



# HIGHLAND CITY COUNCIL AGENDA

TUESDAY, OCTOBER 1, 2024

Highland City Council Chambers, 5400 West Civic Center Drive, Highland Utah 84003

## VIRTUAL PARTICIPATION

YouTube Live: <http://bit.ly/HC-youtube>

Email comments prior to meeting: [council@highlandcity.org](mailto:council@highlandcity.org)

## 7:00 PM REGULAR SESSION

Call to Order: Mayor Kurt Ostler

Invocation: Brittney P. Bills

Pledge of Allegiance: Mayor Kurt Ostler

### 1. UNSCHEDULED PUBLIC APPEARANCES

Please limit comments to three minutes per person. Please state your name.

### 2. PRESENTATIONS

- a. **Chief's Citation Award** *Brian Gwilliam, Police Chief*
- b. **Timpanogos Special Service District Fees Update** *General City Management*  
*Erin Wells, City Administrator*

### 3. CONSENT ITEMS

Items on the consent agenda are of a routine nature. They are intended to be acted upon in one motion.  
Items on the consent agenda may be pulled for separate consideration.

### 4. ACTION ITEMS

- a. **PUBLIC HEARING/ORDINANCE: Text Amendment - Land Use Authority Table Development Code Update (Legislative)**  
*Rob Patterson, City Attorney/Planning & Zoning Administrator*  
The City Council will hold a public hearing to consider amendments to the Highland City Development Code creating a land use authority table to provide clarity on the reviewing, recommending, and approving bodies for land use matters.
- b. **ACTION: Development Agreement - Howden 6000 West Sidewalk and Fence Land Use (Legislative)**  
*Rob Patterson, City Attorney/Planning & Zoning Administrator*  
The City Council will consider the City's entering into a development agreement with the Howdens regarding the construction of a sidewalk and theme wall along 6000 West adjacent to their property.

## 5. EXPEDITED ITEMS

Items in this section are to be acted upon by City Council. These items have been brought before Council previously. The report and presentation may be abbreviated.

- a. **ACTION: Chad Christopherson Donation Agreement** *General City Management*  
*Rob Patterson, City Attorney*  
The City Council will consider approving a recognition and naming agreement with Chad Christopherson related to his donation for the baseball field for Highland Family Park.
- b. **ACTION: Annual Fertilizer Order** *General City Management*  
*Jeff Murdoch, Assistant Public Works Director*  
The City Council will consider the annual purchase of fertilizer for the fall and spring park and cemetery applications. The council will take appropriate action.
- c. **ACTION: Land Purchase Agreement with Jordan Valley Water Conservancy District** *General City Management*  
*Rob Patterson, City Attorney/Planning & Zoning Administrator*  
The City Council will consider approving a real estate purchase agreement with Jordan Valley Water Conservancy District for the City to acquire the property on the southwest corner of the intersection of Alpine Highway and Town Center Blvd.
- d. **RESOLUTION: Reimbursement Interlocal Agreement with Utah County for 6800 West Road Resurfacing** *General City Management*  
*Rob Patterson, City Attorney/Planning & Zoning Administrator*  
The City Council will consider entering into an interlocal cooperation agreement with Utah County for Utah County to reimburse Highland City certain costs associated with resurfacing 6800 West.

## 6. DISCUSSION ITEMS

Items in this section are for discussion and direction to staff only. No final action will be taken.

- a. **ACTION: Purchase of Flock Cameras** *General City Management*  
*Brian Gwilliam, Police Chief, Erin Wells, City Administrator*  
The City Council will consider the costs and potential locations for Flock cameras in the City and provide direction to staff on next steps.

## 7. COMMUNICATION ITEMS

Communication items are informational only. No final action will be taken.

- a. **Political Activities Act** *Erin Wells, City Administrator*
- b. **Cell Tower Lease Setback** *Rob Patterson, City Attorney/Planning & Zoning Administrator*

## 8. CLOSED MEETING

The City Council may recess to convene in a closed meeting to discuss items, as provided by Utah Code Annotated §52-4-205.

## ADJOURNMENT

In accordance with Americans with Disabilities Act, Highland City will make reasonable accommodations to participate in the meeting. Requests for assistance can be made by contacting the City Recorder at (801) 772-4505 at least three days in advance of the meeting.

## ELECTRONIC PARTICIPATION

Members of the City Council may participate electronically during this meeting.

**CERTIFICATE OF POSTING**

I, Stephannie Cottle, the duly appointed City Recorder, certify that the foregoing agenda was posted at the principal office of the public body, on the Utah State website (<http://pmn.utah.gov>), and on Highland City's website ([www.highlandcity.org](http://www.highlandcity.org)).

Please note the order of agenda items are subject to change in order to accommodate the needs of the City Council, staff and the public.

Posted and dated this agenda on the 26th day of September, 2024

Stephannie Cottle, CMC, City Recorder

|                                                                           |
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| <b>THE PUBLIC IS INVITED TO PARTICIPATE IN ALL CITY COUNCIL MEETINGS.</b> |
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# CITY COUNCIL AGENDA REPORT

## ITEM #4a

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**DATE:** October 1, 2024  
**TO:** Honorable Mayor and Members of the City Council  
**FROM:** Rob Patterson, City Attorney/Planning & Zoning Administrator  
**SUBJECT:** Text Amendment - Land Use Authority Table  
**TYPE:** Development Code Update (Legislative)

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### **PURPOSE:**

The City Council will hold a public hearing to consider amendments to the Highland City Development Code creating a land use authority table to provide clarity on the reviewing, recommending, and approving bodies for land use matters.

### **STAFF RECOMMENDATION:**

Staff recommends that the City Council hold a public hearing, consider the amendments, and APPROVE and ADOPT the proposed amendments to the Highland City Development Code creating a land use authority table and establishing the reviewing, recommending, and approving bodies for land use matters.

### **PRIOR COUNCIL DIRECTION:**

No prior review. This amendment is being brought forth at the encouragement of Council to help simplify City code and the concept has been discussed at a high level at a handful of recent Council meetings.

### **BACKGROUND:**

A "land use application" is any application for approval of a development or use of land. Land use applications include building permits, fence permits, conditional use permits, site plans, and subdivision plats. The entity that makes the final decision on whether to approve or deny an application is called the "Land Use Authority."

Highland City's Development Code contains numerous types of land use applications, and the code is specific for each type of application who at the City is the land use authority. In order to determine which person or body is supposed to review an application, give a recommendation on an application, or approve/deny an application, a person must identify the correct zoning code, the correct application, and then read and interpret the code. This is necessary because the land use authority is not always consistent between similar land use applications or similar zones in our current code. For example, in the CR zone (Highland Mains/Little India/Little Caesars), architectural review of buildings requires approval from both the Planning Commission and the City Council. But in the C-1 zone (Maceys), architectural review of building requires only Planning Commission approval. Site plans are approved by the City Council for the C-1, CR, RP (Residential Professional), and PO (Professional Office) zones, but are approved by the Planning Commission for the PI (Public Institution) and PU (Public Utilities) zones. Similarly, the appeal body has not always been consistent. Sometimes it is the Council, sometimes it is the City's

appointed appeal hearings officer.

In order to provide clarity and consistency in the City's Development Code, Council has encouraged and staff has developed a land use authority table. This table would identify, for each land use application type, the reviewing body, the recommending body, the land use authority, and the appeal authority. As proposed, each type of land use application (subdivision plat, site plan, conditional use permit, etc.) would be reviewed, recommended, decided, and appealed by the same person/body, regardless of the zone. Staff has also proposed amendments throughout the City's development code to remove references to specific persons or bodies and to instead point to this table. The proposed table includes both legislative and administrative land use items, and the changes to the development code update the approving bodies for legislative items as well as administrative items.

Most of the proposed changes are non-substantive in that they replace a specific body's name ("city council") with the appropriate label from the table ("land use authority"). This does not change who approves the item. The substantive changes are as follows:

1. CR zone architectural review land use authority will become just the Planning Commission (previously City Council). Staff is recommending this in order to be consistent with the C-1 and other non-residential zone and because it seemed appropriate to let the Planning Commission be focused on that level of detail, with any issues or appeals being heard by the Council.
2. In non-residential zones, the Planning Commission previously decided what was "rear" vs "side" setback. This will now be the City Council as part of site plan approval.
3. In non-residential zones, the appeal authority for site plans will become the City's appeals hearing officer (previously was unclear, district court, or the hearing officer). This is consistent with appeals for other types of land use applications.
4. In non-residential zones, approval of fence and wall materials and design will be the Zoning Administrator rather than Planning Commission or City Council. This is consistent with other fence/wall approvals; Council still approves location and requirement of fence during site plan process.
5. All extensions of approvals for site plans, architectural review, conditional use permits, and subdivision plats will be the City's Development Administration Board. Previously there was no land use authority (site plans/arch review), Planning Commission (CUPs), or the DAB (subdivision). As extensions are typically requested due to administrative type delays, staff felt it made the most sense to handle these requests at an administrative level. As a reminder, two members of the Planning Commission sit on the DAB. Extensions do not modify approvals; it simply continues the validity of an approval subject to the same terms and conditions as the original approval. The code also provides that extensions cannot be approved if the City's code or the circumstances of the development have changed in a way that would prohibit the application.
6. Clarification as to the makeup and role of the Development Review Committee as facilitating staff review of land use applications. This has always been a committee composed of staff who work through the technical requirements of a development with the applicant. It just was not previously defined in the code.
7. Clarification that the zoning administrator is responsible to determine the completeness of all land use applications. Applications that are not complete cannot be processed. This is an administrative function.
8. Cleaned up CUP transfer language to clarify that transfers of CUPs between owners of the property are permitted, but not between properties.

There are three sections of the City's code that are not being updated: temporary uses, home occupations, and utility facility supplemental regulations. For temporary uses and home occupations, staff intends to

update these as part of an upcoming, broader code update that will mesh and correlate the City's municipal code regulations with the City's development code regulations on those items. As to utility supplemental regulations, staff needs additional time to determine the impact of adjusting those regulations to understand current practices.

**Planning Commission:**

The Planning Commission held a public hearing regarding the proposed amendments on September 24, 2024. Three members of the public spoke, mostly asking for clarifications as to the impact of the proposed amendments. The residents also proposed some additional clarifications as to subdivision application types, which the Commission addressed in its stipulations. In addition, Councilmember Cortney provided numerous comments prior to the Planning Commission review that addressed typos and the internal consistency of the amendments. The Planning Commission also supported those changes, so they have also been incorporated into the proposed amendments before the Council. After the public hearing and discussion, the Commission voted 7-0 to recommend approval of the proposed amendments with 4 stipulations:

1. Add language explaining the difference between legislative and administrative approvals
2. Aid the readability of the table to explain how applications are processed through the different bodies, especially where no recommending body is listed
3. Add language clarifying that the subdivision approval in the table are for administrative approvals according to current zoning and that zoning changes would require council approval
4. Add clarification of the difference between minor and major subdivisions in the table

**Staff Review:**

Staff has proposed the amendments in order to clarify land use application submittal, review, approval, and appeal procedures. Staff has also modified the proposed amendments to address the Planning Commission's recommendations.

**Proposed Findings:**

- The proposed amendments clarify and provide consistency in land use application review, approval, and appeal procedures.

**FISCAL IMPACT:**

No anticipated fiscal impact.

**MOTION:**

I move that the City Council APPROVE and ADOPT the proposed amendments to the Highland Development Code related to the creation of a land use authority table.

[City Council may specify different or additional changes to be adopted]

**ATTACHMENTS:**

1. Summary: Proposed LUA Table and Supporting Information
2. Ordinance - LUA Table Amendments

# PROPOSED LAND USE TABLE AND SUPPORTING INFORMATION

## NEW DEFINITIONS ADDED TO 10-102

- **Reviewing Body.** The individual(s) or body responsible to review a land use matter for conformance with applicable regulations, plans, and standards prior to formal recommendation and/or decision of the matter, in accordance with Chapter 2.
- **Recommending Body.** The individual(s) or body responsible to issue a formal recommendation regarding a land use matter to the Land Use Authority in accordance with Chapter 2. Not every land use matter entails a recommending body or formal recommendation.
- **Land Use Authority.** The individual(s) or body responsible and authorized to act upon and decide a land use application or other land use matter in accordance with Chapter 2.
- **Appeal Authority.** The individual(s) or body responsible to hear and decide appeals of a land use authority's action or decision, in accordance with Chapter 2.

## NEW CODE EXPLAINING LEGISLATIVE VS ADMINISTRATIVE AND INITIALISMS USED IN TABLE

### **2-704 Review Procedures for Land Use Matters**

1. Table 2-704A designates the Reviewing Body, Recommending Body, Land Use Authority, and Appeal Authority for land use applications, land use regulations, and other land use matters. Table 2-704A includes both legislative and administrative approvals.
  - a. Legislative matters are items that generally give rise to new law, involve the promulgation of laws of general applicability, and require weighing of broad, competing policy considerations, including the adoption of land use regulations. Legislative matters are included within Table 2-704A for informational purposes, but such matters are not processed, decided, or appealed as administrative matters. The designation of a land use authority for a legislative matter does not render such matter administrative. The Land Use Authority for any legislative item is the City Council, who reviews and determines legislative matters according to its legislative authority and discretion. There is no entitlement to approval of a legislative matter.
  - b. Administrative matters are items that implement or execute laws already in existence. Administrative land use applications are entitled to approval if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays application fees, unless
    - i. the Land Use Authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or
    - ii. before the applicant submits the application, the City initiated proceedings to amend the City's land use regulations in a manner that would prohibit approval of the application as submitted.

2. The initialisms used in Table 2-704A are defined as follows:

- a. **AA.** Appeals hearing officer appointed pursuant to Chapter 2, Article 3 of this Code
- b. **BO.** Building Official
- c. **CC.** City Council
- d. **CE.** City Engineer
- e. **CT.** City Treasurer
- f. **DC.** District court
- g. **DAB.** Development Administration Board
- h. **DRC.** Development Review Committee
- i. **MUE.** Municipal utility easement
- j. **PC.** Planning Commission
- k. **PUE.** Public utility easement
- l. **ROW.** Right of way.
- m. **ZA.** Zoning Administrator

#### **FOOTNOTES TO TABLE**

\* Application may require separate building permit approval.

† Formal recommendation is discretionary by the land use authority.

‡ Appeals subject to procedures in Chapter 2, Article 3 and Title 10, Chapter 9a, Parts 7 and 8 Utah Code Ann.

\*\*Conditional use permits, subdivision approvals, site plan approvals, architectural approvals

†† Legislative matter included for informational purposes.

‡‡ Where no Recommending Body is listed, review by a Recommending Body and submission of a formal recommendation is not required prior to Land Use Authority action.

| <b>LAND USE APPLICATION OR MATTER</b>                                                                               | <b>1.REVIEWING BODY</b> | <b>2.RECOMMENDING BODY††</b> | <b>3.LAND USE AUTHORITY</b> | <b>4.APPEAL AUTHORITY‡</b> |
|---------------------------------------------------------------------------------------------------------------------|-------------------------|------------------------------|-----------------------------|----------------------------|
| <b>Accessory Dwelling Unit*</b>                                                                                     | DRC                     | --                           | ZA                          | AA                         |
| <b>Accommodation Requests</b>                                                                                       | DRC                     | DRC                          | CC                          | AA                         |
| <b>Annexation††</b>                                                                                                 | DRC                     | PC†                          | CC                          | DC                         |
| <b>Application Complete Status</b>                                                                                  | DRC                     | --                           | ZA                          | DAB                        |
| <b>Architectural Review</b>                                                                                         | DRC                     | DRC                          | PC                          | CC                         |
| <b>Building Permit</b>                                                                                              | DRC                     | ZA†                          | BO                          | AA                         |
| <b>Conditional Use Permit</b>                                                                                       |                         |                              |                             |                            |
| Permit Approval                                                                                                     | DRC                     | PC                           | CC                          | AA                         |
| Accessory Uses                                                                                                      | DRC                     | --                           | ZA                          | AA                         |
| Amendment                                                                                                           | DRC                     | --                           | CC                          | AA                         |
| <b>Development Code Amendment††</b>                                                                                 | DRC                     | PC                           | CC                          | DC                         |
| <b>Extension of Approval**</b>                                                                                      | DRC                     | --                           | DAB                         | AA                         |
| <b>Fence and Wall Permits*</b>                                                                                      | DRC                     | --                           | ZA                          | AA                         |
| <b>General Plan Amendment††</b>                                                                                     | DRC                     | PC                           | CC                          | DC                         |
| <b>Nonconforming Use or Structure</b>                                                                               | DRC                     | --                           | ZA                          | AA                         |
| <b>Planned Developments</b>                                                                                         |                         |                              |                             |                            |
| Approval of PD Rezone††                                                                                             | DRC                     | PC                           | CC                          | DC                         |
| Extensions††                                                                                                        | DRC                     | --                           | CC                          | DC                         |
| Major Amendment††                                                                                                   | DRC                     | PC                           | CC                          | DC                         |
| Minor Amendment                                                                                                     | DRC                     | --                           | ZA                          | CC                         |
| <b>Property Adjustments</b>                                                                                         |                         |                              |                             |                            |
| Lot or Parcel Combination                                                                                           | DRC                     | --                           | ZA                          | CC                         |
| Parcel Boundary Adjustment                                                                                          | DRC                     | --                           | ZA                          | CC                         |
| Plat Amendment, Lot Line Adjustment, or ROW Vacation                                                                | DRC                     | --                           | CC                          | DC                         |
| PUE or MUE Vacation                                                                                                 | DRC                     | --                           | ZA                          | CC                         |
| <b>Residential Facility - Disabled</b>                                                                              | DRC                     | DRC                          | CC                          | AA                         |
| <b>Residential Facility - Elderly</b>                                                                               | DRC                     | DRC                          | CC                          | AA                         |
| <b>Sensitive Lands Analysis</b>                                                                                     | DRC                     | ZA, CE                       | See 8-104(4)                | See 8-108                  |
| <b>Sign Permit, Permanent*</b>                                                                                      | DRC                     | --                           | ZA                          | AA                         |
| <b>Sign Permit, Temporary*</b>                                                                                      | DRC                     | --                           | ZA                          | AA                         |
| <b>Site Plan</b>                                                                                                    | DRC                     | PC                           | CC                          | AA                         |
| <b>Subdivisions</b> (subdivision conforming to current zoning regulations; exceptions require legislative approval) |                         |                              |                             |                            |
| Major (3+ lots or road) - Preliminary Plat                                                                          | DRC                     | DRC                          | PC                          | AA                         |
| Major (3+ lots or road) - Final Plat & Improvement Plans                                                            | DRC                     | DRC                          | DAB                         | AA                         |
| Minor (2 lots, no road) - Final Plat & Improvement Plans                                                            | DRC                     | DRC                          | DAB                         | AA                         |
| <b>Variance</b>                                                                                                     | DRC                     | ZA                           | AA                          | DC                         |
| <b>Zoning Map Amendment (Rezoning)††</b>                                                                            | DRC                     | PC                           | CC                          | DC                         |

**ORDINANCE NO. 2024-\_\_\_\_\_**

**AN ORDINANCE AMENDING HIGHLAND CITY DEVELOPMENT CODE TO  
CREATE A LAND USE AUTHORITY TABLE, UPDATING DEFINITIONS AND  
PROCEDURES, AND RELATED MATTERS**

WHEREAS, Highland City is authorized to enact and has previously adopted land use regulations that designate the land use and appeal authority for land use matters;

WHEREAS, a duly noticed public hearing was held by the Planning Commission regarding the proposed amendments described herein on September 24, 2024, after which hearing the Commission recommended adoption of certain amendments to the regulations;

WHEREAS, the Highland City Council provided notice of and conducted a public hearing regarding the proposed amendments and to review the recommendation of the Planning Commission on October 1, 2024;

WHEREAS, the Highland City Council desires to amend its land use regulations to create a land use authority table that designates, for all zones, the reviewing, recommending, approving, and appeal bodies for different land use matters, and amend the development code to refer to and incorporate such land use authority table and related matters;

WHEREAS, the Highland City Council finds that the proposed amendments further the public welfare and are in the interest of the public.

NOW THEREFORE, BE IT ORDAINED by the Highland City Council as follows:

SECTION 1. The Highland Development Code is amended as shown in Exhibit A.

SECTION 2. All ordinances and parts and provisions thereof in conflict with this ordinance are repealed to the extent of such conflict.

SECTION 3. The City Recorder, under the supervision of the City Administrator and City Attorney, may make non-substantive corrections to any portion of this ordinance for grammatical, typographical, numbering, and consistency purposes in accordance with the expressed intent of the City Council.

SECTION 4. This ordinance shall take effect immediately upon its adoption and publication, in accordance with law.

ADOPTED AND PASSED BY THE CITY COUNCIL OF HIGHLAND CITY, UTAH, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Mayor

ATTESTED:

\_\_\_\_\_  
City Recorder

## Exhibit A

### **2-204 Duties And Powers**

1. The minimum number of affirmative votes required to make a recommendation to the City Council, or any other approval as outlined in this Code, shall be a majority of the members present but shall never be less than four (4) affirmative votes.
2. The Planning Commission shall have the following powers and duties:
  - a. The Planning Commission, as provided by Sections 2-101 to 2-103, shall prepare and recommend to the City Council, a General Plan and amendments to the General Plan.
  - b. The Planning Commission may make reports and recommendations relating to the planning and development of the City to public officials and agencies, and other organizations and citizens.
  - c. The Planning Commission shall prepare or recommend regulations governing the subdivision of land within the City or amendments to such regulations and to submit said regulations or amendments to the City Council for adoption.
  - ~~1. The Planning Commission shall review and decide applications for the subdivision of land as provided in Chapter 5.~~
  - d. The Planning Commission may, or by order of the City Council shall, make and recommend to the City Council a zoning plan, including both the full text of the zoning regulations and maps and amendments thereto. ~~The zoning regulations, including the maps, may be amended from time to time by the City Council. However, all proposed amendments shall be first submitted to the Planning Commission for its recommendation which shall be returned to the City Council for its consideration within thirty days.~~
  - e. The Planning Commission shall review, hear, and decide such ~~applications for conditional use permits and other~~ land use applications and matters for which the Planning Commission is authorized by this Code to act ~~as the land use authority upon~~.
  - f. The Planning Commission, by order of the City Council, shall make and recommend to the City Council a multi year improvement program which shall set forth an orderly program for the acquisition of land, buildings and other facilities that are needed for City purposes.

- g. The Planning Commission may conduct hearings and meetings with interested property owners, land use applicants, officials, and citizens in the process of carrying out its functions.

## 2-303 Powers And Duties

1. Except where another person or body is designated to hear an appeal, the appeals hearing officer appointed pursuant to this Article shall be the Appeal Authority ~~is the city's appeal authority~~ pursuant to section 10-9a-701 of the Act, and shall have the following powers and duties:
  - a. Hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by a land use authority in the enforcement or interpretation of this title or of any ordinance adopted pursuant thereto. Appeals may not be used to waive or modify the terms or requirements of this title.
  - b. Authorize variances from the terms of this title pursuant to the procedures and standards set forth in Utah State Code Section 10-9a-702 as amended.
2. Where another person or body is designated to hear an appeal, such person or body shall act as Appeal Authority pursuant to this Article and in accordance with the Act.

## 2-306 Appeals

- ~~1. 1.~~—An applicant or any person adversely affected by the land use authority's decision administering or interpreting a land use ordinance may, within the applicable time period, appeal that administrative decision to the appeal authority by alleging that there is error in any order, requirement, decision, or determination made by the land use authority in the administration or interpretation of the land use ordinance.
- ~~1.2.~~ Informal reviews are not subject to appeal. Formal recommendations  
~~Planning Commission recommendations to the City Council~~ are not subject to appeal ~~and therefore may not be appealed to the Appeal Authority~~.  
Legislative actions are not subject to appeal.
2. An appeal shall be made in writing within ten (10) days of the administrative decision by the city land use authority and shall be filed with the Community Development Department on an application form with required documentation and accompanied with the appropriate fees as required.
3. The appeal shall specify the decision appealed, the alleged error made in connection with the decision being appealed, and the reasons the appellant claims the decision to be in error, including every theory of relief that can be presented in district court. The appellant has the burden of proving the decision appealed is incorrect. Only information and claims that were previously presented as part of the land use application, hearings, or process may be submitted.
4. An appeal filed with to the Appeal Authority shall stay all further proceedings concerning the matter about which the appealed order, requirement, decision, determination, or interpretation was made until such time a decision is rendered by the Appeal Authority.
5. Upon receipt of an appeal of an administrative decision, the Appeal Authority shall schedule and hold a public meeting in accordance with the standards and procedures set forth in this Section. Notification of the date, time and place of the hearing shall be given to the appellant, the respondent (i.e., the land use applicant) and the city at least 7 seven calendar days before the public meeting.
6. All appeals shall be heard within 180 days after the filing of the appeal. Appeals not heard within this time frame due to the appellant's failure to expeditiously pursue its appeal will be considered void and withdrawn by the appellant.
7. The Appeal Authority shall determine the correctness of the land use authority's interpretation and application of the plain meaning of the land use regulations and interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use

application. The Appeal Authority shall uphold the decision unless it is not supported by substantial evidence in the record or it violates a law, statute, or ordinance in effect when the decision was made. Only information and claims that were previously presented as part of the land use application, hearings, or process is to be considered by the Appeal Authority. The ~~appeals hearing officer~~ Appeal Authority shall render a written decision on the appeal. Such decision may reverse or affirm, wholly or in part, or may modify the administrative decision.

## 2-402 Powers And Duties Of Zoning Administrator

The Zoning Administrator shall have the following powers and duties:

1. To review, hear, and decide all such land use applications and matters for which the Zoning Administrator is authorized by this Code to act upon for building permits and certificates of zoning compliance and to issue such permits or certificates when all requirements of the zoning regulations have been met.
2. To enforce the zoning regulations within the City, and to refuse to issue any permit unless the plans of and for the proposed erection, construction, or use fully conform to all zoning regulations in effect within the City.
- ~~2.3.~~ To determine the completeness of any land use application, and upon determination that the application is incomplete or deficient with respect to a specific and objective application requirement imposed by this Chapter or another governing law, land use regulation, applicable land use decision, ordinance, or standard, to notify the applicant of the deficiency, with a description of the information, documents, and materials required to correct the deficiency, which decision is subject to appeal to the Appeal Authority.
- ~~3.4.~~ Upon appeal to the Board of Adjustment, Planning Commission or City Council of any matters on which the Board, Commission or Council is required to pass under the terms of zoning regulations, the Zoning Administrator shall forthwith To transmit all papers, records, exhibits, recommendations, decisions, and other pertinent data pertaining to land use matters to the appropriate Review Body, Recommending Body, Land Use Authority, or Appeal Authority appeal thereto.
- 4.5. To keep the Official Zone Map current.

## 6-604 Duties And Powers

The Development Administration Board shall have the following powers and duties:

1. Make reports and recommendations related to the planning and development of the City to the Planning Commission and City Council.
2. Conduct meetings and adopt rules, policies, and procedures consistent with this Code to govern its operations and meetings and the submission and review of land use applications.
3. Review, hear, and decide ~~all applications for final subdivision plat approval and such other~~ land use applications and matters for which the Board is authorized by this Code to act ~~upon as the land use authority or to otherwise review or decide~~.

## **2-703 Development Review Committee**

1. The Development Review Committee consists of the Public Works Director, Community Development Director, Zoning Administrator, Fire Chief, Building Official, City Engineer, or their respective designees, together with such other city staff members, consultants, and utility and government entity representatives as the Committee requests.
2. The Development Review Committee is an informal body that reviews such land use applications and matters for which the Committee or City Staff is authorized or required by this Code to review.
3. Review by the Development Review Committee shall be advisory only, and a land use authority may issue a land use decision without prior review by the Development Review Committee.

## **2-704 Review Procedures for Land Use Matters**

1. Table 2-704A designates the Reviewing Body, Recommending Body, Land Use Authority, and Appeal Authority for land use applications, land use regulations, and other land use matters. Table 2-704A includes both legislative and administrative approvals.
  - a. Legislative matters are items that generally give rise to new law, involve the promulgation of laws of general applicability, and require weighing of broad, competing policy considerations, including the adoption of land use regulations. Legislative matters are included within Table 2-704A for informational purposes, but such matters are not processed, decided, or appealed as administrative matters. The designation of a land use authority for a legislative matter does not render such matter administrative. The Land Use Authority for any legislative item is the City Council, who reviews and determines legislative matters according to its legislative authority and discretion. There is no entitlement to approval of a legislative matter.
  - b. Administrative matters are items that implement or execute laws already in existence. Administrative land use applications are entitled to approval if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays application fees, unless
    - i. the Land Use Authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or
    - ii. before the applicant submits the application, the City initiated proceedings to amend the City's land use regulations in a manner that would prohibit approval of the application as submitted.
2. The initialisms used in Table 2-704A are defined as follows:
  - a. AA. Appeals hearing officer appointed pursuant to Chapter 2, Article 3 of this Code
  - b. BO. Building Official
  - c. CC. City Council
  - d. CE. City Engineer
  - e. CT. City Treasurer

- f. DC. District court
- g. DAB. Development Administration Board
- h. DRC. Development Review Committee
- i. MUE. Municipal utility easement
- j. PC. Planning Commission
- k. PUE. Public utility easement
- l. ROW. Right of way.
- m. ZA. Zoning Administrator

Table 2-704A

| <u>LAND USE APPLICATION<br/>OR MATTER</u>                       | <u>1.REVIEWING<br/>BODY</u> | <u>2.RECOMMENDING<br/>BODY**</u> | <u>3.LAND USE<br/>AUTHORITY</u> | <u>4.APPEAL<br/>AUTHORITY‡</u> |
|-----------------------------------------------------------------|-----------------------------|----------------------------------|---------------------------------|--------------------------------|
| <u>Accessory Dwelling Unit*</u>                                 | <u>DRC</u>                  | <u>--</u>                        | <u>ZA</u>                       | <u>AA</u>                      |
| <u>Accommodation Requests</u>                                   | <u>DRC</u>                  | <u>DRC</u>                       | <u>CC</u>                       | <u>AA</u>                      |
| <u>Annexation††</u>                                             | <u>DRC</u>                  | <u>PC†</u>                       | <u>CC</u>                       | <u>DC</u>                      |
| <u>Application Complete<br/>Status</u>                          | <u>DRC</u>                  | <u>--</u>                        | <u>ZA</u>                       | <u>DAB</u>                     |
| <u>Architectural Review</u>                                     | <u>DRC</u>                  | <u>DRC</u>                       | <u>PC</u>                       | <u>CC</u>                      |
| <u>Building Permit</u>                                          | <u>DRC</u>                  | <u>ZA†</u>                       | <u>BO</u>                       | <u>AA</u>                      |
| <u>Conditional Use Permit</u>                                   |                             |                                  |                                 |                                |
| <u>Permit Approval</u>                                          | <u>DRC</u>                  | <u>PC</u>                        | <u>CC</u>                       | <u>AA</u>                      |
| <u>Accessory Uses</u>                                           | <u>DRC</u>                  | <u>--</u>                        | <u>ZA</u>                       | <u>AA</u>                      |
| <u>Amendment</u>                                                | <u>DRC</u>                  | <u>--</u>                        | <u>CC</u>                       | <u>AA</u>                      |
| <u>Development Code<br/>Amendment††</u>                         | <u>DRC</u>                  | <u>PC</u>                        | <u>CC</u>                       | <u>DC</u>                      |
| <u>Extension of Approval**</u>                                  | <u>DRC</u>                  | <u>--</u>                        | <u>DAB</u>                      | <u>AA</u>                      |
| <u>Fence and Wall Permits*</u>                                  | <u>DRC</u>                  | <u>--</u>                        | <u>ZA</u>                       | <u>AA</u>                      |
| <u>General Plan Amendment††</u>                                 | <u>DRC</u>                  | <u>PC</u>                        | <u>CC</u>                       | <u>DC</u>                      |
| <u>Nonconforming Use or<br/>Structure</u>                       | <u>DRC</u>                  | <u>--</u>                        | <u>ZA</u>                       | <u>AA</u>                      |
| <u>Planned Developments</u>                                     |                             |                                  |                                 |                                |
| <u>Approval of PD Rezone††</u>                                  | <u>DRC</u>                  | <u>PC</u>                        | <u>CC</u>                       | <u>DC</u>                      |
| <u>Extensions††</u>                                             | <u>DRC</u>                  | <u>--</u>                        | <u>CC</u>                       | <u>DC</u>                      |
| <u>Major Amendment††</u>                                        | <u>DRC</u>                  | <u>PC</u>                        | <u>CC</u>                       | <u>DC</u>                      |
| <u>Minor Amendment</u>                                          | <u>DRC</u>                  | <u>--</u>                        | <u>ZA</u>                       | <u>CC</u>                      |
| <u>Property Adjustments</u>                                     |                             |                                  |                                 |                                |
| <u>Lot or Parcel Combination</u>                                | <u>DRC</u>                  | <u>--</u>                        | <u>ZA</u>                       | <u>CC</u>                      |
| <u>Parcel Boundary Adjustment</u>                               | <u>DRC</u>                  | <u>--</u>                        | <u>ZA</u>                       | <u>CC</u>                      |
| <u>Plat Amendment, Lot Line<br/>Adjustment, or ROW Vacation</u> | <u>DRC</u>                  | <u>--</u>                        | <u>CC</u>                       | <u>DC</u>                      |
| <u>PUE or MUE Vacation</u>                                      | <u>DRC</u>                  | <u>--</u>                        | <u>ZA</u>                       | <u>CC</u>                      |

|                                                                                                                            |            |               |                     |                  |
|----------------------------------------------------------------------------------------------------------------------------|------------|---------------|---------------------|------------------|
| <b><u>Residential Facility - Disabled</u></b>                                                                              | <u>DRC</u> | <u>DRC</u>    | <u>CC</u>           | <u>AA</u>        |
| <b><u>Residential Facility - Elderly</u></b>                                                                               | <u>DRC</u> | <u>DRC</u>    | <u>CC</u>           | <u>AA</u>        |
| <b><u>Sensitive Lands Analysis</u></b>                                                                                     | <u>DRC</u> | <u>ZA, CE</u> | <u>See 8-104(4)</u> | <u>See 8-108</u> |
| <b><u>Sign Permit, Permanent*</u></b>                                                                                      | <u>DRC</u> | <u>--</u>     | <u>ZA</u>           | <u>AA</u>        |
| <b><u>Sign Permit, Temporary*</u></b>                                                                                      | <u>DRC</u> | <u>--</u>     | <u>ZA</u>           | <u>AA</u>        |
| <b><u>Site Plan</u></b>                                                                                                    | <u>DRC</u> | <u>PC</u>     | <u>CC</u>           | <u>AA</u>        |
| <b><u>Subdivisions</u></b> (subdivision conforming to current zoning regulations; exceptions require legislative approval) |            |               |                     |                  |
| <u>Major (3+ lots or road) - Preliminary Plat</u>                                                                          | <u>DRC</u> | <u>DRC</u>    | <u>PC</u>           | <u>AA</u>        |
| <u>Major (3+ lots or road) - Final Plat &amp; Improvement Plans</u>                                                        | <u>DRC</u> | <u>DRC</u>    | <u>DAB</u>          | <u>AA</u>        |
| <u>Minor (2 lots, no road) - Final Plat &amp; Improvement Plans</u>                                                        | <u>DRC</u> | <u>DRC</u>    | <u>DAB</u>          | <u>AA</u>        |
| <b><u>Variance</u></b>                                                                                                     | <u>DRC</u> | <u>ZA</u>     | <u>AA</u>           | <u>DC</u>        |
| <b><u>Zoning Map Amendment (Rezone)<sup>††</sup></u></b>                                                                   | <u>DRC</u> | <u>PC</u>     | <u>CC</u>           | <u>DC</u>        |

\* Application may require separate building permit approval.

