



## Planning and Development Services

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

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

# Brighton Town Planning Commission

## Public Meeting Agenda

### Wednesday, September 21, 2022 6:00 pm

*Pursuant to Utah Code Ann. § 52-4-207(5), I, Don Despain, have determined consistent with Section 52-4-207(5) of the Utah Open and Public Meetings Act, in my capacity as Chair of the Town of Brighton to hold the public meeting without an anchor location due to COVID19, which presents a substantial risk to the health and safety of those who may be present at the anchor location. The Town is located in Salt Lake County and is still under a 'Moderate Level of Transmission' alert stage for the COVID-19 pandemic; and the regular meeting place for the Planning Commission (the Fire Station in the Canyon) does not have sufficient space in the meeting room to provide for the recommended physical distancing to keep people safe from infection. This written determination shall expire 30 days from today. This meeting will not have a physical anchor location. All attendees will connect remotely.*

#### Join meeting in WebEx

Meeting number (access code): 961 841 420

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

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

#### Tap to join from a mobile device (attendees only)

[+1-213-306-3065](tel:+12133063065), [961841420##](tel:+16026660783) United States Toll (Los Angeles)

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#### Join from a video conferencing system or application

Dial [wgurr@slco.webex.com](mailto: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>

**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 MSD 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) Election of Chair and Vice Chair 2022. (Motion/Voting)
- 2) Approval of the August 17, 2022 Planning Commission Meeting Minutes. (Motion/Voting)
- 3) Discuss Building setbacks and size restrictions and the need to address these issues in the general plan and upcoming revised zoning ordinance. **Planner:** Curtis Woodward

- 4) Other Business Items. (As Needed)

**PUBLIC HEARING(S)**

**OAM2022-000652 – (Continued from August 17, 2022) -** An Ordinance amending the Town of Brighton Land Use Code, Foothill Canyons Overlay Zone (FCOZ), Section 19.72.130, “Stream Corridor and Wetlands Protection.” The proposed amendment will remove the mention of “on-site wastewater disposal systems” in relation to stream corridor setbacks which are regulated by Salt Lake County Health Department. **Planner:** Jim Nakamura (Motion/Voting)

**OAM2022-000653 – (Continued from August 17, 2022) -** An Ordinance amending Section 19.04.462 of the Brighton Code of Ordinances to Include Wedding and Reception Uses in the Definition of “Restaurant Liquor License;” and to Enact Related Regulations. **Planner:** Brian Tucker (Motion/Voting)

**ADJOURN**

# **Rules of Conduct for Planning Commission Meetings**

## **PROCEDURE FOR PUBLIC COMMENT**

1. Any person or entity may appear in person or be represented by an authorized agent at any meeting of the Commission.
2. Unless altered by the Chair, the order of the procedure on an application shall be:
  - a. The supporting agency staff will introduce the application, including staff's recommendations and a summary of pertinent written comments and reports concerning the application
  - b. The applicant will be allowed up to 15 minutes to make their presentation.
  - c. The Community Council representative can present their comments as applicable.
  - d. Where applicable, persons in favor of, or not opposed to, the application will be invited to speak.
  - e. Where applicable, persons opposing the application, in whole or in part will be invited to speak.
  - f. Where applicable, the applicant will be allowed 5 minutes to provide concluding statements.
  - g. Surrebuttals may be allowed at the discretion of the Chair.

## **CONDUCT FOR APPLICANTS AND THE PUBLIC**

1. Speakers will be called to the podium by the Chair.
2. Each speaker, before talking, shall give his or her name and address.
3. All comments should be directed to the Commissioners, not to the staff or to members of the audience.
4. For items where there are several people wishing to speak, the Chair may impose a time limit, usually 3 minutes per person, or 5 minutes for a group spokesperson. If a time limit is imposed on any member or spokesperson of the public, then the same time limit is imposed on other members or spokespersons of the public, respectively.
5. Unless otherwise allowed by the Chair, no questions shall be asked by the speaker or Commission Members.
6. Only one speaker is permitted before the Commission at a time.
7. The discussion must be confined to essential points stated in the application bearing on the desirability or undesirability of the application.
8. The Chair may cease any presentation or information that has already been presented and acknowledge that it has been noted in the public record.
9. No personal attacks shall be indulged in by either side, and such action shall be sufficient cause for stopping the speaker from proceeding.
10. No applause or public outbursts shall be permitted.
11. The Chair or supporting agency staff may request police support to remove offending individuals who refuse to abide by these rules.
12. After the public comment portion of a meeting or hearing has concluded, the discussion will be limited to the Planning Commission and Staff.

