

**CACHE COUNTY ORDINANCE No. 2023-30**

**AN ORDINANCE UPDATING DEVELOPABLE ACREAGE & SENSITIVE AREAS DEFINITIONS, STANDARDS AND APPLICABLE SUBDIVISION REQUIREMENTS**

- A) WHEREAS, the “County Land Use Development and Management Act,” Utah Code Ann. §17-27a-101 et seq., as amended (the “Act”), provides that each county may enact a land use ordinance establishing regulations for land use and development; and
- B) WHEREAS, pursuant to the Act, the County’s Planning Commission (the “Planning Commission”) shall prepare and recommend to the county’s legislative body, following a public hearing, a proposed land use ordinance, or amendments thereto, that represent the Planning Commission’s recommendations; and
- C) WHEREAS, the Planning Commission caused notice of a public hearing the ordinance update to be advertised at least ten (10) days before the date of the public hearing on the Utah Public Notice Website and on the Cache County website as required under County Code Section 17.02.070: Notice for Public Meetings; and
- D) WHEREAS, on July 6, 2023, the Planning Commission held a public hearing, accepted all comments, and on August 3, 2023 recommended the approval of the proposed amendments to the County Council for final action; and
- E) WHEREAS, the Act also provides certain procedures for the county legislative body to adopt or reject amendments to the land use ordinance; and
- F) WHEREAS, following proper notice, the County Council held a public hearing on Aug 22, 2023, to consider any comments regarding the proposed amendments. The County Council accepted all comments; and

NOW, THEREFORE, the County Legislative Body of Cache County ordains as follows:

SECTION 1: Section 17.07.040 of the Cache County Code is amended to read as follows for the referenced definitions, with a redline copy attached as Exhibit 1:

**§17.07.040 General Definitions**

**SENSITIVE AREA: A. Non-Developable:** The following sensitive areas shall not be considered developable other than the exceptions provided in Item 4., below. Any acreage encumbered by said areas shall not be considered when calculating development density in the FR40, RU5, and RU2 Zones (see §17-07.040 “DENSITY”).

1. Wetlands: As defined by the U.S. Army Corps of Engineers (see 17.07.040 - Wetlands and 17.18.050.A.2.- STANDARDS AND DEVELOPMENT PLAN).

2. Steep slopes: Land having an average slope of thirty percent (30%) or greater over a horizontal distance greater than fifty feet (50'). Small washes, hills, or rock outcrops which have slopes distinctly different from surrounding property may be excluded from slope determination by the Development Services Director, if the exclusion of such small areas from slope determination will not be contrary to the overall purpose of this title.

3. Natural waterways: As defined by this title (see 17.07.040 - Waterways, Natural and 17.18.050.A.3.- STANDARDS AND DEVELOPMENT PLAN):

4. No development shall occur therein except for the following:

- A. Required public roads, utilities, and/or facilities, in accordance with County road and fire access requirements;
- B. Private roads, drives, and utilities (on steep slopes no greater than 50%), in accordance with County road and fire access requirements.
- C. Structures may be built on limited steep slope areas within a defined development area based on the following studies to be included in a land use application:
  - i. A site plan showing a defined development area within the boundaries of the parcel or lot where structures are proposed; and
  - ii. The development area shall not include any portion of steep slope areas that measure perpendicular to the contour line over a horizontal distance of 100 feet or greater; and
  - iii. The average grade of the proposed grading plan shall not exceed thirty percent (30%) measured by cross section(s) drawings across any portion of the defined development area, and
  - iv. A slope elevation study and geotechnical report must be provided.
  - v. Agricultural structures, and accessory structures less than 200 sq. ft., are exempt from these standards, as provided for 17.18.050.A.5.

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**DENSITY:** The number of acres required per buildable dwelling unit parcel or lot as specified in section 17.10.040, table 17.10.040 of this title. Net acreage shall be calculated in the FR-40, RU5 and RU2 zones by taking the total gross acreage and subtracting non-developable sensitive areas (wetlands, open water, steep slopes) and the area in rights-of-way for roads. In A10 zones non-buildable sensitive areas and area in

rights-of-way for roads may be counted towards developable acres for density calculation.

- A. A legal parcel or lot that is less in size than the minimum zoning density acreage is developable provided that all development standards required in this title and all other applicable County and State Code requirements are met (see Lot/Parcel definition in Section 17.07.040).
- B. Each dwelling unit must be built on a separate parcel or lot.
- C. Lots in an A10 subdivision may be clustered as allowed in Section 16.02.060. For example, a 32 acre parcel in the A10 zone could potentially be subdivided into 3 buildable lots. These lots could be as small as 1/2 acres, subject to meeting all required setbacks and well and septic spacing requirements with the undeveloped portion of the subdivision reserved as an additional agricultural remainder lot that is limited to agricultural or natural open space use.
- D. The density or total number of dwelling units is limited by all development standards required in this title and other applicable County and State Code, and must be reduced as necessary to meet these requirements.

**DEVELOPABLE ACREAGE:** The land area within a subdivision excluding: areas defined as undevelopable under chapter 17.18, "Sensitive Areas", of this title, and areas dedicated to the public, such as parks and public rights-of-way. In A10 zones, areas dedicated to the public, such as parks and public rights of way, shall not be excluded.

**DEVELOPMENT:** The act, process, or result of erecting, placing, constructing, remodeling, converting, altering, relocating, or demolishing any structure or improvement to property, including grading, clearing, grubbing, mining, excavating, or filling of such property. Also includes the improvement or subdivision of land for the purpose of building.