† Formal recommendation is discretionary by the Land Use Authority.

‡ Appeals subject to procedures in Chapter 2, Article 3 and Title 10, Chapter 9a, Parts 7 and 8 Utah Code Ann.

\*\*Conditional use permits, subdivision approvals, site plan approvals, architectural approvals

†† Legislative matter included for informational purposes.

‡‡ Where no Recommending Body is listed, review by a Recommending Body and submission of a formal recommendation is not required prior to Land Use Authority action.

### 3-203 Burden Of Proof Of Nonconforming Use Or Nonconforming Structure

1. There is no presumption of the legal existence of nonconforming structures or uses.
2. Any person or entity asserting the existence of a nonconforming structure or use shall have the burden to prove the legal existence of the nonconforming structure or use.
3. A person or entity desiring to establish the existence of a nonconforming structure or use shall submit an application to the Zoning Administrator that includes an application form, a fee (if required), and the following information:
  1. The nature, extent, and location of the nonconforming structure or use;
  2. The date of the establishment of the nonconforming structure or use;
  3. Any and all evidence, including witness testimony, affidavits, correspondence, declarations, historical documents and records, maps, and official permits or licenses, that establishes:
    1. The nonconforming structure or use was originally established in conformance with the governing law in place at the time of establishment or was otherwise approved, in writing, by the city;
    2. The nonconforming structure or use has continuously and legally existed from its establishment to the present and there have been no circumstances that would result in a presumption of abandonment;
    3. The nonconforming structure or use has not been expanded or extended except as permitted under the governing law in place at the time of expansion or extension.
4. Within a reasonable time after receiving an application for a nonconforming structure or use, the ~~Zoning Administrator~~ Land Use Authority shall issue either a certificate of nonconformity approving the application or a written decision rejecting the application.
5. No evidence or witnesses not included or listed in the application filed with the ~~Zoning Administrator~~ Land Use Authority may be presented by an applicant upon appeal.

## [R-1-40] 3-4102 Permitted Uses

The following buildings, structures, and uses of land shall be permitted in the R-1-40 Zone upon compliance with the requirements set forth in this Code:

...

8. Residential Facilities for Persons with a Disability. Residential Facilities for Persons with a Disability shall be a permitted use in all residential zones and requires final zoning approval by the ~~City Council~~Land Use Authority. The building and use must comply with all of the requirements defined by this Section.

a. “Disabled” or “Disability” under this section shall include, with respect to a person, a person who has a physical or mental impairment which substantially limits one or more of that person’s major life activities or has a history of having such impairment.

i. For the purpose of Section 3-4102(8) “Disability” does not include any disability arising from, related to, or caused by substance abuse and/or addiction to alcohol and/or a controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(1) For Residential Facilities for the Rehabilitation and Treatment of the Disabled, which treat disabled persons for the illegal use of, or addiction to, alcohol and/or any federally controlled substance, please refer to 3-4102(9).

ii. Disabled or Disability also does not mean an impairment or limitation resulting from or related to kleptomania, pyromania, or any sexually related addiction or disorder, including but not limited to: sex and pornography addictions, transvestism, transexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders (those not resulting from physical impairments), or any other sexual behavior disorder.

b. “Residential Facilities for Persons with a Disability” means a residence:

i. in which one or more persons with a disability resides; and

(1) is licensed or certified by the State of Utah Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; and

(2) is licensed or certified by the State of Utah Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act; and

(3) is consistent with Utah Code 10-9a-520 and complies with Title 57, Chapter 21, Utah Fair Housing Act, and the Federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.

- c. Discrimination against Residential Facilities for Persons with a Disability shall be prohibited.
- d. Residential Facilities for Persons with a Disability shall not be considered multi-family dwellings if the following requirements are met;
  - i. Any Residence for Persons with a Disability shall be occupied only by individuals who are considered disabled per 3-4102(8)(a) (excluding staff members).
  - ii. Occupancy by any staff member shall only be allowed if such occupancy is primarily for the purpose of serving the residents and not primarily a benefit of employment to the staff member (room and board shall not be offered as a benefit).
- e. A Residential Facility for Persons with a Disability shall meet all of the requirements of a person with a disability according to the definition of “disability” as contained in 3-4102(8)(a); and
  - i. The home shall not be occupied by more than four (4) unrelated individuals living in a family type environment consistent with 10-102(12) Common Household; and
    - (1) Any group or individual considered disabled may apply for a Reasonable Accommodation per Highland City’s Reasonable Accommodation Policy and procedure; and
  - ii. The owner/operator of such facilities shall provide adequate personal space for each resident.
  - iii. Any Residential Facility for Persons with a Disability shall be occupied only by individuals who are considered disabled per 3-4102(8)(a) (excluding staff members).
- f. Residency within a Residential Facility for Persons with a Disability shall be strictly voluntary and not part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional facility, or a condition of probation/parole. A Residential Facility for Persons with a Disability shall not include any persons referred by the Utah State Department of Corrections or any District or Juvenile Court.
- g. Residency within a Residential Facility for Persons with a Disability shall not be available to or occupied by any individual whose tenancy

would constitute a direct threat to the health or safety of other individuals or whose tenancy could result in substantial physical damage to the property of others.

- h. Owners or operators of Residential Facility for Persons with a Disability may provide training or treatment programs for residents with disabilities provided that such training or treatment programs are in compliance with the State of Utah Department of Human Services standards as set forth in the Utah Administrative Code.
  - i. Appeals. ~~Any~~ Appeals arising from any final decision of the ~~City Council~~ Land Use Authority with respect to a Residential Facility for Persons with a Disability ~~may shall~~ be heard by ~~directed to~~ the Appeal Authority ~~per Chapter 2, Article 3 in this Code.~~
- 9. Residential Facilities for the Rehabilitation and Treatment of the Disabled. Residential Facilities for the Rehabilitation and Treatment of the Disabled shall be a permitted use in all residential zones and requires zoning approval by the ~~City Council~~ Land use Authority; provided that the building and use is consistent with Utah Code 10-9a-520 and complies with Title 57, Chapter 21, Utah Fair Housing Act, and the Federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.
  - a. Residential Facilities for the Rehabilitation and Treatment of the Disabled under this section shall mean, with respect to a person, a person who has a physical or mental impairment which substantially limits one or more of that person's major life activities arising from, related to, or caused by use of, and/or addiction to, alcohol and/or any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.
    - i. Disabled or Disability under this section does not mean an impairment or limitation resulting from or related to kleptomania, pyromania, or any sexually related addiction or disorder, including but not limited to; sex and pornography addictions, transvestism, transexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders (those not resulting from physical impairments), or any other sexual behavior disorder.
  - b. "Residential Facilities for the Rehabilitation and Treatment of the Disabled" means a residence:
    - i. in which one or more persons with a disability resides; and
      - (1) is licensed or certified by the State of Utah Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; and

- (2) is licensed or certified by the State of Utah Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act; and
  - (3) is consistent with Utah Code 10-9a-520 and complies with Title 57, Chapter 21, Utah Fair Housing Act, and the Federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.
- c. Discrimination against disabled persons or against Residential Facilities for the Rehabilitation and Treatment of the Disabled shall be prohibited.
- d. Residential Facilities for the Rehabilitation and Treatment of the Disabled shall not be considered multi-family dwellings if the following requirements are met;
  - i. Any Residential Facility for the Rehabilitation and Treatment of the Disabled shall be occupied only by individuals who are considered disabled per 3-4102(9)(a) (excluding staff members) and meet the following conditions:
    - (1) Individuals have been diagnosed with an addiction to alcohol or a controlled substance (as defined in Section 102 of the Controlled Substance Act, 21 U.S.C. 802);
    - (2) Individuals are unable to abstain from the use of alcohol or controlled substances without the structured supportive setting offered by a residence for the disabled; and
    - (3) Individuals have completely abstained from the use of alcohol and all controlled substances for a continuous period of at least thirty (30) days immediately prior to becoming a resident of the home.
    - (4) All residents in the home must completely abstain from using alcohol and controlled substances during the period that they are residents in the home. Any resident of a Residential Facility for the Rehabilitation and Treatment of the Disabled who uses alcohol or a controlled substance, whether on or off the premises, shall be immediately expelled from the home and shall not be readmitted for a period of at least 30 days following the violation. However, nothing contained herein shall be construed to prohibit a resident from taking a prescribed medication for which a resident has a valid and current prescription.

- ii. Occupancy by any staff member shall only be allowed if such occupancy is primarily for the purpose of serving the residents and not primarily a benefit of employment to the staff member (room and board shall not be offered as a benefit).
- e. A Residential Facility for the Rehabilitation and Treatment of the Disabled exceeding four (4) unrelated persons shall meet all of the requirements of a person with a disability according to the definition of “disability” as contained in 3-4102(9)(a); and
  - i. The home shall not be occupied by more than four (4) unrelated individuals living in a family type environment consistent with 10-102(12) Common Household; and
    - (1) Any group or individual considered disabled may apply for a Reasonable Accommodation per Highland City’s Reasonable Accommodation Policy and procedure; and
  - ii. The owner/operator of such facilities shall provide adequate personal space for each resident.
- f. Residency within a Residential Facility for the Rehabilitation and Treatment of the Disabled shall be strictly voluntary and not part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional facility, or a condition of probation/parole. A Residential Facility for the Rehabilitation and Treatment of the Disabled shall not include any persons referred by the Utah State Department of Corrections or any District or juvenile court.
- g. Residency within a Residential Facility for the Rehabilitation and Treatment of the Disabled shall not be available to or occupied by any individual whose tenancy could constitute a direct threat to the health or safety of other individuals or whose tenancy could result in substantial physical damage to the property of others.
  - i. The owner/operator of a Residential Facility for the Rehabilitation and Treatment of the Disabled shall have conducted an individualized assessment of each person desiring to become a resident of the facility to determine if such person would constitute a threat prior to allowing occupancy of the facility by such a person.
  - ii. The assessment shall be conducted by a properly licensed psychologist, social worker or other licensed individual qualified to perform such assessments properly licensed in the State of Utah.

- (1) Assessments shall include, but not be limited to, consideration of such things as past criminal histories and/or violent acts of the individual, the amounts of time that have lapsed since such acts, and treatments the individual has received.
  - (2) Evaluations of individuals who have committed acts of sexual aggression or criminal sex acts shall also include psycho-sexual evaluations by a licensed psychiatrist or an individual holding a PhD in psychology.
  - (3) No individual determined to pose a risk for commission of sexual offenses, or being classified as having predatory tendencies may be accepted as a resident.
- h. Owners or operators of Residential Facilities for the Rehabilitation and Treatment of the Disabled may provide training or treatment programs for Residential Facilities for the Rehabilitation and Treatment of the Disabled provided that such training or treatment programs are in compliance with the State of Utah Department of Human Services standards as set forth in the Utah Administrative Code.
  - i. No alcohol or controlled substance shall be allowed on the premises of the Residential Facilities for the Rehabilitation and Treatment of the Disabled; however, nothing contained herein shall be construed to prohibit a resident from taking prescribed medication for which a resident has a valid and current prescription. A first violation of this requirement shall result in a warning to the occupancy permit holder. A second violation occurring within a twelve month period shall result in a fine of five hundred dollars (\$500) to the occupancy permit holder. A third violation occurring within a twelve month period shall result in the revocation of a occupancy permit to operate a Residential Facility for the Rehabilitation and Treatment of the Disabled and no occupancy permit shall be reissued to the occupancy permit holder (or principals of the occupancy permit holder if the occupancy permit is an entity) for a period of at least one year following such revocation. The City shall have the right to deny an annual occupancy permit to any individual or entity that has had more than one revocation of an annual occupancy permit to operate a residence for the disabled.
    - i. The annual occupancy permit holder shall be required to perform a hair follicle test on each potential resident before allowing such person to become an occupant in a Residential Facility for the Rehabilitation and Treatment of the Disabled.

(1) The annual occupancy permit holder shall not allow any person whose test results indicate the use of alcohol or drugs in the previous thirty (30) days to become an occupant of the home.

ii. The annual occupancy permit holder shall conduct random urinalysis testing (or other equally effective testing methods) on each of the residents at least once per week to verify ongoing abstinence from alcohol and drugs.

(1) Any resident who test positive for alcohol or drugs or who refuses to submit to a test shall be immediately expelled from the home.

iii. The annual occupancy permit holder shall maintain records of the initial testing results and the ongoing test results and shall submit to the City a monthly report representing an accurate accounting of these tests.

(1) The method and frequency of testing procedures must be included in a Policy and Procedures manual presented along with the application for an annual occupancy permit.

iv. The owner/operator shall provide to the City a monthly running report for each occupant identifying the time, date, and result of each assessment completed.

j. Appeals. ~~Any Appeals arising from any final decision of the City Council-Land Use Authority with respect to a Residential Facility for the Rehabilitation and Treatment of the Disabled Facility shall may be directed to heard by the aAppeal aAuthority per Chapter 2, Article 3 in this Code.~~

10. Procedure for Initial Approval and Annual Review of a Residence for the Disabled and Residential Rehabilitation and Treatment Facility for the Disabled referred to in this section as group homes. All group homes under 3-4102(8) and 3-4102(9) shall first obtain final zoning approval from the ~~City Council-Land Use Authority~~ prior to receiving an annual occupancy permit and prior to occupancy. In addition, the facility shall comply with the following requirements:

a. The home and use shall be consistent with Utah Code 10-9a-520 and complies with Title 57, Chapter 21, Utah Fair Housing Act, and the Federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.

- b. At least ten (10) days before the ~~City Council~~ Land Use Authority hears the application for a group home, the City shall provide written notification by mail to all citizens living within or owning property within 500 feet of the proposed site as measured in a straight line between the closest property lines of the proposed facility.
- c. Zoning Approval.
  - i. To obtain zoning approval the owner of a group home shall comply with the following requirements:
    - (1) The group home shall comply with all applicable state and federal laws; and
    - (2) The owner of the group home shall obtain building permits that verify compliance with the same building, safety, and health regulations as are applicable in the same zone to similar uses that are not residential facilities for persons with a disability; and
    - (3) The owner shall obtain final site plan approval from the ~~City Council~~ Land Use Authority prior to obtaining an annual occupancy permit; and
    - (4) Prior to the initial occupancy of a Residential Facility for the Rehabilitation and Treatment of the Disabled and at least quarterly, the owner/operator of the facility shall certify that the individualized psychological and psycho-sexual assessments have been performed on each resident and that each resident meets the requirements of this section.
  - d. Safety Plan. To ensure the safety of the residents and surrounding community, all group home operators shall develop a safety plan demonstrating adequate supervision and control of the residents.
    - i. The safety plan shall be reviewed by the Reviewing Body ~~and be satisfactory to law enforcement officials~~ and shall be approved by the ~~City Council~~ Land Use Authority.
    - ii. The safety plan shall address the following:
      - (1) Parking and traffic circulation plan.
      - (2) Security and surveillance operation.
      - (3) Visitation hours.

iii. In addition, Residential Facilities for the Rehabilitation and Treatment of the Disabled shall include:

- (1) Testing procedures and operations (see 3-4102(9)(p); and
- (2) A copy of the Policy and Procedures Manual for the specific location required through the State Licensing process.

e. Residential Character. Any group home that would likely create a fundamental change in the character of a residential neighborhood shall be excluded from this zone except as allowed by State or Federal law.

i. Group homes may be located within an existing residential dwelling or located within a residential zone only if that structure is capable of use as such a facility without structural or landscaping alterations that would change the structure's residential character.

- (1) The site plan must show any alteration of the structure and landscaping and must be approved by the ~~City Council~~Land Use Authority before an annual occupancy permit is issued.
- (2) Any new structure constructed for use as a group home shall be of a size, scale and design that is in harmony with other residential homes and residential uses in the neighborhood and subdivision.
- (3) The inclusion of features which make a residential dwelling handicap accessible, such as hand rails, ramps, or oversize doors, shall not be deemed to change or alter the residential nature of a structure.

ii. At least six (6) off-street parking stalls shall be provided in each group home to serve the needs of residents, visitors and staff members.

- (1) If considered necessary for traffic safety, additional parking in a reasonable number may be required by the ~~City Council~~Land Use Authority and may be based upon one parking stall per individual occupying the home over the age of sixteen (16) including staff and at least 0.5 parking stalls per individual occupying the home for visitors.

(2) Visiting and group schedules will detail visiting hours and visiting times for invited visitors. The proposed schedule will demonstrate that parking will be managed to minimize traffic impacts.

(A) Group homes shall provide the City with an updated copy of its visiting and group schedules anytime those schedules change.

- f. Separation. Group homes shall be dispersed throughout Highland as follows:
- i. No group home shall be located within three-quarters (3/4) of a mile from any other group home established under sections 3-4102(8), 3-4102(9) or 3-4102(11), or other similar use, as measured in a straight line between the closest property lines of any group home listed above.
  - g. Upon receipt of approval from the Land Use Authority~~City Council~~, the owner/operator of a group home shall be eligible to secure an annual occupancy permit from the City. Said occupancy permit shall be valid for one calendar year and shall be reviewed annually and be subject to:
    - i. The receipt to a renewal application that shall include the information and certifications required under 3-4102(8) and/or 3-4102(9) above and a certification that none of the residents pose a threat as of the date of the renewal; and
    - ii. At least ten (10) days prior to the Land Use Authority~~City Council~~ hearing the renewal application, the City shall provide written notification by mail to all residents and/or property owners within 500 feet of the existing facility.
    - iii. A finding by the Land Use Authority~~City Council~~ that during the preceding year that the group home operated under compliance with the terms of 3-4102(8) and/or 3-4102(9) and any other conditions of approval.
  - h. Requirements for an Annual Occupancy Permit. Owners of group homes shall provide to the City a copy of the following documentation prior to occupying a residence:
    - i. Verification of a State License to operate; and
    - ii. Copies of any required reports and/or inspections provided by the Department of Human Services and/or the Department of Health or required to be provided by the owner/ operator to these departments, whichever may apply; and

- iii. Proof and verification to the City that each of the residents admitted falls within the definition of disability as set forth in 3-4102(8)(a) and/or 3-4102(9)(a); and
- iv. Proof of adequate insurance for the program's vehicles, hazard insurance on the home and liability insurance to cover residents and third party individuals; and
- v. Any additional required information, documentation, testing, or other data as required by this ordinance.
- vi. An annual occupancy permit to operate a group home shall be:

- (1) Non-transferable and shall terminate if the person or entity that applied for the occupancy permit ceases to operate or own the facility, structure is devoted to a use other than that specifically approved by the Land Use Authority~~City Council~~, or the structure fails to comply with all building, safety, health and zoning requirements of Highland City.

- (2) Terminated if at any time it is demonstrated to the Land Use Authority~~City Council~~ that:

- (A) The structure or operation fails to comply with the requirements of 3-4102(8) and/or 3-4102(9).

- i. Requirements for a Highland City Business License.

- i. In the event that an owner of a Residential Facility for Persons with a Disability or a Residential Facility for the Rehabilitation and Treatment of the Disabled shall charge for services or care provided to the residents of the facility, a business license must be obtained from the City.

- (1) A business license obtained from the City shall not be deemed in anyway as replacing or satisfying the requirement that the owner of a Residential Facility for Persons with a Disability or a Residential Facility for the Rehabilitation and Treatment of the Disabled secure appropriate State licenses and/or approvals as are required herein.

- ii. In the event that the applicant needs a business license in order to obtain the proper State license, a temporary license will be issued for that purpose however, the owner/operator shall provide to Highland City proof of State licensure prior to occupancy and issuance of a permanent license.

- (1) If the owner/operator of a Residential Facility for Persons with a Disability or a Residential Facility for the Rehabilitation and Treatment of the Disabled fails to renew a business license, the City shall notify the State Department of Health and Human Services within thirty (30) days of the expiration of that license.
  - (2) Each Residential Facility for Persons with a Disability or a Residential Facility for the Rehabilitation and Treatment of the Disabled which is subject to state licensing procedures, must provide the city proof of a valid license issued by the Utah State Division of Licensing and compliance with the Department of Human Services.
- iii. Upon review of an application for a new group home and upon determination of compliance with all of the above requirements, the business license application may be approved; however, ~~where in the opinion of the City Council if~~ the information provided by the applicant is insufficient for a new group home in compliance with 3-4102(8) and/or 3-4102(9) the business license may be denied.
  - (1) If approved, the City shall provide written notice of approval for the proposed group home to all citizens living within 500 feet of the proposed group home as measured in a straight line between the closest property lines of the proposed facility.
  - (2) If denied, the City shall provide the applicant written notice of the decision to deny the application.
  - (3) The notice of approval or denial shall be in addition to the notice required in 3-4102(10)(b) and shall be provided by mail within one week (seven days) of the decision.
- j. Enforcement. The responsibility to license programs or entities that operate Residential Facilities for the Disabled and Residential Facilities for the Rehabilitation and Treatment for the Disabled as well as to require and monitor the provision of adequate services to persons residing in those facilities, shall rest with the State of Utah Department of Health and Human Services as follows:
  - i. For programs or entities licensed or certified by the Department of Human Services, the Department of Human Services as provided in Title 62A, Chapter 5, Services to People with Disabilities; and

- ii. For programs or entities licensed or certified by the Department of Health, the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.
- k. Violations. Failure of the annual occupancy permit holder, any staff member, or any tenant to comply with the ordinances in accordance with this Code, shall result in a fine to the annual occupancy permit holder in the amount of two-hundred fifty dollars (\$250) for the first violation, five hundred dollars (\$500) for the second violation, one thousand dollars (\$1,000) for a third violation, and revocation of the annual occupancy permit and the business license for the fourth violation during a twelve month period.
  - i. No alcohol or controlled substance shall be allowed on the premises of the Residential Facilities for the Rehabilitation and Treatment of the Disabled. However, nothing contained herein shall be construed to prohibit a resident from taking a prescribed medication for which a resident has a valid and current prescription.
    - (1) A first violation of this requirement shall result in a warning to the occupancy permit holder.
    - (2) A second violation occurring within a twelve month period shall result in a fine of five hundred dollars (\$500) to the occupancy permit holder.
    - (3) A third violation occurring within a twelve month period shall result in the revocation of a occupancy permit to operate a Residential Facility for the Rehabilitation and Treatment of the Disabled and no occupancy permit shall be reissued to the occupancy permit holder (or principals of the occupancy permit holder if the occupancy permit is an entity) for a period of at least one year following such revocation.
    - (4) The City shall have the right to deny an annual occupancy permit to any individual or entity that has had more than one revocation of an annual occupancy permit to operate a residence for the disabled.
- l. Inspections. Representatives of the City shall have the right to enter onto the premises of a group home for the disabled with reasonable prior notice to verify compliance with the provisions of this section.
  - i. As part of the annual occupancy permit application for a group home, the applicant shall provide the City with written authorization to enter upon the premises of the residence.

ii. Failure of the annual occupancy permit holder, any staff member, or any tenant to allow the City to enter upon the premises in accordance with this section, shall result in a fine to the annual occupancy permit holder in the amount of two-hundred fifty dollars (\$250) for the first violation, five hundred dollars (\$500) for the second violation, one thousand dollars (\$1,000) for a third violation, and revocation of the annual occupancy permit and the business license for the fourth violation during a twelve month period.

m. Termination. Annual occupancy permits granted under this subsection are nontransferable and shall terminate if the person or entity applying for the annual occupancy permit ceases to own or operate the facility, the structure is devoted to another use, or if it at any time fails to comply with any applicable requirement as defined in this Code.

n. Appeals. Appeals arising from any decision of the Land Use Authority~~City Council~~ with respect to a group home may be directed to the Appeal~~a~~Authority~~per Chapter 2, Article 3 in this Code.~~

11. Residential Facilities for Elderly Persons. Residential Facilities for Elderly Persons shall be considered a permitted use in any residential zone except for areas zoned exclusively for single family dwellings in which case it shall be considered a Conditional Use. All Residential Facilities for Elderly shall require final zoning approval by the Land Use Authority~~City Council~~. Upon application to establish a Residential Facility for Elderly Persons in any area where residential dwellings are allowed, the City may grant the requested annual occupancy permit for the Residential Facility for Elderly Persons if the facility proposed complies with the following requirements:

- a. For the purpose of this ordinance, an “elderly person” shall be considered anyone who is 60 years of age or older.
- b. Discrimination against elderly persons and against Residential Facilities for Elderly Persons shall be prohibited.
- c. A Residential Facility for Elderly Persons shall meet all of the requirements a Residential Facility for Elderly Persons; and
  - i. No more than four (4) unrelated persons may occupy a Residential Facility for Elderly Persons that include paid full time, 24 hours a day, professional staff; or
  - ii. The home shall not be occupied by more than eight (8) unrelated individuals living in a family type environment consistent with 10-102(12) Common Household; and

- iii. The owner/operator of such facilities shall provide adequate personal space for each resident; and
- iv. Occupancy by any staff member shall be allowed if such occupancy is primarily for the purpose of serving the residents and not primarily a benefit of employment to the staff member.
- v. For purposes of this section:
  - (1) No person who is being treated for alcoholism or drug abuse may be placed in a Residential Facility for Elderly Persons; and
  - (2) Placement in a Residential Facility for Elderly Persons shall be on a strictly voluntary basis and may not be a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution.

- d. A Residential Facility for Elderly Persons may not operate as a business.
  - i. A Residential Facility for Elderly Persons may not be considered a business even though a fee is charged for food or for actual and necessary costs of operation and maintenance of the facility.
- e. A Residential Facility for Elderly Persons shall be owned by one of the residents or by an immediate family member of one of the residents or be a facility for which the title has been placed in trust for a resident.
- f. Appeals. ~~Any A~~appeals arising from any final decision of the Land Use Authority City Council with respect to a Residential Facility for Elderly Persons ~~may shall~~ be directed to heard by the ~~a~~Appeal ~~a~~Authority ~~per Chapter 2, Article 3 in this Code.~~

12. Procedure for Initial Approval and Annual Review of Residential Facilities for the Elderly. All Residential Facilities for the Elderly shall first obtain final zoning approval prior to receiving an annual occupancy permit and prior to occupancy if the facility is proposing to provide service to more than four (4) unrelated residents; if a permit is required then the facility shall comply with the following requirements:

- a. The home and use shall be consistent with Utah Code 10-9a-516-519 and complies with Title 57, Chapter 21, Utah Fair Housing Act, and the Federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.
- b. At least ten (10) days before the Land Use Authority City Council hears the application for a Residential Facilities for the Elderly, the City shall provide written notification by mail to all citizens living

within or owning property within 500 feet of the proposed site as measured in a straight line between the closest property lines of the proposed facility.

c. Zoning Approval.

i. To obtain zoning approval the owner of a Residential Facilities for the Elderly shall comply with the following requirements:

- (1) The Residential Facilities for the Elderly shall comply with all applicable state and federal laws; and
- (2) The owner of the Residential Facilities for the Elderly shall obtain building permits that verify compliance with the same building, safety, and health regulations as are applicable in the same zone to similar uses that are not residential facilities for persons with a disability; and
- (3) The owner shall obtain final site plan approval from the Land Use Authority ~~City Council~~ prior to obtaining an annual occupancy permit; and

d. Safety Plan. To ensure the safety of the residents and surrounding community, all operators of Residential Facilities for the Elderly shall develop a safety plan demonstrating adequate supervision and control of the residents.

i. The safety plan shall be reviewed by the Reviewing Body and ~~satisfactory to law enforcement officials~~ and shall be approved by the Land Use Authority ~~City Council~~.

ii. The safety plan shall address the following:

- (1) Parking and traffic circulation plan.
- (2) Security and surveillance operation.
- (3) Visitation hours.

e. Residential Character. Any Residential Facilities for the Elderly that would likely create a fundamental change in the character of a residential neighborhood shall be excluded from this zone except as allowed by State or Federal law.

i. Residential Facilities for the Elderly may be located within an existing residential dwelling or located within a residential zone only if that structure is capable of use as such a facility without structural or landscaping alterations that would change the structure's residential character.

- (1) The site plan must show any alteration of the structure and landscaping and must be approved by the ~~City Council~~ Land Use Authority before an annual occupancy permit is issued.
  - (2) Any new structure constructed for use as a Residential Facilities for the Elderly shall be of a size, scale and design in harmony with other residential homes and residential uses in the neighborhood and subdivision.
  - (3) The inclusion of features which make a residential dwelling handicap accessible, such as hand rails, ramps, or oversize doors, shall not be deemed to change or alter the residential nature of a structure.
- ii. At least six (6) off-street parking stalls shall be provided in each Residential Facilities for the Elderly to serve the needs of residents, visitors and staff members.
  - (1) If considered necessary for traffic safety, additional parking in a reasonable number may be required by the Land Use Authority ~~City Council~~ and may be based upon one parking stall per individual occupying the home over the age of sixteen (16) including staff and at least 0.5 parking stalls per individual occupying the home for visitors.
  - (2) Visiting and group schedules will detail visiting hours and visiting times for invited visitors. The proposed schedule will demonstrate that parking will be managed to minimize traffic impacts.
- f. Separation. Residential Facilities for the Elderly shall be dispersed throughout Highland as follows:
  - i. No Residential Facilities for the Elderly shall be located within three quarters (3/4) of a mile from any other Residential Facility for the Elderly home, group home per 3-4102(8) and 3-4102(9) or other similar use, as measured in a straight line between the closest property lines of any Residential Facilities for the Elderly listed above.
- g. Upon receipt of approval from the Land Use Authority ~~City Council~~, the owner/operator of a Residential Facilities for the Elderly shall be eligible to secure an annual occupancy permit from the City. Said occupancy permit shall be valid for one calendar year and shall be reviewed annually and be subject to:

- i. The receipt to a renewal application that shall include the information and certifications required under this section and and/or 3-4102(11) above and a certification that none of the residents pose a threat as of the date of the renewal; and
  - ii. At least ten (10) days prior to the Land Use Authority City Council hearing the renewal application, the City shall provide written notification by mail to all residents and/or property owners within 500 feet of the existing facility.
  - iii. A finding by the Land Use Authority City Council that during the preceding year that the Residential Facilities for the Elderly operated under compliance with the terms of 3-4102(11) and any other conditions of approval.
- h. Requirements for an Annual Occupancy Permit. Owners of Residential Facilities for the Elderly shall provide to the City a copy of the following documentation prior to occupying a residence:
  - i. Verification of a State License to operate if applicable; and
  - ii. If applicable, copies of any required reports and/or inspections provided by the Department of Human Services and/or the Department of Health or required to be provided by the owner/operator to these departments, whichever may apply; and
  - iii. Proof and verification to the City that each of the residents admitted falls within the definition of disability as set forth in 3-4102(8)(a) and/or 3-4102(9)(a); and
  - iv. Proof of adequate insurance for the program's vehicles, hazard insurance on the home and liability insurance to cover residents and third party individuals; and
  - v. Any additional required information, documentation, testing, or other data as required by this ordinance.
  - vi. An annual occupancy permit to operate a Residential Facilities for the Elderly shall be:
    - (1) Non-transferable and shall terminate if the person or entity that applied for the occupancy permit ceases to operate or own the facility, structure is devoted to a use other than that specifically approved by the Land Use Authority City Council, or the structure fails to comply with all building, safety, health and zoning requirements of Highland City.

(2) Terminated if at any time it is demonstrated to the Land Use Authority City Council that:

(A) The structure or operation fails to comply with the requirements of 3-4102(8) and/or 3-4102(9).

- i. Enforcement. If applicable, the responsibility to license programs or entities that operate Residential Facilities for the Elderly as well as to require and monitor the provision of adequate services to persons residing in those facilities, shall rest with the State of Utah Department of Health and Human Services as follows:
  - i. For programs or entities licensed or certified by the Department of Human Services, the Department of Human Services as provided in Title 62A, Chapter 3, Aging and Adult Services; and
  - ii. For programs or entities licensed or certified by the Department of Health, the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.
- j. Violations. Failure of the annual occupancy permit holder, any staff member, or any tenant to comply with the ordinances in accordance with this Code, shall result in a fine to the annual occupancy permit holder in the amount of two-hundred fifty dollars (\$250) for the first violation, five hundred dollars (\$500) for the second violation, one thousand dollars (\$1,000) for a third violation, and revocation of the annual occupancy permit and the business license for the fourth violation during a twelve month period.
- k. Inspections. Representatives of the City shall have the right to enter onto the premises of a Residential Facilities for the Elderly with reasonable prior notice to verify compliance with the provisions of this section.
  - i. As part of the annual occupancy permit application for a Residential Facilities for the Elderly, the applicant shall provide the City with written authorization to enter upon the premises of the residence.
  - ii. Failure of the annual occupancy permit holder, any staff member, or any tenant to allow the City to enter upon the premises in accordance with this section, shall result in a fine to the annual occupancy permit holder in the amount of two-hundred fifty dollars (\$250) for the first violation, five hundred dollars (\$500) for the second violation, one thousand dollars (\$1,000) for a third violation, and revocation of the annual occupancy permit and the business license for the fourth violation during a twelve month period.

- l. Termination. Annual occupancy permits granted under this subsection are nontransferable and shall terminate if the person or entity applying for the annual occupancy permit ceases to own or operate the facility, the structure is devoted to another use, or if it at any time fails to comply with any applicable requirement as defined in this Code.
- m. Appeals. ~~Any a~~Appeals arising from any final decision of the Land Use Authority City Council with respect to a group home ~~may shall~~ be ~~directed to heard by~~ the ~~a~~Appeal ~~a~~Authority ~~per Chapter 2, Article 3 in this Code.~~

### **[R-1-40] 3-4108 Conditional Uses**

1. The buildings, structures and uses of land described herein shall be allowed in the R-1-40 Zone upon compliance with the provisions of this Section as well as other requirements of this Code and upon obtaining a conditional use permit as specified in Chapter 4 of this Code.
2. All conditional uses shall landscape a minimum of 35% of their site and comply with parking requirements as determined by the ~~City Council~~Land Use Authority.

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### **[R-1-20] 3-4208 Conditional Uses**

1. The buildings, structures and uses of land described herein shall be allowed in the R-1-20 Zone upon compliance with the provisions of this Section as well as other requirements of this Code and upon obtaining a conditional use permit as specified in Chapter 4 of this Code.
2. All conditional uses shall landscape a minimum of 35% of their site and comply with parking requirements as determined by the ~~City Council~~Land Use Authority.

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### **[R-1-30] 3-4258 Conditional Uses**

1. The buildings, structures and uses of land described herein shall be allowed in the R-1-30 Zone upon compliance with the provisions of this Section as well as other requirements of this Code and upon obtaining a conditional use permit as specified in Chapter 4 of this Code.
2. All conditional uses shall landscape 35% of their site and comply with parking requirements as determined by the ~~City Council~~Land Use Authority.

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## [C-1] 3-4304 Development Standards

1. An area to be ~~z~~Zoned C-1 shall be recommended by the Recommending Body ~~Planning Commission~~ and approved by the Land Use Authority pursuant to the City's legislative authority and discretion, City Council and shall have the following characteristics:
  - a. Development site, excluding dedicated roads, shall be approximately ten (10) acres and approximately three (3) acres in pre-existing legal non-conforming commercial. In order to encourage uses consistent with the objectives of the commercial district and to ensure adequate site planning, the entire site must be master planned at the time of site plan approval, even though it may be developed in stages or phases. Each phase must adhere to the original plan except as subsequently approved by the ~~Planning Commission and City Council~~site plan Land Use Authority. Site must have a minimum of four-hundred (400) feet of frontage on a dedicated public street. Pre-existing legal non-conforming commercial sites must have a minimum of three-hundred (300) feet of frontage on a dedicated public street. Control of the property by a single person, association, partnership, or corporation must be demonstrated.
  - b. Although the commercial district may provide goods and/or services to citizens from surrounding communities, i.e., Alpine, Cedar Hills, American Fork, etc., it shall cater primarily to the citizens of Highland City.
  - c. The cumulative total of commercially zoned property in Highland City including pre-existing commercial properties shall not exceed fourteen (14) acres.
  - d. Development site shall be located in the vicinity of the "four corners" area of Highland City — more specifically defined as: the intersection of State Road 92 and State Road 74. Under no circumstances will the closest point of the commercial development be located further than 1200 feet from the intersection, measured from the center of the intersection.
2. Development of property zoned C-1 requires the following approvals:
  - a. Site plan approval, which includes review and approval of site coverage, building setbacks, screening and fences, parking, loading, and driveway areas, traffic circulation, landscaping and hardscaping, transition and buffering between adjacent uses, lighting, grading, drainage, utility design, and other engineering design elements;
  - b. Architectural review approval, which includes review of building height, design, materials, and aesthetics;

- c. Conditional use permit approval, for conditional uses; and
- d. Construction approvals, including building permits, sign permits, and right of way permits.

