

Proposed Sensitive Lands Ordinance

As Recommended by the Planning Commission on July 13, 2021

17.34.010 Sensitive Lands, Hazards, and Agricultural Land Notification

A. Purpose and Intent:

1. To preserve the distinctive features and the natural setting characteristic of Heber City and to promote development that is sensitive to the land.
2. To identify and document sensitive lands that shall be protected from development and to guide sensitive lands related open space designations in development proposals.
3. To identify certain hazardous conditions that require buffering or other engineering techniques to allow for safe beneficial development
4. To give notice, and promote an understanding of property owners with development proposals adjacent to agricultural uses of the characteristics of those agricultural uses.
5. To provide for the health, safety, welfare of the citizens, as well as protect urban and nonurban development, the good order and aesthetics of our municipality, and protection of property values per U.C.A. 10-9a-102(1).

B. **Applicability.** Although this Ordinance is part of the subdivision process, the requirements contained herein shall be extended to individual lots not requiring a subdivision process, or not previously subject to a subdivision process that included the requirements of this Municipal Code Chapter and/or processed after the date of adoption of this Chapter. In addition, any annexation proposal, Master Development Agreement, concept plans, preliminary plans, and final plans shall include a sensitive lands identification analysis or other plans that addresses the requirements of this Ordinance.

C. **Sensitive Lands defined.** Sensitive Lands contain characteristics that can influence, modify, or limit development patterns through physical or regulatory restrictions. The types of lands represented in this typology include steep slopes, significant rock outcroppings, wetlands, avalanche zones, intermittent or constant flow stream corridors, ridgelines, springs, significant gullies, species protection, wildfire/urban interfaces, flood plains, animal migration routes, heritage trees, and oak and maple groves. Soils and geotechnical considerations, such as fault lines, soil types, and depth to bedrock, and shallow water table levels, may also reveal factors to consider for avoidance and/or design modifications when determining the extent of sensitive lands.

D. **Identification required.** Designation and preservation of the identified Sensitive Lands features and their associated area (s) in their natural state is required and such sensitive lands shall be shown in concept plans, site plans, and preliminary and final subdivision plats (applications on-line and at the City offices). It is the intent of these requirement to promote a development design that incorporates and integrates the sensitive lands into the development design process as valued aspects of that design. These characteristics need identification and are significant factors that determine how sensitive lands should be reflected in the design of a particular development site.

E. Development Design Considerations.

1. All preliminary/concept plans shall include a grading plan to assure that the development minimizes land disturbance, that erosion and storm water are contained on-site, and conforms to any City standards, especially Low Impact Development techniques and Storm Water Pollution Prevention Plans (SWPPP). Storm drainage plans shall include system design to return filtered waters to the natural drainage channels and provide detention within. All developments shall provide evidence of their Utah State Department of Environment Quality General Construction Stormwater UPDES Permits at building permit issuance.
2. Geotechnical reports shall also include an analysis of the soil types and their potential for movement when additional water is applied, as may occur from landscape irrigation and/or impervious surface runoff. Geotechnical studies shall also identify (1) the depth to water table, and (2) fluctuations in seasonal water tables, if buildings with basements are to be constructed within the proposed development or if due to specific circumstances the County Health Department or City Departments requests the information. In the absence of a yearlong analysis of water table fluctuations, the time period to be studied is from March 15 to June 15.
3. Critical view sheds should be evaluated for State Highway rights-of-way and corridor buffers established, to preserve the character of the Heber Valley.
4. After identifying/document (or delineating in the case of wetlands) any sensitive lands as defined above, and reviewing, Heber City's General Plan and Parks, Trails, and Open Space Master Plan, and the Wasatch County Regional Trails Master Plan for trails, as part of the design process of a development, and as part of the concept plan submission, each development shall include a conceptual design to assess how the development will be designed to preserve the identified sensitive lands and evaluate the potential to extend trail systems to and within the area.
5. Development shall mitigate the visibility of cuts and fills and buildings on hillsides that are visible from the viewing platforms identified in the ridgeline protection ordinance in Section 18.106.050. Mitigation shall include methods to conceal such cuts and fills and buildings, such as evergreen landscaping, hill terracing, use of earth-tone colors on structures, utilizing narrower street cross sections along steep slopes, moving streets, etc.