**SECTION 2:** Section 16.02.060 of the Cache County Code is amended to read as follows, with a redline copy attached as Exhibit 1:

**16.02.060: CLUSTER SUBDIVISION OPTION:**

The cluster subdivision option is provided by Cache County to encourage creativity in subdivision design, to encourage the achievement of the goals and policies of the Cache Countywide Comprehensive Plan, and to allow for the protection of natural features and the provision of features and amenities for the subdivision site and Cache County. Full compliance with all the provisions of this title and all other applicable state and federal requirements is required.

A. An application for a cluster subdivision shall be submitted to the Director of Development Services and shall be considered concurrently with an application for subdivision approval. All use requirements of the zoning district in which the cluster subdivision is located shall apply; and the application requirements for either a preliminary subdivision plat application, final subdivision plat application, or lot split subdivision application, as applicable, shall apply.

B. The total number of dwelling units allowed in a cluster subdivision shall be the same as the number allowed by the minimum lot area requirements of the zoning district in which the proposed cluster subdivision is located. Any land(s) used for other uses shall not be included in the area for determining the total number of allowed dwelling units. The total number of allowed dwelling units must also recognize any sensitive areas overlay requirements that may be applicable to the development site as identified in chapter 17.18 of this code.

C. The land(s) proposed for a cluster subdivision shall be in a single ownership or the application for a cluster subdivision shall be filed jointly by all owners.

D. A "cluster" is a designed grouping of residential lots of two (2) or more lots which may be used as a repetitive motif to form a series of clusters. Each cluster grouping shall be separated by either an agricultural area or natural open space to form the larger cluster subdivision.

E. Total open space areas for a cluster subdivision must be fifty percent (50%) or greater of the total area of the subdivision.

F. All roads developed within the cluster subdivision shall be designed and constructed in accordance with the county's road standards, and shall also be designed in a manner as to limit the amount of impact on the open space areas of the subdivisions.

G. All areas to be preserved for farm use and/or open space areas as a result of a cluster subdivision approval shall be preserved. These areas shall only be used, and shall be maintained in accordance with the conditions of the cluster subdivision approval as approved by the Planning Commission. Such area(s) shall be noted on the subdivision plat as an agricultural or open space area with future residential and commercial development prohibited.

H. The maximum density, or number of lots allowed, is based on the density standards of title 17, chapter 17.10, and as defined in chapter 17.07.040: General Definitions - "Developable Land" in this code or as determined by the Land Use Authority to be in accordance with applicable County or State Code.

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**SECTION 3:** Section 17.18 of the Cache County Code is amended to read as follows, with a redline copy attached as Exhibit 1:

**17.18.10 : PURPOSE:**

The purpose of this chapter is to provide a mechanism for the protection of those areas of Cache County which are determined to be environmentally sensitive or that may pose a potential threat or danger to development. This chapter is intended to:

- A. Protect the general health, welfare, and safety of the citizens of Cache County.
- B. Minimize public and private property damage and emergency tax assistance.
- C. Provide an awareness of, and mitigation strategies for, development within sensitive areas.
- D. Provide a mechanism to determine developable acreage for development within Cache County.

**17.18.020: DEFINITIONS:**

All terms in this chapter are defined within chapter 17.07, "Definitions", of this title. Any other terms not defined in this title shall be interpreted as defined by state and/or federal code or rule.

**17.18.30 : REVIEW PROCESS:**

The sensitive area review process consists of three (3) primary steps and consideration of reasonable use:

- A. Sensitive Area Determination: The development services department may provide mapping and an initial determination of the approximate location of known sensitive areas. These maps will provide the most current and accurate data accessible to the county, and may be updated as new or more accurate data becomes available. The initial determination may require the applicant to pursue further site specific analysis or study to confirm the location of sensitive areas as defined within this chapter. In some cases, hazards may not be mapped but may be present on a site and such cases shall be required to meet the requirements of this title. The Development Service Department may conduct site visits to determine if a property is subject to this chapter based on the standards within this Title.
- B. Sensitive Area Analysis: A sensitive area analysis shall be submitted with any application for development on property containing sensitive areas and shall include an analysis, determination, and a development plan including proposed mitigation.
- C. Suitability Determination: The county shall review the sensitive area analysis and shall report their findings to the applicant and land use authority. In addition:
  - 1. The applicant must identify significant, adverse impacts on sensitive areas and include appropriate mitigation measures for noted impacts.
  - 2. The land use authority, prior to hearing any application for a development proposed to be located wholly or partially, within any sensitive area as identified by this chapter, shall provide notice and opportunity for comments and recommendations from state and federal agencies with additional oversight including, but not limited to, the Utah division of wildlife resources (DWR), Utah department of environmental quality (DEQ), United States forest service

(USFS), bureau of land management (BLM), U.S. army corps of engineers, etc., and as applicable.

D. Hardship Relief: If the applicant demonstrates that the regulations imposed by this chapter would deny all reasonable use of the subject property, the county council, following the receipt of a recommendation from the planning commission, may modify the exercise of these requirements to provide the applicant reasonable use of the property and may provide a modified determination of development potential. The county council shall not modify regulations imposed by state and/or federal law and/or rule. (Ord. 2014-06, 6-10-2014, eff. 6-25-2014)

**17.18.40: SENSITIVE AREAS ANALYSIS:**

A sensitive areas analysis shall be submitted with any application for development on property containing known sensitive areas and/or sensitive areas discovered in the process of development, and shall include an analysis, determination, and a development plan including proposed mitigation as identified below. Mapping that reflects the known sensitive areas is available in the development services department.

A. Analysis And Determination: The sensitive areas analysis shall provide an analysis and professional determination for each sensitive area.

1. Nondevelopable:

a. Wetlands: As determined necessary by the county, an approved jurisdictional wetland delineation report and concurrence report from the United States army corps of engineers shall be required as part of the wetland analysis.

b. Steep Slopes: A topographic map depicting the contours of all steep and moderate slopes at an interval of five feet (5') or as determined by the director.

c. Natural Waterways And Open Water: A map depicting all stream corridors as defined by their high water marks.