### 3-4305 Site Coverage

Coverage regulates the area of the site that may be covered by the building. Covered walkways, roof structure overhangs, and other solar protection or aesthetic structural elements should not be included in building coverage calculations. These guidelines also help protect area dedicated to landscape and parking.

1. Coverage of a site by a building structure shall not exceed twenty-five (25) percent of the total site. This coverage may be increased, subject to the approval of the ~~site plan Land Use Authority~~City Planning Commission, if the project demonstrates superior response to the commercial zoning guidelines. In no case, however, shall site coverage exceed 35 percent.
2. When covered parking structures are provided, such structures shall not cover more than an additional 30 percent of the ground plane.
3. In all site plan configurations, landscaping shall occupy no less than fifteen percent (15%) of the total land area under development.

### 3-4306 Building Setbacks

It shall be within the authority of the ~~site plan Land Use Authority Planning Commission~~ to determine, for any lot in this district, which property line or lines shall be considered as side or as rear lines for the purpose of administering this ordinance.

1. No building shall be closer to a public street right-of-way than eighty (80) feet unless all parking is provided in the rear of the building, in which case it may be no closer than forty (40) feet. No building, with the exception of any portion that contains a drive-up window or counter, shall be closer than thirty (30) feet from any private road or driveway. Structures which are adjacent to a plaza, mall, or other permanent pedestrian open space under the same ownership as the structure may abut the space and have openings into it.
2. The public street right-of-way line shall be considered the front property line of a lot. Where a lot is bordered on two or more sides by a public street right-of-way, all such sides shall be considered as front property lines, and the area between the front property line and the building lines shall be known as the front setback area in all cases. Canopies, overhangs, and similar coverings may project into the front setback area, as much as 10', if approved by the ~~Planning Commission~~ architectural review Land Use Authority.
3. Side setback areas shall be a minimum of ten (10) feet including canopies and overhangs except where a side property line abuts a residential district, in which case the setback area shall be a minimum of twenty-five (25) feet.
4. Rear setback areas shall be a minimum of ten (10) feet except where a rear property line abuts a residential district, in which case the rear setback area shall be a minimum of twenty-five (25) feet.

### 3-4307 Building Height

1. The maximum height for all buildings shall not exceed thirty (30) feet, measured from natural grade, and no building shall be erected to a height less than ten (10) feet or one story above grade. Where the ground or the top of the building is uneven in height, the average elevation thereof shall apply. Maximum height shall include signs and parapets or any other projection from the building.
2. The height requirements of this section shall apply to all commercial developments, except that the architectural review Land Use Authority after review by the planning commission, the commission may approve, disapprove, or approve with modifications a request for an increase in the allowable height up to thirty-six (36) feet.
3. The architectural review Land Use Authority ~~City Planning Commission~~ must take into account the following criteria when a proposal for height adjustment is requested:
  - a. The geographical position of the building and possible visual effects on existing structures on or off site.
  - b. Potential problems on neighboring sites caused by shadows, loss of solar access, loss or air circulation, closing of views, or ridge line intrusion.
  - c. The influence on the general vicinity including contact with existing buildings and structures, streets, traffic congestion and circulation, and adjacent open space;
  - d. In no case will any increase in height be permitted when the effect of the height increase is to increase the allowable square footage over that which is, or would be, possible under normal zone standards.

### 3-4308 Screening Walls/Fences/Hedges

An opaque screen shall be installed and maintained along all district boundaries, other than streets. Following are acceptable means of providing such screening:

1. Walls: A wall shall consist of concrete, stone, brick, tile, or similar type of solid masonry material a minimum of eight (8) inches thick.
2. Berms: A berm shall be no less than thirty (30) feet in width at the base facing an arterial road and no less than twenty (20) feet in width at the base facing any other street or property. It shall be constructed of earthen material and it shall be landscaped. Grading of berms is further detailed in Section 3-4318 of this Code.
3. No signs or sign supports shall be permitted on any required screening.
4. Notwithstanding the requirements listed above, where the finished elevation of the property is lower at the boundary line, or within five (5) feet inside the boundary line, than an abutting property elevation, such change in elevation may be used in lieu of, or in combination with, additional screening to satisfy the screening requirements for this district.
5. Note: Since walls and hedges are a main visual feature in any development, regulations related to the placement, size and appearance of such structures must be enacted. The following standards shall apply to the installation of all fences, walls, hedges or other visual obstructions used for the purpose of screening, either around the perimeter of the development site or within the development site:
  - a. No wall, hedge or other visual obstruction in excess of six (6) feet shall be allowed on any commercial development site, unless along a district boundary which abuts a residential zone, in which case the height shall be eight (8) feet.
  - b. When there is a difference in the ground level between two adjoining lots, the height of any fence, wall, or hedge constructed along the property line shall be determined by using the finished grade of the highest contiguous lot.
  - c. Only one (1) type of fence or wall design shall be permitted on any one (1) parcel or development. The design may include an appropriate mix of materials subject to the guidelines of these articles ~~and approval by the City Planning Commission.~~
  - d. The use of chain link, barbed wire, electrified fence, or razor wire fence in conjunction with any fence, wall, or hedge, or by itself is prohibited, unless required by any law or regulation of the State of Utah.

- e. On a corner lot, no fence, wall, hedge, sign or other structure, shrubbery, mounds of earth, or other visual obstruction over thirty-six (36) inches in height above the nearest street curb elevation shall be erected, placed, planted, or allowed to grow within a traffic safety sight area.
- f. To protect safe sight-distance for vehicular movement, sight obstructing fences, or walls or other obstructions shall not exceed thirty-six (36) inches in height when located in a front setback.
- g. All walls and fences constructed both around the perimeter of the development or within the site must be of a similar material and construction to the primary building.
- h. Wall materials shall consist of masonry construction finished with a light colored stucco, or mortar washed brick.
- i. If walls are finished in stucco, colors will be limited to earth tones. No bright or neon colors will be allowed.
- j. Any hedges used as screening shall be consistent in appearance to the general landscape of the site. Such hedges may be geometric in shape, but shall be pruned and maintained so as to avoid unsightly appearance and to avoid vehicular sight hazards.

### 3-4309 Parking

Except as may be provided elsewhere in this ordinance, there shall be provided at the time of erection of any building, or at the time any main building is enlarged or increased in capacity, minimum off-street parking space with adequate provisions for ingress and egress by standard-sized automobiles. If any land, structure or use is changed from one use to another which requires more off-street parking spaces, there shall be provided such additional off-street parking for the new use as is required by this chapter.

1. Parking Lot Characteristics. Each parcel of land developed for off-street parking in response to the requirements of this chapter shall provided the following characteristics:
  - a. Surfacing. Each lot shall have a paved, all-weather surfacing material consisting of a minimum of six (6) inches of road base with three (3) inches of asphalt, or, three (3) inches of road base with six (6) inches concrete paving on all parking areas and service roads. Surfacing shall be maintained in good condition and kept clear and in an unobstructed and usable condition at all times during business hours. Responsibility for maintenance of the lot shall rest with the property owner. The lot shall provide adequate access to a street or alley.
  - b. Grading. Parking lots shall be graded for proper drainage with surface water diverted in such a way as to keep the parking area free of accumulated water or ice. All surface drainage shall be contained within development site ~~and approved by City Engineer.~~
  - c. Lighting. Lots shall be properly illuminated, with luminaries arranged so as to baffle and direct light away from any adjoining residential buildings. Lighting details are specified in Section 3-4316 of this Code.
  - d. Size of Spaces. Each parking space shall be a minimum of nine (9) feet wide by eighteen (18) feet long. For uses such as grocery stores, the use of wider spaces with "hairpin" or double line markings is encouraged to ensure adequate space between parked cars to accommodate a shopping cart.
  - e. Handicapped Parking. All structures which are required by the provisions of the Uniform Building Code to have adaptations which assist access by handicapped persons shall, in addition, provide off-street parking for handicapped persons as described below or as required by applicable State or Federal regulations. The provisions described below are minimum requirements, which for good cause, may be altered by ~~the site plan Land Use Authority recommendation of the Planning Commission and approval of the City Council.~~

i. Parking Spaces Required:

|                                 |                                |
|---------------------------------|--------------------------------|
| 2. Total Parking Spaces In Lots | 3. Required Handicapped Space  |
| 4. 20 - 100                     | 5. 2% or a minimum of one      |
| 6. 101 - 200                    | 7. 2 spaces plus 1.0% over 100 |
| 8. 201 - 500                    | 9. 3 spaces plus 0.5% over 200 |

- ii. Parking spaces for the handicapped shall be set aside and identified with signs and appropriate pavement markings for use by individuals with physical disabilities as provided by State and Federal law.
- iii. Parking spaces identified for the physically handicapped shall be a minimum of thirteen (13) feet wide and shall be located as near as possible to the main public or primary entrance of a single building or centrally located where practical in parking lots that serve more than one building.
- iv. Parking spaces shall include a protected passenger loading zone four (4) feet wide to one side of the parking space which has direct access to a hard surfaced walkway either by a level surface or a curbed ramp.
- v. A parking space/passenger loading zone shall be clearly marked by appropriate painted pavement markings ~~as approved by the City Engineer.~~

2. Specific Requirements for Each Land Use. Minimum required off-street parking shall be provided for each use as listed below. Requirements calculated on square footage of commercial space shall be based upon floor area devoted to the principal use or sales and shall not include area devoted to storage, rest rooms, or maintenance areas. Parking for uses not specifically listed below shall be provided in the same ratio as the use most nearly approximating the characteristics of the unlisted use, as determined by the ~~site plan Land Use Authority~~Planning Commission. Parking shall be provided as follows, with spaces based upon one or a combination of uses listed. Parking stalls for all uses shall be in accordance with the following ratios:

- a. Parking stalls per 1,000 square feet of gross square feet of building area.

|                                                                 |                              |
|-----------------------------------------------------------------|------------------------------|
| 3. Retail, personal service and Repair businesses               | 4. 5.0 per 1,000 square feet |
| 5. Medical and dental offices and Clinics                       | 6. 4.0 per 1,000 square feet |
| 7. Other professional and business Offices, including financial | 8. 4.0 per 1,000 square feet |

- b. Increase of the minimum may be required by the site plan Land Use Authority ~~Planning commission or City Council~~ if, ~~in their opinion,~~ there is an exceptional need for said increased parking.
- c. In cases where less parking is appropriate, the site plan Land Use Authority ~~Planning Commission~~ may reduce requirements based upon actual usage of employees and customers, but in no case shall the requirements be reduced by more than twenty-five (25) percent.
- d. In cases where the category into which a use should be placed is unclear, or a use does not conform to any of the above categories, or the use is allowed under a Conditional Use Permit, the site plan Land Use Authority ~~Planning Commission~~ shall determine the appropriate category or establish a parking ratio.
- e. In cases where uses occupying the same structure or within two-hundred and fifty (250) feet of one another on the same lot or adjacent lots under the same ownership are uses where parking demand times do not normally or significantly overlap, shared parking may be permitted by the site plan Land Use Authority ~~Planning Commission~~. At the time of site plan review for each development increment, a precise parking plan shall be submitted showing all parking spaces, the overall circulation system, an analysis of the parking demand for the specific land uses proposed, and other justification as necessary for requesting reductions in parking space requirements.

### 3. Location of Parking.

- a. No on-street parking shall be permitted in a commercial zone. No parking shall be permitted in the minimal front, side or rear setback areas except:
  - ii. Where a side or rear setback area abuts a residential zone, parking may be permitted to within ten (10) feet of the district line, if in the determination of the site plan Land Use Authority

~~Planning Commission~~ the parking will be necessary only during the normal daytime weekday working hours.

iii. Where parking within the front or side setback areas is adequately separated from public rights-of-way with continuous landscaping at least thirty (30) feet wide, less areas for curb inlets and drive entrances.

b. Required off-street parking shall be provided on the site of the use served, or on an alternate site within the same district. Where parking is provided on other than the site concerned, a recorded document shall be filed with the ~~site plan Land Use Authority, Planning Commission~~ and signed by the owners of the alternate site, stipulating to the permanent reservation of use of the site for said parking. The parking setback restrictions set forth above shall also apply to contiguous or alternate parking sites.

c. Parking facilities need not be located in one consolidated area of a particular site, but may be separated by landscaping or building elements.

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### 3-4310 Loading

The following articles apply to the loading and/or unloading of materials in a commercial development:

1. All loading and unloading operations shall be performed on the site. Off-street berths shall be provided in addition to required off-street parking and shall not be located within driveways.
2. Each loading berth shall not be less than twelve (12) feet wide, twenty-five (25) feet long and if enclosed and/or covered, fourteen (14) feet high. Adequate turning and maneuvering space to be provided within the lot lines.
3. Such loading areas should be located away from the public street to which the use is oriented.
4. To the greatest extent possible, loading areas should be screened from all public streets. This shall be accomplished through careful site planning, and the use of screen walls and landscaping.
5. In no event shall a loading dock be closer than seventy-five (75) feet from a property line fronting upon a street.
6. Loading berths shall be required as follows:
  - a. Commercial and service uses with over ten thousand (10,000) square feet floor area to be determined by the site plan Land Use Authority~~City Council upon recommendation of the Planning Commission~~, but in no case less than two (2) loading berths.
  - b. The hours of loading and unloading, including trash removal, for any business that uses building entrances that face an adjacent residential zone shall be restricted to the hours between 7:00 a.m. and 10:00 p.m.

### 3-4313 Hardscape

1. Hardscape should be used in coordination with architecture and landscaping to provide a link between the street edge and individual developments. Attention to Hardscape details can create visual unity by relating different developments to a unifying theme. In addition, proper hardscaping can improve pedestrian safety and movement, and the visual enjoyment of public areas.
2. Hardscape can include such items as benches, sculptures, water fountains, enriched paving treatments, cobblestone walkways, etc. A detailed plan of Hardscape design shall accompany landscape plans and shall be ~~subject to review by the~~ reviewed by the site plan Land Use Authority City Planning Commission to determine continuity with overall development plan and harmony with the development of surrounding properties.
3. The following specifications shall apply to Hardscape curbing and are found in Section 3-4311. Driveway and Curb Openings:
  - a. Access shall be by not more than one (1) roadway for each two-hundred (200) feet or fraction thereof of frontage on any street.
  - b. Curb cuts shall be offset a minimum of 350 feet from the centerline of major arterials at intersections, but in no case shall be located within the operational area of the intersection (which includes turning lanes with associated tapers), as defined in the "Guidelines" referred in Section 3-4311.
  - c. Curb cuts and driveway aisles shall be shared at property lines between parcels whenever possible.

### 3-4317 Projections

The following list represents the only projections/construction that shall be permitted within the required setback areas:

1. Front Setback: Roof overhangs
2. Rear/Side Setbacks: Roof overhangs, and any projection/substructure which is determined by the architectural review Land Use Authority Planning Commission to substantially contribute to public safety.

### 3-4319 Utilities/Equipment

The following articles shall relate to the installment, location and screening of utilities and other exterior equipment:

1. All utilities, including drainage systems, sewer, gas and water lines, electrical, telephone and communications wires, and related equipment, irrigation ditches and/or pipes, shall, where possible, be installed and maintained underground.
2. No mechanical equipment (including, but not limited to, components of plumbing, processing, heating, cooling, and ventilating systems) shall be visible on site or from adjacent property.
3. No exterior components of such mechanical equipment (e.g. piping, stacks and duct work, fans and compressors) shall be mounted on any building wall unless they are an integrated architectural design feature. Any such components shall only be permitted with the ~~written~~ approval of the architectural review Land Use Authority ~~City Planning Commission~~.

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### 3-4324 Architectural Design

Prior to the issuance of building permits for any ~~permitted or conditional use within the Highland City Commercial District~~, the architectural review Land Use Authority City Planning Commission shall review the proposed development plans to assure compliance with the architectural design guidelines provided in this and other sections of Article 4.3 of Highland City's C-1 Zone. Any Appeals from final decisions of actions on architectural compliance ~~may~~ shall be heard by the City Council architectural review Appeal Authority.

1. Overall architectural outline.
  - a. The proposed development shall be of a quality and character which is consistent with the community design goals and policies including but not limited to: scale, height, bulk, materials, cohesiveness, colors, roof pitch, roof eaves and the preservation of privacy.
  - b. The design shall improve community appearance by avoiding excessive variety and monotonous repetition.
  - c. Proposed signage and landscaping shall be an integral architectural feature which does not overwhelm or dominate the structure or property.
  - d. Lighting shall be stationary and deflected away from all adjacent properties and public streets and rights-of-way.
  - e. Mechanical equipment, storage, trash areas, and utilities shall be architecturally screened from public view.
  - f. With the intent of protecting sensitive land uses, any proposed design shall promote a harmonious and compatible transition in terms of scale and character between areas of different land uses.
  - g. All building elevations shall be architecturally treated.
  - h. Parking structures shall be architecturally compatible with the primary structure.
  - i. Both sides of all perimeter walls or fences shall be architecturally treated.
  - j. Each licensed business will provide public rest rooms of sufficient size to service potential customers including men and women. The rest rooms shall be designed in accordance with the ubc to accommodate handicapped persons.
2. Architectural guidelines. the following architectural design guidelines apply to all ~~permitted and conditional uses in the highland city commercial district~~:

- a. The following architectural styles and motifs are prohibited in highland city:
  - i. A-frame structures
  - ii. Geodesic dome structures
  - iii. Mediterranean motifs
  - iv. Tudor or mock tudor (half timbering)
  - v. Highly ornate victorian
  - vi. Rustic frontier
  - vii. Pre-fabricated or industrial
- b. Note. aluminum siding is generally not considered a material of choice. The ~~architectural review Land Use Authority~~~~planning commission~~ may, however, consider requests for the use of aluminum siding. The applicant will be required to bring a sample of the type and color of siding to be approved ~~by the planning commission~~. When aluminum siding is approved, it shall have a minimum thickness of .019 inches and shall be backed or insulated with a minimum of 3/8 inch fiberboard or polystyrene foam. The siding materials listed below are prohibited in any commercial building in ~~h~~Highland ~~e~~City:
  - i. Shake shingles
  - ii. Ceramic tile
  - iii. Weeping mortar
  - iv. Plastic or vinyl siding
  - v. Used brick
  - vi. Lava rock
  - vii. Asphalt or hardboard siding
  - viii. Plywood siding
  - ix. Stucco walls divided by wood dividers
  - x. Metal grills and/or facades
  - xi. Non-colored-anodized and/or unpainted aluminum, except for flagpoles.
- c. Architectural design in ~~h~~Highland ~~e~~City has primarily been simple. Highly ornate buildings are inconsistent with the architecture of the community and shall be prohibited.

- d. Different exterior siding materials add interest to a building, and to the community as a whole, however, the use of too many exterior materials, like excessive ornamentation, detracts from the values of adjoining properties. Exterior walls of any building may be sided with up to three different materials per building, but no more than three materials may appear on any one wall, including ornamental siding. Trim shall not be counted as a siding material. If trim covers more than 10% of a side of the building, it shall be counted as a siding material on that side.
- e. Colors shall be limited to soft shades and/or earth tones. No bright or neon colors shall be allowed on exterior of buildings.

### 3-4327 Submittal Requirements

All ~~permitted~~ uses proposed for development under this Article shall be subject to site plan review ~~according to Highland City Development Policy~~. There shall be submitted to the ~~Planning Commission Zoning Administrator~~ a plan for the use and development of each tract for the purposes of and meeting the requirements set forth in this ordinance. Said plan shall be accompanied by information concerning the number of persons to be employed, the effects on surrounding property, and other physical conditions, including the effect of the project on adjacent streets and shall include the following:

1. A site plan showing lot lines and defining the area to be occupied by buildings, the areas and configurations to be used for parking, the location of roads, driveways, signs, and walks, the spaces for loading, and the character and extent of landscaping, planting and other treatment for adjustment to surrounding property.
2. Enough information on land areas adjacent to the proposed development to indicate adjacent land uses, zoning classifications, circulation systems, public facilities, and unique natural features of the landscape.
3. Elevations and/or architectural renderings of buildings' facades facing public rights-of-way and district boundaries where the premises abut areas zoned for residential uses, said elevations or renders being sufficiently complete to show building heights and roof lines, the location and height of any walls, signs, and light standards, openings in the facade, and the general architectural character of the building.
4. Any additional information as required by the ~~Reviewing Body, Recommending Body, or Land Use Authority Planning Commission~~ to evaluate the character and impact of the proposed development.
5. Additional requirements associated with a Conditional Use Permit application, see General Provision Section.

### 3-4328 Action On Site Plan

The ~~Planning Commission~~ site plan Recommending Body shall review the site plan and make a recommendation to the site plan Land Use Authority ~~either recommend, deny, or recommend with conditions, the site plan~~. The site plan then ~~must will~~ be approved ~~reviewed~~ by the ~~City Council~~ site plan Land Use Authority.

1. Findings necessary to granting approval for the site plan are:
  - a. The proposed use and development of land conforms to the provisions of this ordinance, and requirements of Engineering, Fire Department, Flood Control, Business License, and Planning Department. ~~Each of these units shall review the proposed site plan and submit their written comments to the Planning Commission and City Council.~~
  - b. The development is otherwise not detrimental to the public health, safety, general welfare, or to adjacent property, or to the orderly development of the City.
  - c. Approval of a traffic impact (TIA) analysis for the proposed development, to be completed by a competent transportation engineer at the developer's expense. Said TIA shall, as a minimum, address the suitability of the proposed parking, street access, driveway, and on-site traffic circulation systems and the impact on the adjacent street system.
  - d. Demonstration that adverse impacts on neighboring residential properties have been reasonably initiated.

### **3-4329 Site Plan Appeals**

Any Appeals from any final decision of the site plan Land Use AuthorityCity Council with respect to a Conditional Use Permit may shall be directed heard by to the site plan Appeal AuthorityDistrict Court within thirty days.

## [CR Zone] 3-4354 Development Standards

1. An area to be ~~Zzoned~~ C-R shall be recommended by the ~~Recommending Body Planning Commission~~ and approved by the ~~Land Use Authority pursuant to the City's legislative authority and discretion, City Council~~ and shall have the following characteristics:
  - a. In order to encourage uses consistent with the Commercial Architectural Design Guidelines and with the objectives of the commercial district and to ensure adequate site planning, the entire site must be master planned, including sufficient surrounding property to provide proper transition into neighboring zoning designations, even though it may be developed in stages or phases. In the event specific tenants are not know at the time of site planning, the owner/developer shall show only a building envelope as a place holder for a future building.
  - b. Each phase must adhere to the original plan except as may be subsequently modified by the developer with the approval of the ~~site plan Land Use AuthorityPlanning Commission and City Council~~.
2. Development of property zoned CR requires the following approvals:
  - a. Site plan approval, which includes review and approval of site coverage, building setbacks, screening and fences, parking, loading, and driveway areas, traffic circulation, landscaping and hardscaping, transition and buffering between adjacent uses, lighting, grading, drainage, utility design, and other engineering design elements;
  - b. Architectural review approval, which includes review of building height, design, materials, and aesthetics;
  - c. Conditional use permit approval, for conditional uses; and
  - a.d. Construction approvals, including building permits, sign permits, and right of way permits.

### 3-4356 Building Setbacks

1. Canopies, overhangs, and similar coverings may project into the setback area, as much as 10', if approved by the architectural review Land Use Authority~~Planning Commission~~.
2. Where a property line abuts a residential district, setback area shall be a minimum of one hundred (100) feet from any wall of the home or residence (excluding the garage or other ancillary buildings) on the adjacent property or 30' from a property line whichever is greater.
3. These setbacks shall only apply to the property lines around the perimeter of the site. There shall be no minimum setback (front, side or rear) requirements for subdivided parcels that lie within the site plan except when the property line of any subdivided parcel is part of the perimeter property line for the entire site.
4. No building shall be constructed within 100 feet of where an animal is housed, sheltered or fed.

### 3-4358 Screening Walls/Fences/Hedges

An opaque screen shall be installed and maintained along all district boundaries, other than streets. The following are acceptable means of providing such screening:

1. Walls. A wall shall consist of concrete, stone, brick, tile, or similar type of solid masonry material a minimum of eight (8) inches thick and eight (8) feet in height.
2. Berms. If a wall is not used, a berm may be used, except on a property line abutting residential property. The berm shall be no less than fifteen (15) feet in width at the base facing an arterial road and no less than fifteen (15) feet in width at the base facing any other street or property. It shall be constructed of earthen material and it shall be landscaped. Grading of berms is further detailed in Section 3-4318 of this Code.
3. No signs or sign supports shall be permitted on any wall.
4. Notwithstanding the requirements listed above, where the finished elevation of the property is lower at the district boundary line, or within five (5) feet inside the district boundary line, than an abutting property elevation, such change in elevation may be used in lieu of, or in combination with, additional screening to satisfy the screening requirements.
5. Note. Since walls and hedges are a main visual feature in any development, regulations related to the placement, size and appearance of such structures must be enacted. The following standards shall apply to the installation of all fences, walls, hedges or other visual obstructions used for the purpose of screening, either around the perimeter of the development site or within the development site:
  - a. No wall, hedge or other visual obstruction in excess of six (6) feet shall be allowed on any commercial development site, unless along a district boundary which abuts a residential zone, in which case the height shall be eight (8) feet.
  - b. When there is a difference in the ground level between two adjoining lots forming the district boundary, the height of any fence, wall, or hedge constructed along the property line shall be determined by using the finished grade of the highest contiguous lot.
  - c. Only one (1) type of fence or wall design shall be permitted on any one (1) parcel or Development site. The design may include an appropriate mix of materials subject to the guidelines of these articles ~~and approval by the City Planning Commission.~~
  - d. The use of chain link, barbed wire, electrified fence, or razor wire fence in conjunction with any fence, wall, or hedge, or by itself is prohibited, unless required by any law or regulation of the State of Utah.

- e. On a corner lot, no fence, wall, hedge, sign or other structure, shrubbery, mounds of earth, or other visual obstruction over thirty-six (36) inches in height above the nearest street curb elevation shall be erected, placed, planted, or allowed to grow within a traffic safety sight area.
- f. To protect safe sight-distance for vehicular movement, sight obstructing fences, walls or other obstructions shall not exceed thirty-six (36) inches in height when located in a front setback.
- g. A fence may not be constructed along a front yard, within a front setback, within the parkway detail, or along SR-92 or SR-74.
- h. All walls and fences constructed both around the perimeter of the development or within the site must be of a similar material and construction to the primary building.
- i. If walls are finished in stucco, colors will be limited to earth tones. No bright or neon colors will be allowed.
- j. Any hedges used as screening shall be consistent in appearance to the general landscape of the site. Such hedges may be geometric in shape, but shall be pruned and maintained so as to avoid unsightly appearance and to avoid vehicular sight hazards.

### 3-4359 Parking

Except as may be provided elsewhere in this ordinance, there shall be provided at the time of erection of any building, or at the time any main building is enlarged or increased in capacity, minimum off-street parking space with adequate provisions for ingress and egress by standard-sized automobiles. If any land, structure or use is changed from one use to another which requires more off-street parking spaces, there shall be provided such additional off-street parking for the new use as is required by this chapter.

1. Parking Lot Characteristics. Each parcel of land developed for off-street parking in response to the requirements of this chapter shall provide the following characteristics:
  - a. Surfacing. Each parking lot shall have a paved, all-weather surfacing material consisting of a minimum of six (6) inches of road base with three (3) inches of asphalt, or, three (3) inches of road base with six (6) inches concrete paving on all parking areas and service roads. These depths may be modified based on the geotechnical conditions found on the site ~~and with the approval of the City Engineer~~. Surfacing shall be maintained in good condition and kept clear and in an unobstructed and usable condition at all times during business hours. Responsibility for maintenance of the parking lot shall rest with the property owner. The parking lot shall provide adequate access to a street or alley.
  - b. Grading. Parking lots shall be graded for proper drainage with surface water diverted in such a way as to keep the parking area free of accumulated water or ice. All surface drainage shall be contained within development site, unless off-site storm drainage capacity is available ~~and satisfies City standards and as approved by City Engineer~~.
  - c. Lighting. Parking lots shall be properly illuminated, with luminaries arranged so as to baffle and direct light away from any adjoining residential buildings. Lighting details are specified in Section 3-4316 of this Code.
  - d. Size of Spaces. Each parking space shall be a minimum of nine (9) feet wide by eighteen (18) feet long.
  - e. Handicapped Parking. All structures which are required by the provisions of the most currently adopted International Uniform Building Code to have adaptations which assist access by handicapped persons shall, in addition, provide off-street parking for handicapped persons as described below or as required by applicable State or Federal regulations. The provisions described below are minimum requirements, which for good cause, may be altered by the site plan

~~Land Use Authority recommendation of the Planning Commission and approval of the City Council.~~

i. Parking Spaces Required:

| Parking Spaces Required: Total Parking Spaces | Required Handicapped Spaces |
|-----------------------------------------------|-----------------------------|
| 20 - 100                                      | 2% or a minimum of one      |
| 101 - 200                                     | 2 spaces plus 1.0% over 100 |
| 201 - 500                                     | 3 spaces plus 0.5% over 200 |

- ii. Parking spaces for the handicapped shall be set aside and identified with signs and appropriate pavement markings for use by individuals with physical disabilities as provided by State and Federal law.
- iii. Parking spaces identified for the physically handicapped shall be a minimum of nine (9) feet wide and shall be located as near as possible to the main public or primary entrance of a single building or centrally located where practical in parking lots that serve more than one building.
- iv. Parking spaces shall include a protected passenger loading zone four (4) feet wide to one side of the parking space which has direct access to a hard surfaced walkway either by a level surface or a curbed ramp.
- v. A parking space/passenger loading zone shall be clearly marked by appropriate painted pavement markings ~~as approved by the City Engineer.~~

2. Specific Requirements. It is the intent of this Zone to encourage sharing of parking stalls between uses so as to minimize the number of overall parking stalls within a development site.
- a. The minimum required number of off-street parking stalls for the development site shall be calculated based upon the interior floor area of the proposed building devoted to the principal use or sales and shall not include area devoted to storage, kitchens, rest rooms, break rooms, or maintenance areas (“interior Floor Area”). When there are multiple buildings proposed for the development site, the Interior Floor Area calculated for each building shall be added together to obtain an aggregate Interior Floor Area for the entire development site. In this Zone the minimum average parking stall to aggregate Interior Floor

Area shall be no less than four (4.00) parking stalls per one-thousand square feet of Interior Floor Area (4.00:1,000) for the total development site on a shared basis. All interior subdivided parcels must have vehicular access connecting that parcel's parking stalls to the balance of the parking lot of the development site.

- b. The owner/developer may increase the number of stalls above the minimum with the approval of the ~~Planning Commission~~site plan Land Use Authority.
- c. In cases where less parking is appropriate, the owner/developer may reduce the number of parking stalls below the average minimum requirement with the approval of the site plan Land Use Authority~~Planning Commission~~. However, in no case shall the requirements be reduced by more than twenty-five (25) percent.

### 3. Location of Parking.

- a. No on-street parking shall be permitted in this Zone. No parking shall be permitted within the minimal front, side or rear setback areas except:
- b. Where a setback area abuts another District, parking may be permitted to within ten (10) feet of the district line provided that use of such parking is limited to regular weekday business hours.
- c. Where parking within the front or side setback areas is adequately separated from public right-of-ways with continuous landscaping at least fifteen (15) feet wide.
  - i. Required off-street parking shall be provided on the development site, or on an alternate site within the same District. Where parking is provided on other than the development site concerned, a recorded document shall be filed with the ~~Planning Commission~~site plan Land Use Authority and signed by the owners of the alternate site, stipulating to the permanent reservation of use of the site for said parking. The parking setback restrictions set forth above shall also apply to contiguous or alternate parking sites.
  - ii. Parking facilities need not be located in one consolidated area of a particular site, but may be separated by landscaping or building elements, however each phase of a development shall provide for adequate parking.
- d. A majority of parking shall be considered "interior" with buildings/structures acting as a buffer between parking areas and the public right-of-way.

### 3-4362 Hardscape

1. Hardscape should be used in coordination with architecture and integrated into the landscaping to provide a link between the public street edge and individual buildings. Attention to hardscape details can soften commercial development and create visual unity by relating different developments to a unifying theme. In addition, proper hardscaping can improve pedestrian safety and movement, provide for public engagement and the visual enjoyment of public areas.
2. Hardscape can include such items as benches, sculptures, water fountains, pavers, cobblestone walkways, outdoor eating areas, etc. The details of hardscape design shall be incorporated into the site plan and landscape plan and shall be reviewed by the site plan Land Use Authority subject to review by the Planning Commission to determine continuity with overall development plan and harmony with the development of surrounding properties.
3. A landscape credit shall be granted when the owner/developer provides extraordinary landscape or hardscape features that enhance the public or visitor experience. Landscape credit shall be granted when the following requirements are met:
  - a. At least 10% of the total landscape area of the site is treated with Hardscape features and elements as follows:
    - i. At least 20% of the hardscape has some vegetation excluding turf in the area (ex.; planters, tree wells, ponds, etc.)
    - ii. A maximum of 25% of one hard scape element is used per area (ex.; benches, tables, fountains, sculptures, etc.)
    - iii. Pavers, cobblestone, or other similar ground treatments are considered.
    - iv. Stamped/stained concrete or asphalt shall not be considered as Hardscape.
    - v. Hardscape design should include a variety of seating places, walking places, water features and masonry as defined above.
  - b. When the above requirements are satisfied, a landscape credit of 5.0% shall be applied against the total site minimum landscape requirement found in Section 3-4361 (14).

### 3-4366 Utilities/Equipment

The following articles shall relate to the installment, location and screening of utilities and other exterior equipment:

1. All utilities, including drainage systems, sewer, gas and water lines, electrical, telephone and communications wires, and related equipment, irrigation ditches and/or pipes, shall, where possible and economically feasible, be installed and maintained underground.
2. No mechanical equipment (including, but not limited to, components of plumbing, processing, heating, cooling, and ventilating systems) shall be visible on site or from any public street.
3. No exterior components of such mechanical equipment (e.g. piping, stacks and duct work, fans and compressors) shall be mounted on any building wall unless they are an integrated architectural design feature. Any such components shall only be permitted with the ~~written~~ approval of the ~~Planning Commission~~ architectural review Land Use Authority.

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### 3-4370 Architectural Design

Prior to the issuance of building permits for any ~~permitted or conditional use within the Highland City Commercial Retail District~~, the architectural review Land Use Authority Planning Commission and City Council shall review the proposed development plans to assure compliance with the Commercial Retail Architectural Design Standards and other sections. Any Appeals of actions-final decisions on architectural compliance ~~may shall~~ be heard by the Highland City architectural review Appeals Authority.

