlife, fish and aquatic life, and impairs domestic, agricultural, industrial, recreational and other legitimate beneficial uses of water, and whereas such pollution is contrary to the best interests of the state and its policy for the conservation of the water resources of the state, it is hereby declared to be the public policy of this state to conserve the waters of the state and to protect, maintain and improve the quality thereof for public water supplies, for the propagation of wildlife, fish and aquatic life, and for domestic, agricultural, industrial, recreational and other legitimate beneficial uses; to provide that no waste be discharged into any waters of the state without first being given the degree of treatment necessary to protect the legitimate beneficial uses of such waters; to provide for the prevention, abatement and control of new or existing water pollution; to place first in priority those control measures directed toward elimination of pollution which creates hazards to the public health; to insure due consideration of financial problems imposed on water polluters through pursuit of these objectives; and to cooperate with other agencies of the state, agencies of other states and the federal government in carrying out these objectives."

The State of Utah uses science wherever possible to implement Rule 317. Data is collected in surface waters to determine if these waters meet defined beneficial uses. If waters meet quality standards for applicable beneficial uses surface waters are considered "Fully Supporting" these uses. If one or more of the uses have quality standards not being met, waters are considered "Impaired". A map of these surface waters and their status can be found at:

<https://deq.utah.gov/water-quality/combined-2018-2020-integrated-report>

The Combined 2018/2020 Integrated Report (IR) assesses the quality of the surface waters in the state and identifies waterbodies that are not meeting water quality standards. These standards support the designated beneficial uses that protect water quality for NOT JUST drinking water, but for recreation, aquatic life, and agriculture and others as well. Waterbodies or sub-watersheds that do not meet one or more of their beneficial uses are classified as "Impaired" in the IR and placed on the federal Clean Water Act 303(d) List of Impaired Waterbodies. Watersheds can also be considered as "Impaired" as many of the pollutants of concern, like E. coli, originate from terrestrial origins and are controlled by land management practices.

A river or stream, for purposes of the integrated Report (IR), is defined as flowing surface water moving under the force of gravity. Flowing surface waters include perennial, intermittent, and ephemeral surface waters, springs, and seeps, provided they are flowing and connect,

contribute, or are influencing water quality in a downstream river or stream. (Source: <https://deq.utah.gov/water-quality/combined-2018-2020-integrated-report>).

Protected watersheds generally only protect specific geographic areas for drinking water quality standards and do not apply to watersheds for other beneficial uses. Beneficial uses other than drinking water are still protected by UAC Rule 317 and have water quality standards associated with them.

The stream considered "Impaired" in the High Country Estates area in the SW Quadrant of Salt Lake County is Rose Creek. Rose Creek is on the 303(d) list of impaired waters for violating the 2B Water Quality Standard for E. coli. E. coli is a bacterial organism found in the digestive tracts of warm-blooded animals. MST (Microbial Source Tracking) data collected by Salt Lake County 2019-2021 indicated Ruminant (livestock) DNA as the largest contributing source in and around the Rose Creek area.

Salt Lake County data can be found at:

<https://slco.maps.arcgis.com/apps/dashboards/0348dbf4b9b34fe4b5bb6d94fc508c7b>

The Total Maximum Daily Load (TMDL) Study for Rose Creek is ranked as high priority by the State of Utah. This study will assess the data collected to date and attempt to determine the cause(s) of the water quality impairment in Rose Creek. After the cause is identified potential solutions will be identified by the stakeholder group assembled to characterize this problem. A TMDL is the calculation of the maximum amount of a pollutant allowed to enter a waterbody so that the waterbody will meet and continue to meet water quality standards for that particular pollutant.

The need for Stream Setbacks

Water resources are critical to the economy, public welfare and quality of life as stated in UAC Rule 317-2-1A. Development and land management practices have measurable effects on these resources. Riparian (stream side vegetation communities) areas and their associated wetlands, where water and land come together, are particularly sensitive to development and disturbance. The more developed the land surrounding these resources becomes the greater the need to protect them.