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### MEETING MINUTE SUMMARY TOWN OF BRIGHTON PLANNING COMMISSION MEETING Wednesday, August 17, 2022 7:00 p.m.

**Approximate meeting length:** 48 minutes

**Number of public in attendance:** 4

**Summary Prepared by:** Wendy Gurr

**Meeting Conducted by:** Commissioner Despain

**\*NOTE:** Staff Reports referenced in this document can be found on the State website, or from Planning & Development Services.

## ATTENDANCE

### Commissioners and Staff:

Commissioners	Public Mtg	Business Mtg	Absent
Donna Conway			x
Don Despain (Chair)	x	x	
Ulrich Brunhart	x	x	
Tom Ward	x	x	
Ben Machlis (Vice Chair)	x	x	
Phil Lanuette (Alternate)			x
John Carpenter (Alternate)			x

Planning Staff / DA	Public Mtg	Business Mtg
Wendy Gurr	x	x
Jim Nakamura	x	x
Brian Tucker	x	x
Curtis Woodward	x	x
Erin O'Kelley	x	x
Kara John		
Cameron Platt	x	x

## BUSINESS MEETING

**Meeting began at – 7:16 p.m.**

### 1) Election of Chair for 2022

**Motion:** To continue Election of Chair for 2022 to the September 21<sup>st</sup> meeting to allow more commissioners in attendance.

**Motion by:** Commissioner Machlis

**2<sup>nd</sup> by:** Commissioner Ward

**Vote:** Commissioners voted unanimous in favor (of commissioners present)

### Election of Vice Chair for 2022

**Motion:** To continue Election of Vice Chair for 2022 to the September 21<sup>st</sup> meeting to allow more commissioners in attendance.

**Motion by:** Commissioner Machlis

**2<sup>nd</sup> by:** Commissioner Ward

**Vote:** Commissioners voted unanimous in favor (of commissioners present)

### 2) Approval of Minutes from the March 16, 2022 Planning Commission Meeting.

**Motion:** To approve Minutes from the March 16, 2022 Planning Commission Meeting as presented.

**Motion by:** Commissioner Machlis

**2<sup>nd</sup> by:** Commissioner Brunhart

**Vote:** Commissioners voted unanimous in favor (of commissioners present)

3) Other Business Items (as needed)

*No other Business Items to discuss.*

*Commissioner Ward motioned to open the public hearing, Commissioner Brunhart seconded that motion. Commissioners voted unanimously (of commissioners present).*

**PUBLIC HEARING(S)**

**Hearings began at – 7:19 p.m.**

**OAM2022-000652** – An Ordinance amending the Town of Brighton Land Use Code, Foothill Canyons Overlay Zone (FCOZ), Section 19.72.130, “Stream Corridor and Wetlands Protection.” The proposed amendment will remove the mention of “on-site wastewater disposal systems” in relation to stream corridor setbacks which are regulated by Salt Lake County Health Department. **Planner:** Jim Nakamura (Motion/Voting)

*Greater Salt Lake Municipal Services District Planner Jim Nakamura provided a presentation regarding the ordinance amendment.*

*Commissioners and staff had a brief discussion regarding septic systems, wastewater within 100 feet safeguards and basic requirements and regulation, structures closer and feedback from Salt Lake City and health department impact, regulated by the State of Utah and the health department approved by regulations, recognize the health department may regulate most restrictive at the time of an application, and an exception to Variances and criteria.*

*Mr. Platt advised there have been inconsistencies between county and town and could come up with processes or if the town could withhold or require a variance. If state statute designates the authority to the town, recommend research before a decision is made and determine if administrative or legal.*

*Commissioner Despain asked for the definition of an ephemeral stream. Mr. Nakamura provided the Town of Brighton municipal code definition.*

*"Stream, **Ephemeral**." Those channels, swales, gullies, or low areas that do not have flow year-round or are not shown on United States Geological Services (U.S.G.S.) topographic maps as perennial streams. These are generally channels that are tributary to perennial streams, other **ephemeral** streams, terminal low areas, ponds, or lakes. They are typically dry except during periods of snowmelt runoff or intense rainfall. (Contrast with "Stream, Perennial.")*

*"Stream, Perennial." Those streams, excluding **ephemeral** streams, or ditches and canals constructed for irrigation and drainage purposes, which flow year-round during years of normal rainfall, and that are identified on the appropriate United States Geological Services (U.S.G.S.) topographic maps as perennial streams. (Contrast with "Stream, **Ephemeral**."*

*Commissioner Despain opened public hearing portion to comment.*

## PUBLIC PORTION OF HEARING OPENED

*No one from the public present to speak.*

*Commissioner Despain closed the public hearing portion.*

## PUBLIC PORTION OF HEARING CLOSED

**Motion:** To continue file #OAM2022-000652 an Ordinance amending the Town of Brighton Land Use Code, Foothill Canyons Overlay Zone (FCOZ), Section 19.72.130, “Stream Corridor and Wetlands Protection.” The proposed amendment will remove the mention of “on-site wastewater disposal systems” in relation to stream corridor setbacks which are regulated by Salt Lake County Health Department to the September 21<sup>st</sup> Planning Commission Meeting to allow staff and counsel to research and understand if the decision is administrative or legal.