1. Overall architectural outline.

- a. The proposed development shall be of a quality and character which is consistent with the community design goals and policies including but not limited to: scale, height, bulk, materials, cohesiveness, colors, roof pitch, roof eaves and the preservation of privacy.
- b. The design shall improve community appearance by avoiding excessive variety and monotonous repetition.
- c. The design shall include a majority of architectural elements which are commonly found in other commercial areas in highland (ex: columns, lentils, window treatments w/ high percentage of fenestration, portico/arbor/arcade, architectural roofing material, quoins, building materials (earth-tone colors, brick, rock, trim)
- d. Proposed signage and landscaping shall be an integral architectural feature which does not overwhelm or dominate the structure or property.
- e. A sign theme shall be incorporated requiring consistent materials and construction.
- f. Lighting shall be stationary and deflected away from all adjacent properties and public streets and right-of-ways.
- g. An exterior lighting theme shall be required which is consistent with the lighting in other areas of commercial in highland.
- h. Mechanical equipment, storage, trash areas, and utilities shall be architecturally screened from public view.
- i. With the intent of protecting sensitive land uses, any proposed design shall promote a harmonious and compatible transition in terms of scale and character between areas of different land uses.
- j. Both sides of all perimeter walls or fences shall be architecturally treated.

- k. Each licensed business will provide one ada compliant public rest room for use by men and women. The rest rooms shall be designed in accordance with the ubc to accommodate handicapped persons.
  - l. Gasoline islands, canopy areas, gasoline uses and pump islands shall be architecturally treated to adhere to this ordinance. These uses shall be designed with materials, colors, and features which match the structure to which it is associated. The exterior of any gasoline islands and supporting structures (including pump island supporting structures) shall have a surface material which consists of a minimum of 50% masonry or rock.
2. The following guidelines apply to all ~~permitted and conditional~~ uses ~~in the highland city commercial retail zone~~:
- a. The following architectural styles and motifs are prohibited in highland city unless consistent with an approved design theme:
    - i. A-frame structures
    - ii. Geodesic dome structures
    - iii. Mediterranean motifs
    - iv. Highly ornate victorian
    - v. Pre-fabricated or industrial
    - vi. Aluminum siding
    - vii. Architectural design in highland city has primarily been simple. Highly ornate buildings are inconsistent with the architecture of the community and shall be prohibited.
  - b. The siding materials listed below are prohibited in any commercial building in highland city:
    - i. Shake shingles
    - ii. Weeping mortar
    - iii. Plastic or vinyl siding
    - iv. Used brick
    - v. Lava rock
    - vi. Asphalt or hardboard siding
    - vii. Plywood siding
    - viii. Stucco walls divided by wood dividers

- ix. Metal grills and/or facades
    - x. Non-colored-anodized and/or unpainted aluminum, except for flagpoles.
  - c. Different exterior siding materials add interest to a building, and to the community as a whole, however, the use of too many exterior materials, like excessive ornamentation, detracts from the values of adjoining properties. Exterior walls of any building may be sided with up to three different materials per building, but no more than three materials may appear on any one wall, including ornamental siding. Trim shall not be counted as a siding material.
  - d. If trim covers more than 10% of a side of the building, it shall be counted as a siding material on that side. Colors shall be limited to soft shades and/or earth tones. No bright or neon colors shall be allowed on exterior of buildings.
3. Roof design. The following articles shall apply to roof structure and design in any commercial development:
- a. The following roofing materials are prohibited, either because of their appearance, or because they are not likely to perform satisfactorily in the climate of highland city:
    - i. Untreated aluminum or metal (except that copper and standing seam metal roofs may be used)
    - ii. Reflective materials
    - iii. Brightly colored roofing materials such as bright red, blue, yellow, neon colors, or similar colors that are highly visible unless approved by the ~~planning commission~~architectural review Land Use Authority.
  - b. The following roof shapes are prohibited in highland city, either because of their appearance, or because of their poor performance:
    - i. Gambrel roofs
    - ii. Curvilinear roofs
    - iii. Domed roofs
    - iv. Geodesic domes
    - v. Conical roofs
    - vi. A-frame or modified a-frame roofs
  - c. Skylights and solar panels must be designed to fit flush with the roof surface, or up to a maximum of two feet above the roof's surface. No

reflective materials may be used unless thoroughly shielded to prevent reflection into nearby properties.

- d. A gasoline use canopy or island shall be designed to imitate the primary building of which it is associated (any signage associated with a gasoline use shall be located under the eave of the roof and shall not be permitted above the highest part of the eave. If the canopy is flat, then a sign shall not project above the highest part of the roof structure).
- e. Roof types and ridge heights shall vary along building frontages. A single roof type or roof ridge height shall not exceed 50 feet in horizontal length unless it is separated by a varied roof type or roof ridge height. If the ridge height is varied then it shall be a vertical variation of at least eighteen (18) inches in height minimum.

### 3-4373 Submittal Requirements

All ~~permitted or conditional~~ uses proposed for development under this Article shall be subject to site plan review ~~according to Highland City Development Policy~~. There shall be submitted to the ~~Planning Commission~~Zoning Administrator, a site plan for the use and development of the entire development site for the purposes of and meeting the requirements set forth in this ordinance. The Site Plan shall include the following:

1. A site plan showing lot lines and defining the area to be occupied by buildings, the areas and configurations to be used for parking, the location of roads, driveways, signs, and walks, the spaces for loading, and the character and extent of landscaping, planting and other treatment for adjustment to surrounding property.
2. Enough information on land areas adjacent to the proposed development to indicate adjacent land uses, zoning classifications, circulation systems, public facilities, and unique natural features of the landscape.
3. Elevations and/or architectural renderings of buildings' facades facing public rights- of-way and district boundaries where the premises abut areas zoned for residential uses, said elevations or renders being sufficiently complete to show building heights and roof lines, the location and height of any walls, signs, and light standards, openings in the facade, and the general architectural character of the building.
4. Additional requirements associated with a Conditional Use Permit application, see General Provision Section, if conditional use approval is required.

### 3-4374 Action On Site Plan

The ~~site plan Recommending Body~~ Planning Commission shall review the site plan and make a recommendation to the site plan Land Use Authority~~either; recommend, deny, or recommend with conditions, the site plan~~. The site plan then will be reviewed ~~considered for approval~~ by the ~~City Council~~ site plan Land Use Authority.

1. Findings necessary to granting approval for the site plan are:
  - a. The proposed use and development of land conforms to the provisions of this ordinance, and requirements of Engineering, Fire Department, and Planning Department. ~~Each of these units shall review the proposed site plan and submit their written comments to the Planning Commission and City Council.~~
  - b. The development is otherwise not detrimental to the public health, safety, general welfare, to adjacent property, or to the orderly development of the City.
  - c. Approval of a traffic impact (TIA) analysis, for the proposed development, to be completed by a competent transportation engineer at the owner/developer's expense. Said TIA shall, as a minimum, address the suitability of the proposed parking, street access, driveway, and onsite traffic circulation systems and the impact on the adjacent street system.
  - d. Demonstration that adverse impacts on neighboring residential properties have been reasonably mitigated.
2. The following items shall be required for Site Plan Approval:
  - a. Landscaping Plan
  - b. Lighting Plan
  - c. Grading Plan/Drainage Plan
  - d. Traffic Circulation Plan
  - e. Transition and Buffer Plan, setting forth how the uses within the project will be transitioned along the perimeters of the project, and how the buffers will be employed to mitigate any negative impacts of the project onto adjoining properties.
  - f. Fiscal Impact Projections prepared at the direction of the ~~City Council~~ site plan Land Use Authority.

### **3-4375 Site Plan Appeals**

~~Any Appeals from any final decision of the site plan Land Use Authority City Council with respect to a Conditional Use Permit may shall be heard directed to by the site plan Appeal Authority within thirty days. Any appeal shall be in accordance with Chapter 2, Title 3, Appeal Authority as defined in this code.~~

### 3-4502 Permitted Conditional Uses

The only uses allowed within the R-P Zone shall be Conditional Uses which satisfy the primary intent or purpose for the Zone ~~and which are subject to special conditions as may be imposed by the planning commission or city council~~. All such conditional uses are subject to additional conditions considered appropriate and necessary by the ~~Planning Commission and City Council~~ conditional use Land Use Authority. Those uses which are incompatible with the desired land use for the R-P Zone are prohibited. Following is a list of conditional uses for the R-P Zone, subject to the standards and procedures established in this Code.

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### 3-4504 Development Standards

1. An area to be ~~z~~Zoned R-P shall have the following characteristics:
  - a. In order to encourage uses consistent with the objectives of the Residential-Professional district and to ensure adequate site planning, the entire site must be master planned at the time of site plan approval, even though it may be developed in stages or phases. Each phase must adhere to the original plan except as subsequently approved by the ~~site plan Land Use Authority~~Planning Commission and City Council. Site must have a minimum of two-hundred (200) feet of frontage on a dedicated public street. Control of the property by a single person, association, partnership, or corporation must be demonstrated.
  - b. Although the Residential-Professional district may provide goods and/or services to citizens from surrounding communities, it's services should be focused primarily for the benefit of the residents of Highland City.
2. Development of property zoned R-P requires the following approvals:
  - a. Site plan approval, which includes review and approval of site coverage, building setbacks, screening and fences, parking, loading, and driveway areas, traffic circulation, landscaping and hardscaping, transition and buffering between adjacent uses, lighting, grading, drainage, utility design, and other engineering design elements;
  - b. Architectural review approval, which includes review of building height, design, materials, and aesthetics;
  - c. Conditional use permit approval, for conditional uses; and
  - d. Construction approvals, including building permits, sign permits, and right of way permits.

### 3-4505 Site Coverage

Coverage regulates the area of the site that may be covered by the building. Covered walkways, roof structure overhangs, and other solar protection or aesthetic structural elements should not be included in building coverage calculations. These guidelines also help protect area dedicated to landscape and parking.

1. Coverage of a site by a building structure shall not exceed twenty-five (25) percent of the total site. This coverage may be increased, subject to the ~~recommendation approval~~ of the ~~City Planning Commission and/or approval by the City Council~~ site plan Land Use Authority, if the project demonstrates superior response to the Residential-Professional zoning guidelines. In no case, however, shall site coverage exceed 35 percent.
2. When covered parking structures are provided, such structures shall not cover more than an additional 20 percent of the ground plane.
3. In all site plan configurations, landscaping shall occupy no less than thirty-five percent (35%) of the total land area under development.

### 3-4506 Building Setbacks

It shall be within the authority of the ~~site plan Land Use Authority~~Planning Commission to determine, for any development in this district, which property line or lines shall be considered as side or as rear lines for the purpose of administering this ordinance.

1. No building shall be closer to a public street right-of-way than eighty (80) feet unless all parking is provided in the rear of the building, in which case it may be no closer than thirty-five (35) feet. No building, with the exception of any portion that contains a drive-up window or counter, shall be closer than thirty (30) feet from any private road or driveway. Structures which are adjacent to a plaza, mall, or other permanent pedestrian open space under the same ownership as the structure may abut the space and have openings into it. The ~~planning commission~~site plan Land Use Authority may reduce the front yard setback to thirty (30) feet if the reduction will increase the rear yard setback between the building and existing residential uses.
2. The public street right-of-way line shall be considered the front property line of a lot. Where a lot is bordered on two or more sides by a public street right-of-way, all such sides shall be considered as front property lines, and the area between the front property line and the building lines shall be known as the front setback area in all cases. Canopies, overhangs, and similar coverings may project into the front setback area, as much as 10', if approved by the ~~Planning Commission~~architectural review Land Use Authority.
3. Side setback areas shall be a minimum of ten (10) feet including canopies and overhangs except where a side property line abuts a residential district, in which case the setback area shall be a minimum of twenty-five (25) feet.
4. Rear setback areas shall be a minimum of ten (10) feet except where a rear property line abuts a residential district, in which case the rear setback area shall be a minimum of twenty (20) feet.

### 3-4507 Building Height

1. The maximum height for all buildings shall not exceed thirty (30) feet, measured from natural grade, and no building shall be erected to a height less than ten (10) feet or one story above grade. Where the ground or the top of the building is uneven in height, the average elevation thereof shall apply. Maximum height shall include signs and parapets or any other projection from the building.
2. The height requirements of this section shall apply to all commercial developments, except that ~~after review by the planning commission,~~ the architectural review Land Use Authority ~~commission~~ may approve, disapprove, or approve with modifications a request for an increase in the allowable height up to thirty-six (36) feet.
3. The architectural review Land Use Authority ~~City Planning Commission~~ must take into account the following criteria when a proposal for height adjustment is requested:
  - a. The geographical position of the building and possible visual effects on existing structures on or off site.
  - b. Potential problems on neighboring sites caused by shadows, loss of solar access, loss or air circulation, closing of views, or ridge line intrusion.
  - c. The influence on the general vicinity including contact with existing buildings and structures, streets, traffic congestion and circulation, and adjacent open space;
  - d. In no case will any increase in height be permitted when the effect of the height increase is to increase the allowable square footage over that which is, or would be, possible under normal zone standards.

### 3-4508 Screening Walls/Fences/Hedges

An opaque screen shall be installed and maintained along all district boundaries, other than streets. Following are acceptable means of providing such screening:

1. Walls. A wall shall consist of stone, brick, tile, or similar type of solid masonry material ~~(if approved by the City Council)~~ a minimum of eight (8) inches thick or consist of a decorative double-sided seamless panel concrete wall, ~~as recommended by the Planning Commission and approved by the City Council~~. All such walls must be landscaped with vegetation.
2. Berms. A berm shall be no less than thirty (30) feet in width at the base facing an arterial road and no less than twenty (20) feet in width at the base facing any other street or property. It shall be constructed of earthen material and it shall be landscaped. Grading of berms is further detailed in Section 3-4518 of this Code.
3. No signs or sign supports shall be permitted on any required screening.
4. Notwithstanding the requirements listed above, where the finished elevation of the property is lower at the boundary line, or within five (5) feet inside the boundary line, than an abutting property elevation, such change in elevation may be used in lieu of, or in combination with, additional screening to satisfy the screening requirements for this district.
5. Note. Since walls and hedges are a main visual feature in any development, regulations related to the placement, size and appearance of such structures must be enacted. The following standards shall apply to the installation of all fences, walls, hedges or other visual obstructions used for the purpose of screening, either around the perimeter of the development site or within the development site:
  - a. No wall, hedge or other visual obstruction in excess of six (6) feet shall be allowed on any Residential-Professional development site, unless along a district boundary which abuts a residential zone, in which case the height shall be eight (8) feet.
  - b. When there is a difference in the ground level between two adjoining lots, the height of any fence, wall, or hedge constructed along the property line shall be determined by using the finished grade of the highest contiguous lot.
  - c. Only one (1) type of fence or wall design shall be permitted on any one (1) parcel or development. The design may include an appropriate mix of materials subject to the guidelines of these articles ~~and approval by the City Planning Commission~~.

- d. The use of chain link, barbed wire, electrified fence, or razor wire fence in conjunction with any fence, wall, or hedge, or by itself is prohibited, unless required by any law or regulation of the State of Utah.
- e. On a corner lot, no fence, wall, hedge, sign or other structure, shrubbery, mounds of earth, or other visual obstruction over thirty-six (36) inches in height above the nearest street curb elevation shall be erected, placed, planted, or allowed to grow within a traffic safety sight area.
- f. To protect safe sight-distance for vehicular movement, sight obstructing fences, or walls or other obstructions shall not exceed thirty-six (36) inches in height when located in a front setback.
- g. If walls are finished in stucco, colors will be limited to earth tones. No bright or neon colors will be allowed. If a wall has been approved ~~by the Council~~ that is not a decorative wall, it shall be constructed with a stucco finish in an earthtone color.
- h. All walls shall be generally natural in appearance and limited to earth tone colors. No bright or neon colors will be allowed.
- i. Any hedges used as screening shall be consistent in appearance to the general landscape of the site. Such hedges may be geometric in shape, but shall be pruned and maintained so as to avoid unsightly appearance and to avoid vehicular sight hazards.

### 3-4509 Parking

Except as may be provided elsewhere in this ordinance, there shall be provided at the time of erection of any building, or at the time any main building is enlarged or increased in capacity, minimum off-street parking space with adequate provisions for ingress and egress by standard-sized automobiles. If any land, structure or use is changed from one use to another which requires more off-street parking spaces, there shall be provided such additional off-street parking for the new use as is required by this chapter.

1. **Parking Lot Characteristics.** Each parcel of land developed for off-street parking in response to the requirements of this chapter shall provide the following characteristics:
  - a. **Surfacing.** Each lot shall have a paved, all-weather surfacing material consisting of a minimum of six (6) inches of road base with three (3) inches of asphalt, or, three (3) inches of road base with six (6) inches concrete paving on all parking areas and service roads. Surfacing shall be maintained in good condition and kept clear and in an unobstructed and usable condition at all times during business hours. Responsibility for maintenance of the lot shall rest with the property owner. The lot shall provide adequate access to a street or alley.
  - b. **Grading.** Parking lots shall be graded for proper drainage with surface water diverted in such a way as to keep the parking area free of accumulated water or ice. All surface drainage shall be contained within development site ~~and approved by City Engineer.~~
  - c. **Lighting.** Lots shall be properly illuminated, with luminaries arranged so as to baffle and direct light away from any adjoining residential buildings. Lighting details are specified in Section 3-4516 of this Code.
  - d. **Size of Spaces.** Each parking space shall be a minimum of nine (9) feet wide by eighteen (18) feet long.
  - e. **Handicapped Parking.** All structures which are required by the provisions of the Uniform Building Code to have adaptations which assist access by handicapped persons shall, in addition, provide off-street parking for handicapped persons as described below or as required by applicable State or Federal regulations.
2. **Specific Requirements for Each Land Use.** (Amended 10/17/06) Minimum required off-street parking shall be provided for each use as listed below. Requirements calculated on square footage of Residential-Professional space shall be based upon floor area devoted to the principal use or sales and shall not include area devoted to storage, rest rooms, or maintenance areas. Parking for uses not specifically listed below shall be provided in the same ratio as the use most nearly approximating the characteristics of the unlisted

use, as ~~determined by the site plan Land Use Authority~~recommended by the Planning Commission and approved by the City Council. Parking shall be provided as follows, with spaces based upon one or a combination of uses listed:

- a. Parking stalls for all uses shall 4.0 per 1,000 square feet.
  - b. Increase of the minimum may be required by the site plan Land Use Authority ~~Planning Commission or City Council~~ if, ~~in their opinion,~~ there is an exceptional need for said increased parking.
  - c. In cases where less parking is appropriate, site plan Land Use Authority ~~the Planning Commission may recommend and the City Council~~ may approve a reduced requirement based upon actual usage of employees and customers, if the applicant has provided evidence indication that less parking is adequate for the specifically proposed use and only if the applicant has proved evidence and demonstrated that at least seventy-five percent (75%) of the minimum parking requirement (3.0 spaces per 1,000 square feet) may be met without modification to the primary structure.
    - i. If at some point in the future the land use changes, the properly owner may be required to provide additional parking depending upon the specific parking requirements for that use.
  - d. In cases where the category into which a use should be placed is unclear, or a use does not conform to any of the above categories, or the use is allowed under a Conditional Use Permit, the site plan Land Use Authority ~~Planning Commission may recommend and the City Council~~ shall determine the appropriate category or establish a parking ratio.
  - e. In cases where uses occupying the same structure or within two-hundred and fifty (250) feet of one another on the same lot or adjacent lots under the same ownership are uses where parking demand times do not normally or significantly overlap, shared parking may be permitted by the site plan Land Use Authority ~~City Council following a recommendation from the Planning Commission~~. At the time of site plan review for each development increment, a precise parking plan shall be submitted showing all parking spaces, the overall circulation system, an analysis of the parking demand for the specific land uses proposed, and other justification as necessary for requesting reductions in parking space requirements.
3. Location of Parking.
- a. No on-street parking shall be permitted in a Residential-Professional Zone. No parking shall be permitted in the minimal front, side or rear setback areas except:

- i. Where a side or rear setback area abuts a residential zone, parking may be permitted to within ten (10) feet of the district line, if the parking will be necessary only during the normal working hours as approved by the site plan Land Use AuthorityCity Council.
  - ii. Where parking within the front or side setback areas is adequately separated from public rights-of-way with continuous landscaping at least thirty (30) feet wide, less areas for curb inlets and drive entrances.
- b. Required off-street parking shall be provided on the site of the use served, or on an alternate site within the same district. Where parking is provided on other than the site concerned, a recorded document shall be filed with the site plan Land Use AuthorityPlanning Commission and signed by the owners of the alternate site, stipulating to the permanent reservation of use of the site for said parking. The parking setback restrictions set forth above shall also apply to contiguous or alternate parking sites.
- c. Parking facilities need not be located in one consolidated area of a particular site, but may be separated by landscaping or building elements.

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### 3-4510 Loading

The following articles apply to the loading and/or unloading of materials in a Residential-Professional development:

1. All loading and unloading operations shall be performed on the site. Off-street berths shall be provided in addition to required off-street parking and shall not be located within driveways.
2. Each loading berth shall not be less than twelve (12) feet wide, twenty-five (25) feet long and if enclosed and/or covered, fourteen (14) feet high. Adequate turning and maneuvering space to be provided within the lot lines.
3. Such loading areas should be located away from the public street to which the use is oriented.
4. To the greatest extent possible, loading areas should be screened from all public streets. This shall be accomplished through careful site planning, and the use of screen walls and landscaping.
5. In no event shall a loading dock be closer than seventy-five (75) feet from a property line fronting upon a street.
6. Loading berths shall be required as follows:
  - a. Residential-Professional and service uses with over fifteen thousand (15,000) square feet floor area to be determined by the site plan Land Use Authority~~City Council upon recommendation of the Planning Commission~~, but in no case less than two (2) loading berths.
  - b. The hours of loading and unloading, including trash removal, for any business that uses building entrances that face an adjacent residential zone shall be restricted to the hours between 7:00 a.m. and 10:00 p.m.

### 3-4511 Driveway And Curb Openings

1. Unobstructed and direct driveways of sufficient width to safely accommodate projected 20 year turning volumes as determined by the Traffic Impact Analysis required by Section 3-4528 shall be provided. Loading driveways may coincide with driveways to parking facilities.
2. In establishing permissible curb openings and sidewalk driveway crossings for access to private property, they shall not be authorized where they are unnecessary or where they would reasonably interfere with the movement of vehicular traffic, with public improvements, or with the rights of the public in the adjacent street or alley, and in no case shall any curb opening be of greater length than necessary for reasonable access to the property to be served thereby. In determining the length of curb openings and spacing of driveways, the end transitions in each case will be considered a part of the length of the curb opening.
3. Unless otherwise specified by this ordinance, design and location of access drives shall comply with "Guidelines for Driveway Location and Design", a Recommended Practice of the Institute of Transportation Engineers, 1987, or as revised.
4. The following standards shall apply in determining the size of curb openings and location of driveways:
  - a. Access shall be by not more than one (1) driveway opening for each two-hundred (200) feet or fraction thereof of frontage on any street.
  - b. Driveway openings shall be offset a minimum of 350 feet from the centerline of major arterials at intersections, but in no case shall be located within the operational area of the intersection (which includes turning lanes with associated tapers) as defined in the "Guidelines" referred to above.
    - i. Where a major arterial intersects with a local residential road a restricted access such as a right-in/right-out may be approved by the City Council-site plan Land Use Authority only if the centerline of the driveway openings is offset a minimum of one-hundred eighty feet (180') from the centerline of a that intersection.

### 3-4513 Hardscape

1. Hardscape should be used in coordination with architecture and landscaping to provide a link between the street edge and individual developments. Attention to Hardscape details can create visual unity by relating different developments to a unifying theme. In addition, proper hardscaping can improve pedestrian safety and movement, and the visual enjoyment of public areas.
2. Hardscape can include such items as benches, sculptures, water fountains, enriched paving treatments, cobblestone walkways, etc. A detailed plan of Hardscape design shall accompany landscape plans and shall be reviewed by the site plan Land Use Authority ~~subject to review by the City Planning Commission~~ to determine continuity with overall development plan and harmony with the development of surrounding properties.

### **3-4514 Substructures; Storage/Refuse Collection, Etc.**

1. The following articles shall relate to the screening and location of storage and refuse collection areas:
  - a. All outdoor storage including vehicle storage shall be visually screened from access streets, freeways, and adjacent property. Said screening shall form a complete opaque screen (6) feet in vertical height.
  - b. No storage shall be permitted between a frontage street and the building line. Furthermore, no outdoor storage shall be located within one hundred (100) feet of any residential use.
  - c. All outdoor refuse collection areas shall be visually screened from access streets and adjacent property by a complete opaque screen. Property owner(s) and/or manager(s) in a Residential-Professional District shall be responsible for the abatement, clean-up and removal of all garbage or refuse thrown, placed, or blown on surrounding property or streets public rights-of-way. Every effort shall be made by said owner and/or manager to avoid the spread of such refuse or garbage to the surrounding area.
  - d. No refuse collection areas shall be permitted between a frontage street and the building line. No refuse collection area shall be located within one hundred (100) feet of any residential use.
  - e. Professionally contracted trash and refuse removal operations shall occur between the hours of 7:00 a.m. and 6:00 p.m.
2. Storage.
  - a. All substructures erected for the purpose of screening storage areas shall be accomplished with materials and architecture which are compatible with that of the primary building structure.
  - b. There shall be no visible storage of motor vehicles, trailers, airplanes, boats, or their composite parts; loose rubbish, garbage, junk, or their receptacles; tents, or building materials.
  - c. Building materials for use in the same premises may be stored on the parcel during the time that a valid building permit is in effect for construction.
3. Refuse.
  - a. Every parcel with a building or structure shall have a trash receptacle (dumpster or garbage can) on the premises with a size and location as ~~recommended by the Planning Commission and~~ approved by the site plan Land Use Authority~~City Council~~ and the proposed location and design shall not cause the parcel to become non-compliant in any other

requirement of the RP Zone. In all cases the applicant shall indicate a “future dumpster and dumpster enclosure location” on a submitted site plan, if a change in land use occurs in the future. The trash receptacle shall be of sufficient size to accommodate the trash generated.

- b. The refuse collection area shall be located upon the lot so as to provide clear and convenient access to refuse collection vehicles.
- c. The receptacle shall be screened from public view on at least three (3) sides by a solid wall six (6) feet in height and on the fourth side by a solid gate not less than five (5) feet in height. The gate shall be maintained in working order and shall remain closed except when in use. The wall and gate shall be architecturally compatible with the surrounding buildings and structures.
- d. Freestanding refuse containers in retail or public areas which are intended for public use shall be constructed of cast concrete, ceramic or wrought iron, with an inset for a trash can and shall be constructed so as not to allow dispersal of the container or trash by the strong winds common to the area. The containers shall be natural in color and/or of a design commensurate with surrounding architectural themes.

### 3-4517 Projections

The following list represents the only projections/construction that shall be permitted within the required setback areas:

1. Front Setback. Roof overhangs
2. Rear/Side Setbacks. Roof overhangs, and any projection/substructure which is determined by the architectural review Land Use Authority Planning Commission to substantially contribute to public safety.

### 3-4519 Utilities/Equipment

The following articles shall relate to the installment, location and screening of utilities and other exterior equipment:

1. All utilities, including drainage systems, sewer, gas and water lines, electrical, telephone and communications wires, and related equipment, irrigation ditches and/or pipes, shall, where possible, be installed and maintained underground.
2. No mechanical equipment (including, but not limited to, components of plumbing, processing, heating, cooling, and ventilating systems) shall be visible on site or from adjacent property.
3. No exterior components of such mechanical equipment (e.g. piping, stacks and duct work, fans and compressors) shall be mounted on any building wall unless they are an integrated architectural design feature. Any such components shall only be permitted with the ~~written~~ approval of the ~~City Planning Commission~~ architectural review Land Use Authority.

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### 3-4524 Architectural Design

Prior to the issuance of building permits for any ~~permitted or conditional use within the Highland City Residential Professional District~~, the ~~City Planning Commission architectural review Land Use Authority~~ shall review the proposed development plans to assure compliance with the architectural design guidelines provided in this and other sections of Article 4.5 of Highland City's R-P Zone.

#### 1. Overall Architectural Outline.

- a. The proposed development shall be of a quality and character which is consistent with the community design goals and policies including but not limited to: scale, height, bulk, materials, cohesiveness, colors, roof pitch, roof eaves and the preservation of privacy.
- b. The design shall improve community appearance by avoiding excessive variety and monotonous repetition.
- c. Proposed signage and landscaping shall be an integral architectural feature which does not overwhelm or dominate the structure or property.
- d. Lighting shall be stationary and deflected away from all adjacent properties and public streets and rights-of-way.
- e. Mechanical equipment, storage, trash areas, and utilities shall be architecturally screened from public view.
- f. With the intent of protecting sensitive land uses, any proposed design shall promote a harmonious and compatible transition in terms of scale and character between areas of different land uses.
- g. All building elevations shall be architecturally treated.
- h. Parking structures shall be architecturally compatible with the primary structure.
- i. Both sides of all perimeter walls or fences shall be architecturally treated.
- j. Each licensed business will provide public rest rooms of sufficient size to service potential customers including men and women. The rest rooms shall be designed in accordance with the UBC to accommodate handicapped persons.

#### 2. Architectural Guidelines. The following architectural design guidelines apply to all ~~permitted and conditional uses in the Highland City Residential Professional District~~:

- a. The following architectural styles and motifs are prohibited in Highland City:

- i. A-frame structures
  - ii. Geodesic dome structures
  - iii. Mediterranean motifs
  - iv. Tudor or mock Tudor (half timbering)
  - v. Highly ornate Victorian
  - vi. Rustic frontier
  - vii. Pre-fabricated or industrial
- b. Note. Aluminum siding is generally not considered a material of choice. The ~~Planning Commission~~ architectural review Land Use Authority may, however, consider requests for the use of aluminum siding. The applicant will be required to bring a sample of the type and color of siding to be approved ~~by the Planning Commission~~. When aluminum siding is approved, it shall have a minimum thickness of .019 inches and shall be backed or insulated with a minimum of 3/8 inch fiberboard or polystyrene foam. The siding materials listed below are prohibited in any Residential-Professional building in Highland City:

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### 3-4527 Submittal Requirements

All ~~permitted~~ uses proposed for development under this Article shall be subject to site plan review ~~according to Highland City Development Policy~~. There shall be submitted to the ~~Planning Commission Zoning Administrator~~ a plan for the use and development of each tract for the purposes of and meeting the requirements set forth in this ordinance. Said plan shall be accompanied by information concerning the number of persons to be employed, the effects on surrounding property, and other physical conditions, including the effect of the project on adjacent streets and shall include the following:

1. A site plan showing lot lines and defining the area to be occupied by buildings, the areas and configurations to be used for parking, the location of roads, driveways, signs, and walks, the spaces for loading, and the character and extent of landscaping, planting and other treatment for adjustment to surrounding property.
2. Enough information on land areas adjacent to the proposed development to indicate adjacent land uses, zoning classifications, circulation systems, public facilities, and unique natural features of the landscape.
3. Elevations and/or architectural renderings of buildings' facades facing public rights-of-way and district boundaries where the premises abut areas zoned for residential uses, said elevations or renders being sufficiently complete to show building heights and roof lines, the location and height of any walls, signs, and light standards, openings in the facade, and the general architectural character of the building.
4. Any additional information as required by the ~~Reviewing Body, Recommending Body, or Land Use Authority Planning Commission~~ to evaluate the character and impact of the proposed development.
5. Additional requirements associated with a Conditional Use Permit application, see General Provision Section.

### 3-4528 Action On Site Plan

~~The applicant shall first submit an application to the Development Review Committee and obtain a Staff recommendation per 3-4528(1)(a). After obtaining a Staff recommendation, the Planning Commission~~ The site plan Recommending Body shall review the site plan and make a recommendation to the ~~City Council~~ site plan Land Use Authority. The site plan then ~~must will~~ be ~~approved by the City Council~~ reviewed by the site plan Land Use Authority.

1. Findings necessary to granting approval for the site plan are:
  - a. The proposed use and development of land conforms to the provisions of this ordinance, ~~and recommendations of the City Zoning Administrator and City Engineer have been provided prior to submitting an application to the Planning Commission.~~
  - b. The development is otherwise not detrimental to the public health, safety, general welfare, or to adjacent property, or to the orderly development of the City.
  - c. Approval of a traffic impact analysis (TIA) for the proposed development, to be completed by a competent transportation engineer at the developer's expense. Said TIA shall, as a minimum, address the suitability of the proposed parking, street access, driveway, and on-site traffic circulation systems and the impact on the adjacent street system.
  - d. Demonstration that adverse impacts on neighboring residential properties have been reasonably mitigated.

### **3-4529 Site Plan Appeals**

Any Appeals from any final decision of the site plan Land Use Authority~~City Council with respect to a Conditional Use Permit may shall~~ be directed heard by the site plan Appeal Authority~~to the District Court within thirty days.~~

### [Senior Care Overlay Zone] 3-4603 Conditional Uses

1. The only uses allowed within the Senior Care Assisted Living Overlay Zone in addition to those uses defined within underlying zone by this Code shall be Conditional Uses which satisfy the primary intent or purpose for the overlay zone ~~and which are subject to special conditions as may be imposed by the planning commission or city council~~. All such conditional uses are subject to additional conditions considered appropriate and necessary by the conditional use Land Use Authority~~Planning Commission and City Council~~. Those uses which are incompatible with the desired land use for the Senior Care Assisted Living Overlay Zone are prohibited.
2. All uses within the Assisted Living and Nursing Care Facilities shall be conducted within a building which conforms to the requirements of this Zone.
3. The Conditional Use Permit is non-transferable and shall terminate if:
  - a. The facility is devoted to a use other than that permitted by this ordinance; and
  - b. The license or certification issued has been terminated or revoked; or
  - c. The facility fails to comply with the conditions of approval or requirements of this ordinance.
4. Following is a list of conditional uses for the Senior Care Assisted Living Overlay Zone, subject to the standards and procedures established in Chapter 4 Conditional Uses within this Code.
  - a. Assisted Living Facility
  - b. Nursing Care Facility
5. The ~~Planning Commission/City Council~~ conditional use Land Use Authority may recommend/require additional reasonable conditions to assist in mitigating reasonably anticipated detrimental effects of a proposed use which may include the following:
  - a. Additional or altered landscaping, Parkway Detail, larger trees adjacent to existing residential uses, or similar; and
  - b. Architectural amendments or additions in materials, colors, features, styles, design, or similar; and
  - c. Additional setbacks; and
  - d. Amended or reduced lighting; and
  - e. Amended or reduced parking and traffic circulation plans; and
  - f. Amended or restricted/reduced visiting hours; and

g. Amended or restricted/reduced hours of operation/maintenance.