As a result of these pressures, land managers and planning officials consider the health of riparian areas and surrounding wetlands when considering ordinances governing planning and zoning in these areas. One of the most effective tools planners and local governments have to protect these areas is to set back structures and protect streamside buffers of native vegetation. The vegetated buffer is the workhorse of the setback tool because it is the area that filters out pollutants, helps prevent unnatural erosion, works to minimize the impact of floods, sustains the food and habitat of fish and wildlife and more. As a result, relevant scientific studies focus on the vegetated buffer portion of this tool. Much data has been collected about what types and how

wide these setbacks and associated vegetated buffers must be. The general consensus is that a vegetated buffer needs to be at least 100' in width. The setback should be wide enough to prohibit degradation of the vegetated buffer; lawns, patios, playgrounds, outbuildings and other features introducing foot traffic should be kept outside the setback radius. The table below summarizes the results from 77 different scientific studies regarding stream buffer width.

Type of Water Pollution	Average Stream Buffer Width	Number of Studies Used in Calculating Desired Buffer Width
Erosion control	100-year floodplain, but at least 100 feet	Review article conclusion (Wenger 1999)
Flood control, includes channel migration ability	100-year floodplain	Review article conclusion (Castelle et al 1994)
Nutrient	100 feet (range 33–600 feet)	12
Ammonia reduction (78% reduction)	164 feet	1
Fecal coliform	129 feet (range 100–600 feet)	4
Nitrates in surface runoff	113 feet (range 33–279 feet)	5
Nitrates in shallow groundwater	168 feet (range 3–721 feet)	31
Nitrogen	87 feet (range 5–164 feet)	4
Pesticides	182 feet (range 164–200 feet)	2
Phosphorus	106 feet (range 53–200 feet)	6
Sediment	103 feet (range 30–300 feet)	19
Average Stream Buffer Width Needed to Filter Approximately 80% of Pollutants	132 feet	

Source: Scientific Recommendations on the Size of Stream Vegetated Buffers Needed to Protect Water Quality, Montana DEQ 2008

These setbacks should be increased if properties surrounding streams have steep slopes, which increase erosion potential and related runoff, erodible soils for the same reason or if the stream in question is impaired, which Rose Creek is. For these reasons, the 300' setback was originally proposed on properties that could potentially house larger numbers of animals.

APPENDIX B

Horse Numbers:

How was 2 arrived at: Herriman allows 2 horses per lot and is nearby. The closest rural area with specific regulations is Wasatch County. Utah, Tooele and Summit counties ordinances don't do a good job speaking to the horse issue, or they would have been included in the analysis. Two horses per acre seemed a reasonable number as generally it allowed properties in the area more horses than currently allowed in many cases. However, it's not too many horses, which could create possible issues of carrying capacity on what are generally not typical irrigated, flat, and green agricultural lots.

Other Jurisdictions: The jurisdictions listed in the response documentation are in most cases correct but lack context behind their numbers. Cities can publish larger per acre numbers because city lots typically have more physical restrictions on how many acres they include. If you look at each jurisdiction, most zones are not able to meet the minimum acreage requirements (typically at least ½ acre) and when they can it's only just over the requirement, so they're only able to have a small number (2 to 4 horses maximum). Lots in the range of 5 acres or more are very rare. A large lot within a city is ½ acre to 1 acre in size. Unincorporated counties are typically able to accommodate more horses simply by the area available on larger lots and the number of those large lots available, not necessarily because of a higher limit in ordinance.