**Motion by:** Commissioner Ward

**2<sup>nd</sup> by:** Commissioner Machlis

**Vote:** Commissioners voted unanimous in favor (of commissioners present)

**OAM2022-000653** – An Ordinance amending Section 19.04.462 of the Brighton Code of Ordinances to Include Wedding and Reception Uses in the Definition of “Restaurant Liquor License;” and to Enact Related Regulations. **Planner:** Brian Tucker (Motion/Voting)

*Greater Salt Lake Municipal Services District Planning Manager Brian Tucker provided a presentation regarding the ordinance amendment.*

*Commissioners and staff had a brief discussion regarding different licenses from the DABC and requirements for a liquor license, banquets and falling into a different category than weddings.*

*Commissioner Despain opened public hearing portion to comment.*

## PUBLIC PORTION OF HEARING OPENED

*No one from the public present to speak.*

*Commissioner Despain closed the public hearing portion.*

## PUBLIC PORTION OF HEARING CLOSED

**Motion:** To continue file #OAM2022-000653 an Ordinance amending Section 19.04.462 of the Brighton Code of Ordinances to Include Wedding and Reception Uses in the Definition of “Restaurant Liquor License;” and to Enact Related Regulations to the September 21<sup>st</sup> Planning Commission Meeting or until staff recommendations are completed and more of a study completed regarding definitions of liquor licenses.

**Motion by:** Commissioner Despain

**2<sup>nd</sup> by:** Commissioner Ward

**Vote:** Commissioners voted unanimous in favor (of commissioners present)

**OAM2022-000654** – An Ordinance Amending of Section 19.12.030 of the Brighton Code of Ordinances to eliminate mineral extraction and processing as a conditional use and explicitly prohibit the same and similar uses in the Forestry and Recreation zones; amend section 19.72.190 to eliminate mineral extraction and processing as a use for which waivers can be granted; amend section 19.76.030 regarding classification of permitted and conditional uses not listed in title 19; and to enact related regulations. **Planner:** Brian Tucker (Motion/Voting)

*Greater Salt Lake Municipal Services District Planning Manager Brian Tucker provided a presentation regarding the ordinance amendment.*

*Commissioners and staff had a brief discussion regarding moving dirt on roads and addressing in FCOZ and that wouldn't be affected. Forest service land and accommodate local land use authorization enforcement.*

*Commissioner Despain opened public hearing portion to comment.*

### **PUBLIC PORTION OF HEARING OPENED**

*No one from the public present to speak.*

*Commissioner Despain closed the public hearing portion.*

### **PUBLIC PORTION OF HEARING CLOSED**

**Motion:** To recommend approval on file #OAM2022-000654 an Ordinance Amending of Section 19.12.030 of the Brighton Code of Ordinances to eliminate mineral extraction and processing as a conditional use and explicitly prohibit the same and similar uses in the Forestry and Recreation zones; amend section 19.72.190 to eliminate mineral extraction and processing as a use for which waivers can be granted; amend section 19.76.030 regarding classification of permitted and conditional uses not listed in title 19; and to enact related regulations to the Town of Brighton Council with amendment to include never trying to regulate activity on forest service lands.

**Motion by:** Commissioner Machlis

**2<sup>nd</sup> by:** Commissioner Brunhart

**Vote:** Commissioners voted unanimous in favor (of commissioners present)

*Commissioner Machlis motioned to adjourn, Commissioner Brunhart seconded that motion.*

### **MEETING ADJOURNED**

**Time Adjourned – 8:04 p.m.**





## **Ordinance Summary and Recommendation**

**Public Body:** Town of Brighton Planning Commission

**Meeting Date:** September 21, 2022

**Proposal:** An Ordinance amending the Town of Brighton Land Use Code, Section 19.72.130, "Stream Corridor and Wetlands Protection." The proposed amendment will correct errors inadvertently created when the stream setback for buildings and other structures was reduced from 100 feet to 50 feet in April 2022. The proposed text amendment removes "all on-site wastewater systems" from the list of structures allowed to be 50 feet from streams, as exempting septic leach fields from the 100' setback requirement was not the intention of the earlier code amendment. This proposal also cleans up some the language regarding exceptions that may be granted administratively.