### 3-4605 Development Standards

1. A development within the SCALO Zone shall demonstrate project conformance commonly identified as Assisted Living Facilities and Nursing Facilities consistent with state laws and statutes and per Chapter 9 Senior Housing Element of the Highland City General Plan which meets the needs of the final two (2) stages in the life cycle of an aging person. An area to be ~~Zoned~~ Senior Care Assisted Living Overlay shall be recommended by the ~~Planning Commission-Recommendng Body~~ and approved by the ~~Land Use Authority pursuant to the City's legislative authority and discretion, City Council~~ and shall have the following characteristics:
  - a. In order to encourage uses consistent with the objectives of the Senior Care Assisted Living Overlay district and to ensure adequate site planning, the entire site must be master planned at the time of site plan approval, even though it may be developed in stages or phases. Each phase must adhere to the original plan except as subsequently approved by the ~~site plan Land Use Authority~~ ~~Planning Commission and City Council~~. The project site, excluding dedicated roads and improvements, must have a minimum of one (1) acre and one hundred eighty (180) feet of frontage on a dedicated public street. Control of the property by a single person, association, partnership, or corporation must be demonstrated.
  - b. Although the Senior Care Assisted Living Overlay district may provide services to citizens from surrounding communities, i.e., Alpine, Cedar Hills, American Fork, etc., it shall cater primarily to the citizens of Highland City.
  - c. Development site shall only be located along a five (5) lane major arterial (State Highway) with sufficient ingress/egress and access for emergency service vehicles.
  - d. Shall be designed in such a manner to significantly minimize aesthetic, noise, smell, lighting and operational impacts to existing adjacent residential properties.
  - e. Conditions Covenants and Restrictions shall be provided by the Developer establishing CC&R's that assure the uses approved for the development will be operated and maintained according to those uses defined within this ordinance.
  - f. Prior to occupancy of an Assisted Living or Nursing Care Facility the person or entity licensed or certified by the Utah Department of Health or Utah Department of Human Services to establish and operate the facility shall:
    - i. Provide a copy of such license or certification to the City; and

- ii. Certify in a sworn affidavit to the City that no person will reside or remain in the facility whose tendency would likely:
  - (1) Constitute a direct threat to the health and safety of other individuals within the facility or adjacent to the facility, or
  - (2) Result in substantial physical damage to the property of others.
- g. Occupancy of each unit shall be limited to individuals who qualify as elderly persons provided that occupancy by individuals who do not qualify as an elderly person may be permitted where the non-qualified person is the spouse of a qualified elderly resident.
  - i. A non-qualified person may also reside if the licensed physician or business operator provides evidence to the effect that the non-qualified person is required in order to provide essential assistance to the resident elderly person.
- h. An Assisted Living or Nursing Care Facilities may not be located within three quarters (3/4) of a mile of another facility allowed by this ordinance.
- i. General Amenities for Assisted Living or Nursing Care Facilities. The following amenities are required for all developments under this section, including all multi-unit developments and similar developments intended for assisted living or nursing care facilities.
  - i. Amenities. Parking areas, service areas, buffers, entrances, exits, yards, courts, landscaping, graphics, and lighting shall be designed as integrated portions of the total planned development and shall project a residential character.
  - ii. Building Spaces. Each development shall provide reasonable visual and acoustical privacy for dwelling units. Fences, insulation, walks, barriers, landscaping, and sound-reducing construction techniques shall be used as appropriate for the aesthetic enhancement of property and the privacy of its occupants, the screening of objectionable views or uses, and the reduction of noise.
  - iii. Elevators. All two-story or greater multi-unit buildings shall include at least one elevator per building.
  - iv. Common Areas. All projects shall provide accessible common areas. For multi-unit enclosed projects, the common areas shall also exist within the building. Such indoor common areas and accents may include a meeting area, laundry facilities, large

furnished lobby, art work within the hallways, library, reading room, game room, or exercise room. Exterior common areas may include a walking path, garden area, outdoor sitting area, and an outdoor eating area. Additional amenities may include an indoor/outdoor swimming pool, pharmacy, beauty salon, ancillary interior convenience store for residents only, nursing station, classrooms, and patios.

- (1) In all cases the common areas shall be sufficiently screened by landscaping and/or fencing to mitigate noise and visual impact to any adjacent residential structure.

- v. Transportation. All institutional care facilities shall provide transportation options for its residents. Such transportation may include van service operated by the facility or contracted out to a multi-facility provider. Such facilities are encouraged to be located near mass transit lines (bus or rail) to provide alternative travel options for its residents. Such facilities shall provide connections to public sidewalks, trail systems, and other compatible land uses.

- vi. 24-Hour On-Site Facilities Manager. All institutional care facilities shall provide at least one on-site facilities manager 24 hours per day, seven days per week. The position may either be a live-in manager or regular employee staffing.

## 2. Development of property within the SCALO zone requires the following approvals:

- a. Site plan approval, which includes review and approval of site coverage, building setbacks, screening and fences, parking, loading, and driveway areas, traffic circulation, landscaping and hardscaping, transition and buffering between adjacent uses, lighting, grading, drainage, utility design, and other engineering design elements;
- b. Architectural review approval, which includes review of building height, design, materials, and aesthetics;
- c. Conditional use permit approval, for conditional uses; and
- ~~j.~~d. Construction approvals, including building permits, sign permits, and right of way permits.

### 3-4606 Site Coverage

Coverage regulates the area of the site that may be covered by the building. Covered walkways, roof structure overhangs, and other solar protection or aesthetic structural elements (excluding a porte-cochere, or carriage porch) should not be included in building coverage calculations. These guidelines also help protect area dedicated to landscape and parking. Site Coverage shall conform with Exhibit “B”.

1. Coverage of a site by a building structure shall not exceed thirty-five percent (35%) of the total site.
2. In all site plan configurations, landscaping and/or natural open space shall occupy no less than thirty-five percent (35%) of the total land area under development. All landscaping plans and open space designations must be approved by the ~~Planning Commission~~site plan Land Use Authority.

### 3-4607 Building Setbacks

It shall be within the authority of the site plan Land Use Authority Planning Commission to determine, for any development in this district, which property line or lines shall be considered as side or as rear lines for the purpose of administering this ordinance.

1. No building shall be closer to a public street right-of-way than fifty (50) feet with all parking provided in the rear of the building unless the property is bordered by existing residential property along the rear property line in which case all parking shall be provided in the front setback with screening provided from the right-of-way by the Parkway Detail. No building projection with the exception of a porte-cochere shall extend into the setback area. A porte-cochere may extend into the front yard setback and shall not be any closer than thirty (30) feet from the front property line.
  - a. The public street right-of-way line shall be considered the front property line of a lot. Where a lot is bordered on two or more sides by a public street right-of-way, all such sides shall be considered as front property lines, and the area between the front property line and the building lines shall be known as the front setback area in all cases.
2. Side yard setback areas shall be a minimum of ten (10) feet except where a side property line abuts an existing residential dwelling, in which case the building setback shall be a minimum of thirty (30) feet for single story buildings and fifty (50) feet for two story buildings.
3. Rear setbacks areas for the main structure shall be a minimum of thirty (30) feet for single story buildings and fifty (50) feet for two story buildings.

### 3-4609 Screening Walls/Fences/Hedges

A masonry wall shall be installed and maintained along all district boundaries consistent with existing fence ordinances. Following are acceptable means of providing such screening:

1. Walls. A wall shall consist of concrete, stone, brick, tile, or similar type of solid masonry material a minimum of eight (8) inches thick. All such walls must be landscaped with vegetation.
2. Berms. In all cases a berm shall be constructed consistent with the Parkway Detail facing an arterial road. It shall be constructed of earthen material and it shall be landscaped with trees and at least fifty percent (50%) other living landscaping vegetation.
3. No signs or sign supports shall be permitted on any required screening.
4. Only one (1) type of fence or wall design shall be permitted on any one (1) parcel or development. The design may include an appropriate mix of materials subject to the guidelines of these articles ~~and approval by the City Planning Commission~~ and shall be of a similar material and construction to the primary building.
  - a. The use of chain link, barbed wire, electrified fence, or razor wire fence in conjunction with any fence, wall, or hedge, or by itself is prohibited, unless required by any law or regulation of the State of Utah.
  - b. To protect safe sight-distance for vehicular movement, sight obstructing fences, or walls or other obstructions shall not exceed thirty-six (36) inches in height when located in a front setback.
  - c. On a corner lot, no fence, wall, hedge, sign or other structure, shrubbery, mounds of earth, or other visual obstruction over thirty-six (36) inches in height above the nearest street curb elevation shall be erected, placed, planted, or allowed to grow within a traffic safety sight area.

### 3-4614 Hardscape

1. Hardscape should be used in coordination with architecture and landscaping to provide a link between the street edge and building entrances. Attention to Hardscape details can create visual unity by relating different developments to a unifying theme. In addition, proper hardscaping can improve pedestrian safety and movement, and the visual enjoyment of public areas.
2. Hardscape can include such items as benches, sculptures, water fountains, enriched paving treatments, cobblestone walkways, etc. A detailed plan of Hardscape design shall accompany landscape plans and shall be ~~subject to~~ review~~ed~~ by the ~~site plan Land Use Authority~~City Planning Commission to determine continuity with overall development plan and harmony with the development of surrounding properties.

### 3-4617 Lighting

The following articles shall relate to guidelines for exterior lighting of any Senior Care Assisted Living Overlay development. These articles relate to parking lighting, sign lighting, architectural lighting, safety lighting, and landscape lighting.

1. Lighting shall be stationary. No lighting shall blink, flash, or be of unusually high intensity or brightness.
2. Lighting shall be directed toward the ground and away from all adjacent properties and public streets and rights-of-way.
  - a. Lighting shall be shielded or recessed so that direct glare and reflections are contained within the boundaries of the parcel.
3. Parking lot lighting shall be reviewed by the site plan Land Use Authority~~Any parking lot lighting may be approved by the Planning Commission with limitations.~~ Parking lot lighting may consist of bollard lights no more than four (4) feet in height.
  - a. Type and location of bollard shall be approved by the ~~Planning Commission~~site plan Land Use Authority.
  - b. Any approved parking lot lighting types shall have a cap to direct all light toward the ground.
  - c. Parking lot lighting shall not be operable between the hours of 10:00 p.m. and 7:00 a.m.
  - d. Street lighting and parking lot lighting contribute to the safety and security of each development, improving night visibility. Unique lighting fixtures may provide easy identification of entrance and exit ways for motorists. Such lighting shall be encouraged, however, lighting potentially visible from adjacent properties shall be subdued and shall not interfere with vehicular traffic.

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### 3-4618 Projections

The following list represents the only projections/construction that shall be permitted within the required setback areas:

1. Front Setback. Roof overhangs, porte-cochere (for picking up and dropping off residents only).
  - a. In no case shall a porte-cochere be closer than thirty (30) feet from a front property line.
  - b. Roof projections shall not extend more than three (3) feet into the front setback.
  - c. Any roof projections shall be designed and constructed to provide enough clearance for emergency vehicle access.
2. Rear/Side Setbacks. Roof overhangs, and any projection/substructure which is determined by the architectural review Land Use Authority Planning Commission to substantially contribute to public safety.
  - a. In no case shall a porte-cochere be closer than twenty (20) feet from a side/rear property line.
  - b. Roof projections shall not extend more than three (3) feet into the side/rear setback.

### 3-4620 Utilities/Equipment

The following articles shall relate to the installment, location and screening of utilities and other exterior equipment:

1. All utilities, including drainage systems, sewer, gas and water lines, electrical, telephone and communications wires, and related equipment, irrigation ditches and/or pipes, shall, where possible, be installed and maintained underground.
2. No mechanical equipment (including, but not limited to, components of plumbing, processing, heating, cooling, and ventilating systems) shall be visible on site or from adjacent property.
3. No exterior components of such mechanical equipment (e.g. piping, stacks and duct work, fans and compressors) shall be mounted on any building wall unless they are an integrated architectural design feature. Any such components shall only be permitted with the ~~written~~ approval of the ~~City Planning Commission~~ architectural review Land Use Authority.
4. Roof mounted mechanical equipment shall be hidden from view by building parapets of equal height.
5. If building parapets do not provide adequate screening of mechanical equipment from the upper floors, screening shall be installed as an integral part of the overall architectural design, and painted such a color as to allow its blending with its visual background.
6. Equipment and mechanical devised shall not be located in any required setback area or side yard except for electrical or telephone equipment installed by the utilities. Screening shall be provided so that equipment located in the area is screened from view from all adjacent streets and properties. Such screening shall be accomplished with materials and designs that are compatible with the architectural character of the building.
7. Electric transformers, utility pads, cable TV and telephone boxes shall be located out of public rights-of-way and underground or screened with walls, fences or vegetation or otherwise enclosed in a manner harmonious with the overall architectural theme.

### 3-4624 Architectural Design

The architectural design (including design, rendering, and a list of building materials) of each Senior Care Assisted Living Overlay building and the storage shed complex are attached hereto as Exhibit “C” and incorporated herein as a specific requirement of this zone. The exact location of the building on the site plan is designated in Exhibit “A”, which locations are also incorporated herein as a specific requirement of this zone. Prior to the issuance of building permits for ~~any permitted or conditional use within the Highland City Senior Care Assisted Living Overlay District~~, the architectural review Land Use Authority City Planning Commission shall review the proposed development plans to assure compliance with the architectural design guidelines provided in this and other sections of Article 4.6 of Highland City's Senior Care Assisted Living Overlay Zone. Any Appeals of actions final decisions on architectural compliance ~~may shall~~ be heard by the City Council architectural review Appeal Authority. ~~Prior to the issuance of building permits for any conditional use within the Highland City Senior Care Assisted Living Overlay Zone, the City Planning Commission shall review the proposed development plans to assure compliance with the architectural design guidelines provided in this and other sections of Article 4.6 of Highland City's Senior Care Assisted Living Overlay Zone.~~

#### 1. Overall Architectural Outline.

- a. The proposed development shall be of a quality and character which is consistent with the community design goals and policies including but not limited to: scale, height, bulk, materials, cohesiveness, colors, roof pitch, roof eaves and the preservation of privacy.
- b. The design shall improve community appearance by avoiding excessive variety and monotonous repetition.
- c. Proposed signage and landscaping shall be an integral landscaping feature which uses natural materials in natural earthtone materials, is very subtle and subdued in design, is not lighted, and does not overwhelm or dominate the structure or property.
  - i. Wall signs or any other sign type shall not be allowed except as permitted in 3-4624 of this Code.
- d. Lighting shall be stationary and deflected away from all adjacent properties and public streets and rights-of-way.
- e. Mechanical equipment, storage, trash areas, and utilities shall be architecturally screened from public view.
- f. With the intent of protecting sensitive land uses, any proposed design shall promote a harmonious and compatible transition in terms of scale and character between areas of different land uses.

- g. All building elevations shall be architecturally treated.
  - h. Both sides of all perimeter walls or fences shall be architecturally treated.
2. Architectural Guidelines. The following architectural design guidelines apply to all ~~permitted and conditional~~ uses ~~in the Highland City Senior Care Assisted Living Overlay District~~:

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### 3-4627 Submittal Requirements

All ~~permitted~~ uses proposed for development under this Article shall be subject to site plan review ~~according to Highland City Development Policy~~. There shall be submitted to the ~~Planning Commission Zoning Administrator~~ a plan for the use and development of each tract for the purposes of and meeting the requirements set forth in this ordinance. Said plan shall be accompanied by information concerning the number of persons to be employed, the effects on surrounding property, and other physical conditions, including the effect of the project on adjacent streets and shall include the following:

1. Site Plan. A site plan to be included as attachment “A” showing lot lines and defining the area to be occupied by buildings, the areas and configurations to be used for parking, lighting, the location of roads, driveways, sign, and walks and the spaces for loading and refuse storage.
  - a. Enough information on land areas adjacent to the proposed development to indicate adjacent land uses, zoning classifications, circulation systems, public facilities, and unique natural features of the landscape.
2. Landscaping Plans. Landscaping plans to be included as attachment “B” indicating the percentage of landscaping on the site, showing landscaping areas and identifying all of the planting materials and their locations.
  - a. The landscaping plan should illustrate a reasonable effort to screen adjacent residential use from parking lots and refuse storage facilities.
3. Architectural Drawings. Elevations and/or architectural renderings of buildings' facades to be included as attachment “C” being sufficiently complete to show architectural design, building heights and roof lines, identifying building materials and colors and light standards, openings in the facade, and the general architectural character of the building.
  - a. A building materials board shall be included with the architectural elevations provided to the ~~Planning Commission architectural review~~ Land Use Authority for review.
4. Licenses. Prior to issuance of a building permit for an Assisted Living or Nursing Care Facility, the person or entity licensed or certified by the Utah Department of Health or Utah Department of Human Services to establish and operate the facility shall:
  - a. Provide evidence or documentation including a copy of any documents required per 3-4605 in this Code.
  - b. The owner/operator shall provide to the City proof of adequate insurance for the program’s vehicles, hazard insurance on the home, and liability insurance to cover residents and third party individuals.

5. Development Agreement. A Developer Agreement shall be executed between the City and Developer outlining the conditions of approval for the SCALO Zone and Conditional Use Permit.
6. Conditions, Covenants and Restrictions. A Copy of the proposed CC&R's shall be provided.
7. Traffic Study. In certain cases where the location of a proposed facility is adjacent to a high traffic area and there is a concern for traffic safety, ~~the Planning Commission or City Council may require~~ the applicant shall to provide a traffic study.
8. Additional Information. Any additional information as required by the Reviewing Body, Recommending Body, or Land Use Authority ~~Planning Commission~~ to evaluate the character and impact of the proposed development.

### 3-4628 Action On Site Plan

The site plan Recommending Body shall review the site plan and make a recommendation to the site plan Land Use Authority ~~Planning Commission shall either recommend approval, recommend a denial, or recommend with conditions, the site plan.~~ The site plan then will ~~must~~ be reviewed ~~approved~~ by the ~~City Council~~site plan Land Use Authority.

1. Findings necessary to granting approval for the site plan are:
  - a. The proposed use and development of land conforms to the provisions of this ordinance, ~~and recommendations of the City Zoning Administrator and City Engineer.~~
  - b. The development is otherwise not detrimental to the public health, safety, general welfare, or to adjacent property, or to the orderly development of the City.
  - c. Approval of a traffic impact ~~(TA)~~ analysis (TIA) for the proposed development may be required, to be completed by a competent transportation engineer at the developer's expense. Said TIA shall, as a minimum, address the suitability of the proposed parking, street access, driveway, and on-site traffic circulation systems and the impact on the adjacent street system.
  - d. Demonstration that adverse impacts on neighboring residential properties have been reasonably initiated.

### **3-4629 Site Plan Appeals**

~~Any Appeals from any final decision of the site plan Land Use Authority City Council with respect to a Conditional Use Permit may shall be heard by the site plan Appeal Authority directed to the District Court within thirty days. Appeals from any decision of the Planning Commission may be directed to the Appeal Authority per Chapter 2, Article 3 in this code with the exception of Architectural Appeals which may be submitted to the City Council per 3-4624.~~

## [Town Center Overlay] 3-4702 Definitions

1. **Commercial Design Standards.** The Design Standards are adopted as part of this ordinance and shall direct the owner, developer, City Council, Planning Commission and staff when determining compatibility and design elements for site planning and architecture within the Town Center.
2. **Cornice.** The uppermost banding of architectural moldings along the top of an exterior wall or just below a roof.
- ~~3. **Development Review Committee.** The Development Review Committee consists of the Public Works Director, Community Development Director, Fire Chief, and Police Chief. A member of each utility company with utilities located within Highland City boundaries shall also be noticed and invited to attend.~~
- ~~4.3.~~ **Flex Use.** Flex use shall mean a property whose use may include Attached High Density Residential Uses, Live-work Uses, Office Uses, Retail Uses or any combination of all four.
- ~~5.4.~~ **Ground Floor.** The first floor of a building constructed above grade with available access from a sidewalk.
- ~~6.5.~~ **Hardscape.** Hardscape shall include pavers, concrete planter boxes, masonry trash receptacles, pedestrian benches, bicycle racks, plazas, paseos, fountains, outdoor eating areas, and sculptures. Hardscape shall be approved as part of the overall site plan approval.
- ~~7.6.~~ **HCESCC.** (Highland City Environmentally Sustainable Construction Credits) is a checklist located on pages 44-48 within the Commercial Design Standards.
- ~~8.7.~~ **Open Space.** All areas not used for parking or structures will be open space as defined within this ordinance.
- ~~9.8.~~ **LEED.** LEED (Leadership in Energy and Environmental Design) is an ecology-oriented building certification program run under the auspices of the U.S. Green Building Council (USGBC).
- ~~10.9.~~ **Parking Plan Schematic.** These are schematics illustrated in the Town Center Master Plan and the Commercial Design Standards which generally identify the areas where parking stalls are permitted. Parking requirements are defined herein.
- ~~11.10.~~ **Senior Housing.** Multi-story or multi-story mixed use housing products which are specifically designed and marketed entirely to meet the needs of at least one of the three stages of senior living.
- ~~12.11.~~ **Town Center Land Use Map.** The Town Center Land Use Map found on page 34 within the Commercial Design Standards is the official land

use schematic adopted as part of this ordinance and marked as such generally defining all building location areas and parking sites, as well as identifying specifically permitted land uses.

[~~13.12.~~](#) **Upper Floor.** Any building story constructed above the Ground Floor.

### 3-4716 Residential Uses

1. All Flex Use residential developments and Town Center Mixed Use Residential shall be required to provide additional site planning and architectural improvements and/or specifications as follows:
  - a. Roofs. The roofline of all proposed structures that include residential uses shall be varied in height to provide a break in the visual appearance.
  - b. Walls. The vertical wall plane along the upper floors shall be articulated, varied, and architecturally designed to promote numerous opportunities for views from residential units.
  - c. Windows. Only windows of high residential quality shall be used. All windows shall be surrounded on all four sides with trim such as stucco band, siding trim or other material.
  - d. Access. Residential units shall be accessed from a separate entrance that is not located within the leased space of a retail or office unit.
  - e. Parking. A minimum of three (3) parking stalls per unit shall be provided. Underground parking or parking structures may be provided for residential units provided they are located on the interior block and not along a designated right-of-way. Underground parking may not be constructed if the result of the parking structure reduces any ground floor retail or commercial footprint to a point where it may be considered non-functional or impractical.
    - i. Underground parking areas or parking structures shall be a minimum of thirty (30) feet from the nearest right-of-way and be screened from that right-of-way by an attached building.
    - ii. Parking Structures shall include exterior landscaping features along each level of parking to screen light pollution and create an aesthetic feature that may assist with breaking the visual appearance of a large wall plane.
    - iii. Parking shall not be allowed on residential alleys.
    - iv. If parking is provided by an attached/detached garage a driveway shall be provided with a minimum depth of twenty-two feet (22') unless otherwise approved by the [Councilsite plan Land Use Authority](#).
  - f. Yards. In all cases where residential is proposed as the exclusive use of the property (until such time that a ground floor may convert to retail/office), the project shall provide a rear yard for each unit typical with rowhouse type building construction.

- g. Ground Floor Residential Design. Residential development (Residential and Live-Work units) located adjacent to Parkway East, Parkway West, Town Center Boulevard/Drive, Town Square Street East, Town Square Street West, or Town Square Park Street that does not exclusively incorporate ground floor retail, other commercial, or office shall be designed with flexibility in such a way to provide for ground floor retail in the future unless otherwise approved by the ~~Council~~site plan Land Use Authority.
  - h. Minimum Residential Height. Uses proposed as exclusively attached residential shall be a minimum of two (2) stories in height only if located adjacent to Parkway East, Parkway West, Town Center Boulevard/Drive, Town Square Street East, Town Square Street West, or Town Square Park Street for the purpose of providing for future use on the ground floor.
- 2. Attached Multi-family Residential, Live-Work Residential.
  - a. Upper floor uses may include; attached high density multi-family residential units, professional offices (see Table 3-47A), or retail sales and/or services as defined in this Code.
- 3. All residential units that are designed and built to be a residential use cannot be converted into a commercial or office use without ~~Council approval~~approval from the site plan Land Use Authority. Home occupations are permitted in each residential unit.

### 3-4726 Parking

At minimum, parking shall be provided as defined in this Code. All developments shall provide space for snow removal/storage which will not interfere with the number of required parking spaces. The number of parking stalls may be reduced if the owner/developer can provide significant evidence that the number of stalls are not necessary to provide adequate parking for a particular use or if the owner/developer has provided means or options for alternative transportation for the users of the project. Required on-street parking stalls shall not be used in the parking calculation for the purpose of meeting minimum parking requirements. In the event a proposed use is not compatible with the intent of the building pad and will generate more parking than anticipated, the site plan Land Use Authority ~~Planning Commission can recommend and the City Council~~ may require additional parking stalls as part of the site plan application.

1. Parking shall be provided for each building and shall be calculated according to proposed use as follows:
  - a. Retail Use: 4.0 stalls per 1,000 square feet of retail building floor area;
  - b. Office Use: 3.5 stalls per 1,000 square feet of office building floor area;
  - c. Residential Use: 3 stalls per unit.
2. If the parcel upon which the building pad is located does not have adequate parking for the size of the building, it is the responsibility of the applicant to acquire such additional area as may be needed to properly park the desired use.
3. With the exception of required on-street parking, a majority of all parking shall be located internally. Remaining parking areas that are unable to be screened from a right-of-way by a building shall have a required landscaped setback a minimum of ten (10) feet from the nearest building wall facing that street.
  - a. Parking areas not buffered by structures along right-of-ways shall be required to be screened by a heavily landscaped four (4) foot wall along the right-of-way setback line. The purpose of this wall is to mitigate potential impacts and to provide a buffer between existing residential, pedestrian circulation areas, storefront gathering areas and commercial parking areas.
  - b. Parking lots and parking spaces shall include pedestrian walkways directed to the associated commercial structure. On street parallel parking shall be included for any structure along Town Center Boulevard, Parkway East, Town Center Park East, and Town Center Park West.

4. Cross access parking and cross access parking easements shall be granted by the owner/developer for each and every project within the Town Center and shall be indicated on the final plat of each subdivision.
  5. All landscaping areas adjacent to parking areas and not defined by (3)(a) above shall be separated from the parking area by wall or curb at least six (6) inches higher than the parking area.
  6. All parking lots shall include fully landscaped parking islands with trees typically associated with parking areas.
  7. All parking areas shall include an identifiable pedestrian link to building fronts incorporated into the parking lot design.
  8. All parking surfaces shall be maintained in proper order and good condition by each owner/developer according to an approved site plan associated with each development.
  9. Covered Parking. The owner/developer of attached high density multi-family housing shall provide additional design elements for single level covered parking facilities that will assist in the mitigation of aesthetic concerns commonly associated with these structures.
    - a. The owner/developer shall provide to the architectural review Land Use Authority Planning Commission a minimum of three (3) options for construction and design of a covered parking structure consistent with the Commercial Design Standards and this ordinance which shall not detract from the architecture or architectural style of the main structure or the Town Center; and
    - b. Architectural design elements that are required for these structures are as follows:
      - i. Colors and Materials. All covered parking structures shall be similar in architecture and material to that of the primary building.
      - ii. Roof. Roofs associated with single level covered parking structures shall be constructed with the same architectural design elements and details consistent with the primary structure such as a fascia, frieze, cornice, rake, or similar; and
      - iii. Support Posts. Any support posts located on either end of a covered parking structure shall be covered a minimum of 50% with masonry similar to that used on the primary building; and
- (1) Landscaping. Significant landscaping including a combination of trees, hedges and shrubs may be used in

place of masonry at each end of a covered parking structure; and

- iv. Parking Stalls. Covered parking structures shall not cover more than twenty (20) vehicles/parking spaces per structure.
- v. Lighting. All lighting associated with a covered parking structure shall be attached to the ceiling of the covered parking stalls and shall be designed to allow down lighting only with horizontal light baffles on all sides of the fixture.

10. On-Street Parking. Separate on-street parking is encouraged adjacent to a store front.

11. Pedestrian Access: One separated pedestrian walkway shall be provided from the parking lot to the building entrance.

### 3-4727 Loading

Loading berths shall be subject to the Commercial Design Standards. In addition, the following articles apply to the loading and/or unloading of materials in a commercial development:

1. All loading and unloading operations shall be performed on the site. Off-street berths shall be provided in addition to required off-street parking and shall not be located within driveways.
2. Each loading berth shall not be less than twelve (12) feet wide, twenty-five (25) feet long and if enclosed and/or covered, fourteen (14) feet high. Adequate turning and maneuvering space to be provided within the lot lines.
3. Such loading areas should be located away from the public street to which the use is oriented.
4. To the greatest extent possible, loading areas should be screened from all public streets. This shall be accomplished through careful site planning, and the use of screen walls and landscaping.
5. In no event shall a loading dock be closer than seventy-five (75) feet from a property line fronting upon a street.
6. Loading berths shall be required as follows:
  - a. Commercial and service uses with over ten thousand (10,000) square feet floor area to be determined by the site plan Land Use Authority~~City Council upon recommendation of the Planning Commission~~, but in no case less than two (2) service entries.
  - b. The hours of loading and unloading, including trash removal, for any business that uses building entrances that face an adjacent residential zone shall be restricted to the hours between 7:00 a.m. and 10:00 p.m.

### 3-4732 Application Procedures

1. Development of property within the Town Center overlay zone requires the following approvals:

- a. Site plan approval, which includes review and approval of site coverage, building setbacks, screening and fences, parking, loading, and driveway areas, traffic circulation, landscaping and hardscaping, transition and buffering between adjacent uses, lighting, grading, drainage, utility design, and other engineering design elements;
- b. Architectural review approval, which includes review of building height, design, materials, and aesthetics;
- c. Conditional use permit approval, for conditional uses; and
- d. Construction approvals, including building permits, sign permits, and right of way permits.

1.2. Submittal Requirements. An application shall include:

- a. A complete application form and fee.
- b. A site plan to scale that legibly and clearly identifies the following:
  - i. Lot lines defining the area to be occupied by buildings; and
  - ii. Areas and configurations to be used for parking and walkways including proposed parking locations indicating their compliance with the Commercial Design Standards and this ordinance; and
  - iii. Location of any adjacent roads or driveways with cross-section(s); and
  - iv. Spaces for loading and refuse collection and their respective screening; and
  - v. Proposed landscaping and planting conceptual plans including landscaping as required by this ordinance such as the parkway detail, tree grates, landscaping planters, parking area landscaping and any proposed landscaping for areas not used for buildings, parking spaces, or access drives as required; and
  - vi. A traffic impact analysis (TIA) for the proposed development, to be completed by a competent transportation engineer at the developer's expense. Said TIA shall, as a minimum, address the suitability of the proposed parking, street access, driveway, and on-site traffic circulation systems and the impact on the adjacent street system.
- c. Landscaping plans including:

- i. Preliminary list of plants, trees, shrubs, and ground cover
  - ii. Preliminary location of plants, trees, shrubs, and ground cover
  - iii. Any proposed sign locations and in accordance with Section 3.7 Signs of this Code; and
  - iv. General and conceptual lighting plans including parking lighting, building lighting, and street lighting and specifications; and
  - v. Temporary screening plans for adjacent property remaining in residential use; and
  - vi. Generally detailed hardscape plans identifying the required hardscape areas and required hardscape and pedestrian elements such as tree grates, planters, trash receptacles, bike racks or benches as required for each project as defined in the Commercial Design Standards and 3-4731 of this Code; and
- d. Elevations and architectural renderings for all four (4) sides of the building. All elevations and renderings shall be sufficiently complete to show building heights and roof lines, the location and height of any walls, signs, and light standards, openings in the facade, and the general architectural character of the building. Said elevations and renderings shall provide enough detail to show compliance with the architectural intent of the Town Center Zone as defined in this ordinance, the Commercial Design Standards and the Town Center Master Plan.
- e. A comprehensive sign plan that includes:
  - i. A site plan identifying the location of all freestanding signs associated with the project.
  - ii. Final elevations/details, in color, showing the dimensions, materials, colors, design, method of illumination, and ground plane treatment for all proposed freestanding signs.
  - iii. Building elevations denoting the areas designated for wall mounted signage.
  - iv. Typical elevations/details, in color, showing the materials, colors, fonts, method of mounting, and method of illumination for a typical wall mounted sign. If multiple letter types are proposed, the sign plan shall include a detail for each possible type.
- f. Any additional information as required by the Reviewing Body, Recommending Body, or Land Use Authority~~Development Review~~

~~Committee, Planning Commission, or City Council~~ to evaluate the character and impact of the proposed development

- g. Additional requirements associated with a Conditional Use Permit application, see General Provision Section.

~~2.3.~~ Pre-application. Prior to application for all development within the Town Center Overlay Zone, a pre-application review with the site plan and architectural review Reviewing Body~~Community Development Department~~ shall be required. The purpose of the pre-application review is:

- a. To familiarize the Reviewing Body~~Community Development Department~~ with the request;
- b. To determine application requirements and familiarize the applicant with the review process and procedures;
- c. To identify land use and development policies which may affect the outcome of the request;
- d. To permit a cursory technical review at a conceptual stage to identify conflicts in objectives and to identify potential solutions for those conflicts; and
- e. To identify the requirements for citizen participation and familiarize the applicant with related issues.

~~3.4.~~ Development Review Committee Application Review.

- a. All applications submitted under this ordinance will be reviewed by the site plan and architectural review Reviewing Bodies~~Development Review Committee~~ for compliance with this ordinance, the Commercial Design Standards, and all other ordinances, master plans, general plans, goals, objectives and standards of Highland City. The Committee-Reviewing Body can request additional information from the applicant as they deem necessary.
- b. Once the Reviewing Body Committee has reviewed the application and has determined that all requirements of this ordinance have been met, the Committee-Reviewing Body shall forward a recommendation to the Planning Commission and City Council~~Recommendation Body and Land Use Authority~~.

~~4.5.~~ Site Plan Review Recommendation and Decision. All uses proposed for development under this Article shall be subject to site plan review ~~according to Highland City Development Policy~~.

- a. ~~Planning Commission~~ Recommendation. The site plan Recommending Body ~~Planning Commission~~ may only recommend approval or denial. The Planning Commission-Recommendation Body may recommend

conditions of approval as identified in item c below. The ~~Planning Commission~~ recommendation will be forwarded to the ~~Land Use Authority City Council~~ for final action unless withdrawn by the applicant.

- b. ~~City Council~~ Action. The ~~Land Use Authority City Council~~ shall approve a site plan application if the following findings are met:
  - i. The proposed development complies with all provisions of this ordinance, Commercial Design Standards, and all other ordinances, master plans, general plans, goals, objectives and standards of Highland City.
  - ii. The proposed site development plan's building heights, building locations, access points, and parking areas will not negatively impact adjacent properties or the surrounding neighborhood.
  - iii. The proposed development promotes a functional relationship of structures to one another, to open spaces, and to topography both on the site and in the surrounding neighborhood.
  - iv. Ingress, egress, internal and external traffic circulation, off-street parking facilities, loading and service areas, and pedestrian ways, is so designed as to promote safety and convenience.
  - v. All mechanical equipment, appurtenances and utility lines are concealed from view and integral to the building and site design.
- c. The ~~City Council~~ Land Use Authority may place any conditions which are deemed necessary to mitigate potential impacts and insure compatibility of the use with surrounding development, insure compliance with this ordinance, and which are required to preserve the public health, safety and general welfare.

#### 5-6. Architectural Review.

- a. ~~Planning Commission~~ Action. The ~~architectural review Land Use Authority Planning Commission~~ shall only approve the architectural review if the following findings are met:
  - i. The proposed development complies with all provisions of this ordinance, Commercial Design Standards, and all other ordinances, master plans, general plans, goals, objectives and standards of Highland City.
  - ii. The height, location, materials, color, texture, area, setbacks, and mass, as well as parts of any structure (buildings, walls,

signs, lighting, etc.) and landscaping, is appropriate to the development, the community and the Transit Center Overlay.

- iii. The architectural character of the proposed structures is in harmony with, and compatible to, structures in the neighboring environment and the architectural character desired for the Transit Center Overlay; avoiding excessive variety or monotonous repetition.

- b. The ~~Planning Commission~~ architectural review Land Use Authority may place any conditions which are deemed necessary to ~~e~~insure compliance with this ordinance.

#### 6-7. Conditional Use Permits.

- a. All applications for a conditional use permit shall follow the procedures outlined in Chapter 4: Conditional Use Procedure.
- b. The conditional use Land Use Authority ~~City Council~~ may place any conditions which are deemed necessary to mitigate potential impacts and insure compatibility of the use with surrounding development, insure compliance with this ordinance, and which are required to preserve the public health, safety and general welfare.

### 3-4736 Appeals

1. ~~Any Appeals~~ from any final decision of the architectural review Land Use Authority ~~Planning Commission regarding Architectural Approval~~ shall be ~~heard by~~ directed to the City Council architectural review Appeal Authority.
- ~~1.2.~~ Any Appeals from any final decision of the site plan Land Use Authority ~~City Council for Site Plan and Final Approval~~ shall be ~~directed to~~ heard by the site plan Appeal Authority ~~per Chapter 2, Article 3 in this code~~.