Jurisdiction	Response number	Details
Herriman	4/acre	Herriman is up to 2 horses on a ½ acre ¹
South Jordan	3 horses/acre	Does scale, based on a points calculation ²
West Jordan	5 horses/acre	Can be right depending on specific lot conditions ³
Riverton	4 horses/acre	Correct, but must be at least ½ acre, and not within 40 feet of a primary dwelling ⁴
Bluffdale	4 horses/acre	4 in limited zones. In the A-5, R-1-43, and R-1-87 zones, on lots greater than one-half (1/2) acre it is permitted to keep two (2) cows, two (2) horses, five (5) sheep, five (5) goats, or two (2) pigs/hogs per one-half (½) acre. ⁵

¹ <https://www.herriman.org/uploads/files/1298/AgriculturalAnimals.pdf>

² https://codelibrary.amlegal.com/codes/southjordanut/latest/southjordan_ut/0-0-0-10920

³ https://codelibrary.amlegal.com/codes/westjordanut/latest/westjordan_ut/0-0-0-10800

⁴ <https://www.codepublishing.com/UT/Riverton/html/Riverton18/Riverton1820.html#18.20.110>

⁵ <https://www.bluffdale.com/FAQ.aspx>

Magna	4 horses/residential lot	Same as SL County code as this has not been updated since adoption. 4 is not a per acre number ⁶
Wasatch County	4 horses/acre	4/acre is the number only in the A-20 zone for “Animal husbandry”. However, 2 per acre is for personal use throughout all zones that allow horses ⁷
Summit County	4 horses/acre. The MSD planning staff is encouraged to research the Summit County records for “Nielson Horse Boarding” and the subsequent decision and solution in 2017	No number in the ordinance? Not sure where these are from. Confirmed during a phone call that they do not have a solid number or cap on horses.
Davis County	5 horses/acre using a points system	Depending on lot this is correct, but personal use only. AE and A-1 zones only. ⁸
Iron County	12 horses/5 acres using animal units system	Was not able to locate a reference for this. Iron County has specific regulations for large scale animal operations. They do have a points calculation but did not have a code section explaining application to other zones outside of industrial farms. ⁹

Horse Resources

For the type of land we’re looking at there are not a lot of “Best Practices” to be found. Most available documentation assumes a more traditional pastureland that would be sustaining the animals. This type of land/land use indicates that each horse requires 1.5 to 2 acres to support it. When you change that to an operation that brings hay in for feeding horses this no longer applies. That’s why in some cases (as included in the table above) there is a wide range of numbers and calculations. There isn’t one specific

⁶ <https://magna.municipalcodeonline.com/book?type=ordinances#name=19.54.020> Permitted Uses

⁷

https://wasatch.municipalcodeonline.com/book?type=ordinances#name=16.08.02:_PERMITTED_PRINCIPAL_USES

⁸

https://library.municode.com/ut/davis_county/codes/code_of_ordinances?nodeId=TIT15LAUSDEMAOR_CH15.20L_AUSZO_S15.20.109AARB.SURE_S15.20.160SULIUSLABU

⁹

https://library.municode.com/ut/iron_county/codes/code_of_ordinances?nodeId=TIT17ZO_CH17.30LIRE_17.30.020AGUSCLDE

way to address this to calculate numbers. Early in the process, the MSD staff spoke with the Utah State University extension office. USU indicated that 2 horses per acre was appropriate, but didn't offer any written documentation on what the carrying capacity should be.

We've recently used Oregon State's Small Acre Horse Farms Guide¹⁰ for information on mitigating the impacts of farms and to suggest improvements to the draft ordinance that would be helpful. This includes standards for vegetated buffer strips to protect waterways, standards to allow for composting of manure if that's something an owner wants to do, weed management, and other Best Practices (BP's).

¹⁰ <https://catalog.extension.oregonstate.edu/sites/catalog/files/project/pdf/ec1558.pdf>

SALT LAKE COUNTY ORDINANCE

ORDINANCE NO. _____, 2021

ANIMAL ORDINANCE UPDATE FOR FR AND FA ZONES

AN ORDINANCE OF GENERAL REVISION, AMENDING THE FOLLOWING SECTIONS OF THE SALT LAKE COUNTY CODE OF ORDINANCES, 2001: 19.12.020 (PERMITTED USES IN THE FR ZONE), 19.12.030(G)(CONDITIONAL USES IN THE FR ZONE), AND 19.54.020 (PERMITTED USES IN THE FA ZONE) TO HAVE UNIFORM REGULATIONS IN THE FR AND FA ZONES WITH REGARDS TO ANIMAL USES AND THEIR ASSOCIATED IMPACTS ON ADJOINING PROPERTIES, THE ENVIRONMENT, AND THE WELL-BEING OF ANIMALS; AND MAKING OTHER RELATED CHANGES.