2. Potentially Developable Areas:

a. Moderate Slopes: Development may be permitted upon county review and approval of a geotechnical report. The analysis should also include:

(1) The location and description of existing natural and manmade features on and surrounding the site, including general topography and soil characteristics and a copy of the soil conservation service soil survey for the site.

(2) The location and description of proposed changes to the site, including any grading and excavation, vegetation removal, the location and profiles of proposed roadways, the location of proposed utility lines, the location of existing and proposed buildings and structures, and the location of all other proposed site features.

(3) The identification of measures proposed for soil and sediment control, including a schedule of the sequence for the installation of planned erosion and sediment control measures, including anticipated starting and completion dates.

(4) Plans for the proposed vegetation of all disturbed site areas.

b. **Ridgelines:** A map depicting the crest and one hundred foot (100') vertical buffer of any significant ridgelines or hilltops within the parcel boundary. Development within this area may be permitted upon county review and approval in keeping with the purpose and standards of this chapter.

c. **Floodplain, Floodway, And/Or Areas Impacted By Manmade Water Conveyance Systems:** A hydrological report including information on groundwater levels, natural and manmade drainage channels and systems (canals), and/or base floodplain elevations.

d. **Important Habitat Areas:** A habitat management plan prepared by a professional qualified in the areas of ecology, wildlife biology, or other relevant disciplines, that identifies the areas inhabited and/or frequently used by any federally listed flora and/or wildlife species (threatened and/or endangered) and includes the following:

(1) The ecological and wildlife use characterization of the property explaining the species of wildlife using the areas, the times or seasons the area is used by those species, and the value (e.g., feeding, watering, cover, nesting, roosting, or perching) that the area provides for such wildlife species.

(2) Wildlife movement corridors.

(3) The general ecological functions provided by the site and its features.

(4) An analysis of how proposed development activities impact the important habitat areas and associated species.

e. **Geologic Hazards:** A geotechnical report in compliance with section 17.18.060 of this chapter.

f. **Wildfire Hazards:** A fire protection report that identifies potential fire hazards, mitigation measures, access for fire protection equipment, existing and proposed fire flow capability and compliance with the Utah wildland interface code (see title 15, chapter 15.08 of this code).

g. **Historic, Prehistoric, And Cultural Resources:** Identify any sites and/or structures determined to have historical or archaeological significance to the community, the region, or the state of Utah. This includes properties eligible for the national register of historic places.

h. **Additional Information:** Additional information including input from any of the state of Utah agencies shall be required as determined by the county land use authority. (Ord. 2014-06, 6-10-2014, eff. 6-25-2014)

#### **17.18.050: STANDARDS AND DEVELOPMENT PLAN:**

These standards are provided to ensure that any development proposed wholly, or in part, within a sensitive area recognizes the physical and environmental constraints of the development site.

These standards shall supplement, and are in addition to, other development standards provided by this code, state, and/or federal code or rule. At the time of application, provide a development plan for the property that addresses and includes the following:

A. Nondevelopable: As applicable, provide a description of all impacts and mitigation regarding development activities that will or are likely to impact any nondevelopable areas on the property.

1. Wetlands: No building, structure, construction, excavation, or landfilling shall occur on any area determined to be a jurisdictional wetland without the approval and necessary wetlands permit(s), as required by the U.S. army corps of engineers. Where potential wetlands exist, wetland delineation may be required.

2. Steep Slopes: . Development is limited to the standards provided in the definition of Steep Slopes in 17.07.040 SENSITIVE AREA: A. Non-Developable:

3. Natural Waterways And Open Water: All proposed development adjacent to year round or ephemeral natural waterways or open water, shall be subject to the following, but excluding bridges, boat ramps, culverts, dams, trestles, and similar structures:

a. A minimum setback of fifty feet (50') for all structures and one hundred feet (100') for all on site septic systems shall be required. Said setbacks may be increased or reduced, if necessary, as determined by the planning commission to reasonably address the possibility of any stream or water pollution.

b. Any work within thirty feet (30') of the top of bank shall obtain a state or federal approval and/or permit.

c. The ordinary high water mark as determined by Cache County shall be the point of reference as to the edge of the waterway.

d. The introduction of concentrated sources of pollution into the waterways is prohibited including, but not limited to, septic tanks, untreated sewage, commercial and residential garbage, manure, dead animals, waste, and other hazardous materials.

B. Potentially Developable:

1. Moderate Slopes: Any development proposed for areas identified as a moderate slope shall require a geotechnical report as defined by this chapter.

2. Ridgelines: No structure, accessory structure, satellite dish, deck, patio or removal of significant vegetation shall occur in the ridgeline setback, except as provided below:

a. If any portion of a legal existing parcel of record falls within the ridgeline setback, any development on that parcel shall make every effort to place all development on the most suitable portion of the lot taking into consideration the standards of this title.

b. All disturbance and development shall stay out of the ridgeline setback to the maximum extent possible. If, due to the location, size and configuration of the parcel, that is not possible, the land use authority may approve an exception in keeping with the purpose and standards of this chapter.

3. Floodplain, Floodway, And/Or Manmade Water Conveyance Systems: See title 15, chapter 15.28 of this code. Areas that are shown to have the potential for flooding originating from a manmade water conveyance system (canal) shall follow the standards identified in section 15.28.540 of this code for AO/AH zones.