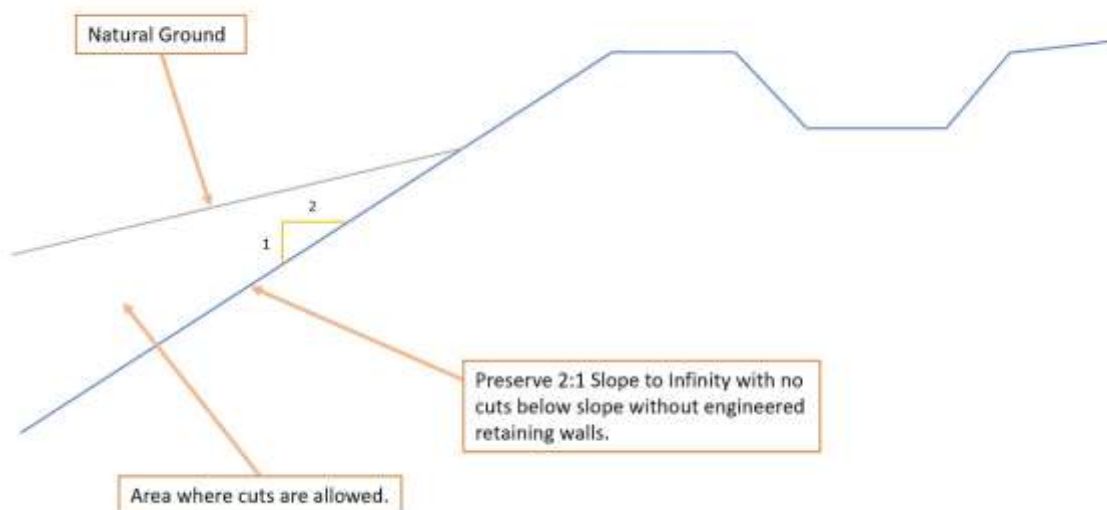
F. Development Prohibited. New subdivisions and new development shall avoid and preserve as undisturbed/natural open space the following areas:

1. *Steep slopes:* Identify areas with average slopes ranging from 10% to 20% and from 20% to 30%. Slopes over 30% are prohibited from development unless a lot has a contiguous building area that is a minimum of five thousand (5,000) square feet at or below thirty percent (30%) natural grade. All such lots shall include specific engineering designs to contain run off, erosion, and pollution on the subject property during construction and after construction. This includes the prevention of any materials caused by erosion flowing out onto adjacent trails, sidewalks and streets, adjacent fences and erosion onto the sensitive lands buffer areas. Cuts and fills shall be avoided in project design to the greatest extent possible and shall not exceed a 2 to 1 slope. Retaining walls extending over 6' in height shall include a landscaped terrace, a minimum of 4' in width for every 6' in height. Terraces may be created at lesser heights to meet slope related issues, but

the minimum number based on the 6' interval shall be maintained. Development in all steep sloped areas (20% and above) shall submit plans that conform to any City Standards, utilize Low Impact Development techniques, and specialized storm water permits such as SWPPP. Home development in the 20% to 30% slope category shall be limited to 1.5 stories. Revegetation with native plants of disturbed areas is required within 6 months for any grading performed for road work and after the occupancy of a home.

2. *Avalanche paths*: Such avalanche paths shall be identified, and development shall avoid such paths as recommended by a qualified Geotechnical Engineer.
3. *Fault lines, scarps, landslides, rock outcroppings, rock-fall, and mud/debris flow areas*: These topographical features shall be avoided and mitigated as recommended by a qualified Geotechnical Engineer. Determinations and mitigation techniques proposed that, when analyzed by the City Engineer, do not clearly resolve any identified issues may be subject to peer review at the City's discretion. The developer shall pay for such additional studies/peer reviews and the City shall manage the funds.
4. *Stream beds (including intermittent), gullies, ditches, flood channels, flood plains, areas of springs, seeps and surface water*: Pollution sources such as fuel tanks, septic tanks, shall be setback at least 100 feet from the pollution source to the hydrologic feature. Additional vegetation may be required between the hydrologic features and development for erosion control (with no fertilizer or pesticide use) or for public amenities. Hydrologic features that are accompanied by an amenity such as a park or trail shall include sufficient open area along and surrounding the hydrologic feature to ensure ample room to protect the feature and to provide area for enjoyment of the amenity; generally such width should be an average of 50 feet.
5. *Canals*. Development shall avoid destabilizing the downhill portion of canals. No cuts shall be permitted below a 2:1 slope measured from the downhill bank of a canal without an engineered retaining wall. See graphic below "Canal Bank Stabilization".

Canal Bank Stabilization



6. *Identified wetlands*: Identified wetlands shall be delineated using the Section 404 definition and procedures within the Clean Water Act. Protected wetlands shall be accompanied by additional open lands when they are adjacent or combined with usable open space and trails, with such adjacent areas averaging a width of 50 feet wide. Pollution sources such as fuel tanks, septic tanks, etc. shall be setback 100' from the pollution sources and identified wetlands. Additional vegetation may be required in these buffer areas for erosion control (with no fertilizer or pesticide use) or for public amenities.
7. *Wildfire Potential: Potential wildfire areas* shall be assessed, and mitigation strategies applied, as per 15.04.010 D.
8. *Culinary Water Source Protection. Public and private wells, and springs*: Such areas shall be identified within the subject property and on adjacent properties within 100'. City required notification processes shall be followed. Mitigation techniques shall follow the advisement of the source delineation report, current engineering practice, applicable state statutes, and contain all erosion and site pollution, within the development. See Wellhead Protection ordinance 8.28.
9. Development above ridgelines shall follow the standards in Chapter 18.106, Ridgeline Protection.
10. *View sheds*: Where new development is proposed along State roads, that lack adjacent scenic buffers, trail corridors or lack adjacent 10 acre or larger agricultural zoning, the view impacts shall be considered and buffered with additional landscaping, setbacks, and parallel trails defined as part of the site plan and/or preliminary subdivision plat.