**Planner:** Jim Nakamura

**Planning Staff Recommendation:** Approval as proposed

### **DESCRIPTION OF THE PROPOSAL**

The Town of Brighton Planning Commission has been engaged in the process of assessing and considering amendments to the Foothill Canyons Overlay Zone (FCOZ). A code amendment adopted in April was intended to remove conflicts between Health Regulation 14 (HR14) and the Brighton zoning ordinance. Specifically, the stream setback for buildings and other structures was reduced from 100 feet to 50 feet. However, the adopted ordinance inadvertently included on-site wastewater systems in the reduced setback to 50 feet as well, which conflicts with the HR14. Due to this conflict and the fact that Utah Code R317-4 acknowledges the potential for alternative design systems, the proposed ordinance amendment is to remove the specific setback distance from the zoning ordinance to prevent conflicts with the permitting and approval process of the State of Utah and County Health Department.

When the previous amendments were adopted, the administrative modifications that allowed a reduction from 100' to 50' were inadvertently left in the code. These administrative modifications are also modified as part of this proposed ordinance because they are no longer needed. However, the administrative modifications for setbacks from wetlands are still applicable.

Concerns were expressed at last month's meeting as to whether: a) eliminating the reference to setbacks for on-site wastewater systems, or b) expressly requiring a 100' setback in chapter 19.72 (FCOZ) was the best way to address the issue. Regarding the proposed ordinance recommended by Planning and Development Services, 4.5.4 of Health Regulation 14 states:

*"Unless otherwise approved, it shall be unlawful for any person to build any house, cottage, cabin, or other structure to be occupied by people within 50 feet of any watercourse or source of drinking water within the watershed area or within the watercourse buffer area established by the Department. Unless otherwise approved, it shall be unlawful for any person to build any kennel, stable, barn or other structure to be occupied by animals, any onsite wastewater disposal system, or any holding tank within 100 feet of any watercourse or source of drinking water within the watershed areas or within the watercourse buffer area established by the Department. In extraordinary cases, relief from the 50-foot requirement for human inhabited structures may be granted by the Director and the Director of Public Utilities or watershed superintendent over the impacted watershed, based upon a written application demonstrating that:*

- (i) No reasonable alternative is available based on property boundaries in existence as of January 1, 2007;*
- (ii) Groundwater and surface waters will be protected from runoff or contamination; and*
- (iii) Specific conditions or requirements deemed necessary by the Director and the Director of Public Utilities or watershed superintendent will be followed."*

Planning staff's recommendation is based on the following factors:

1. Health Regulation 14 is jointly enforced by the County Health Department and the Salt Lake Department of Public Utilities, so any alternative setbacks would require the approval of both agencies; resulting in extremely few, if any, exceptions being granted.
2. While 4.5.4 contains a review process and conditions under which setbacks for habitable structures may be altered, it does not contain a process for requesting variations from the setbacks for leach fields; again, resulting in extremely few, if any, exceptions being granted.
3. Alternative design systems to handle wastewater are regulated under Utah Code R317-4. Those alternative systems are based on emerging technologies and are reviewed by state and local health authorities with expertise in the field. The planning staff members who administer the zoning ordinance do not share that expertise, and can therefore offer no feedback, guidance, or scrutiny of proposed alternative designs to applicants.

Planning staff have invited a representative from the County Health Department to the meeting to answer questions the planning commission members may have about the septic system permitting and approval process as well as stream setbacks enforced through Health Regulations.

## **PUBLIC NOTICE AND RESPONSE**

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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 August 17th, 2022.

## **OPTIONS FOR THE PLANNING COMMISSION**

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

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

## **PLANNING STAFF RECOMMENDATION**

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

Alternatively, the Planning Commission may recommend approval of the ordinance with one of the following amendments:

- a. Expressly require a 100' setback for on-site wastewater systems; or,
- b. State that on-site wastewater systems are subject to regulation of the County Health Department and the State Division of Environmental Quality.

### **Attachments:**

- 1. Proposed Amendment to 19.72.130
- 2. Existing Code 19.72.130

## ATTACHMENT 1: PROPOSED ORDINANCE AMENDMENTS

### 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, and parking lots, ~~and all on-site wastewater disposal systems~~ shall be set back at least 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 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 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

## **ATTACHMENT 2: CURRENT CODE (SECTION 19.72.130)**

(sections in **Bold** font are the subject of the amendment)

### **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 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 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 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.