4. Important Habitat Areas: Strategies that preserve important habitat and prevent fragmentation are encouraged. When new development is proposed within important habitat

areas, mitigation methods shall be designed and implemented, including, but not limited to, those listed below:

a. Construction shall be organized and timed to minimize disturbance of federally listed species occupying or using on site and adjacent habitat areas.

b. If the development site contains or is within five hundred feet (500') of a habitat area, and the sensitive areas analysis shows the existence of a federally listed species, the development plan shall include provisions to ensure that any habitat contained in any such area shall not be disturbed or diminished, and to the maximum extent feasible, such habitat shall be enhanced.

c. If the development site contains existing habitat areas that connect to other off site habitat areas, to the maximum extent feasible the development plan shall preserve such habitat area connections. If habitat areas lie adjacent to the development site, but such habitat areas are not presently connected across the development site, then the development plan shall, to the extent reasonably feasible, provide such connection. Such connections shall be designed and constructed to allow for the continuance of existing wildlife movement between habitat areas and to enhance the opportunity for the establishment of new connections for movement of wildlife.

d. If federally listed wildlife or flora that may create conflicts for future occupants of the development is known to exist in areas adjacent to or on the development site, then the development plan must include provisions to minimize these conflicts to the extent reasonably feasible.

e. Facilitate wildlife movement across areas dominated by human activities by:

(1) Maintaining connectivity between open space parcels on adjacent and nearby parcels and subdivisions such that the result will be a larger contiguous area of open space;

(2) Locating roads and development away from natural travel corridors used by wildlife, such as riparian areas;

(3) Minimizing fencing types that inhibit wildlife movement where appropriate;

(4) Minimizing the visual contrast between human dominated areas, including individual lots, and less disturbed terrain in surrounding areas, for example, by retaining or planting native vegetation and trees around a house or accessory building and maintaining consistent grading between developed and habitat areas.

f. Mimic features of the local natural landscape in developed areas by:

(1) Retaining predevelopment, high quality habitat, including large patches of natural, vegetated areas that have not yet been fragmented by roads or residential development;

(2) Minimizing levels of disturbance to trees, the understory vegetation, and other structural landscape features during construction;

(3) Designing house lots in a fashion consistent with local natural habitats, for example, by preserving and landscaping with natural, native vegetation;

(4) Reclaiming disturbed areas, such as degraded landscapes, roadsides, and other infrastructure disturbances by using seed and other selective plantings.

5. Geologic Hazards: For those areas determined by review to contain geologically unstable conditions, development may be permitted by the county upon the review and approval of a geotechnical report identifying the following:

- a. The accurate location of all geologic hazards including, but not limited to, faults, landslides, steep slopes, unstable soils, etc.
- b. The location and description of proposed changes to the site, including any grading and excavation, vegetation removal, the location and profiles of proposed roadways, the location of proposed utility lines, the location of existing and proposed buildings and structures, and the location of all other proposed site features.
- c. The identification of measures and actions proposed to mitigate the risks from earthquakes, landslides, and soil disturbance including a schedule of the sequence for the installation of planned mitigation actions, including anticipated starting and completion dates.
- d. No critical facility (excluding transportation lines or utilities which by their nature may cross active faults or structures) designed for human occupancy shall be built astride a geologic hazard. The planning commission may increase building setback requirements where information from a geotechnical report indicates conditions warrant a greater setback distance.
- e. These requirements: do not apply to the following:
  - (1). Structures under 200 sq. ft.
  - (2). Agricultural buildings not for human occupancy as defined by State Code 15A-1-202 as amended.

A geotech report may be required at the referral of the Development Service Director, and the discretion and approval of the Planning Commission if necessary to protect an individual from a condition likely to cause imminent injury or death.

- 6. Wildfire Hazards: As applicable, provide a description of all impacts and mitigation regarding development activities that will or are likely to impact and/or be impacted by wildfire hazards on the property. Measures to mitigate wildfire hazards and risks may be required based on the recommendation and review of the Cache County Fire District.
- 7. Historic, Prehistoric, And Cultural Resources: Any sites and/or structures determined to have historical or archaeological significance to the community, the region, or the state of Utah shall require the review of, and comment from, the state historic preservation office (SHPO). This includes properties eligible for the national register of historic places. (Ord. 2014-06, 6-10-2014, eff. 6-25-2014)

**17.18.60 : GEOTECHNICAL REPORT MINIMUM STANDARDS:**

When a geotechnical report is required, the county shall review each report against the minimum standards as noted below. The county and this chapter may also identify and include additional requirements depending upon site specific conditions and hazards.

- A. A geotechnical report shall be prepared by a qualified professional. The report shall be signed and dated by the preparer and shall also include the qualifications of the preparer.
- B. The report shall be site specific and identify all known or suspected potential geotechnical or natural hazards, originating on site or off site, affecting the particular property.
- C. The report shall include a detailed site map showing the location of the hazard(s) with delineation of the recommended setback distances from such hazard(s) and the recommended location for proposed structures.

D. The report shall address the potential effects of the hazard(s) on the proposed development and occupants thereof, in terms of risk and potential damage.

E. The report shall contain recommendations for avoidance or mitigation of the effects of the hazard(s). The evidence on which the recommendations and conclusions are based shall be clearly stated in the report. Trench logs, aerial photographs, references with citations, and other supporting information as applicable, shall also be included in the report.

F. Whenever a potential natural hazard is identified by a geotechnical report under this chapter, the owner of such parcel shall record a restrictive covenant running with the land in a form satisfactory to the county prior to the approval of any development or subdivision of such parcel which shall include the following:

1. Notice of the existence and availability of the geotechnical report that identifies the natural hazards for public inspection in the development services department; and

2. An agreement by the owner of the parcel and any successor in interest to comply with any conditions set by the planning commission to minimize potential adverse effects of the natural hazard(s). (Ord. 2014-06, 6-10-2014, eff. 6-25- 2014)

**SECTION 4:**

This ordinance takes effect 15 days following its passage and approval by the County Council.