### [PO Zone] 3-4902 Conditional Uses

The P.O. Zone is intended to allow the provision of professional services, and not general retail commercial. As noted in the following sections, the only uses allowed within the P.O. Zone shall be Conditional Uses which satisfy the primary intent or purpose for the Zone ~~and which are subject to special conditions as may be imposed by the planning commission or city council~~. All such conditional uses are subject to additional conditions considered appropriate and necessary by the conditional use Land Use Authority~~Planning Commission and City Council~~. Those uses which are incompatible with the desired land use for the P.O. Zone are prohibited. Following is a list of conditional uses for the P.O. Zone, subject to the standards and procedures established in this Code.

1. Professional offices and services including but not limited to: architects, engineers, contractors, real estate offices, property managers, and mortgage and title offices.
2. Financial or legal offices consisting of but not limited to: banks, insurance offices, and law or accounting offices.
3. Medically related offices/services consisting of but not limited to: doctor's office, dentist's office, pharmacy, physical therapy, optometrists, chiropractors, counselors, and psychiatrists.
4. Other types of Professional Services including but not limited to: information technology services, marketing, travel and employment agencies, journalists, collection agencies, educational services, daycares, music studios, photography studios, churches, colleges & schools (academic, preschools, special education, indoor instruction only).
5. Art and craft galleries, and studios for the teaching of arts and crafts.
6. Storage sheds not exceeding nine (9) acres as set forth in Exhibit "A".

### 3-4904 Development Standards

1. The area to be ~~z~~Zoned P.O. (a legal description of which is incorporated in Exhibit “A” (Amended: 10/19/04)), shall be recommended by the ~~Planning Commission Recommending Body~~ and approved by the ~~City Council Land Use Authority pursuant to the City’s legislative authority and discretion~~, and shall have the following characteristics:
  - a. Development site, excluding dedicated roads, shall be approximately twenty-three (23) acres (excluding the roadway). In order to encourage uses consistent with the objectives of the professional office district and to ensure adequate site planning, the entire site must be master planned at the time of site plan approval, even though it may be developed in stages or phases. Each phase must adhere to the original plan except as subsequently approved by the ~~site plan Land Use Authority~~~~Planning Commission and City Council~~. The project must have a minimum of four-hundred (400) feet of frontage on a dedicated public street.
  - b. Although the professional office district may provide services to citizens from surrounding communities, i.e., Alpine, Cedar Hills, American Fork, etc., it shall cater primarily to the citizens of Highland City.
  - c. The cumulative total, including the roadway, of professional office zoned property in Highland City shall not exceed twenty seven (27) acres (the size of the entire site).
  - d. Development site shall be located in the vicinity the Micron property at the border of Lehi City and Highland City. more specifically defined as: north of the intersection of State Road 92 and Highland Blvd.
2. Development of property zoned P.O. requires the following approvals:
  - a. Site plan approval, which includes review and approval of site coverage, building setbacks, screening and fences, parking, loading, and driveway areas, traffic circulation, landscaping and hardscaping, transition and buffering between adjacent uses, lighting, grading, drainage, utility design, and other engineering design elements;
  - b. Architectural review approval, which includes review of building height, design, materials, and aesthetics;
  - c. Conditional use permit approval, for conditional uses; and
  - d. Construction approvals, including building permits, sign permits, and right of way permits.

### 3-4905 Site Coverage

Coverage regulates the area of the site that may be covered by the building. Covered walkways, roof structure overhangs, and other solar protection or aesthetic structural elements should not be included in building coverage calculations. These guidelines also help protect area dedicated to landscape and parking. Site Coverage shall conform with Exhibit "A".

1. Coverage of a site by a building structure shall not exceed thirty (30) percent of the total site. This coverage may be increased, subject to the approval of the ~~City Planning Commission~~site plan Land Use Authority, if the project demonstrates superior response to the professional office zoning guidelines. In no case, however, shall site coverage exceed 40 percent.
2. In all site plan configurations, landscaping and/or natural open space shall occupy no less than thirty-five percent (35%) of the total land area under development, with minor deviations being allowed as approved by the ~~Planning Commission~~site plan Land Use Authority. All landscaping plans and open space designations must be approved by the ~~Planning Commission~~site plan Land Use Authority.

### 3-4906 Building Setbacks

It shall be within the authority of the ~~site plan Land Use Authority-Planning Commission~~ to determine, for any lot in this district, which property line or lines shall be considered as side or as rear lines for the purpose of administering this ordinance.

1. No building shall be closer to a public street right-of-way than twenty-five (25) feet unless all parking is provided in the rear of the building, in which case it may be no closer than twenty (20) feet. No building, with the exception of any portion that contains a drive-up window or counter, shall be closer than eight (8) feet from any private road or driveway. Structures which are adjacent to a plaza, mall, or other permanent pedestrian open space under the same ownership as the structure may abut the space and have openings into it. Those professional office buildings directly bordering residential property to the rear shall have no parking in the rear.
2. The public street right-of-way line shall be considered the front property line of a lot. Where a lot is bordered on two or more sides by a public street right-of-way, all such sides shall be considered as front property lines, and the area between the front property line and the building lines shall be known as the front setback area in all cases. Canopies, overhangs, and similar coverings may project into the front setback area, as much as 10', if approved by the ~~Planning Commission~~ architectural review Land Use Authority.
3. Side setback areas shall be a minimum of ten (10) feet including canopies and overhangs except where a side property line abuts a residential district, in which case the setback area shall be a minimum of thirty (30) feet.
4. Rear setback areas shall be a minimum of thirty (30) feet except where a rear property line abuts a residential district, in which case the rear setback area shall be a minimum of twenty-five (25) feet.
5. Side and Rear setbacks for storage areas near the City boundaries (i.e. along the Micron/Lehi border) can be reduced to five (5) feet.

### 3-4908 Screening Walls/Fences/Hedges

No wall, or fence is required for the buildings designated on the site plan as buildings 1-7. An open, rural, natural setting is preferred. An outside wall shall be installed and maintained along the storage portion of the site. Following are acceptable means of providing such screening:

1. Walls. A wall shall consist of concrete, stone, brick, tile, or similar type of solid masonry material a minimum of six (6) feet high and a maximum of twelve (12) feet high, and a minimum of eight (8) inches thick.
2. Berms. A berm shall be no less than thirty (30) feet in width at the base facing an arterial road and no less than twenty (20) feet in width at the base facing any other street or property. It shall be constructed of earthen material and it shall be landscaped. Grading of berms is further detailed in Section 3-4318 of this Code.
3. No signs or sign supports shall be permitted on any wall or fence.
4. Notwithstanding the requirements listed above, where the finished elevation of the property is lower at the boundary line, or within five (5) feet inside the boundary line, than an abutting property elevation, such change in elevation may be used in lieu of, or in combination with, additional screening to satisfy the screening requirements for this zone.
5. Note. Since walls and hedges are a main visual feature in any development, regulations related to the placement, size and appearance of such structures must be enacted. The following standards shall apply to the installation of all fences, walls, hedges or other visual obstructions used for the purpose of screening, either around the perimeter of the development site or within the development site:
  - a. No stand-alone wall, hedge or other visual obstruction in excess of six (6) feet shall be allowed on any professional office development site, unless along a boundary which abuts a city boundary or residential zone, or a part of the storage shed complex, in which case the height shall not exceed eight (8) feet. Storage shed walls which are also a wall of a storage structure shall not exceed twelve (12) feet in height.
  - b. When there is a difference in the ground level between two adjoining lots, the height of any fence, wall, or hedge constructed along the property line shall be determined by using the finished grade of the highest contiguous lot.
  - c. Only one (1) type of fence or wall design shall be permitted on any one (1) parcel or development. The design may include an appropriate mix of materials subject to the guidelines of these articles ~~and approval by the City Planning Commission.~~

- d. The use of chain link, barbed wire, electrified fence, or razor wire fence in conjunction with any fence, wall, or hedge, or by itself is prohibited, unless required by any law or regulation of the State of Utah.
- e. On a corner lot, no fence, wall, hedge, sign or other structure, shrubbery, mounds of earth, or other visual obstruction over thirty-six (36) inches in height above the nearest street curb elevation shall be erected, placed, planted, or allowed to grow within a traffic safety sight area.
- f. To protect safe sight-distance for vehicular movement, sight obstructing fences, or walls or other obstructions shall not exceed thirty-six (36) inches in height when located in a front setback.
- g. Wall materials shall consist of masonry construction finished with a light colored stucco, or mortar washed brick.
- h. Colors will be limited to natural tones. No bright or neon colors will be allowed.
- i. Any hedges used as screening shall be consistent in appearance to the general landscape of the site. Such hedges may be geometric in shape, but shall be pruned and maintained so as to avoid unsightly appearance and to avoid vehicular sight hazards.

### 3-4911 Landscaping

The following guidelines for landscaping shall apply to all developments within the professional office district:

1. Landscaping shall enhance the overall visual appearance of the development.
2. A fully dimensioned comprehensive landscaping site plan, attached hereto as Exhibit “B”, and incorporated herein as a specific requirement of this zone, shall include, but not be limited to:
  - a. List of plants
  - b. Size
  - c. Location
  - d. Irrigation plan
  - e. Hardscape
3. A fully dimensional, comprehensive site plan shall be submitted and approved by ~~Planning Commission~~ the site plan Land Use Authority prior to each building approval.

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### 3-4912 Hardscape

1. Hardscape should be used in coordination with architecture and landscaping to provide a link between the street edge and individual developments. Attention to Hardscape details can create visual unity by relating different developments to a unifying theme. In addition, proper hardscaping can improve pedestrian safety and movement, and the visual enjoyment of public areas.
2. Hardscape can include such items as benches, sculptures, water fountains, enriched paving treatments, cobblestone walkways, etc. A detailed plan of Hardscape design shall accompany landscape plans and shall be subject to review by the ~~City Planning Commission~~ site plan Land Use Authority to determine continuity with overall development plan and harmony with the development of surrounding properties.
3. The following specifications shall apply to Hardscape curbing and are found in Section 3-4911. Driveway and Curb Openings:
  - a. Access shall be by not more than one (1) roadway for each two-hundred (200) feet or fraction thereof of frontage on any street.
  - b. Curb cuts shall be offset a minimum of 350 feet from the centerline of major arterials at intersections, but in no case shall be located within the operational area of the intersection (which includes turning lanes with associated tapers), as defined in the "Guidelines" referred in Section 3-4311.
  - c. Curb cuts and driveway aisles shall be shared at property lines between parcels whenever possible.

### 3-4915 Lighting

The following articles shall relate to guidelines for exterior lighting of any professional office development. These articles relate to parking lighting, sign lighting, architectural lighting, safety lighting, and landscape lighting.

1. Lighting shall be stationary. No lighting shall blink, flash, or be of unusually high intensity or brightness.
2. Lighting shall be directed away from all adjacent properties and public streets and rights-of-way.
3. Lighting shall be shielded or recessed so that direct glare and reflections are contained within the boundaries of the parcel.
4. ~~Any parking lot lighting shall be reviewed by the site plan Land Use Authority may be approved by the Planning Commission with limitations.~~ Parking lot lighting shall be reviewed by the site plan Land Use Authority. Parking lot lighting may consist of bollard lights no more than four (4) feet in height or light poles no more than fifteen (15) feet in height. Type and location of light pole or bollard shall be approved by the Planning Commission. Any approved parking lot lighting types shall have a cap to direct all light toward the ground. The maximum foot candles at the center of a parking lot shall be 2. Parking lot lighting shall not be operable between the hours of 11:00 p.m. and 6:00 a.m. Lighting standards for the storage shed area shall not exceed 15 feet in height or the height of the primary building, whichever is less.
5. Street lighting and parking lot lighting contribute to the safety and security of each development, improving night visibility. Unique lighting fixtures may provide easy identification of entrance and exit ways for motorists. Such lighting shall be encouraged, however, lighting potentially visible from adjacent properties shall be subdued and shall not interfere with vehicular traffic.
6. Use of mercury vapor or exposed fluorescent lights is prohibited. Energy efficient warm, white lighting, such as high pressure sodium or quartz halogen, is encouraged.
7. Automatic timers on lighting shall be encouraged. Well designed systems can maximize personal safety during nighttime use while saving energy.
8. Lighting may be used to enhance landscaping and reinforce architecture, with dramatic up lighting or wall shadow effects with plant materials encouraged.
9. Light fixtures shall be consistent in styling with the design theme proposed for that development.

10. Service area lighting shall be contained within service yard boundaries, with light sources concealed.
11. Lighting shall not cast any glare onto adjacent lots and streets in such a manner as to decrease the safety of pedestrian and vehicular movement.
12. A lightning plan shall be submitted for approval at the time of the application for a building permit.
13. Lighting in the storage shed area may remain on at all times for safety and security reasons.
14. The maximum average allowable foot candles on the ground in the professional office area shall be 5.
15. The maximum average allowable foot candles on the ground in the storage shed area shall be 2.
16. Eastside lighting shall be limited to building mounted only.

### 3-4916 Projections

The following list represents the only projections/construction that shall be permitted within the required setback areas:

1. Front Setback. Roof overhangs
2. Rear/Side Setbacks. Roof overhangs, and any projection/substructure which is determined by the architectural review Land Use Authority Planning Commission to substantially contribute to public safety.

### 3-4918 Utilities/Equipment

The following articles shall relate to the installment, location and screening of utilities and other exterior equipment:

1. All utilities, including drainage systems, sewer, gas and water lines, electrical, telephone and communications wires, and related equipment, irrigation ditches and/or pipes, shall, where possible, be installed and maintained underground.
2. No mechanical equipment (including, but not limited to, components of plumbing, processing, heating, cooling, and ventilating systems) shall be visible on site or from adjacent property.
3. No exterior components of such mechanical equipment (e.g. piping, stacks and duct work, fans and compressors) shall be mounted on any building wall unless they are an integrated architectural design feature. Any such components shall only be permitted with the ~~written~~ approval of the ~~City Planning Commission~~ architectural review Land Use Authority.

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### 3-4922 Architectural Design

The architectural design (including design, rendering, and a list of building materials) of each professional office building and the storage shed complex are attached hereto as Exhibit "C" and incorporated herein as a specific requirement of this zone. The location of each building on the site plan is designated in Exhibit "A", which locations are also incorporated herein as a specific requirement of this zone. Prior to the issuance of building permits for any ~~permitted or conditional use within the Highland City Professional Office District~~, the architectural review Land Use Authority City Planning Commission shall review the proposed development plans to assure compliance with the architectural design guidelines provided in this and other sections of Article 4.9 of Highland City's P.O. Zone. Any Appeals of actions final decisions on architectural compliance ~~may shall~~ be heard by the City Council architectural review Appeal Authority.

#### 1. Overall Architectural Outline.

- a. The proposed development shall be of a quality and character which is consistent with the community design goals and policies including but not limited to: scale, height, bulk, materials, cohesiveness, colors, roof pitch, roof eaves and the preservation of privacy.
- b. The design shall improve community appearance by avoiding excessive variety and monotonous repetition.
- c. Proposed signage and landscaping shall be an integral architectural feature which does not overwhelm or dominate the structure or property.
- d. Lighting shall be stationary and deflected away from all adjacent properties and public streets and rights-of-way.
- e. Mechanical equipment, storage, trash areas, and utilities shall be architecturally screened from public view.
- f. With the intent of protecting sensitive land uses, any proposed design shall promote a harmonious and compatible transition in terms of scale and character between areas of different land uses.
- g. All building elevations shall be architecturally treated.
- h. Both sides of all perimeter walls or fences shall be architecturally treated, except for the side that is inside a storage building
- i. Each licensed business will provide public rest rooms of sufficient size to service potential customers including men and women. The rest rooms shall be designed in accordance with the UBC to accommodate handicapped persons.

2. Architectural Guidelines. The following architectural design guidelines apply to all ~~permitted and conditional~~ uses ~~in the Highland City Professional Office District~~:

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### 3-4925 Submittal Requirements

All ~~permitted~~ uses proposed for development under this Article shall be subject to site plan review ~~according to Highland City Development Policy~~. There shall be submitted to the ~~Planning Commission Zoning Administrator~~ a plan for the use and development of each tract for the purposes of and meeting the requirements set forth in this ordinance. Said plan shall be accompanied by information concerning the number of persons to be employed, the effects on surrounding property, and other physical conditions, including the effect of the project on adjacent streets and shall include the following:

1. A site plan showing lot lines and defining the area to be occupied by buildings, the areas and configurations to be used for parking, the location of roads, driveways, signs, and walks, the spaces for loading, and the character and extent of landscaping, planting and other treatment for adjustment to surrounding property.
2. Enough information on land areas adjacent to the proposed development to indicate adjacent land uses, zoning classifications, circulation systems, public facilities, and unique natural features of the landscape.
3. Elevations and/or architectural renderings of buildings' facades facing public rights-of-way and district boundaries where the premises abut areas zoned for residential uses, said elevations or renderings being sufficiently complete to show building heights and roof lines, the location and height of any walls, signs, and light standards, openings in the facade, and the general architectural character of the building.
4. Any additional information as required by the ~~Planning Commission~~ Reviewing Body, Recommending Body, or Land Use Authority to evaluate the character and impact of the proposed development.
5. Additional requirements associated with a Conditional Use Permit application, see General Provision Section.

### 3-4926 Action On Site Plan

The ~~site plan Recommending Body Planning Commission~~ shall review the site plan and make a recommendation to the site plan Land Use Authority~~either recommend, deny, or recommend with conditions, the site plan~~. The site plan then ~~must~~ will be ~~approved~~ reviewed by the ~~City Council~~ site plan Land Use Authority.

1. Findings necessary to granting approval for the site plan are:
  - a. The proposed use and development of land conforms to the provisions of this ordinance, and requirements of Engineering, Fire Department, Flood Control, Business License, and Planning Department. ~~Each of these units shall review the proposed site plan and submit their written comments to the Planning Commission and City Council.~~
  - b. The development is otherwise not detrimental to the public health, safety, general welfare, or to adjacent property, or to the orderly development of the City.
  - c. Approval of a traffic impact analysis (TIA) for the proposed development, to be completed by a competent transportation engineer at the developer's expense. Said TIA shall, as a minimum, address the suitability of the proposed parking, street access, driveway, and on-site traffic circulation systems and the impact on the adjacent street system.
  - d. Demonstration that adverse impacts on neighboring residential properties have been reasonably mitigated.

### **3-4927 Site Plan Appeals**

Any Appeals from any final decision of the site plan Land Use Authority City Council with respect to a Conditional Use Permit may shall be directed heard by the site plan Appeal Authority to the District Court within thirty days.

### **[P-I Zone] 3-4941 Permitted Uses**

The only uses allowed within the Public Institution Zone shall be permitted uses which satisfy the primary intent or purpose for the Zone. All uses in this zone shall first obtain site plan approval from the site plan Land Use Authority Planning Commission prior to construction of any structure. The following list of uses may be permitted within the Public Institution Zone with site plan approval:

1. Administrative, maintenance or service uses primarily associated with Federal, State and Local Government (ex: post office, tourism, city buildings, parks and recreation, etc.).
2. Public and private schools
3. Parks and Open Space
  - a. Parks and recreation facilities operated by a governmental agency, including: bicycle trails, equestrian trails, walking trails, nature trails, park land/lawn areas, children's play areas, picnic facilities, pavilions, athletic courts and athletic fields used for public park and recreation purposes.
  - b. Natural Conservation Areas for the managed protection of resources, including but not limited to; forest lands, waterways and watersheds.
  - c. Public water supply reservoirs (uncovered), water conservation areas including percolation basins and flood plain areas.
  - d. Naturally maintained open space.
  - e. Minor maintenance and utility structures associated and limited to the maintenance of the site where it is located.

### 3-4944 Development Standards

1. An area to be ~~Z~~zoned Public Institution shall be recommended by the ~~Planning Commission-Recommend~~ing Body and approved by the ~~Land Use Authority pursuant to the City's legislative authority and discretion, City Council~~ and shall have the following characteristics:
  - a. Development Site, excluding dedicated roads, shall be a minimum of one thousand (1,000) square feet in area with a minimum of one hundred thirty (130) feet of frontage on a dedicated and improved public street.
  - ~~b.~~ In order to encourage uses consistent with the objectives of the Public Institution Zone and to ensure adequate site planning, the entire site must be master planned at the time of site plan approval. Control of the property by a single person, association, partnership, or corporation must be demonstrated.
2. Development of property zoned P-I requires the following approvals:
  - a. Site plan approval, which includes review and approval of site coverage, building setbacks, screening and fences, parking, loading, and driveway areas, traffic circulation, landscaping and hardscaping, transition and buffering between adjacent uses, lighting, grading, drainage, utility design, and other engineering design elements;
  - b. Architectural review approval, which includes review of building height, design, materials, and aesthetics; and
  - ~~b.c.~~ Construction approvals, including building permits, sign permits, and right of way permits.

### 3-4946 Building Setbacks

It shall be within the authority of the site plan Land Use Authority Planning Commission to determine, for any development in this Zone, which property line or lines shall be considered as side or as rear lines for the purpose of administering this ordinance.

1. The public street right-of-way line shall be considered the front property line of a lot. Where a property does not have frontage on a public right-of-way then the front shall be considered the portion of the lot where it is accessed. Front setback areas shall be a minimum of thirty (30) feet.
2. Side setback areas shall be a minimum of ten (10) feet. Where a side property line abuts a residential zone then the side setback shall be a minimum of (30) feet.
3. Rear setback areas shall be a minimum of ten (10) feet. Where a rear property line abuts a residential zone then the rear setback shall be a minimum of (30) feet.
4. In no case shall any permanent structure be constructed within any recorded easement of any kind. This shall include retaining walls over two (2) feet in height, but shall exclude fences which meet the fence requirements of Highland City.
5. Setbacks do not apply to open ponds for water storage, however open ponds shall not be developed within any easement other than drainage basins or easements designated for such use.

### 3-4955 Projections

The following list represents the only projections/construction that shall be permitted within the required setback areas:

1. Front Setback. Roof overhangs
2. Rear/Side Setbacks. Roof overhangs, and any projection/substructure which is determined by the architectural review Land Use Authority Planning Commission to substantially contribute to public safety.

### 3-4961 Architectural Design

Prior to the issuance of building permits for any ~~permitted or conditional use within the Highland City Public Institution Zone~~, the ~~City Planning Commission architectural review Land Use Authority~~ shall review the proposed development plans to assure compliance with the architectural design guidelines provided in this Section.

#### 1. Overall Architectural Outline.

- a. The proposed development shall be of a quality and character which is consistent with the community design goals and policies including but not limited to: scale, height, bulk, materials, cohesiveness, colors, roof pitch, roof eaves and the preservation of privacy.
- b. The design shall improve community appearance by avoiding excessive variety and monotonous repetition.
- c. Proposed landscaping shall be an integral architectural feature which does not overwhelm or dominate the structure or property.
- d. Lighting shall be stationary and deflected away from all adjacent properties and public streets and rights-of-way.
- e. Mechanical equipment, storage, trash areas, and utilities shall be architecturally screened from public view.
- f. With the intent of protecting sensitive land uses, any proposed design shall promote a harmonious and compatible transition in terms of scale and character between areas of different land uses.
- g. All building elevations shall be architecturally treated.
- h. Parking structures shall be architecturally compatible with the primary structure.
- i. Both sides of all perimeter walls or fences shall be architecturally treated.
- j. Each licensed business will provide public rest rooms of sufficient size to service potential customers including men and women. The rest rooms shall be designed in accordance with the UBC to accommodate handicapped persons.
- k. Any building within the PI Zone shall have at least one opening (ex: window, jog in foundation of at least two (2) feet) for every twenty (10) linear feet which is visible from any public access or right-of-way. If a window is used as an opening it shall have a three (3) foot minimum width. A doorway may substitute for an opening on one side.

2. Architectural Guidelines. The following architectural design guidelines apply to all ~~permitted and conditional~~ uses ~~in the Highland City Public Institution Zone~~:

- a. The following architectural styles and motifs are prohibited in Highland City:
  - i. A-frame structures
  - ii. Geodesic dome structures
  - iii. Mediterranean motifs
  - iv. Tudor or mock Tudor (half timbering)
  - v. Highly ornate Victorian
  - vi. Rustic frontier
  - vii. Pre-fabricated or industrial
- b. Note. Aluminum siding is generally not considered a material of choice. The ~~Planning Commission~~ architectural review Land Use Authority may, however, consider requests for the use of aluminum siding. The applicant will be required to bring a sample of the type and color of siding to be approved ~~by the Planning Commission~~. When aluminum siding is approved, it shall have a minimum thickness of .019 inches and shall be backed or insulated with a minimum of 3/8 inch fiberboard or polystyrene foam. The siding materials listed below are prohibited in any Public Institution building in Highland City:

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### 3-4964 Submittal Requirements

All ~~permitted~~ uses proposed for development under this Article shall be subject to a Site Plan review according to this Code. There shall be submitted to the ~~Planning Commission-Zoning Administrator~~ a plan for the use and development of each tract for the purposes of and meeting the requirements set forth in this ordinance and shall include the following:

1. A detailed site plan showing lot lines and defining the area to be occupied by buildings, the areas and configurations to be used for parking, the location of roads, driveways, signs, and walks, the spaces for loading, and the character and extent of landscaping, planting and other treatment for adjustment to surrounding property.
2. Enough information on land areas adjacent to the proposed development to indicate adjacent land uses, zoning classifications, circulation systems, public facilities, and unique natural features of the landscape.
3. Elevations and/or architectural renderings of all four elevations of each buildings' facades and Zone boundaries where the premises abut areas zoned for residential uses, said elevations or renders being sufficiently complete to show building heights and roof lines, the location and height of any walls, signs, and light standards, openings in the facade, and the general architectural character of the building (schools are exempt from this requirement).

### 3-4965 Action On Site Plan

The ~~Planning Commission-site plan~~ Land Use Authority shall either approve, approve with conditions, or deny the site plan.

1. Findings necessary to granting approval for the site plan are:
  - a. The proposed use and development of land conforms to the provisions of this ordinance, ~~and recommendations of the City Zoning Administrator and City Engineer~~.
  - b. The development is otherwise not detrimental to the public health, safety, general welfare, or to adjacent property, or to the orderly development of the City.

### **3-4966 Appeals**

1. Any appeals from any final decision of the architectural review Land Use Authority shall be heard by the architectural review Appeal Authority.
2. Any appeals from any final decision of the site plan Land Use Authority shall be heard by the site plan Appeal Authority.

### [P-U Zone] 3-41002 Conditional Uses

The only uses allowed within the P-U Zone shall be Conditional Uses which satisfy the primary intent or purpose for the Zone ~~and which are subject to special conditions as may be imposed by the Planning Commission or City Council~~. All such conditional uses may be subject to additional conditions considered appropriate and necessary by the conditional use Land Use Authority ~~Planning Commission and City Council~~. Those uses which are incompatible with the desired land use for the P-U Zone are prohibited. Any associated structure(s) requested within this zone shall be uninhabitable with the exception of routine maintenance. The following list of uses may be permitted within the Public Utility Zone with a Conditional Use permit:

1. Water Storage Tanks
2. Pumping Stations
3. Power Substations
4. Irrigation Reservoirs
5. Telephone Switching Facilities
6. Sewer Lift Stations

### 3-41004 Development Standards

1. An area to be ~~z~~Zoned P-U shall be recommended by the ~~Planning Commission~~ Recommending Body and approved by the Land Use Authority pursuant to the City's legislative authority and discretion, City Council and shall have the following characteristics:
  - a. Development Site, excluding dedicated roads, shall be a minimum of ten thousand (10,000) square feet in area with a minimum of one hundred thirty (130) feet of frontage on a dedicated and improved public street.
  - b. In order to encourage uses consistent with the objectives of the Public Utility Zone and to ensure adequate site planning, the entire site must be master planned at the time of site plan approval. Control of the property by a single person, association, partnership, or corporation must be demonstrated.
  - c. A facility located within the Public Utility Zone may provide services to citizens from surrounding communities including any above-ground device or structure, of a culinary water, irrigation, reservoir, or private utility system not owned or operated by Highland City, which is intended to regulate the function of a storage device or distribution line or which receives or transmits a signal.
2. Development of property zoned P-U requires the following approvals:
  - a. Site plan approval, which includes review and approval of site coverage, building setbacks, screening and fences, parking, loading, and driveway areas, traffic circulation, landscaping and hardscaping, transition and buffering between adjacent uses, lighting, grading, drainage, utility design, and other engineering design elements;
  - b. Architectural review approval, which includes review of building height, design, materials, and aesthetics;
  - c. Conditional use permit approval, for conditional uses; and
  - e.d. Construction approvals, including building permits, sign permits, and right of way permits.

### 3-41005 Site Coverage

1. Coverage regulates the area of the site that may be covered by the building. Covered walkways, roof structure overhangs, and other solar protection or aesthetic structural elements should not be included in building coverage calculations. These guidelines also help protect area dedicated to landscape and parking.
- 1.2. Coverage of a site by a building structure, including all the pertinences, shall not exceed twenty-five percent (25%) of the total site. This coverage may be increased, subject to the approval of the site plan Land Use AuthorityCity Planning Commission, if the project demonstrates superior response to the Public Utility zoning guidelines. In no case, however, shall site coverage exceed 35 percent (35%).
- 2.3. In all site plan configurations, landscaping shall occupy no less than fifty percent (50%) of the total land area under development.
- 3.4. Coverage restrictions do not apply to open ponds for water storage.

### 3-41006 Building Setbacks

It shall be within the authority of the site plan Land Use Authority~~Planning Commission~~ to determine, for any development in this Zone, which property line or lines shall be considered as side or as rear lines for the purpose of administering this ordinance.

1. The public street right-of-way line shall be considered the front property line of a lot. Where a property does not have frontage on a public right-of-way then the front shall be considered the portion of the lot where it is accessed. Front setback areas shall be a minimum of thirty (30) feet.
2. Side setback areas shall be a minimum of ten (10) feet. Where a side property line abuts a residential zone then the side setback shall be a minimum of (25) feet.
3. Rear setback areas shall be a minimum of ten (10) feet. Where a rear property line abuts a residential zone then the rear setback shall be a minimum of (25) feet.
4. In no case shall any permanent structure be constructed within any recorded easement of any kind. This shall include retaining walls over two (2) feet in height, but shall exclude fences which meet the fence requirements of Highland City.
5. Setbacks do not apply to open ponds for water storage, however open ponds shall not be developed within any easement other than drainage basins or easements designated for such use.

### 3-41008 Screening Walls/Fences/Hedges

An opaque screen shall be installed and maintained along all Zone boundaries, other than streets. Following are acceptable means of providing such screening:

1. Walls. A wall shall consist of wrought iron, concrete, stone, brick, tile, or similar type of solid masonry material(s). All such walls must be landscaped with vegetation at the base of the wall where it may be visible from a public right-of-way or from a private residence.
2. Berms. A berm shall be no less than thirty (30) feet in width at the base facing an arterial road if available and no less than twenty (20) feet in width at the base facing any other street or property if available. It shall be constructed of earthen material and it shall be landscaped. Grading of berms is further detailed in Section 3-41018 of this Code.
3. No signs or sign supports shall be permitted on any required screening unless required by State or Federal regulations however the most restrictive requirements for the size and location of signs or sign supports required by any law or regulation of the State of Utah shall take precedent.
4. Note. Since walls and hedges are a main visual feature in any development, regulations related to the placement, size and appearance of such structures must be enacted. The following standards shall apply to the installation of all fences, walls, hedges or other visual obstructions used for the purpose of screening, either around the perimeter of the development site or within the development site:
  - a. No wall, hedge or other visual obstruction in excess of six (6) feet shall be allowed on any Public Utility development site.
  - b. When there is a difference in the ground level between two adjoining lots, the height of any fence, wall, or hedge constructed along the property line shall be determined by using the finished grade of the highest contiguous lot.
  - c. Only one (1) type of fence or wall design shall be permitted on any one (1) parcel or development. The design may include an appropriate mix of materials subject to the guidelines of these articles ~~and approval by the City Planning Commission.~~

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### 3-41009 Parking

Except as may be provided elsewhere in this ordinance, there shall be provided at the time of erection of any building or structure, or at the time any main building is enlarged or increased in capacity, minimum off-street parking space(s) with adequate provisions for ingress and egress by standard-sized automobiles. If any land, structure or use is changed from one use to another which requires more off-street parking spaces, there shall be provided such additional off-street parking for the new use as is required by this chapter.

1. Parking Lot Characteristics. Each parcel of land developed for off-street parking in response to the requirements of this chapter shall provided the following characteristics:
  - a. Surfacing. Each lot shall have a paved, all-weather surfacing material consisting of a minimum of six (6) inches of road base with three (3) inches of asphalt, or, three (3) inches of road base with six (6) inches concrete paving on all parking areas and service roads. Surfacing shall be maintained in good condition and kept clear and in an unobstructed and usable condition at all times during business hours. Responsibility for maintenance of the lot shall rest with the property owner. The lot shall provide adequate access to a street or alley.
  - b. Grading. Parking lots shall be graded for proper drainage with surface water diverted in such a way as to keep the parking area free of accumulated water or ice. All surface drainage shall be contained within development site ~~and approved by City Engineer.~~
  - c. Lighting. Lots shall be properly illuminated, with luminaries arranged so as to baffle and direct light away from any adjoining residential buildings. Exterior lighting of any kind shall not exceed fifteen (15) feet in height but shall not include lighting which may be directed toward an American flag that is mounted to a flag pole. All lighting that is requested to be functional between the hours of 11:00 p.m. and 7:00 a.m. for security purposes only shall be motion sensed and shall be turned off otherwise.
  - d. Size of Spaces. Each parking space shall be a minimum of nine (9) feet wide by eighteen (18) feet long.
  - e. Handicapped Parking. All structures which are required by the provisions of the International Building Code to have adaptations which assist access by handicapped persons shall, in addition, provide off-street parking for handicapped persons as described below or as required by applicable State or Federal regulations.
2. Specific Requirements for Each Land Use. Minimum required off-street parking shall be provided for each use as listed below. Requirements

calculated on square footage of Public Utility space shall be based upon floor area devoted to the principal use or sales and shall not include area devoted to storage, rest rooms, or maintenance areas. Parking for uses not specifically listed below shall be provided in the same ratio as the use most nearly approximating the characteristics of the unlisted use, as determined by the ~~Planning Commission~~site plan Land Use Authority. Parking shall be provided as follows, with spaces based upon one or a combination of uses listed:

- a. Parking stalls for all uses shall be 0.5 per 1,000 square feet with a minimum of one (1).
- b. Increase of the minimum may be required by the ~~Planning Commission or City Council~~site plan Land Use Authority if, ~~in their opinion,~~ there is an exceptional need for said increased parking.
- c. In cases where less parking is appropriate, the site plan Land Use Authority ~~Planning Commission~~ may reduce requirements based upon actual usage, but in no case shall the requirements be reduced by more than 25 percent.

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### 3-41012 Hardscape

1. Hardscape may be incorporated as 10% of the required landscape area and can include such items as benches, sculptures, water fountains, enriched paving treatments, cobblestone walkways, large boulders, etc. A detailed plan of Hardscape design shall be included within landscape plans and shall be subject to review by the site plan Land Use Authority~~City Planning Commission~~ to determine continuity with overall development plan and harmony with the development of surrounding properties.

### **3-41016 Projections**

The following list represents the only projections/construction that shall be permitted within the required setback areas:

1. Front Setback. Roof overhangs
2. Rear/Side Setbacks. Roof overhangs, and any projection/substructure which is determined by the ~~Planning Commission~~ architectural review Land Use Authority to substantially contribute to public safety.

