



File # OAM2022-000545

Ordinance Amendment Related to Stream Setbacks in the Foothills and Canyons Overlay Zone

Public Body	Brighton Town Planning Commission
Meeting Dates	March 16 th , 2022
Proposal	An ordinance amending the Brighton Land Use Code, Section 19.72.130 regarding setbacks for all buildings, accessory structures and parking lots from a (high-water mark) of a perennial stream corridor.
Planner	Jim Nakamura
Recommendation	Approve the ordinance as proposed

DESCRIPTION OF THE PROPOSAL

The Brighton Planning Commission has been engaged in the process of assessing and considering amendments to the Foothill Canyons Overlay Zone (FCOZ). The Planning Commission recognizes the need for consistency with partner agency standards and the standards in the FCOZ. As such, the MSD Planning staff was directed to craft an ordinance to amend the FCOZ for the health, safety, and well-being of its residents and visitors.

The purpose of the proposed code amendment to the FCOZ is to adjust the setback standard for development from a perennial stream to be consistent with the Salt Lake County Health Department and Salt Lake City Public Utilities. As such, the proposed amendment reduces the setbacks to a perennial stream corridor from 100 feet to 50 feet.

PUBLIC NOTICE AND COMMENT

Public notice was provided in accordance with Utah Code 17-27a-205. Public notice was mailed to affected entities, notice was posted in three public locations, and notice was posted on the Utah Public Notice Website at least 10 days prior to the public hearing on March 16, 2022.

At the time of writing this report, no written comments have been received by the MSD Department of Planning and Development Services.

OPTION FOR THE PLANNING COMMISSION

The Planning Commission has three options with respect to the proposed ordinance amendment:

- Option 1: Recommend approval of the ordinance as proposed to Council; or
- Option 2: Recommend approval of the ordinance with amendments to Council; or
- Option 3: Recommend denial of the ordinance to Council.

STAFF RECOMMENDATION

Staff recommends that the Brighton Town Planning Commission recommend approval of the ordinance as proposed to the Brighton Town Council.

ATTACHMENT

1. Public Notice
2. Proposed Ordinance



NOTICE OF PUBLIC HEARINGS TOWN OF BRIGHTON PLANNING COMMISSION

NOTICE IS HEREBY GIVEN Pursuant to Utah Code Title 10, Chapter 9a, Section 205, that the Town of Brighton Planning Commission (the "Commission") will hold a public hearing on Wednesday, March 16, 2022 at 7:00 PM. The purpose of the hearing is to receive public comment regarding the below proposed changes to land use ordinances as follows:

- **OAM2022-000527** - An Ordinance amending the Brighton Land Use Code, Section 19.02.150. The amendment to Section 19.02.150 is proposed to address Inactive Applications. **Presenter:** Melissa Anderson
- **OAM2022-000545** – An Ordinance amending the Brighton Land Use Code, Foothill Canyons Overlay Zone (FCOZ), Section 19.72.130, "Stream Corridor and Wetlands Protection." The proposed amendment will amend the Perennial Stream Corridor Setback for Buildings and accessory structures from 100' to 50' measured from ordinary high-water mark. **Planner:** Jim Nakamura

The Planning Commission will act on the proposed ordinances after taking comments from the public during the public hearing. The public and affected entities are also invited to review and inspect the proposed ordinances at <https://www.utah.gov/pmn/index.html> and <https://www.brighton.utah.gov/>

Pursuant to Utah Code Ann. § 52-4-207(5), Don Despain has determined in his capacity as Chair of the Town of Brighton Planning Commission that this meeting and/or public hearing will be held electronically without an anchor location given the ongoing Coronavirus disease 2019 (COVID-19) pandemic, which the Chair has determined to present a substantial risk to the health and safety of those who may be present at an anchor location. To participate in the meeting and to make public comments where indicated in the agenda, please use the below webinar instructions.