PASSED AND APPROVED BY THE COUNTY COUNCIL OF CACHE COUNTY,  
 UTAH THIS 22 DAY OF AUGUST 2023.

	In Favor	Against	Abstained	Absent
Sandi Goodlander	X			
David Erickson	X			
Nolan Gunnell	X			
Barbara Tidwell	X			
Karl Ward	X			
Mark Hurd	X			
Kathryn Beus	X			
Total	7	0	0	0

**CACHE COUNTY:**

**ATTEST:**

By: [Signature]  
David Erickson, Chair

By: [Signature]  
David Benson, County Clerk

**ACTION OF COUNTY EXECUTIVE:**

   Approve  
   Disapprove (written statement of objection attached)

By: [Signature]  
David Zook, County Executive

8/27/27  
Date

**EXHIBIT 1**

Redlines

**§17.07.040 General Definitions**

**SENSITIVE AREA: A. Non-Developable:** The following sensitive areas shall not be considered developable other than the exceptions provided in Item 4., below. Any acreage encumbered by said areas shall not be considered when calculating development density in the FR40, RU5, and RU2 Zones (see §17-07.040 "DENSITY"). ~~and no development shall occur therein except for required public utilities and/or facilities.~~

1. Wetlands: As defined by the U.S. Army Corps of Engineers (see 17.07.040 - Wetlands and 17.18.050.A.2.- STANDARDS AND DEVELOPMENT PLAN).
2. Steep slopes: Land having an average slope of thirty percent (30%) or greater over a horizontal distance greater than fifty feet (50'). ~~or areas within one hundred feet (100') of the edge of a bluff or ridgeline. The "edge of a bluff" means an area where there is a substantial abrupt change in slope.~~ Small washes, hills, or rock outcrops which have slopes distinctly different from surrounding property may be excluded from slope determination by the Development Services Director, if the exclusion of such small areas from slope determination will not be contrary to the overall purpose of this title. ~~over a horizontal distance of feet (20') or greater.~~

3. Natural waterways: As defined by this title (see 17.07.040 - Waterways, Natural and 17.18.050.A.3.- STANDARDS AND DEVELOPMENT PLAN):

4. No development shall occur therein except for the following:

- A. Required public roads, utilities, and/or facilities, in accordance with County road and fire access requirements:
- B. Private roads, drives, and utilities (on steep slopes no greater than 50%), in accordance with County road and fire access requirements.
- C. Structures may be built on limited steep slope areas within a defined development area based on the following studies to be included in a land use application:
  - i. A site plan showing a defined development area within the boundaries of the parcel or lot where structures are proposed; and
  - ii. The development area shall not include any portion of steep slope areas that measure perpendicular to the contour line over a horizontal distance of 100 feet or greater; and
  - iii. The average grade of the proposed grading plan shall not exceed thirty percent (30%) measured by cross section(s) drawings across any portion of the defined development area, and
  - iv. A slope elevation study and geotechnical report must be provided.
  - v. Agricultural structures, and accessory structures less than 200 sq. ft., are exempt from these standards, as provided for 17.18.050.A.5.

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**DENSITY:** The number of ~~net~~ acres required per buildable dwelling unit parcel or lot as specified in section 17.10.040, table 17.10.040 of this title. Net acreage shall be calculated in the FR-40, RU5 and RU2 zones by taking the total gross acreage and subtracting non-developable sensitive areas (wetlands, open water, steep slopes) and the area in rights-of-way for roads. In A10 zones non-buildable sensitive areas and area in rights-of-way for roads may be counted towards developable acres for density calculation.

- A. A legal parcel or lot that is less in size than the minimum zoning density acreage is developable provided that all development standards required in this title and all other applicable County and State Code requirements are met (see Lot/Parcel definition in Section 17.07.040).
- B. Each dwelling unit must be built on a separate parcel or lot.

- C. Lots in an A10 subdivision may be clustered as allowed in Section 16.02.060. For example, a 32 acre parcel in the A10 zone could potentially be subdivided into 3 buildable lots. These lots could be as small as 1/2 acres, subject to meeting all required setbacks and well and septic spacing requirements with the undeveloped portion of the subdivision reserved as an additional agricultural remainder lot that is limited to agricultural or natural open space use.
- D. The density or total number of dwelling units is limited by all development standards required in this title and other applicable County and State Code, and must be reduced as necessary to meet these requirements.
- E. ~~Net acreage shall be calculated by taking the total gross acreage and subtracting non-developable sensitive areas (wetlands, open water, steep slopes) and the area in rights-of-way for roads.~~

**DEVELOPABLE ACREAGE:** The land area within a subdivision excluding: areas defined as undevelopable under chapter 17.18, "Sensitive Areas", of this title, and areas dedicated to the public, such as parks and public rights-of-way. In A10 zones, areas dedicated to the public, such as parks and public rights of way, shall not be excluded.

**DEVELOPMENT:** The act, process, or result of erecting, placing, constructing, remodeling, converting, altering, relocating, or demolishing any structure or improvement to property, including grading, clearing, grubbing, mining, excavating, or filling of such property. Also includes the improvement or subdivision of land for the purpose of building.

#### **16.02.060: CLUSTER SUBDIVISION OPTION:**

The cluster subdivision option is provided by Cache County to encourage creativity in subdivision design, to encourage the achievement of the goals and policies of the Cache Countywide Comprehensive Plan, and to allow for the protection of natural features and the provision of features and amenities for the subdivision site and Cache County. Full compliance with all the provisions of this title and all other applicable state and federal requirements is required.

A. An application for a cluster subdivision shall be submitted to the Director of Development Services and shall be considered concurrently with an application for subdivision approval. All use requirements of the zoning district in which the cluster subdivision is located shall apply; and the application requirements for either a preliminary subdivision plat application, final subdivision plat application, or lot split subdivision application, as applicable, shall apply.