### 3-41018 Utilities/Equipment

The following articles shall relate to the installment, location and screening of utilities and other exterior equipment:

1. All utilities, including drainage systems, sewer, gas and water lines, electrical, telephone and communications wires, and related equipment, irrigation ditches and/or pipes, shall, where possible, be installed and maintained underground.
2. No mechanical equipment (including, but not limited to, components of plumbing, processing, heating, cooling, and ventilating systems) shall be visible on site or from adjacent property but shall be enclosed within a structure which shall comply with this Section.
3. No exterior components of such mechanical equipment (e.g. piping, stacks and duct work, fans and compressors) shall be mounted on any building wall unless they are an integrated architectural design feature. Any such components shall only be permitted with the written approval of the ~~City Planning Commission~~architectural review Land Use Authority.

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### 3-41022 Architectural Design

Prior to the issuance of building permits for any ~~permitted or conditional use within the Highland City Public Utility Zone~~, the architectural review Land Use Authority City Planning Commission shall review the proposed development plans to assure compliance with the architectural design guidelines provided in this Section.

#### 1. Overall Architectural Outline.

- a. The proposed development shall be of a quality and character which is consistent with the community design goals and policies including but not limited to: scale, height, bulk, materials, cohesiveness, colors, roof pitch, roof eaves and the preservation of privacy.
- b. The design shall improve community appearance by avoiding excessive variety and monotonous repetition.
- c. Proposed landscaping shall be an integral architectural feature which does not overwhelm or dominate the structure or property.
- d. Lighting shall be stationary and deflected away from all adjacent properties and public streets and rights-of-way.
- e. Mechanical equipment, storage, trash areas, and utilities shall be architecturally screened from public view.
- f. With the intent of protecting sensitive land uses, any proposed design shall promote a harmonious and compatible transition in terms of scale and character between areas of different land uses.
- g. All building elevations shall be architecturally treated.
- h. Parking structures shall be architecturally compatible with the primary structure.
- i. Both sides of all perimeter walls or fences shall be architecturally treated.
- j. Each licensed business will provide public rest rooms of sufficient size to service potential customers including men and women. The rest rooms shall be designed in accordance with the UBC to accommodate handicapped persons.
- k. Any building within the PU Zone shall have at least one opening (ex: window, jog in foundation of at least two (2) feet) for every twenty (10) linear feet which is visible from any public access or right-of-way. If a window is used as an opening it shall have a three (3) foot minimum width. A doorway may substitute for an opening on one side.

2. Architectural Guidelines. The following architectural design guidelines apply to all ~~permitted and conditional uses in the Highland City Public Utility Zone~~:

- a. The following architectural styles and motifs are prohibited in Highland City:
  - i. A-frame structures
  - ii. Geodesic dome structures
  - iii. Mediterranean motifs
  - iv. Tudor or mock Tudor (half timbering)
  - v. Highly ornate Victorian
  - vi. Rustic frontier
  - vii. Pre-fabricated or industrial
- b. Note. Aluminum siding is generally not considered a material of choice. The ~~Planning Commission architectural review Land Use Authority~~ may, however, consider requests for the use of aluminum siding. The applicant will be required to bring a sample of the type and color of siding to be approved ~~by the Planning Commission~~. When aluminum siding is approved, it shall have a minimum thickness of .019 inches and shall be backed or insulated with a minimum of 3/8 inch fiberboard or polystyrene foam. The siding materials listed below are prohibited in any Public Utility building in Highland City:

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### 3-41025 Submittal Requirements

All ~~permitted~~ uses proposed for development under this Article shall be subject to site plan review ~~according to Highland City Development Policy~~. There shall be submitted to the ~~Planning Commission Zoning Administrator~~ a plan for the use and development of each tract for the purposes of and meeting the requirements set forth in this ordinance. Said plan shall be accompanied by information concerning the number of persons to be employed, the effects on surrounding property, and other physical conditions, including the effect of the project on adjacent streets and shall include the following:

1. A detailed site plan showing lot lines and defining the area to be occupied by buildings, the areas and configurations to be used for parking, the location of roads, driveways, signs, and walks, the spaces for loading, and the character and extent of landscaping, planting and other treatment for adjustment to surrounding property.
2. Enough information on land areas adjacent to the proposed development to indicate adjacent land uses, zoning classifications, circulation systems, public facilities, and unique natural features of the landscape.
3. Elevations and/or architectural renderings of all four elevations of each buildings' facades and Zone boundaries where the premises abut areas zoned for residential uses, said elevations or renders being sufficiently complete to show building heights and roof lines, the location and height of any walls, signs, and light standards, openings in the facade, and the general architectural character of the building.
4. Any additional information as required by the ~~Reviewing Body, Recommending Body, or Land Use Authority-Planning Commission~~ to evaluate the character and impact of the proposed development.
5. Additional requirements associated with a Conditional Use Permit application, see General Provision Section.

### 3-41026 Action On Site Plan

The site plan Recommending Body Planning Commission shall ~~either recommend, deny, or recommend with conditions, review~~ the site plan and make a recommendation to the site plan Land Use Authority. The site plan then will must be ~~approved-reviewed~~ by the site plan Land Use Authority~~City Council~~.

1. Findings necessary to granting approval for the site plan are:
2. The proposed use and development of land conforms to the provisions of this ordinance, ~~and recommendations of the City Zoning Administrator and City Engineer~~.
3. The development is otherwise not detrimental to the public health, safety, general welfare, or to adjacent property, or to the orderly development of the City.
4. Demonstration that adverse impacts on neighboring residential properties have been reasonably mitigated or a significant attempt has been made by the developer to mitigate those impacts.

### **3-41027 Site Plan Appeals**

Any Appeals from any final decision of the City Council site plan Land Use Authority with respect to a Conditional Use Permit may shall be heard by the site plan Appeal Authority directed to the Zone Court within thirty days.

### 3-510 Establishment Of A PD District

#### 1. General Provisions.

- a. ~~A~~ PD Districts shall only be located in the mixed use land use category.
- b. All PD Districts may have a mix of residential and non-residential uses including office, retail, and business park uses. PD Districts with only non-residential uses are permitted.
- c. All approved plans (site plans, subdivisions, buildings, documents and permits, etc) shall conform to the approved PD Narrative.

#### 2. Rezoning Required. All PD Districts shall be established through the rezoning approval process. All actions establishing a PD District shall be considered a legislative action and shall be at the discretion of the ~~City Council~~Land Use Authority.

#### 3. Required Findings. The applicant shall address each of the required findings (set forth below) individually, and shall demonstrate with sufficient, objective information, how the proposed PD complies with each. The ~~City Council~~Land Use Authority, following a recommendation from the ~~Planning Commission~~Recommending Body, may approve a PD on the subject property pursuant to the City's legislative authority and discretion upon determining that all of the following findings have been met:

- a. The proposed PD is consistent with the General Plan;
- b. That there are or will be adequate public facilities, including but not limited to: transportation, water, wastewater, and public safety facilities, etc.
- c. The proposed PD will result in compatible land use relationships and acceptable land use patterns with existing and planned land use in the area; and;
- d. The development standards of the proposed PD are consistent with or exceed the desired quality of development for the area.

#### 4. Conditions and Stipulations of Approval. The ~~City Council~~Land Use Authority may, in its sole discretion, approve a PD subject to conditions or stipulations. Conditions and stipulations included in the ~~City Council~~Land Use Authority action establishing a PD District shall become part of the regulations governing the use and development of the PD.

#### 5. PD Regulations. The PD Narrative, site plan, design standards and any other documents, exhibits or plans associated with the PD, in the form approved by the City, shall become part of the regulations governing the use and development of the PD and the Zoning Map shall be amended to reflect adoption of the PD and the related documents and plans.

6. Expiration. Approval of any PD zoning is conditioned on development of the first phase of the project commencing within two years of the effective date of the ordinance approving the PD zoning on the property.
- a. Prior to the expiration of the two year time condition, the property owner or authorized representative may submit an application for an extension to the City. Upon receipt of a request for extension, the Zoning Administrator shall submit the request to the ~~City Council~~ Land Use Authority for consideration at a public hearing. ~~held pursuant to 603.D.2 below~~
  - b. The ~~City Council~~ Land Use Authority shall, after notices via certified mail to the property owner and authorized representative have been provided at least fifteen (15) days prior to the date of the scheduled hearing, hold a public hearing on the extension request. The ~~City Council~~ Land Use Authority may, in its sole discretion and as a legislative decision, grant one extension of the time condition up to one-year.
  - c. In the event the project's first phase has not commenced within the two year time period and no request for time extension has been received, the Zoning Administrator may submit the PD to the ~~City Council~~ Land Use Authority for consideration of reversion, pursuant to the hearing procedure set forth in below:
    - i. The Zoning Administrator shall notify the property owner and authorized representative by certified mail of the ~~City Council's~~ Land Use Authority's intention to hold a hearing to determine compliance with the two year time condition, and to revert the zoning on the property to its former classification if the condition is determined by the ~~City Council~~ Land Use Authority to have not been met. All such notices shall be made at least fifteen (15) days prior to the date of the scheduled hearing. The ~~City Council~~ Land Use Authority may, in its sole discretion and as a legislative decision, either grant an extension of the time condition or revert the zoning on the property to its prior zoning classification.
  - d. Following the commencement of the first phase of the project, the Zoning Administrator shall monitor the project to ensure compliance with the approved PD phasing schedule. Upon the Zoning Administrator's initial determination that the phasing schedule is not being met, no further review or approval of any project site plan or plat shall occur until it is determined that good cause exists for delay in the construction of the project. Should the project fail to proceed as scheduled, a public hearing shall be held by the ~~City Council~~ Land Use Authority to determine the cause of the delay. At the public hearing on

the matter, if the ~~City Council~~ Land Use Authority determines that there is not good cause for the delay, it may impose additional conditions on the PD to ensure compliance with the phasing schedule. If such additional conditions and the phasing schedule are not met, the Zoning Administrator may set the matter for public hearing, according to the process set forth above, on a possible reversion of the PD zoning. If the ~~City Council~~ Land Use Authority determines that good cause exists, it may amend the PD development phasing schedule.

- e. For purposes of this section, the terms “commence,” “commencing” and “commencement” shall mean physical vertical construction activity in accordance with a valid building permit issued by the City and/or the beginning of construction of on-site and off-site infrastructure including streets, sidewalks, water and wastewater, so long as such infrastructure is completed prior to expiration of the City-issued development permit issued therefore.

#### 7. Amendment.

- a. The Zoning Administrator or designee shall determine whether a proposed deviation from the approved PD District is a Major or Minor Amendment. Major Amendments shall require legislative approval by the Land Use Authority after recommendation by the Recommending Body~~City Council approval upon recommendation of the Planning Commission~~. Minor Amendments shall require administrative approval by the Land Use Authority~~Zoning Administrator or designee only~~. No amendment to a PD will be approved without concurrent revision of its development plan.
- b. Major Amendment. Any one of the following shall be considered a Major Amendment of a PD:
  - i. A ten percent (10%) or more increase in the number of dwelling units.
  - ii. Any reduction in acreage devoted to commercial uses.
  - iii. A significant change in boundary lines of development units.
  - iv. Any change which could have significant impact on areas adjoining the PD.
  - v. Any change which could have a significant traffic impact on roadways adjacent or external to the PD.
  - vi. Amending the uses allowed by adding a permitted use, a use permitted with conditions or a use requiring a Conditional Use Permit, unless the Zoning Administrator has determined that the use to be added is analogous to a permitted use.

- vii. Changes to, or addition of, phasing for a PD when such changes impact twenty-five percent (25%) or more of the land area contained within the PD district.
  - c. Minor Amendment. All amendments of a PD District not determined by the Zoning Administrator to be a Major Amendment shall be a Minor Amendment.
- 8. Modification of Current Regulations.
  - a. All PD Districts shall comply with the development standards in the Development Code. However, based upon a recommendation of the Planning Commission~~Recommending Body~~, the ~~City Council~~Land Use Authority, pursuant to its legislative authority and discretion, may approve modifications from standard Development Code requirements.
  - b. No modification of development standards shall be permitted unless the applicant provides substantial evidence indicating that the modifications will produce an environment superior to that which could have been produced by strict application of existing standards for comparable zoning districts. Additional mitigation measures may also be required.
- 9. Phasing. The PD may provide for certain on-site and off-site infrastructure to be constructed in phases, subject to the following limitations:
  - a. Complete construction of all public infrastructure improvements within the public right-of-way on the exterior of the PD site shall be included within the first phase of development, unless the ~~City Council~~Land Use Authority, in its sole discretion, allows for an alternate infrastructure improvement schedule as part of a development agreement or approved phasing plan. Each phase of development shall be able to function as a single entity.
  - b. Prior to commencement of the first phase infrastructure improvements, the owner/applicant shall provide financial assurances in the amount determined by the City Engineer and in the form approved by the City Attorney, for construction of such portions of the infrastructure improvements located within the public right-of-way on the exterior of the PD.
  - c. For mixed-use projects a proportionate share of residential and commercial buildings and/or uses shall be constructed concurrently as determined by the ~~City Council~~Land Use Authority.

### 3-612 Fences, Theme Walls, Screen Walls, And Retaining Walls

#### 1. Permit Required.

- a. All fences, theme walls, screen walls, and retaining walls shall be subject to review and approval by the ~~Land Use Authority Zoning Administrator~~ and shall not be constructed without first obtaining the approval of the ~~Zoning Administrator~~Land Use Authority.
- b. An application shall contain an application form, any information specifically required by this ordinance, such additional information specified by the ~~Zoning administrator~~Land Use Authority, and a fee established by the City Council.
- c. The ~~Zoning Administrator~~Land Use Authority shall approve, approve with conditions, or deny an application within a reasonable time after a complete application is received. The applicant shall comply with all conditions of approval of the application. ~~Any Appeals of the Zoning Administrator's Land Use Authority's final decision may shall be brought to heard by the Appeal Authority per the requirements of Chapter 2, Article 3 of this Code.~~

...

3.c.iv.(3) The ~~Land Use Authority Zoning Administrator~~ may approve an alternative fence design for fencing adjacent to trails or open space if:

- (A) The proposed alternative meets the intent of this section; and,
- (B) There are special circumstances attached to the property that do not generally apply to other properties in the same subdivision; and,
- (C) The natural visibility or observation of the trail or open space is not diminished if the proposed alternative is constructed on all the lots adjacent to the trail or open space.

...

#### 7. Public and Utility Fencing and Retaining Walls.

- a. Fences for Highland City, other public entities, and public utilities may be chain link.
- b. Fences and retaining walls for Highland City, other public entities, and public utilities may deviate from the standards set forth in this Chapter for the benefit of the public and public

resources with the approval of the ~~Zoning Administrator~~Land Use Authority.

- c. Fences for non-Highland City public entities and utilities are required to be open style fencing along trail corridors that are less than thirty (30) feet wide.
- d. Nothing herein shall exempt non-Highland City entities from applying for and obtaining City approval of fences and retaining walls prior to construction.

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### **3-624 Accessory Dwelling Unit**

An accessory dwelling unit is a room or set of rooms in a single-family home in a single-family zone that has been designed or configured to be used as a separate dwelling unit, which has a separate kitchen, living/sleeping area, and sanitation facilities, and has been established by permit. If the renting/subleasing of the unit is for a period of less than thirty (30) consecutive days, it is considered a short term rental and requires a business license. See Chapter 5.24 in the Municipal Code for the regulating of short term rentals.

Accessory Dwelling Units shall meet the following requirements:

1. Accessory dwelling units shall only be permitted in single family homes that are owner occupied, on lots with at least 6,000 square feet, and served by adequate public facilities.
2. Accessory dwelling units shall not be permitted in detached accessory buildings.
3. A minimum of one (1) off-street parking space shall be provided for the accessory dwelling unit in addition to any other required parking spaces for the home. Any required parking spaces contained within a carport or garage that are lost due to the creation of the accessory dwelling unit shall be replaced or otherwise provided for through off-street parking.
4. The minimum 70% front yard landscaping as defined in Section 3-4107 and 3-621, Highland City Development Code shall be provided.
5. No more than one (1) accessory dwelling units shall be permitted for each single family home.
6. The unit and home shall be modified to meet all fire, safety, health and building codes as required by the Building Official and Fire Marshall.
7. The front of the home shall not be modified in any form that will give the appearance that separate units are incorporated within the home including except separate addresses and mailboxes.
8. The primary entrance for the accessory dwelling units shall be provided for from the rear of the home; a side entrance is allowable in the event that the entrance is camouflaged by property fencing or landscaping and is not visible from the street.
9. Separate utility meters of the home and accessory dwelling unit are not permitted.
10. Applications for Accessory Dwelling Units shall be made in the Community Development Department on an application form with required documentation and accompanied with appropriate fees as required. All Accessory Dwelling Units shall be subject to review and approval by the

~~Zoning Administrator~~Land Use Authority. The ~~Zoning Administrator~~Land Use Authority may record a notice of approval for the accessory dwelling unit with the county recorder as provided by state law.

11. The City may enforce these requirements through any means available to the City, including by recordation of a lien in accordance with state law.

### 3-702 Sign Permit Required

1. It is unlawful to erect or remodel any sign upon or over public or private property within the City except in compliance with this Article.
2. Any person who desires to erect or remodel any sign within the City shall first apply for a sign permit from the Zoning Administrator Land Use Authority and pay all appropriate fees for the permit, unless this sign is specifically exempted from the permitting requirements under subsection 5.
3. All applications for a sign permit shall be on such forms as established by the Zoning Administrator Land Use Authority and shall include a detailed and appropriately scaled site plan, elevations, and drawing(s) showing the location, size, and details of the sign, property, building, and appropriate supports (and/or footings); proof of current Highland City business license; business address and phone number; address and phone number of property owner and the license information, phone number, and address of the contractor(s) who will install the sign
4. All commercial signs shall require a licensed sign contractor to install the sign as per state law. This does not apply to temporary grand opening or promotional signs which have received a permit and approval from Highland City. Any sign which requires an electrical connection requires approval of a building permit in addition to a sign permit~~must have the Building Inspector's signature on the permit and receive an electrical inspection from the Building Inspector. A sign permit is not required for real estate signs as defined in this Code, Section 3-706.~~
5. The following signs are exempt from the permitting requirements described above but must otherwise comply with all provisions set forth in this Code:
  - a. Real Estate Signs;
  - b. Residential signs that identify the occupant's name and the property address;
  - c. "No Solicitation" signs;
  - d. Political Signs.

### **3-703 Penalty For Installing A Sign Without A Permit**

Signs for which a permit is required that are installed or maintained without a permit will be required to be removed and may be charged a penalty fee of \$100, or a double sign permit fee, whichever is greater. The fee will be assessed at the time the owner/operator of the sign makes application for a sign permit ~~with the Community Development Department~~. If the applicant does not apply for a sign permit, and a permit is required, then the sign will be removed by the ~~City Zoning Administrator~~ and a minimum penalty fee of \$100 will be assessed to the property owner. Damages incurring with the enforcement of this ordinance shall be the responsibility of the sign owner.

### 3-707 Signs In Commercial Zones And Commercial Uses In Planned Development Zones

1. Permanent Signs. All signs within commercial zones and commercial uses in Planned Development zones shall require a sign permit with exception of those stated as such below. All permanent signs within commercial zones shall be installed by a licensed sign contractor according to State Law. All permanent signs shall require the approval of the ~~Zoning Administrator~~Land Use Authority. All permanent signs within commercial zones of a sign type that has not been previously approved shall require specific approval by the ~~architectural review Land Use Authority~~Highland City Planning Commission. In addition to any other permitted sign or signs, signs for special purposes set forth in this Section shall be permitted as provided herein:

....

### 3-708 Wall Signs

This Section shall permit a business within a commercial zone to apply for a permit to install a permanent wall sign upon their place of business in Highland City (see wall sign definition within this Section). A wall sign shall be installed by a licensed sign contractor\* for a commercial business if the following requirements are met (additional requirements may apply within separate zones B see above Table 3-707A). The applicant shall be the owner of the business for which the sign will be installed or a licensed sign contractor representing the said owner. All wall signs within commercial zones of a sign type that has not been previously approved shall require specific approval by the ~~Highland City Planning Commission~~architectural review Land Use Authority. The following restrictions shall apply to all wall signs:

....

### 3-709 Monument Signs

A developer/owner or commercial development may choose to construct one monument sign along SR-92 or SR-74 for each building located less than fifty (50) feet from the nearest highway if it meets all of the requirements defined in this ordinance. If there is more than one business within a building located less than fifty (50) feet from either highway, then each business within that building shall share one monument sign. Monument signs shall not be installed within a required hardscape area designated as required open space. It is encouraged that these signs be approved during the site plan approval process. Monument signs shall be uniform in material as specifically defined and shall incorporate the development project name within the design. All monument signs of a sign type or general location that has not been previously approved shall be approved by the ~~Planning Commission~~ architectural review Land Use Authority prior to construction/installation. These signs may only be considered as follows:

....

### 3-711 Awning Signs

This section shall permit a business within a commercial zone to apply for a permit to install a permanent awning sign upon their place of business in Highland City (see awning sign definition within this Section.) An awning sign shall be installed by a licensed sign contractor for a commercial business if the following requirements are met (additional requirements may apply within separate zones-see above Table 3-707A). The applicant shall be the owner of the business for which the sign will be installed or a licensed sign contractor representing the said owner. The requirements listed below are in addition to obtaining approval by the ~~Highland City staff development review committee~~ Land Use Authority who will determine that the awning is compatible with the color, architectural character and design of the building upon which the awning is mounted, that the location is appropriate, and that the materials used are safe and durable as defined below.

....

### 3-714 Exceptions

1. This Chapter shall have no application to signs used exclusively for:
  - a. The display of official notices used by any court or public body or official, or the posting of notices by any public officer in the performance of a duty, or by any person giving legal notice.
  - b. Directional, warning, or information signs of a public nature, directed and maintained by a public authority or public utility.
  - c. Any sign of a non-commercial nature when used to protect the health, safety or welfare of the public.
  - d. Any flag, pennant, or insignia of any nation, state, city, or other political subdivision.
  - e. Any sign legally mandated by state, federal, or municipal law.
  - f. Any temporary sign of a non-commercial nature which is displayed for addressing community events or community groups for the purpose of announcing special events which may benefit the community as a whole. Temporary community event signs shall only be placed in areas designated by the city for such purposes and be approved by the ~~City Zoning Administrator~~Land Use Authority. These signs will be identified by an attached label indicating when the sign shall be removed.
  - g. Monument signs may be installed within public property identifying public points of interest (parks, library, City Hall, etc.) by Highland City.

....

### 3-718 Sign Definitions

The following list of definitions shall define sign types and sign locations. The following definitions shall only apply to items pertaining to signs and specifically to this Section.

...

29. Sign, Kiosk. Means a freestanding structure with one or more sides to be used for advertising or as a directory. A kiosk may be approved ~~by the Planning Commission~~ only within the Town Center. (see Fig. 3-718.9).

...

51. Sign, Temporary. A sign which is not permanently mounted to a building, foundation, or ground support which has not received approval ~~by the Planning Commission or City Zoning Administrator~~ as a permanent sign. A temporary sign is any sign which is not a monument or wall sign.

....

#### 4-102 Application

1. An application for a conditional use permit shall be made to the Zoning Administrator as provided herein. The ~~Zoning Administrator~~ Reviewing Body shall review and evaluate the application. Following said review and evaluation, ~~the Zoning Administrator shall transmit the application the~~ Recommending Body shall review the application and make a recommendation to the Land Use Authority~~to the Planning Commission for recommendation to the City Council, together with the recommendation of the Zoning Administrator~~ as to approval or disapproval of the conditional use permit and any recommended conditions ~~which the Zoning Administrator may recommend~~ to be imposed.
2. Applications for a conditional use permit shall be accompanied by such fees, maps, drawings, statements, or other documents as the Reviewing Body, Recommending Body, or Land Use Authority ~~Zoning Administrator~~ shall deem necessary to fully review, evaluate, and decide the application ~~and have the application reviewed by the Planning Commission and City Council.~~
3. Notices of hearings to review an application under this Chapter shall be published at least seven (7) days prior to the hearing.

#### 4-104 General Requirements

1. Prior to submitting an application for a conditional use permit, the applicant shall meet with City Staff for a pre-application review as set forth in 2-701.
2. Highland City shall issue a conditional use permit if the Land Use Authority ~~City Council, with the recommendation of the Planning Commission,~~ concludes that the application mitigates the reasonably anticipated adverse impacts of the proposed use and complies with all applicable federal, state, and city standards, or reasonable conditions can be imposed to accomplish the required mitigation and compliance. Where Highland City has not adopted a standard regarding a proposed use, the city shall require compliance with a reasonable and objective federal, state, county, or industry standard.
3. General Review Criteria — In reviewing an application for a conditional use permit, the ~~Planning Commission and City Council~~ Land Use Authority shall review, but not limit their review, to the following considerations and standards where applicable to the application, and impose reasonable conditions based on such considerations, factors, and objective standards:
  - a. The site of the structure or use, and in particular:
    - i. Adequacy of site: The adequacy of the site to accommodate and contain the proposed use or building and all related activities and impacts.
    - ii. Screening: The location and possible screening of all outdoor activities.
    - iii. Adjoining Uses: The relation of the proposed building or use to any adjoining building with particular attention to protection of light, air, noise, dust, vibrations, fumes, odors, and peace and quiet.
    - iv. Displays and Signage: The location and character of any display of goods and services and the size, nature and light of any signs.
    - v. Traffic circulation and parking, and in particular:
      - (1) Street: The type of street serving the proposed use in relation to the amount of traffic expected to be generated.
      - (2) Access: The adequacy, convenience, and safety of provisions for vehicular access, internal circulation, and parking including the location of driveway entrance and exits.
      - (3) Truck traffic: The amount, timing, and nature of associated truck traffic.

- vi. **Site Features:** The presence of important or sensitive features that may require additional mitigation or preservation efforts, such as natural or existing vegetation, water features, wetlands, wildlife habitats, view sheds, green spaces, scenic points, and historic sites.
- b. The impact of the proposed building or use on surrounding uses, and in particular:
- i. **Impact of Patrons:** The number of customers or users and the suitability of the resulting activity level to the surrounding uses and especially to any neighboring uses of public importance such as schools, libraries, playgrounds, religious or cultural meeting halls, and hospitals.
  - ii. **Hours of Operation:** Timing of business hours and delivery hours.
  - iii. **Off-site Effects:** Adequacy of provisions for the control of any offsite effects such as noise, dust, odors, light, or glare, etc.
  - iv. **Special Hazards:** Adequacy of provisions for protection of the public against any special hazards arising from the intended use.
- c. **Conditions Relating to Safety of Persons and Property**
- i. **Flooding:** Building elevations and grading plans, which will prevent, or minimize flood water damage, where property may be subject to flooding.
  - ii. **Attractive Nuisances:** The relocation, covering, or fencing of irrigation ditches, drainage channels, and other potential attractive nuisances existing on or adjacent to the property.
  - iii. **Increased Setbacks:** Increased setback distances from lot lines where necessary to ensure the public safety and to prevent nuisances to adjacent properties.
  - iv. **Geological Hazards:** Appropriate engineering, design, construction, and location of structures, buildings, and facilities, and limitations and/or restrictions on the use and/or location of uses due to slope or other special site conditions, including but not limited to geologically hazardous areas; flood plains, fault zones, and landslide areas.
  - v. **Lighting:** Limitations and control of the number, location, color, size, height, type of lighting, and landscaping of outdoor

advertising signs and structures that may present traffic hazards or interfere with adjacent properties.

- vi. Delivery Locations and Traffic Considerations: Plans for the location, arrangement, and dimensions of truck loading and unloading facilities and the reasonable and safe arrangement of parking spaces, traffic lanes, and delivery access.
- vii. Construction of Improvements: Construction of curbs, gutters, drainage culverts, sidewalks, streets, fire hydrants, and street lighting.
- viii. UDOT approval.

d. Conditions Relating to Health and Sanitation

- i. Culinary Water: A guarantee of sufficient culinary water to serve the intended land use and a water delivery system meeting standards adopted by the City Council.
- ii. Wastewater: A wastewater disposal system and a solid waste disposal system meeting standards adopted by the City Council.
- iii. Sizing of Utilities: Construction of water mains, sewer mains, and drainage facilities serving the proposed use, in sizes necessary to protect existing utility users in the vicinity and to provide for an orderly development of land.
- iv. Other Sanitary Facilities: Obtaining necessary approvals and construction of appropriate facilities to handle hazardous, dangerous, or sensitive materials, such as oil, grease, petroleum, and other products.

e. Conditions Relating to Environmental Issues

- i. Pollution: Processes for the control, elimination, or prevention of land, water, or air pollution; the prevention of soil erosion; and control of objectionable odors and noise.
- ii. Dust and Erosion: The planting of ground cover or other surfacing to prevent dust and erosion.
- iii. Restoration of Land: Restoration and revegetation of the land ~~and planting of the same as directed by the Planning Commission~~ when the Conditional Use involves cutting and/or filling the land, and where such land or adjacent land would be adversely affected if not ~~restructured~~restored.
- iv. Sensitive lands, waters, and habitats: Identification and mitigation of impacts to the sensitive environmental features.

- f. Conditions Relating to Compliance with the Intent of the General Plan and Characteristics of the Vicinity or Neighborhood.
  - i. Removal of Incompatible Materials: The removal of structures, debris, or plant materials incompatible with the intended characteristics of the zone outlined in this Chapter.
  - ii. Screening: The screening of yards or other areas as protection from obnoxious land uses and activities.
  - iii. Landscaping: Landscaping to insure compatibility with the intended characteristics of the zone as outlined in this Chapter.
- 4. The applicant shall provide sufficient information and evidence as part of their application to demonstrate the proposed conditional use's compliance with or satisfaction of the factors, standards, and ordinances applicable to the proposed conditional use, including those set forth in this chapter.

#### **4-105 ~~Planning Commission Review And Recommendation~~ Recommending Body Review**

The ~~Recommending Body Planning Commission~~ shall hold a public hearing, review the proposed conditional use, and may recommend to the ~~Land Use Authority City Council~~ reasonable conditions to mitigate the reasonably anticipated detrimental effects of the proposed use as set forth below:

1. In reviewing the application and proposed conditional use, the ~~Recommending Body Planning Commission~~ shall review the information provided by the applicant and city staff and the factors, standards, and ordinances applicable to the proposed use, including those set forth in this chapter.
2. The ~~Recommending Body Planning Commission~~ shall recommend approval of the conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable, objective standards.
3. The ~~Recommending Body Planning Commission~~ may not require elimination of all detrimental effects as a condition of recommending approval if the detrimental effects can be reasonably mitigated.
4. Upon the recommending of any conditional use permit, the ~~Recommending Body Planning Commission~~ shall itemize, describe, and justify the recommended conditions imposed on the use and the detrimental effects being mitigated by those conditions.
5. The recommendation of the ~~Recommending Body Planning Commission~~ shall be forwarded to the ~~City Council~~ Land Use Authority.

#### 4-106 ~~City Council~~ Land Use Authority Approval

The recommendation of the ~~Recommending Body~~ Planning Commission shall be forwarded to the ~~City Council~~ Land Use Authority. The ~~Land Use Authority~~ City Council shall hold a public hearing and may then grant, modify, or reject the permit and the proposed conditions as set forth below:

1. In reviewing the application and proposed conditional use, the ~~Land Use Authority~~ City Council shall review the information provided by the applicant and city staff, the recommendation of the ~~Planning Commission~~ Recommending Body, and the factors, standards, and ordinances applicable to the proposed use, including those set forth in this chapter.
2. The ~~Land Use Authority~~ City Council shall approve the conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable, objective standards.
3. The ~~Land Use Authority~~ City Council may not require elimination of all detrimental effects as a condition of approval if the detrimental effects can be reasonably mitigated.
4. If the ~~Land Use Authority~~ City Council, on the record, finds that a compelling public interest would be jeopardized by approving the application OR if reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.
5. The ~~Land Use Authority~~ City Council shall itemize, describe, and justify the conditions imposed on the use and the detrimental effects being mitigated by those conditions.

#### 4-107 Appeals

Any ~~appeals from any final decision applicant for of the Land Use Authority on a~~ conditional use permit shall ~~have the right to appeal the decision of the City Council~~ to be heard by the Appeal Authority ~~as provided in Chapter 2 of this Code.~~

#### 4-108 Inspection

Following the issuance of a conditional use permit, ~~the Zoning Administrator shall approve an application for a building permit and shall insure that~~ development ~~shall be is~~ undertaken and completed in compliance with the conditions of the permit, and all building permits and other land use applications related to the use or property associated with the conditional use permit shall conform to the conditions of the permit. The City may assess a fee and hire outside inspectors to insure the compliance with building codes, and requirements relative to the issuance of the conditional use permit.

## 4-109 Expiration

Substantial construction activity under a conditional use permit must have been commenced within one (1) year of its issuance. If no such activity has been commenced within that time, the conditional use permit shall expire one (1) year from the date of its issuance. The ~~Planning Commission~~extension Land Use Authority may, at its discretion, grant one extension for any period not to exceed six (6) months, when deemed in the public interest.

1. All applications for renewal or extension of a conditional use permit must be made prior to the expiration of the original permit or any prior renewal thereof.
2. ~~Except as provided herein, n~~No conditional use permit granted pursuant to this Chapter may be transferred by the holder thereof to a different property.
- ~~3. Transfer of a conditional use permit, prior to completion of construction permitted there under, shall require prior approval of the Planning Commission.~~
- 4.3. No approval by the City shall be required for transfer of a conditional use permit after completion of construction. Provided, however, a conditional use permit which is expressly by its terms or by the terms of the section under which it is issued made non-transferrable shall not by reason of this Section become transferrable.
- ~~5.4.~~ The transfer of any conditional use permit, except as provided in subsection (3) above, shall cause the same to become immediately void. No transfer or approval of a transfer of such a permit shall operate to extend the term of the same. Such a permit shall expire at such time as though no transfer or approval had occurred.

## 5-1-106 General Responsibilities

1. The subdivider shall prepare a plat consistent with the standards contained herein and shall pay for the design and inspection of the public improvements required. The subdivider shall not alter the terrain or remove any vegetation from the proposed subdivision site or engage in any site development until he or she has obtained the necessary approvals as outlined herein.
2. The ~~City Zoning Administrator shall review the all~~ plats shall be reviewed for design, for conformity to the General Plan and to the Zoning Code; for the environmental quality of the subdivision design; and shall be processed ~~the subdivision plats and reports~~ as provided for in this Chapter.
3. Plats of proposed subdivisions shall be referred by the Zoning Administrator to such City departments and special districts, governmental boards, bureaus, utility companies, and other agencies which will provide public and private facilities and services to the subdivision for their information and comment. The ~~City~~ Zoning Administrator coordinates the comments received from all public and private entities and shall decide which agencies to refer proposed subdivision plats.
4. The City Administrator may request the City Engineer to make comments as to engineering requirements for street widths, grades, alignments and flood control, whether the proposed public improvements are consistent with this Code and other applicable ordinances and for the inspection and approval of all construction of public improvements. Street layout and overall circulation shall be coordinated.
- ~~5. The Planning Commission is charged with making investigations, reports, and recommendations on proposed subdivisions as to their conformance to the General Plan and Zoning Code, and other pertinent documents. The Planning Commission shall also approve, approve with conditions, or disapprove of the preliminary plat, as provided for in this Chapter.~~
- ~~6.5.~~ The City Attorney may be consulted by the Zoning Administrator to approve the form of the final plat if it is correct and acceptable that the subdivider dedicating land for use of the public is the owner of record, and that the land is free and clear of unacceptable encumbrances according to the title report, which shall be submitted by the subdivider.
- ~~7.6.~~ For the purpose of administering the subdivision process, the ~~City~~ Zoning Administrator should act as liaison between the subdivider applicant and the Reviewing Body, Recommending Body, and Land Use Authority.; ~~Planning Commission, staff, and the Development Administration Board.~~ The ~~City~~ Zoning Administrator shall also provide regular reports to the City Council regarding the status of current subdivisions and other developments.