Join meeting in WebEx

Meeting number (access code): 961 841 420

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

Join meeting in WebEx (download available at <https://www.webex.com/downloads.html> for Windows, Android, and Apple devices)

Join by phone

Tap to call in from a mobile device (attendees only)

+1-213-306-3065 United States Toll (Los Angeles)

+1-602-666-0783 United States Toll (Phoenix)

Access code: 961 841 420

Global call-in numbers

Join from a video conferencing system or application

Dial wgurr@slco.webex.com

You can also dial 173.243.2.68 and enter your meeting number.

Need help? Go to <http://help.webex.com>

You may also obtain copies of the ordinances and submit written comments prior to the public hearing by contacting Wendy Gurr at wgurr@msd.utah.gov or (385) 468-6707. Individuals needing special accommodations (including ancillary communicative aids and services) during this public hearing should contact Ms. Gurr three days before the public hearing.

ORDINANCE NO. 2022-0-__ -__

ORDINANCE AMENDING BRIGHTON CODE SECTION 19.72.130
STREAM CORRIDOR AND WETLANDS PROTECTION

WHEREAS, the Town of Brighton (“Brighton”) Town Council ("Council) is authorized to enact ordinances for the health, safety, and well-being of its residents and visitors; and

WHEREAS, consistency with partner agency standards is an objective in Brighton;

WHEREAS, the Salt Lake County Health Department and the Salt Lake City Public Utilities require a 50-foot setback from perennial stream corridors;

WHEREAS, the Foothills and Canyons Overlay Zone standards for setbacks from perennial streams should be amended from 100 feet to 50 feet to be consistent with partner agencies;

NOW, THEREFORE, BE IT ORDAINED by the Brighton Town Council as follows:

SECTION 1. AMENDED. Section 19.72.130 is amended as redlined in Exhibit A.

SECTION 2. Effective Date. This Ordinance shall go into effect upon publication.

PASSED AND APPROVED this ____ Day of _____, 2022.

TOWN OF BRIGHTON

By: _____
Dan Knopp, Mayor

ATTEST:

Kara John, Town Clerk

19.72.130 Stream Corridor And Wetlands Protection

- A. Purpose. The following requirements and standards are intended to promote, preserve, and enhance the important hydrologic, biological, ecological, aesthetic, recreational, and educational functions of stream corridors, associated riparian areas, and wetlands.
- B. Applicability. Unless previously delineated by Brighton, boundaries for stream corridors and wetland areas are delineated according to the following standards:
1. Stream corridor and wetland area delineation shall be performed by a qualified engineer or other qualified professional with demonstrated experience and expertise to conduct the required site analysis. Delineations are subject to the approval of the director.
 2. Stream corridors shall be delineated at the ordinary high-water mark. Stream corridors do not include irrigation ditches that do not contribute to the preservation and enhancement of fisheries or wildlife.
 3. Boundary delineation of wetlands are established using the current Federal Manual for Identifying and Delineating Jurisdictional Wetlands jointly published by the U.S. Environmental Protection Agency, the Fish and Wildlife Service, the Army Corps of Engineers, and the Soil Conservation Service.
- C. Prohibited Activities. No development activity may be conducted that disturbs, removes, fills, dredges, clears, destroys, or alters, stream corridors or wetlands, including vegetation, except for restoration and maintenance activities allowed in this title as approved by Brighton flood control, the state engineer's office, and other applicable authorities.
- D. Setbacks.
1. Perennial Stream Corridors. All buildings, accessory structures, parking lots, and all on-site wastewater disposal systems shall be set back at least ~~one hundred~~ fifty feet horizontally from the ordinary high-water mark of perennial stream corridors. (See Figure 19.72.7: Setback from Stream Corridor)
 2. Wetlands. All buildings, accessory structures, and parking lots shall be set back at least fifty feet, and all on-site wastewater disposal systems shall be set back at least one hundred feet horizontally from the delineated edge of a wetland.
 3. Ephemeral Streams. Leach fields shall be set back one hundred feet from the channel of an ephemeral stream. All buildings, accessory structures, and parking areas or parking lots shall be set back at least fifty feet from the channel of an ephemeral stream. The zoning administrator may recommend to the land use authority modifications to this prohibition upon finding that the modification is likely to cause minimal adverse environmental impact or that such impact may be substantially mitigated. For properties located within the Salt Lake City watershed, the zoning administrator shall consult with Salt Lake City public utilities prior to making a recommendation.