B. The total number of dwelling units allowed in a cluster subdivision shall be the same as the number allowed by the minimum lot area requirements of the zoning district in which the proposed cluster subdivision is located. Any land(s) used for other uses shall not be included in the area for determining the total number of allowed dwelling units. The total number of allowed dwelling units must also recognize any sensitive areas overlay requirements that may be applicable to the development site as identified in chapter 17.18 of this code.

C. The land(s) proposed for a cluster subdivision shall be in a single ownership or the application for a cluster subdivision shall be filed jointly by all owners.

D. A "cluster" is a designed grouping of residential lots of two (2) or more lots which may be used as a repetitive motif to form a series of clusters. Each cluster grouping shall be separated by either an agricultural area or natural open space to form the larger cluster subdivision.

E. Total open space areas for a cluster subdivision must be fifty percent (50%) or greater of the total area of the subdivision.

F. All roads developed within the cluster subdivision shall be designed and constructed in accordance with the county's road standards, and shall also be designed in a manner as to limit the amount of impact on the open space areas of the subdivisions.

G. All areas to be preserved for farm use and/or open space areas as a result of a cluster subdivision approval shall be preserved. These areas shall only be used, and shall be maintained in accordance with the conditions of the cluster subdivision approval as approved by the Planning Commission. Such area(s) shall be noted on the subdivision plat as an agricultural or open space area with future residential and commercial development prohibited.

H. The maximum density, or number of lots allowed, is based on the ~~total amount of developable land as defined~~ density standards of title 17, chapter 17.10, and as defined in chapter 17.07.040: General Definitions - "Developable Land in this "Developable land" is defined as land that is not restricted by hill slopes (grades greater than twenty percent (20%)), wetlands, floodplains, natural water features, or other lands that may be deemed undevelopable in conformance with chapter 17.18 and as defined in chapter 17.07 of this code or as determined by the Land Use Authority to be in accordance with applicable County or State Code.

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SECTION:  
17.18.010: Purpose

17.18.020: Definitions

17.18.030: Review Process 17.18.040: Sensitive Areas Analysis

17.18.050: Standards And Development Plan 17.18.060: Geotechnical Report Minimum Standards

**17.18.10 : PURPOSE:**

The purpose of this chapter is to provide a mechanism for the protection of those areas of Cache County which are determined to be environmentally sensitive or that may pose a potential threat or danger to development. This chapter is intended to:

- A. Protect the general health, welfare, and safety of the citizens of Cache County.
- B. Minimize public and private property damage and emergency tax assistance.
- C. Provide an awareness of, and mitigation strategies for, development within sensitive areas.
- D. Provide a mechanism to determine developable acreage for development within Cache County. (Ord. 2014-06, 6-10- 2014, eff. 6-25-2014)

**17.18.020: DEFINITIONS:**

All terms in this chapter are defined within chapter 17.07, "Definitions", of this title. Any other terms not defined in this title shall be interpreted as defined by state and/or federal code or rule. (Ord. 2014-06, 6-10-2014, eff. 6-25-2014)

**17.18.30 : REVIEW PROCESS:**

The sensitive area review process consists of three (3) primary steps and consideration of reasonable use:

A. Sensitive Area Determination: The development services department ~~may shall~~ provide mapping and an initial determination of the approximate location of known sensitive areas. These maps will provide the most current and accurate data accessible to the county, and may be updated as new or more accurate data becomes available. The initial determination may require the applicant to pursue further site specific analysis or study to confirm the location of sensitive areas as defined within this chapter. In some cases, hazards may not be mapped but may be present on a site and such cases shall be required to meet the requirements of this title. The Development Service Department may conduct site visits to determine if a property is subject to this chapter based on the standards within this Title.

B. Sensitive Area Analysis: A sensitive area analysis shall be submitted with any application for development on property containing sensitive areas and shall include an analysis, determination, and a development plan including proposed mitigation.

C. Suitability Determination: The county shall review the sensitive area analysis and shall report their findings to the applicant and land use authority. In addition:

- 1. The applicant must identify significant, adverse impacts on sensitive areas and include appropriate mitigation measures for noted impacts.

2. The land use authority, prior to hearing any application for a development proposed to be located wholly or partially, within any sensitive area as identified by this chapter, shall provide notice and opportunity for comments and recommendations from state and federal agencies with additional oversight including, but not limited to, the Utah division of wildlife resources (DWR), Utah department of environmental quality (DEQ), United States forest service (USFS), bureau of land management (BLM), U.S. army corps of engineers, etc., and as applicable.

D. Hardship Relief: If the applicant demonstrates that the regulations imposed by this chapter would deny all reasonable use of the subject property, the county council, following the receipt of a recommendation from the planning commission, may modify the exercise of these requirements to provide the applicant reasonable use of the property and may provide a modified determination of development potential. The county council shall not modify regulations imposed by state and/or federal law and/or rule. (Ord. 2014-06, 6-10-2014, eff. 6-25-2014)

**17.18.40: SENSITIVE AREAS ANALYSIS:**

A sensitive areas analysis shall be submitted with any application for development on property containing known sensitive areas and/or sensitive areas discovered in the process of development, and shall include an analysis, determination, and a development plan including proposed mitigation as identified below. Mapping that reflects the known sensitive areas is available in the development services department.

A. Analysis And Determination: The sensitive areas analysis shall provide an analysis and professional determination for each sensitive area.

1. Nondevelopable:

a. Wetlands: As determined necessary by the county, an approved jurisdictional wetland delineation report and concurrence report from the United States army corps of engineers shall be required as part of the wetland analysis.

b. Steep Slopes: A topographic map depicting the contours of all steep and moderate slopes at an interval of five feet (5') or as determined by the director.

c. Natural Waterways And Open Water: A map depicting all stream corridors as defined by their high water marks.