The County Legislative Body of Salt Lake County ordains as follows:

SECTION I. The amendments made here are designated by underlining the new substituted words. Words being deleted are designated by brackets and interlineations.

SECTION II. Section 19.12.020 of the Salt Lake County Code of Ordinances is amended as follows:

19.12.020 – Permitted Uses

The following uses are permitted in the FR zones subject to compliance with all applicable requirements set forth in this chapter including those relating to site and lot dimensions, development standards, and other regulations:

- A. Accessory uses and structures customarily incidental to a permitted use;
- B. Agriculture, as defined in Section 19.04.020;
- C. Apiary;
- ~~C~~D. Home business, subject to Chapter 19.85;
- ~~D~~E. Home day care/preschool for six or fewer children subject to the conditions set forth in Section 19.04.293;
- F. Horses, and animals and fowl for family food production as defined in Chapter 19.04 of this title, provided that:

1. The area proposed for such use is not a watershed area, as determined by the health department's watershed regulation;

2. Such use is limited to personal use and shall not be commercial in nature, including but not limited to the following uses for commercial purposes: boarding, breeding, trail riding, riding academy, public stable, rodeo grounds, and manure operations.

3. For properties that include within their borders, adjoin, or are within 100' of ephemeral streams or perennial streams, as defined in Salt Lake County Code Chapter 19.72:

a. With the exception of subsection (3)(c)(i), all horses, animals, or fowl allowed in this subsection (F) shall be housed or otherwise confined at least 100' away from an ephemeral or perennial stream.

b. The limits prescribed in the definition of family food production in Chapter 19.04 apply.

c. Two horses per acre for a maximum of four (4) horses are allowed. More than four (4) horses are allowed under the following exception:

i. If the subject property contains more than 2.5 acres that is not within 300' of the ephemeral or perennial stream (hereafter "300' setback"), two (2) horses for each acre that is outside the 300' setback are allowed so long as the horses are not housed or otherwise confined within the 300' setback. This two (2) horse per acre exception is not in addition to the general rule of (4) horses but replaces that general rule if the exception applies.

d. Properties must be a minimum of one (1) acre to have horses, cows, goats, or sheep.

4. For properties that do not include within their borders, do not adjoin, or are not within 100' of ephemeral streams or perennial streams, the following limits apply:

a. the limits prescribed in the definition of family food production in Chapter 19.04.

b. a maximum of two (2) horses per acre are allowed.

c. Properties must be a minimum of one acre to have horses, cows, goats, or sheep.

5. The requirements of Chapter 8.12 are met to the extent they are not in conflict with this subsection (E).

6. If horses, or animals or fowl for family food production were approved by a land use permit prior to adoption of this subsection (F), that permit governs over this subsection (E).

7. For purposes of this subsection (F), one (1) horse per ½ acre is allowed, subject to subsection (3)(d) and (4)(c). Property acreage will not be rounded up to accommodate additional horses.

[E]G. Household pets, provided the area proposed for animals is not in a watershed area, primary water supply recharge area, or drinking water source protection area, as determined by the Salt Lake ~~Valley~~ County health department or Utah Department of Environmental Quality;

[F]H Minor ski resort improvements, provided:

1. That the privately owned land areas on which such improvements are permitted constitute less than ten percent of the total land area utilized for the ski resort that the improvements support, and
2. That at least ninety percent of the land area on which the improvements are developed, operated, and maintained is on public lands, and
3. That the public agency responsible for the management and administration of such lands has previously approved a special use permit or similar regulatory authorization, and has assumed long-term administrative and enforcement responsibilities for such approvals, and
4. That opportunities for public notice, review, and comment on the proposed improvements have been provided through a finalized National Environmental Policy Act (NEPA) or other comprehensive public review and comment process, and
5. That such improvements are either:
 - a. Essential to public safety, or
 - b. Required in association with the reasonable repair or maintenance of existing legally established facilities and improvements, or
 - c. Essential to the continuation or extension of improvements approved under the terms of a governmental land lease or use permit or by final action of the federal or state governmental agency with jurisdiction over the lands on which the improvements are located;

[G]I. Residential facility for persons with a disability;

[H]J. Single-family dwellings;

[I]K. Wireless telecommunication facilities; provided:

1. The wireless telecommunication facility is a wall-mounted or roof-mounted facility, and
2. The facility is mounted on a nonresidential building, and
3. A computer-generated visual simulation of the proposed structure is submitted as part of the required site plan, and
4. All other applicable requirements set forth in Chapter 19.83, "Wireless Telecommunications Facilities," are satisfied.

SECTION III. Section 19.12.030(G) of the Salt Lake County Code of Ordinances is repealed as follows:

19.12.030 – Conditional Uses

~~{G. Horses, and animals and fowl for family food production, as defined in Section 19.04.235 of this title, provided that:~~

- ~~1. The area proposed for animals is not a watershed area, as determined by the health department, and~~
- ~~2. The use will not create unreasonable on-site erosion, downstream siltation, bacteriological or biological pollution in subsurface or surface waters, destruction of vegetation, air pollution, including dust and odors or other detrimental environmental effects. In determining the environmental effects of the use, the planning commission shall seek and consider recommendations from the health department and other concerned agencies, and may require the applicant to submit scientific studies including analysis of slope, soils, vegetative cover, availability of water, and other elements necessary to establish environmental effects of the proposed use, and~~
- ~~3. The planning commission may limit the number of animals and fowl, or limit the amount of ground to be devoted to such use, or make other conditions to ensure environmental protection, and~~
- ~~4. After the use is established, if the planning commission determines, based on findings of facts, that unreasonable environmental degradation is occurring, the planning commission may, after notification to the applicant and hearing, establish additional conditions or order the use to be abated;]~~

SECTION IV. Section 19.54.020 of the Salt Lake County Code of Ordinances is amended as follows:

19.54.020 – Permitted Uses

The following uses are permitted in the FA zones subject to meeting all applicable requirements set forth in this chapter and ordinance relating to site and lot dimensions, development standards, and other regulations.

- A. Accessory uses and structures customarily incident to a permitted use;
- B. Agriculture, as defined in Section 19.04.020 of this title;
- C. ~~Animals and fowl for family food production, as defined in Section 19.04.235; household pets; a maximum of four horses for private use only;~~

Horses, and animals and fowl for family food production as defined in Section 19.04.235 of this title, provided that:

1. The area proposed for such use is not a watershed area, as determined by the health department's watershed regulation;

2. Such use is limited to personal use and shall not be commercial in nature, including but not limited to the following uses for commercial purposes: boarding, breeding trail riding, riding academy, public stable, rodeo grounds, feeding operations, and manure operations.

3. For properties that include within their borders, adjoin, or are within 100' of ephemeral streams or perennial streams, as defined in Salt Lake County Code Chapter 19.72:

a. With the exception of subsection (3)(c)(i), all horses, animals, or fowl allowed in this subsection (C) shall be housed or otherwise confined at least 100' away from an ephemeral or perennial stream.

b. The limits prescribed in the definition of family food production in Chapter 19.04 apply.

c. Two horses per acre for a maximum of four (4) horses are allowed. More than four (4) horses are allowed under the following exception:

i. If the subject property contains more than 2.5 acres that is not within 300' of the ephemeral or perennial stream (hereafter "300' setback"), two (2) horses for each acre that is outside the 300' setback are allowed so long as the horses are not housed or otherwise confined within the 300' setback. This two (2) horse per acre exception is not in addition to the general rule of four (4) horses but replaces that general rule if the exception applies.

d. Properties must be a minimum of one (1) acre to have horses, cows, goats, or sheep.