4. Natural Open Space/Landscape Credit for Setback Areas. All setback areas are credited toward any relevant private natural open space or landscape requirements but are not credited toward trail access dedication requirements.
- E. Preservation of Vegetation. All existing vegetation within the stream corridor or wetland setback area shall be preserved to provide adequate screening or to repair damaged riparian areas, supplemented where necessary with additional native or adapted planting and landscaping.
- F. Bridges. Any bridge over a stream corridor and within the stream setback area may be approved provided the director affirms that the bridge is planned and constructed in such a manner as to minimize impacts on the stream corridor.
- G. Modification of Setbacks.
 1. The director has discretion to administratively reduce the ~~perennial stream corridor and wetlands setbacks~~ by a maximum of twenty-five percent where applicable upon satisfaction of the following criteria:
 - a. The modification is designed to yield:
 - i. More effective preservation of existing mature trees, vegetation, riparian areas, rock outcrops, or other significant natural features of the site;
 - ii. Less visual impact on the property or on the surrounding area; or
 - iii. Better protection of wildlife habitat; or,
 - b. Strict application of the standard(s) would render a site undevelopable.
- H. Perennial Stream Corridor and Wetland Setback Requirements for Lots of Record.
 1. Existing Legally Established Structures. A structure legally existing on the effective date of this chapter that is within fifty feet of a perennial stream corridor or wetland may be renovated, altered, or expanded or reconstructed if damaged or destroyed by fire, flood, or act of nature as follows:
 - a. Renovations or alterations or reconstruction of a damaged or destroyed structure that will not increase the gross floor area of the original, existing structure are permitted.
 - b. Renovations, alterations, or expansions that will increase the gross floor area of the original, existing structure are limited to a cumulative total expansion of no more than two hundred fifty square feet of gross floor area located closer than fifty feet to a perennial stream corridor or wetland.
 - c. Renovations, alterations, expansions, or reconstruction of a damaged or destroyed structure that increase the gross floor area of the original, existing structure but which are no closer than fifty feet to a perennial stream corridor or wetland are permitted, subject to compliance with all other applicable regulations and standards.

2. New Structures. For new developments, the director may authorize construction to no closer than fifty feet from a perennial stream corridor or to no closer than twenty-five feet from a wetland subject to the following criteria:
 - a. Denial of an encroachment of more than the twenty-five percent into the stream or wetlands setback area allowed by Section 19.72.130(G) would render the site undevelopable.
 - b. No alternative location for the development further away from the stream or wetland is feasible or available.
 - c. Creative architectural or environmental solutions have been incorporated into the development proposal in order to ensure that the purposes of stream corridor protection, as set forth in Subsection 19.72.130 are achieved.
 - d. No federal or state laws, or other Brighton ordinances or regulations are violated.
3. Limitation. In allowing for the preceding improvements, the director may not:
 - a. Increase the maximum limits of disturbance set forth in Subsection 19.72.160.
 - b. Authorize the encroachment of more than five-hundred square feet of gross floor area of structural improvements (cumulative total) within the land area ~~between seventy-five feet and~~ fifty feet from perennial stream corridor or within the land area between fifty and twenty-five feet of a wetland.
4. In the interest of protecting the public health, safety, and welfare, Brighton may pursue negotiations with a property owner to purchase their property as open space as an alternative to granting a waiver. These negotiations, as long as they are performed in good faith, shall not delay Brighton's processing of any land use application.