2. Potentially Developable Areas:

a. Moderate Slopes: Development may be permitted upon county review and approval of a geotechnical report. The analysis should also include:

(1) The location and description of existing natural and manmade features on and surrounding the site, including general topography and soil characteristics and a copy of the soil conservation service soil survey for the site.

(2) The location and description of proposed changes to the site, including any grading and excavation, vegetation removal, the location and profiles of proposed roadways, the location of proposed utility lines, the location of existing and proposed buildings and structures, and the location of all other proposed site features.

(3) The identification of measures proposed for soil and sediment control, including a schedule of the sequence for the installation of planned erosion and sediment control measures, including anticipated starting and completion dates.

(4) Plans for the proposed vegetation of all disturbed site areas.

b. **Ridgelines:** A map depicting the crest and one hundred foot (100') vertical buffer of any significant ridgelines or hilltops within the parcel boundary. Development within this area may be permitted upon county review and approval in keeping with the purpose and standards of this chapter.

c. **Floodplain, Floodway, And/Or Areas Impacted By Manmade Water Conveyance Systems:** A hydrological report including information on groundwater levels, natural and manmade drainage channels and systems (canals), and/or base floodplain elevations.

d. **Important Habitat Areas:** A habitat management plan prepared by a professional qualified in the areas of ecology, wildlife biology, or other relevant disciplines, that identifies the areas inhabited and/or frequently used by any federally listed flora and/or wildlife species (threatened and/or endangered) and includes the following:

(1) The ecological and wildlife use characterization of the property explaining the species of wildlife using the areas, the times or seasons the area is used by those species, and the value (e.g., feeding, watering, cover, nesting, roosting, or perching) that the area provides for such wildlife species.

(2) Wildlife movement corridors.

(3) The general ecological functions provided by the site and its features.

(4) An analysis of how proposed development activities impact the important habitat areas and associated species.

e. **Geologic Hazards:** A geotechnical report in compliance with section 17.18.060 of this chapter.

f. **Wildfire Hazards:** A fire protection report that identifies potential fire hazards, mitigation measures, access for fire protection equipment, existing and proposed fire flow capability and compliance with the Utah wildland interface code (see title 15, chapter 15.08 of this code).

g. **Historic, Prehistoric, And Cultural Resources:** Identify any sites and/or structures determined to have historical or archaeological significance to the community, the region, or the state of Utah. This includes properties eligible for the national register of historic places.

h. **Additional Information:** Additional information including input from any of the state of Utah agencies shall be required as determined by the county land use authority. (Ord. 2014-06, 6-10-2014, eff. 6-25-2014)

#### **17.18.050: STANDARDS AND DEVELOPMENT PLAN:**

These standards are provided to ensure that any development proposed wholly, or in part, within a sensitive area recognizes the physical and environmental constraints of the development site. These standards shall supplement, and are in addition to, other development standards provided by this code, state, and/or federal code or rule. At the time of application, provide a development plan for the property that addresses and includes the following:

A. Nondevelopable: As applicable, provide a description of all impacts and mitigation regarding development activities that will or are likely to impact any nondevelopable areas on the property.

1. Wetlands: No building, structure, construction, excavation, or landfilling shall occur on any area determined to be a jurisdictional wetland without the approval and necessary wetlands permit(s), as required by the U.S. army corps of engineers. Where potential wetlands exist, wetland delineation may be required.

2. Steep Slopes: ~~No building, structure, construction, excavation, or landfilling shall occur on any area determined to be a steep slope.~~ Development is limited to the standards provided in the definition of Steep Slopes in 17.07.040 SENSITIVE AREA: A. Non-Developable:

3. Natural Waterways And Open Water: All proposed development adjacent to year round or ephemeral natural waterways or open water, shall be subject to the following, but excluding bridges, boat ramps, culverts, dams, trestles, and similar structures:

a. A minimum setback of fifty feet (50') for all structures and one hundred feet (100') for all on site septic systems shall be required. Said setbacks may be increased or reduced, if necessary, as determined by the planning commission to reasonably address the possibility of any stream or water pollution.

b. Any work within thirty feet (30') of the top of bank shall obtain a state or federal approval and/or permit.

c. The ordinary high water mark as determined by Cache County shall be the point of reference as to the edge of the waterway.

d. The introduction of concentrated sources of pollution into the waterways is prohibited including, but not limited to, septic tanks, untreated sewage, commercial and residential garbage, manure, dead animals, waste, and other hazardous materials.

B. Potentially Developable:

1. Moderate Slopes: Any development proposed for areas identified as a moderate slope shall require a geotechnical report as defined by this chapter.

2. Ridgelines: No structure, accessory structure, satellite dish, deck, patio or removal of significant vegetation shall occur in the ridgeline setback, except as provided below:

a. If any portion of a legal existing parcel of record falls within the ridgeline setback, any development on that parcel shall make every effort to place all development on the most suitable portion of the lot taking into consideration the standards of this title.

b. All disturbance and development shall stay out of the ridgeline setback to the maximum extent possible. If, due to the location, size and configuration of the parcel, that is not possible, the land use authority may approve an exception in keeping with the purpose and standards of this chapter.

3. Floodplain, Floodway, And/Or Manmade Water Conveyance Systems: See title 15, chapter 15.28 of this code. Areas that are shown to have the potential for flooding originating from a manmade water conveyance system (canal) shall follow the standards identified in section 15.28.540 of this code for AO/AH zones.