G. Development Constraints for Certain Sensitive Lands. The following sensitive land with potential hazards requires additional mitigation techniques in new subdivisions and new development, and the developer shall provide mitigation for such hazards when they apply. The City requires a notice of such hazard and required mitigation to future property owners in a development agreement, on the subdivision plat and/or other device. Such additional mitigation techniques shall include, (practicable or available) but not be limited to the following:

1. Alluvial-fan-flood debris flow, collapsible soils, and shrink-swell soils. Mitigation techniques shall follow the advisement of a qualified Geotechnical Engineer and may be subject to peer review, at the developer's cost.
2. Shallow groundwater. As part of a geotechnical study, the depth of the water table shall be assessed in a year-long study or a March 15 to June 15 assessment if basements are to be utilized within the development or if groundwater is initially identified at depths less than 3 feet from the surface. If the water table is subject to area irrigation practices, the minimum time period for study is March 15 to August 15. During drought conditions, defined as 80% or below normal average precipitation, such studies shall provide an estimate of the rise in the water table if normal precipitation were to occur and at 110% of normal. If areas of shallow ground water are found that prohibit or impact foundations, such areas shall be noted in the concept design and carried forward on the preliminary and final plats. Possible mitigation techniques include the installation of a foundation drain (s) and sump pump (s), possible prohibition of basements, or other mitigation techniques as provided on the advisement of a qualified Geotechnical Engineer. Areas with ground water within 3' of the surface, shall require additional analysis to assess their feasibility for development.

3. 100-year flood zones. Mitigation techniques shall follow the procedures of Chapter 18.109, Flood Damage Prevention Ordinance.

H. **Acceptable Permanent Sensitive Land Preservation Instruments.** Such areas shall be preserved through a conservation easement, R lot designation, dedicated as accessible public open space to the City with a conservation easement, deed restricted with an HOA maintenance commitment, or other means that assure permanent preservation. Such areas shall include public access points, where trails are included in the preserved sensitive lands. Preservation techniques shall be negotiated as part of a development agreement.

I. **Sensitive Lands Preservation Incentives through Density Transfers.** Developers are encouraged not to build on slopes of 20 percent or greater. To this end, for slopes of 20 percent or greater, the applicant may ask the City to consider transfer of potential steeper area lots to other areas of the city, with a corresponding increase in density or to transfer, via a TDR-like mechanism, to identified receiving areas in the City consistent with the zone. Such transfers shall be implemented and established through negotiation with the City Council in a development agreement.

J. Developments including or adjacent to Sensitive Lands shall include restrictive covenants with mitigation techniques for the continued maintenance, preservation, and enhancement of Sensitive Lands and their associated open spaces.

K. **Other Considerations.**

1. **Buried wells, springs, and streams.** Existing development may have capped old wells and springs, piped streams, which could have potential cultural and historical value. If significant redevelopment of the site's structures, defined as over 50% of the building is being modified or replaced, efforts to re-establish an open stream or utilize the spring or well as a water feature, shall be considered in the design process. Buried/capped wells may be impractical to reestablish.

2. **Low Impact Development (LID) Storm Water Erosion and Pollution prevention techniques:** A LID Storm Water Report/Implementation techniques plan, to be prepared by a person or firm qualified by training and experience to have expert knowledge of the subject, shall be prepared according to State and City Standards and generally include the following:

a. **An analysis,** including calculations and implementation rationale for possible LID Best Management Practices that could be implemented on the site:

- 1) To improve the water quality and reduce the quantity of storm water generated from a development, on-site stormwater management shall meet or exceed approved City standards with encouragement to exceed standards.
- 2) To provide methods of retention which would include infiltration, evaporation, transpiration, rainwater harvesting and re-use, and as specified by City standards.
- 3) For the preservation and enhancement of native vegetation in areas where storm water is being introduced. This shall be required as this vegetation retains, intercepts and transpires storm water, but may be modified as design considerations are considered.

3. **Heritage Trees:** Heritage Trees as designated by the Utah Heritage Tree Act and administered by the Utah Department of Natural Resources shall be preserved according to State Law.
4. **Species protection/animal migration areas:** Identify habitat areas (especially habitat for the sage grouse and endangered spotted frog) in the concept plan and in conjunction with other sensitive lands, consider preservation, with the understanding that with some areas such anticipated preservation may be impractical, based on the development design. Identified animal migration corridors may be replaced with a highly landscaped trail corridor (s).
5. **Development adjacent to agricultural lands** shall provide a recorded notification on the subdivision plat and/or other device, informing subsequent purchasers of the property of the potential for noise, odors and other characteristics involved in living adjacent to agricultural operations.