4. For properties that do not include within their borders, do not adjoin, or are not within 100' of ephemeral streams or perennial streams, the following limits apply:

a. the limits prescribed in the definition of family food production in Chapter 19.04.

b. a maximum of two (2) horses per acre are allowed.

c. Properties must be a minimum of one acre to have horses, cows, goats, or sheep.

5. The requirements of Chapter 8.03 are met to the extent they are not in conflict with this subsection (C).

6. If horses, or animals or fowl for family food production were approved by a land use permit prior to adoption of the 2021 changes to this subsection (C), that permit governs over this subsection (C).

7. For purposes of this subsection (C), one (1) horse per ½ acre is allowed, subject to subsection (3)(d) and (4)(c). Property acreage will not be rounded up to accommodate additional horses.

D. Apiary;

[D]E. Home business, subject to Chapter 19.85;

[E]F. Home day care/preschool for six or fewer children subject to the conditions set forth in Section 19.04.293;

[F]G. Residential facility for persons with a disability;

[G]H. Single-family dwelling;

[H]I. Wireless telecommunication facilities, provided:

1. The wireless telecommunication facility is a wall-mounted or roof-mounted facility, and
2. The facility is mounted on a nonresidential building, and
3. A computer-generated visual simulation of the proposed structure is submitted as part of the required site plan, and
4. All other applicable requirements set forth in Chapter 19.83, "Wireless Telecommunications Facilities," are satisfied.

SECTION V. This ordinance shall become effective fifteen (15) days after its passage and upon at least one publication of the ordinance or a summary thereof in a newspaper published and having general circulation in Salt Lake County.

APPROVED AND ADOPTED this _____ day of _____, 2021.

SALT LAKE COUNTY COUNCIL

By: _____
Chair

ATTEST:

Sherrie Swensen
Salt Lake County Clerk

APPROVED AS TO FORM:

ORDINANCE HISTORY

Councilmember Bradley voting	_____
Councilmember Bradshaw voting	_____
Councilmember Theodore voting	_____
Councilmember DeBry voting	_____

Councilmember Granato voting _____
Councilmember Winder Newton voting _____
Councilmember Alvord voting _____
Councilmember Snelgrove voting _____
Councilmember Stringham voting _____

Vetoed and dated this _____ day of _____, 2021.

By: _____
MAYOR JENNIFER WILSON
OR DESIGNEE

(Complete as Applicable)
Veto override: Yes____ No____ Date_____
Ordinance Published in Newspaper: Date_____
Effective Date of Ordinance:_____

SUMMARY OF

SALT LAKE COUNTY ORDINANCE NO. _____

On the _____ day of _____, 2021, the County Council of Salt Lake County adopted Ordinance No. _____, an ordinance of general revision, amending the following sections of the Salt Lake County Code of Ordinances, 2001: 19.12.020 (permitted uses in the FR zone), 19.12.030(g)(conditional uses in the FR zone), and 19.54.020 (permitted uses in the FA zone) to have uniform regulations in both the FR and FA zones with regards to animal uses and their associated impacts on adjoining properties, the environment, and the well-being of animals; and making other related changes.

SALT LAKE COUNTY COUNCIL

By: _____
Chair

ATTEST:

Sherrie Swensen
Salt Lake County Clerk

APPROVED AS TO FORM:

Councilmember Bradley voting	_____
Councilmember Bradshaw voting	_____
Councilmember Theodore voting	_____
Councilmember DeBry voting	_____
Councilmember Granato voting	_____
Councilmember Newton voting	_____
Councilmember Alvord voting	_____
Councilmember Snelgrove voting	_____
Councilmember Stringham voting	_____

A complete copy of Ordinance No. _____ is available in the office of the Salt Lake County Clerk, 2001 South State Street, N2-100A, Salt Lake City, Utah.