4. Important Habitat Areas: Strategies that preserve important habitat and prevent fragmentation are encouraged. When new development is proposed within important habitat areas, mitigation methods shall be designed and implemented, including, but not limited to, those listed below:

a. Construction shall be organized and timed to minimize disturbance of federally listed species occupying or using on site and adjacent habitat areas.

b. If the development site contains or is within five hundred feet (500') of a habitat area, and the sensitive areas analysis shows the existence of a federally listed species, the development plan shall include provisions to ensure that any habitat contained in any such area shall not be disturbed or diminished, and to the maximum extent feasible, such habitat shall be enhanced.

c. If the development site contains existing habitat areas that connect to other off site habitat areas, to the maximum extent feasible the development plan shall preserve such habitat area connections. If habitat areas lie adjacent to the development site, but such habitat areas are not presently connected across the development site, then the development plan shall, to the extent reasonably feasible, provide such connection. Such connections shall be designed and constructed to allow for the continuance of existing wildlife movement between habitat areas and to enhance the opportunity for the establishment of new connections for movement of wildlife.

d. If federally listed wildlife or flora that may create conflicts for future occupants of the development is known to exist in areas adjacent to or on the development site, then the development plan must include provisions to minimize these conflicts to the extent reasonably feasible.

e. Facilitate wildlife movement across areas dominated by human activities by:

(1) Maintaining connectivity between open space parcels on adjacent and nearby parcels and subdivisions such that the result will be a larger contiguous area of open space;

(2) Locating roads and development away from natural travel corridors used by wildlife, such as riparian areas;

(3) Minimizing fencing types that inhibit wildlife movement where appropriate;

(4) Minimizing the visual contrast between human dominated areas, including individual lots, and less disturbed terrain in surrounding areas, for example, by retaining or planting native vegetation and trees around a house or accessory building and maintaining consistent grading between developed and habitat areas.

f. Mimic features of the local natural landscape in developed areas by:

(1) Retaining predevelopment, high quality habitat, including large patches of natural, vegetated areas that have not yet been fragmented by roads or residential development;

(2) Minimizing levels of disturbance to trees, the understory vegetation, and other structural landscape features during construction;

(3) Designing house lots in a fashion consistent with local natural habitats, for example, by preserving and landscaping with natural, native vegetation;

(4) Reclaiming disturbed areas, such as degraded landscapes, roadsides, and other infrastructure disturbances by using seed and other selective plantings.

5. Geologic Hazards: For those areas determined by review to contain geologically unstable conditions, development may be permitted by the county upon the review and approval of a geotechnical report identifying the following:

- a. The accurate location of all geologic hazards including, but not limited to, faults, landslides, steep slopes, unstable soils, etc.
- b. The location and description of proposed changes to the site, including any grading and excavation, vegetation removal, the location and profiles of proposed roadways, the location of proposed utility lines, the location of existing and proposed buildings and structures, and the location of all other proposed site features.
- c. The identification of measures and actions proposed to mitigate the risks from earthquakes, landslides, and soil disturbance including a schedule of the sequence for the installation of planned mitigation actions, including anticipated starting and completion dates.
- d. No critical facility (excluding transportation lines or utilities which by their nature may cross active faults or structures) designed for human occupancy shall be built astride a geologic hazard. The planning commission may increase building setback requirements where information from a geotechnical report indicates conditions warrant a greater setback distance.

e. These requirements do not apply to the following:

(1). Structures under 200 sq. ft.

(2). Agricultural buildings not for human occupancy as defined by State Code 15A-1-202 as amended.

A geotech report may be required at the referral of the Development Service Director, and the discretion and approval of the Planning Commission if necessary to protect an individual from a condition likely to cause imminent injury or death.

6. Wildfire Hazards: As applicable, provide a description of all impacts and mitigation regarding development activities that will or are likely to impact and/or be impacted by wildfire hazards on the property. Measures to mitigate wildfire hazards and risks may be required based on the recommendation and review of the Cache County Fire District.

7. Historic, Prehistoric, And Cultural Resources: Any sites and/or structures determined to have historical or archaeological significance to the community, the region, or the state of Utah shall require the review of, and comment from, the state historic preservation office (SHPO). This includes properties eligible for the national register of historic places. (Ord. 2014-06, 6-10-2014, eff. 6-25-2014)

#### **17.18.60 : GEOTECHNICAL REPORT MINIMUM STANDARDS:**

When a geotechnical report is required, the county shall review each report against the minimum standards as noted below. The county and this chapter may also identify and include additional requirements depending upon site specific conditions and hazards.

A. A geotechnical report shall be prepared by a qualified professional. The report shall be signed and dated by the preparer and shall also include the qualifications of the preparer.

B. The report shall be site specific and identify all known or suspected potential geotechnical or natural hazards, originating on site or off site, affecting the particular property.

C. The report shall include a detailed site map showing the location of the hazard(s) with delineation of the recommended setback distances from such hazard(s) and the recommended location for proposed structures.

D. The report shall address the potential effects of the hazard(s) on the proposed development and occupants thereof, in terms of risk and potential damage.

E. The report shall contain recommendations for avoidance or mitigation of the effects of the hazard(s). The evidence on which the recommendations and conclusions are based shall be clearly stated in the report. Trench logs, aerial photographs, references with citations, and other supporting information as applicable, shall also be included in the report.

F. Whenever a potential natural hazard is identified by a geotechnical report under this chapter, the owner of such parcel shall record a restrictive covenant running with the land in a form satisfactory to the county prior to the approval of any development or subdivision of such parcel which shall include the following:

1. Notice of the existence and availability of the geotechnical report that identifies the natural hazards for public inspection in the development services department; and

2. An agreement by the owner of the parcel and any successor in interest to comply with any conditions set by the planning commission to minimize potential adverse effects of the natural hazard(s). (Ord. 2014-06, 6-10-2014, eff. 6-25-2014)