~~8.7.~~\_\_\_\_\_ The City Council has final jurisdiction in the establishment by ordinance of requirements for and design standards of public improvements, the acceptance of lands and public improvements that may be proposed for dedication outside of the dedication or provision of lands and public improvements required by this Chapter and the City's design standards and specifications, and the approval of development agreements or similar arrangements that contain terms or allow uses that that are not expressly provided for or permitted by this Chapter.

## 5-1-107 Appeal Of Decisions

1. Recommendations and reports ~~from staff, the Development Administration Board, or the Planning Commission~~ may not be appealed unless such recommendation or report constitutes a final decision on a land use application.
2. Recommendations and legislative decisions made by the City Council may not be appealed.
3. Except as otherwise provided herein, a land use applicant or adversely affected party, including the City, may appeal any final decision by the Land Use Authority ~~staff, the Development Administration Board, the Planning Commission, or the City Council on a land use application~~ to the Appeal Authority ~~per the requirements of Chapter 2, Article 3 of this Code~~.
4. Disputes arising from subdivision improvement plans related to a City requirement for pavement on a residential roadway in excess of 32 feet may be appealed per the requirements of Utah Code section 10-9a-604.2(8) and section 10-9a-508(5).

### 5-4-103 Final Decision On Plat Application

1. After conducting a ~~public meeting or~~ public hearing, ~~as if~~ required by this Article, the ~~H~~Land ~~u~~Use ~~a~~Authority shall, ~~during a public meeting~~, approve, approve with conditions, or deny a subdivision plat application.
2. If the ~~H~~Land ~~u~~Use ~~a~~Authority finds and determines that the plat and subdivision improvement plans comply with and conform to the requirements of Utah State Code, this Chapter, and all other governing laws, land use regulations, applicable land use decisions, ordinances, and standards, the ~~H~~Land ~~u~~Use ~~a~~Authority shall approve the plat and subdivision improvement plans.
3. In approving a plat or subdivision improvement plans, the ~~H~~Land ~~u~~Use ~~a~~Authority may impose conditions on the approval to ensure compliance with the requirements of Utah State Code, this Chapter, and all other governing laws, land use regulations, applicable land use decision, ordinances, and standards.
4. If the ~~H~~Land ~~u~~Use ~~a~~Authority finds and determines that the plat or subdivision improvement plans do not comply with or conform to the requirements of Utah State Code, this Chapter, and all other governing laws, land use regulations, applicable land use decisions, ordinances, and standards, and such noncompliance cannot be corrected by the imposition of conditions on the approval of the plat or plans, the ~~H~~Land ~~u~~Use ~~a~~Authority shall reject and disapprove the final plat or subdivision improvement plans.
5. The Zoning Administrator shall notify the applicant, in writing, of the ~~H~~Land ~~u~~Use ~~a~~Authority's final decision regarding the plat application, any conditions of approval, and the basis for any rejection or disapproval.

#### 5-4-207 Action On Minor Subdivision

1. Upon the completion of the fourth or final review cycle under Section 5-4-102, if the applicant has not materially changed the final plat or subdivision improvement plans, the applicant may request that the minor subdivision application be submitted for decision.
2. The ~~Development Administration Board shall be the~~ Land Use Authority for minor subdivision applications ~~and~~ shall consider and issue an approval, approval with conditions, or denial of the minor subdivision application pursuant to Section 5-4-103 at a public meeting.
3. The Zoning Administrator shall notify the applicant, in writing, of the ~~Development Administration Board~~ Land Use Authority's decision, any conditions of approval, and the basis for any rejection or disapproval.

#### **5-4-208 Appeal Of Decision**

A subdivider may appeal any final decision of the ~~Development Administration Board~~ Land Use Authority to the Appeal Authority as described in Section 5-1-107 and Chapter 2, Article 3 of this Code.

## 5-4-211 Expiration And Extension Of Approval

1. If the recording requirements set forth above are not met by the subdivider within 180 calendar days from the date of approval, such approval shall expire, and the approved final plat and subdivision plans shall become null and void. The applicant shall be required to reapply for minor subdivision approval and pay all associated fees.
2. The 180-day time period may be extended ~~by the Development Administration Board~~ for up to one additional period of 180 calendar days if the subdivider petitions the City for an extension prior to the expiration date and pays extension fees and the subdivider demonstrates good cause for the extension and that substantial effort is being made to complete the subdivision in accordance with the conditions and the requirements of this Chapter.
3. ~~The Development Administration Board shall not grant a~~An extension of minor subdivision approval~~extension shall not be granted~~ if:
  - a. The subdivision no longer conforms to current land use regulations, applicable land use decisions, or other applicable City ordinances and standards;
  - b. surrounding property has received final approval for a subdivision and/or has otherwise developed in a manner that results in new alignments, development requirements, or similar considerations that restrict or require alteration of the approved final plat or subdivision improvement plans;
  - c. geological, geophysical, or other conditions have changed or been identified that require compliance with Chapter 8;
  - d. the subdivider desires or has attempted to modify the proposed minor subdivision since the final plat approval.

#### 5-4-308 Preliminary Plat - Decision On Application

1. Upon the completion of the fourth or final review cycle under Section 5-4-102, if the applicant has not materially changed the preliminary plat or preliminary subdivision improvement plans, the applicant may request that the preliminary plat application be submitted for decision.
2. The ~~Planning Commission shall be the IL~~ and ~~u~~Use a ~~A~~Authority for major subdivision preliminary plat applications, ~~and~~ shall consider and issue an approval, approval with conditions, or denial of the preliminary plat application pursuant to Section 5-4-103 after conducting a public hearing.
3. Notice of the public hearing shall be posted at least 10 calendar days in advance of the public hearing and shall be mailed at least 10 calendar days in advance of the public hearing to each owner of property within 500 feet of any portion of the property being subdivided, which notice shall describe the property being subdivided, contain a depiction of the proposed subdivision, and provide the date, time, and address of the public hearing.
4. The Zoning Administrator shall notify the applicant, in writing, of the ~~Planning Commission~~Land Use Authority's decision, any conditions of approval, and the basis for any rejection or disapproval.

#### 5-4-309 Preliminary Plat - Effect Of Approval, Expiration

1. The approval or approval with conditions of the preliminary plat shall be authorization for the subdivider to proceed with the preparation of the final plat and final subdivision improvement plans.
2. The preliminary plat approval shall be valid for one year from the date of approval. The final plat and final subdivision improvement plans shall be submitted and applied for prior to the expiration of the one-year period.
3. For phased developments, a preliminary plat approval shall remain valid for five years from the date of approval so long as a final plat for at least one phase of the subdivision is submitted and applied for within one year after Preliminary Plat approval. The final phase of the development shall be submitted and applied for prior to the expiration of the five-year period.
4. If the final plat and final subdivision improvement plans are not submitted and applied for within the time periods described herein, the approval shall expire, and the approved preliminary plat and preliminary subdivision improvement plans shall become null and void. The applicant shall be required to reapply for preliminary plat approval and pay all associated fees.
5. Preliminary plat approval may be extended ~~by the Planning Commission~~ for an additional one (1) year if the subdivider petitions the City for an extension prior to the expiration date and pays extension fees and the subdivider demonstrates good cause for the extension and that substantial effort is being applied to create a final plat.
6. ~~The Planning Commission shall not grant a~~An extension of preliminary plat approval shall not be granted if:
  - a. the subdivision no longer conforms to current land use regulations, applicable land use decisions, or other applicable City ordinances and standards;
  - b. surrounding property has received final approval for a subdivision and/or has otherwise developed in a manner that results in new alignments, development requirements, or similar considerations that restrict or require alteration of the approved preliminary plat or preliminary subdivision improvement plans;
  - c. geological, geophysical, or other conditions have changed or been identified that require compliance with Chapter 8;
  - d. the subdivider desires or has attempted to modify the proposed subdivision since the preliminary plat approval.
7. Preliminary plat approval shall in no way relieve the subdivider of their responsibility to comply with all required conditions and ordinances and to

provide the improvements and easements necessary to meet all City standards.

#### 5-4-315 Final Plat - Decision On Application

1. Upon the completion of the fourth or final review cycle under Section 5-4-102, if the applicant has not materially changed the final plat or subdivision improvement plans, the applicant may request that the final plat application be submitted for decision.
2. The ~~Development Administration Board shall be the~~ Land Use Authority for major subdivision final plat applications, ~~and~~ shall consider and issue an approval, approval with conditions, or denial of the final plat application pursuant to Section 5-4-103 at a public meeting.
3. The Zoning Administrator shall notify the applicant, in writing, of the ~~Development Administration Board~~ Land Use Authority's decision, any conditions of approval, and the basis for any rejection or disapproval.

#### **5-4-316 Appeal Of City Decisions**

A subdivider may appeal any final decision of the Land Use Authority Planning Commission or Development Administration Board to the Appeal Authority in the time and manner described in Section 5-1-107 and Chapter 2, Article 3 of this Code.

## 5-4-320 Final Plat - Expiration Of Approval

1. The final plat approval shall be valid for one year from the date of approval. The final plat must be recorded, in accordance with the requirements set forth in Section 5-4-317 prior to the expiration of the one-year period.
2. If the final plat is not recorded within the time periods described in this Chapter, the approval shall expire, and the approved final plat and final subdivision improvement plans shall become null and void. The applicant shall be required to reapply for final plat approval and preliminary plat approval, if necessary, and pay all associated fees.
3. Final plat approval may be extended ~~by the Development Administration Board~~ for an additional one (1) year if the subdivider petitions the City for an extension prior to the expiration date and pays extension fees and the subdivider demonstrates good cause for the extension and that substantial effort is being applied to complete or assure the remaining improvements and record the final plat in accordance with the conditions of approval and the requirements of this Chapter.
4. ~~The Development Administration Board shall not grant a~~ final plat approval shall not be granted if:
  - a. the subdivision no longer conforms to current land use regulations, applicable land use decisions, or other applicable City ordinances and standards;
  - b. surrounding property has received final approval for a subdivision and/or has otherwise developed in a manner that results in new alignments, development requirements, or similar considerations that restrict or require alteration of the approved preliminary plat or preliminary subdivision improvement plans;
  - c. geological, geophysical, or other conditions have changed or been identified that require compliance with Chapter 8;
  - d. the subdivider desires or has attempted to modify the proposed subdivision since the preliminary plat approval.
5. If any of the fees charged as a condition of subdivision approval, including but not limited to, inspection fees, parks fee, flood control fees, impact fees as well as the amounts the City uses to estimate bonds to insure completion of improvements, have increased, the ~~Development Administration Board shall require that the~~ subdivider shall pay such increases as a condition of granting the extension.

## 5-5-105 Streets

1. All street shall be designated and constructed with the street classification requirements described herein and in accordance with the City's adopted design and construction standards and specifications. In the event of a conflict between this Chapter and a design or construction standard or specification adopted by the City, the more restrictive standard shall govern. In the event that neither standard is more restrictive, the City Engineer shall determine the standard that shall govern:

- a. STREET CLASSIFICATION:

- b.

| Minimum Requirements | Major Arterial | Minor Arterial | Major Collector (intersections) | Major Collector | Minor Collector |
|----------------------|----------------|----------------|---------------------------------|-----------------|-----------------|
| Rights-of-way Width  | 100 ft.        | 90 ft.         | 74 ft.                          | 74 ft.          | 66 ft.          |
| Pavement             | 62 ft.         | 62 ft.         | 60 ft.                          | 52 ft.          | 44 ft.          |

2. A traffic study and/or transportation planning, performed by a licensed professional traffic engineer and reviewed and accepted by the City or the City's designated consultant, shall be required in the following circumstances:
  - a. All new non-residential developments;
  - b. All new residential developments with at least 20 lots or units;
  - c. When the Zoning Administrator or City Engineer determines that a subdivision will have a material impact on the existing street system that has not been previously studied or planned for;
  - d. When a subdivision presents unique or unusual circumstances concerning access, topography, or street layout; and
  - e. When otherwise required by the City's adopted design standards and specifications.
3. The following principles shall govern street names in a subdivision:
  - a. Each street which is a continuation of, or an approximate continuation of, any existing dedicated street shall be given the name of such existing street. When any street forms a portion of a proposed street previously ordered by the City Council to be surveyed, opened, widened

or improved, the street shall be given the name established in said Council order.

- b. The names of newly created streets of a non-continuous or noncontiguous nature shall not duplicate or nearly duplicate the name of any streets in the City or in unincorporated areas of Utah County.
  - c. The words "Street," "Avenue," "Boulevard," "Place," "Way," "Court," or other designation of any street shall be spelled out in full on the plat and shall be subject to approval by the ~~Planning Commission~~Land Use Authority. Any named street shall also have the proper ~~south-north~~ or west coordinate as approved by the City Engineer.
4. Street patterns in the subdivision shall be in conformity with the plan for the most advantageous development of the property and to avoid detrimental impacts to the overall City circulation network. The following principles shall be observed:
- a. Where appropriate to the design and terrain, proposed streets shall be contiguous and in alignment with existing planned or platted streets with which they are to connect.
  - b. Proposed streets shall be extended to the boundary lines of the land to be subdivided, unless prevented by topography or other physical conditions, or unless such extension is not desirable or needed for the coordination of the subdivision with the existing layout or the most advantageous future development of adjacent tracts.
  - c. Dead-end streets, intended as access to future development parcels, shall be a maximum of one lot depth in length. With City approval, any dead-end street longer than one lot depth shall have a minimum of a 40-foot radius temporary turnaround area with an all-weather surface and shall not exceed 600 feet in length.
  - d. Any street exceeding 600 feet shall have at least two points of independent access.
  - e. Proposed streets shall intersect one another as nearly at right angles as topography and other limiting factors of good design permit. "T" intersections rather than "cross" intersections shall be used wherever possible for local streets.
  - f. Excessively long and straight connecting local residential streets, conducive to high speed traffic, shall be avoided, unless the streets are designed with traffic control and safety features, and crosswalks or pedestrian ways are provided, in accordance with generally acceptable transportation practices, the City's adopted Traffic Calming and

Pedestrian Safety Manual, and the City's other adopted standards and specifications.

- g. Alleys shall not be permitted in residential subdivisions except when approved for access to lots abutting an arterial. Alleys in nonresidential subdivisions may be permitted.
  - h. Cul-de-sacs shall not exceed 600 feet in length and shall have a minimum terminal radius of 50 feet. Driveways, mailboxes, fire hydrants, or any other obstruction to the terminal of a cul-de-sac shall be designed in such a way as to provide an area for the piling of snow. Cul-de-sacs shall comply with the City's adopted design and construction standards and specifications, including drainage requirements and maximum and minimum fill and grading requirements. Provision of dedicated drainage corridors and other drainage facilities shall be required if standard grading and drainage standards cannot be satisfied.
  - i. Homes shall face local residential streets, and lots shall be designed and platted to allow residential lots to have driveways and vehicular access onto local residential streets. It is not desirable to have lots with road frontage on front and back unless one is an arterial or major collector and proper screening is used.
  - j. Streets, dead-end streets, stub streets, or other access points shall not be permitted or required if the continuation of the street or access point would violate Municipal Code 12.08.050, except as provided therein.
  - k. Private driveway connections to collector and arterial streets shall be avoided.
5. Subdivisions adjacent to arterials and freeways shall be designed as specified in the major street plan and as determined by the Planning Commission Land Use Authority. The following principles and standards shall be observed:
- a. Street design shall have the purpose of making adjacent lots, if for residential use, desirable for such use by cushioning the impact of heavy traffic and of minimizing the interference with traffic on an arterial. The number of intersecting streets along an arterial shall be held to a minimum.
  - b. A landscaped pedestrian way along arterial streets shall be not less than twenty feet in width measured from top back of curb and at least five feet of landscaped planter shall be located between the curb and sidewalk. A meandering sidewalk shall not be less than five feet in width. The design and improvement of the pedestrian way and

meandering sidewalk shall be in conformance with the City's adopted parkway detail specification.

- c. Design of lots abutting arterial streets shall conform to one of the following alternatives:
  - i. Lots may be platted along a frontage street which is separated from the arterial street by at least 10 feet of permanent landscaping. Frontage roads shall enter arterial by means of intersections designed with turning and stacking capacity adequate for the traffic volume as estimated by the ~~Planning Commission~~Land Use Authority.
  - ii. Double frontage lots shall be platted with a minimum depth of 110 feet and a minimum width of 75 feet. In cases where homes are sited on double frontage lots with the rear yard adjacent to the arterial, a concrete or masonry wall shall be constructed abutting the sidewalk. Access shall not be allowed from double frontage lots directly onto arterial streets. Accessory buildings shall not be allowed within 25 feet of any dedicated street in a residential zone.
  - iii. Lots may be platted on cul-de-sacs extending toward an arterial from a minor collector within the subdivision. A concrete or masonry wall shall be required along the rear yards of lots platted on such cul-de-sacs or as required by the ~~Planning Commission~~Land Use Authority.
  - iv. Lots and streets shall be designed and platted to avoid driveway access onto arterial streets. If the subdivider demonstrates that there is no feasible alternative, including alternative road configurations or construction of new roads as part of the subdivision, and demonstrates that there would be no material health, safety, or traffic impacts from the access, a lot may front onto an arterial, provided that a circular drive or some other type of vehicular maneuvering area or other City-approved driveway access shall be provided on the lot to enable vehicles to enter traffic moving forward rather than backing.
- d. When any lot borders an arterial, the subdivider may be required to execute and deliver to the City an instrument, deemed sufficient by the City Attorney's Office, prohibiting the right of ingress and egress from the arterial to the lot, and a legal document sufficient to guarantee maintenance of landscaping. The subdivider shall also be required to install such paving as necessary to construct the arterial or to bring the arterial up to standard width and shall install curb, gutter and sidewalk, along the arterial.

#### **5-6-104 Curb, Gutter, Sidewalk And Asphalt Paving**

1. Curbs, gutters, sidewalks and asphalt paving shall be provided in front of all commercial and residential lots in accordance with the City's adopted design and construction standards and specifications. Curb, gutter and paving shall be required on all industrial property. At the discretion of the ~~Planning Commission or Development Administration Board~~Land Use Authority, sidewalks may also be required for industrial property in order to continue or facilitate the City's existing sidewalk, trail, or other pedestrian circulation network.
2. If the widening or patching of an existing roadway is less than nine feet (9') in width, an additional one inch of pavement thickness greater than the existing pavement section shall be required.

## 5-7-102 Parcel Boundary Adjustment

1. Owners of parcels desiring to adjust the boundaries of their parcels, shall follow the procedures set forth in Utah Code § 10-9a-523 and § 10-9a-524 and shall execute and record such agreements and deeds as are required by state law. No City review or approval is required so long as the proposed parcel boundary adjustment does not:
  - a. Create a new lot (requires subdivision process);
  - b. Involve a lot (requires lot line adjustment and plat amendment); or
  - c. Involve any parcels with dwelling units (requires City approval).
2. Application Required. A parcel boundary adjustment that involves any parcel with a dwelling unit shall be submitted to the City for review and approval. Application for a parcel boundary adjustment shall be made by the property owner or a duly authorized agent and a filing fee shall be charged and collected at the time of application submittal on forms obtained from the ~~Zoning Administrator~~ City with any additional information deemed necessary to understand the application.
3. Standards. Parcel owners may adjust property lines between adjacent parcels by exchanging title to portions of those parcels by quit claim deed or boundary line agreement after approval if:
  - a. No new lot or housing unit results from the property line adjustment;
  - b. The property line adjustment does not result in remnant land that did not previously exist; and
  - c. The adjustment does not result in violation of applicable Development Code requirements.
4. ~~Zoning Administrator~~ Land Use Authority Review.
  - a. ~~The Zoning Administrator shall act as the~~ The Land Use Authority ~~and shall~~ review all the documents to determine if they are complete and that they comply with the requirements set forth above.
  - b. If the ~~Zoning Administrator~~ Land Use Authority determines that documents are complete and the requested property line adjustment complies with the standards set forth above, the ~~Zoning Administrator~~ Land Use Authority shall approve the application.
  - c. If the ~~Land Use Authority~~ Zoning Administrator determines that the requested property line adjustment does not comply with the standards set forth above, the ~~Land Use Authority~~ Zoning Administrator shall deny the application. If the ~~Land Use Authority~~ Zoning Administrator denies the application, the ~~Land Use Authority~~ Zoning Administrator shall deny the application.

~~Zoning Administer~~ shall describe the specific deficiencies or additional information that is required to approve the application and state that, upon correction of the deficiencies, the application will be approved.

- d. The ~~Land Use Authority~~~~Zoning Administrator~~ shall complete their review of the application within 14 days after the day on which the applicant submits the application and shall notify the applicant in writing regarding the decision.
- e. The applicant may appeal the ~~Land Use Authority's Zoning Administrator's~~ decision to the ~~City Council~~Appeal Authority.

5. Conveyance of Title. After approval, the applicant shall:

- a. Prepare a Notice of Approval which:
  - i. Contains an acknowledgment signed by each party executing the Notice as required by State law for real property;
  - ii. Recites the description of both the original parcels and the parcels created by the property line adjustment; and
  - iii. Is executed by each owner included in the exchange and the Zoning Administrator.
- b. Record a deed(s) or boundary line agreement which conveys title as approved; and
- c. Record the Notice of Approval; and
- d. Provide the Zoning Administrator with a recorded copy of the Notice of Approval.

6. A parcel boundary adjustment does not constitute a land use or zoning approval, unless expressly approved as such by the City. Documents recorded as part of a parcel boundary adjustment do not modify any existing easement or public right of way, nor do they waive or modify any requirement to comply with all zoning and other land use regulations.

## 5-7-103 Lot Line Adjustments And Plat Amendments

1. Application Required. A plat amendment is the vacation, alteration, or amendment of a subdivision plat that is not an amendment to a public utility easement or the creation of additional lots or parcels. Changes or alterations that create additional lots or parcels constitute a subdivision, not a plat amendment, and are subject to the subdivision approval process.
2. ~~City Council~~ Land Use Authority Consideration. The Land Use Authority ~~City Council~~ may consider a petition proposing a vacation, alteration, or amendment of a subdivision plat, any portion of a subdivision plat, or any lot, public street, right of way, or easement contained in a subdivision plat.
  - a. The Land Use Authority ~~City Council~~ shall consider the petition at a public meeting after giving the notice required by this section.
  - b. A public hearing is required if:
    - i. Any owner within the plat notifies the City of their objection in writing within 10 days of mailed notification; or
    - ii. All owners in the subdivision have not signed the revised plat; or
    - iii. The petition contains a request to vacate some or all of a public street, right of way, or easement.
  - c. No public hearing is required if notice has been appropriately given to all adjoining property owners and:
    - i. Any owner within the plat does not notify the City of their objection in writing within 10 days of mailed notification;
    - ii. All owners in the subdivision have or will sign the revised plat;
    - iii. The petition seeks a lot line adjustment and all affected property owners join in the petition, regardless of whether the properties are located in the same subdivision;
    - iv. The petition seeks to adjust an internal lot restriction imposed by the City that does not apply to the entire subdivision; or
    - v. The petition otherwise seeks to amend or alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not owned by the petitioner(s) and are not designated as common area.
3. Notice.
  - a. Notice for a plat amendment shall be given as required by Section 10-9a-207 Utah Annotated Code, as amended. Mailed and addressed

notices shall be sent to owners of real property located within 500 feet of the property.

- b. If the application includes a vacation of a public street, public right-of-way, or easement the public hearing shall be advertised as required by Section 10-9a-208 of Utah Annotated Code as amended.

#### 4. Grounds for Vacating or Changing a Plat.

- a. The Land Use Authority ~~City Council~~ may vacate, alter or amend the plat or any portion of the plat if the Land Use Authority ~~Council~~ finds:
  - i. Neither the public interest nor any person will be materially injured by the proposed vacation, alteration, or amendment;
  - ii. There is good cause for the vacation or amendment;
  - iii. All easements containing existing public water or sewer facilities are identified and preserved;
  - iv. No public street, right-of-way, or easement has been vacated or amended, unless the petition requested such a change and the change was approved as required by this article and state law; and
  - v. The proposed amendment meets all the requirements of the Development Code.
- b. The Zoning Administrator shall notify the applicant in writing regarding the Land Use Authority's ~~Council's~~ decision.

#### 5. Grounds for a Vacating Street or Right-of-Way

- a. The Land Use Authority ~~City Council~~ may consider and adopt an ordinance or approve a plat amendment vacating a public street, or right-of-way, excluding trails, if Land Use Authority ~~City Council~~ finds that:
  - i. Neither the public interest nor any person will be materially injured by the proposed vacation;
  - ii. There is good cause for the vacation;
  - iii. All easements containing existing public water or sewer facilities are identified and preserved; and
  - iv. The proposed vacation meets all the requirements of the Development Code.
- b. The Zoning Administrator shall notify the applicant in writing regarding the Land Use Authority ~~Council's~~ decision.

6. Request for Amendment by Petition.

- a. Fee Owner. Any fee owner may apply to have the plat, any portion of it, or any street or lot contained in it, vacated, altered, or amended as provided in this section.
- b. City. The City may submit a petition to vacate some or all of a public street, right of way, or easement.
- c. Application Contents. Each application to vacate, alter or amend an entire plat, or portion of a plat, or a street or lot contained in a plat shall include:
  - i. The name and address of all owners of record of the land contained in the entire plat;
  - ii. The name and address of all owners of record of land adjacent to any street that is proposed to be vacated, altered, or amended;
  - iii. The signature of each of these owners who consents to the petition;
  - iv. Filing fee
  - v. Any additional information needed to evaluate the proposal as determined by the Zoning Administrator.

7. Preparing the Amended Plat.

- a. The surveyor preparing the amended plat shall verify that the surveyor:
  - i. Holds a license in accordance with the Professional Engineers and Professional Land Surveyors Licensing Act established by State Law;
  - ii. Has completed a survey of the property described on the plat in accordance with State Law and has verified all measurements; and
  - iii. Has placed monuments as represented on the plat.
- b. The amended plat shall meet all of the requirements for a final plat as contained herein.
- c. The City shall ensure that the amended plat showing the vacation, alteration, or amendment are recorded in the office of the County Recorder.
- d. The ~~Land Use Authority City Council~~ may vacate a street, public right-of-way or easement by ordinance. The ~~Land Use Authority City Council~~ may require an amendment plat if it finds that an amended

plat is necessary to accurately portray the action and is in the public interest.

## 5-7-104 Lot Or Parcel Combination

1. Application Required. A lot or parcel combination shall be submitted to the City for review and approval. Application for a lot or parcel combination shall be made by the property owner or a duly authorized agent and a filing fee shall be charged and collected at the time of application submittal on forms obtained from the Zoning Administrator-City with any additional information deemed necessary to understand the application.
2. Zoning Administrator-Land Use Authority Review.
  - a. The Land Use Authority Zoning Administrator shall ~~act as the land use authority and~~ review all the documents to determine if they are complete, and that they and the new lots or parcels created by the combination comply with all the requirements set forth in the Development Code, and the application does not seek to create any new lot or parcel, affect any property not owned by the applicant, or alter an existing plat of record in a way that requires a plat amendment.
  - b. If the Land Use Authority Zoning Administrator determines that documents are complete and the requested property line elimination complies with the standards set forth above, the Land Use Authority Zoning Administrator shall approve the application.
  - c. If the Land Use Authority Zoning Administrator determines that the requested property line elimination does not comply with the standards set forth above, the Land Use Authority Zoning Administrator shall deny the application. If the Land Use Authority Zoning Administrator denies the application, the Land Use Authority Zoning Administrator shall describe the specific deficiencies or additional information that is required to approve the application and state that, upon correction of the deficiencies, the application will be approved.
  - d. The Land Use Authority Zoning Administrator shall complete their review of the application within 14 days after the day on which the applicant submits the application and shall notify the applicant in writing regarding the decision.
  - e. The applicant may appeal the Land Use Authority's Zoning Administrator's decision to the City Council Appeal Authority.
3. Recording. After approval, the applicant shall:
  - a. Prepare a Notice of Approval which:
    - i. Contains an acknowledgment signed by the party executing the Notice as required by State law for real property; and

- ii. Recites the description of both the original parcels and the lot or parcel created by the lot or parcel combination; and
    - iii. Is executed by the owner and the Zoning Administrator.
  - b. Record the Notice of Approval; and
  - c. Provide the Zoning Administrator with a recorded copy of the Notice of Approval
4. A lot or parcel combination does not constitute a land use or zoning approval, unless expressly approved as such by the City. Documents recorded as part of a lot or parcel combination do not modify any existing easement or public right of way, nor do they waive or modify any requirement to comply with all zoning and other land use regulations.

## 5-7-105 Altering A Public Utility Easement Or Municipal Utility Easement

1. ~~Zoning Administrator~~Land Use Authority Consideration. The Land Use Authority~~Zoning Administrator~~ may consider a request to modify a public utility easement or municipal utility easement if the Land Use Authority~~Zoning Administrator~~ finds that:
  - a. Neither the public interest nor any person will be materially injured by the proposed vacation;
  - b. There is good cause for the alteration;
  - c. For a public utility easement, the alteration has been approved by all public utility companies;
  - d. The proposed alteration meets all the requirements of the Development Code.
2. Application and Fee. Application for amending a public utility easement or municipal utility easement shall be made by the property owner or a duly authorized agent and a filing fee shall be charged and collected at the time of application submittal on forms obtained from the ~~Zoning Administrator~~City with any additional information deemed necessary to understand the application.
3. Review.
  - a. The Land Use Authority~~Zoning Administrator~~ shall ~~act as the land use authority and~~ review all the documents to determine if they are complete and that they comply with the requirements set forth above.
  - b. If the Land Use Authority~~Zoning Administrator~~ determines that the requested easement modification complies with the standards set forth above, the Land Use Authority~~Zoning Administrator~~ shall approve the application.
  - c. If the Land Use Authority~~Zoning Administrator~~ determines that the requested easement modification does not comply with the standards set forth above, the Land Use Authority~~Zoning Administrator~~ shall deny the application.
  - d. The Land Use Authority~~Zoning Administrator~~ shall notify the applicant in writing regarding the decision.
4. Recording of the New Easement. The City shall ensure that the public utility easement or municipal utility easement modification is recorded in the Office of the County Recorder.

## 8-108 Appeals

1. Appeals from a final decision on a land use application that is based, in whole or part, on the regulations and requirements set forth in this Chapter, and requests for variances of any regulation or requirement set forth herein, shall be pursued according to the procedures applicable to the land use application~~set forth in Article 3 of this Code.~~
2. Appeals from a final decision based on the administration or interpretation of the provisions of this Chapter related to geologic hazards may be pursued according to the procedures set forth in Utah Code 10-9a-703(2), at the written request of the applicant.

## 10-102 Definitions

The following words, as used in this Title, shall have the meaning ascribed to them:

1. **AASHTO.** American Association of State Highway and Transportation Officials.
2. **Accessory Building.** A subordinate building, the use of which is incidental to that of the main building.
3. **Accessory Dwelling Unit.** An Accessory Dwelling Unit (ADU) is a room or set of rooms in a single-family home in a single-family zone that has been designed or configured to be used as a separate dwelling unit, which has a separate kitchen, living/sleeping area, and sanitation facilities, and has been established by permit. An ADU shall be attached to the single-family home.
4. **Accessory Use.** A related use which is incidental to the prescribed and permissible use.
5. **Agriculture.** Agriculture shall mean the growing of soil crops in the customary manner in the open. It shall not include livestock raising activities, nor shall it include retailing of products on the premises.
6. **Animal, Large.** A cow, horse, sheep or goat.
7. **Animal, Small.** A chicken, duck, turkey, rabbit and other animals of a similar size.
- 7.8. **Appeal Authority.** The individual(s) or body responsible to hear and decide appeals of a land use authority's action or decision, in accordance with Chapter 2.
- 8.9. **Billboard.** A freestanding ground sign located on industrial, commercial or residential property if the sign is designed or intended to direct attention to a business, product or service that is not sold, offered or existing on the property where the sign is located.
- 9.10. **Building.** Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.
11. **Building, Main.** One or more of the principal buildings upon a lot. Garages, carports, and other buildings which are attached to a dwelling or other main building or which are situated within 10 feet of a main building shall be considered as a part of the main building.
- 10.12. **City Council.** The elected governing and legislative body of Highland City.

~~11.13.~~ **Church.** A permanently constructed structure used primarily as a place of worship. This definition shall not include a tent or similar temporary enclosure.

~~12.14.~~ **Conditional Use.** A land use that because of its unique characteristics or potential impact on the City, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts. A conditional use may be allowed, allowed with conditions, or denied in designated zoning districts, based on compliance with standards and criteria set forth in this Code for those uses.

~~13.15.~~ **Common Household.** Living quarters in which the occupants share:

1. Living and eating areas
2. Laundry facilities
3. All entrances from outside the building
4. Access to all rooms within the building

~~14.16.~~ **Country Club.** A social and recreational facility that is associated with a private golf course. A country club is limited to a golf course facility. A use associated with preparation of food/beverage may be approved as an ancillary and secondary use to a golf course facility.

~~15.17.~~ **Cul-de-sac.** The minimum lot width for lots within the full cul-de-sac radius shall be measured along the arc at the front setback line.

~~16.18.~~ **Daycare.** The care and supervision of children, other than children related to the adult resident(s) of a residential property, which care and supervision is in place of care ordinarily provided by a parent in the parent's home, for less than 24 hours a day, and for direct or indirect compensation.

~~17.19.~~ **Deck.** An exterior floor system supported on at least two opposing sides by an adjoining structure and/or posts, piers, or other independent supports. A deck which is less than 120 square feet, and less than 30 inches above the adjacent grade, and independently supported, will not require a building permit and is not considered part of the main structure however any deck is not permitted to be located within an easement or within ten (10) feet of a property line.

~~18.20.~~ **Density.** The term density shall mean the number of dwelling units per acre of land.

**21. Development.** Any man made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

22. **Development Administration Board.** The body established pursuant to Chapter 2, Article 6.

19.23. **Development Review Committee.** The body established pursuant to Chapter 2, Article 7.

20.24. **Disability.** A physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment

1. Disability does not include illegal use of, or addiction to, alcohol or any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.
2. Disability does not include sexual or psychosexual addiction, disorders, or treatment.

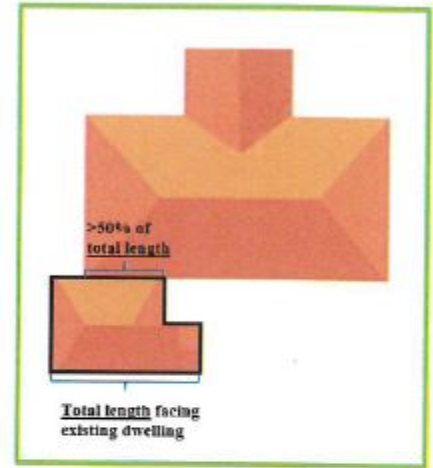
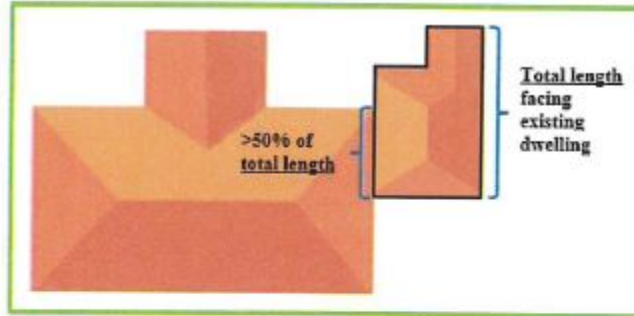
21.25. **Dwelling Unit.** One or more rooms in a building designed for living purposes (bathing, eating, and sleeping) and occupied by one family.

22.26. **Dwelling, Main Dwelling.** The main dwelling on a property shall include a connecting roof line, connecting foundation, at least four (4) connecting walls, and uninhibited interior access within the structure. An underground connection is excluded in counting as a connection to the main dwelling unit between unattached structures.

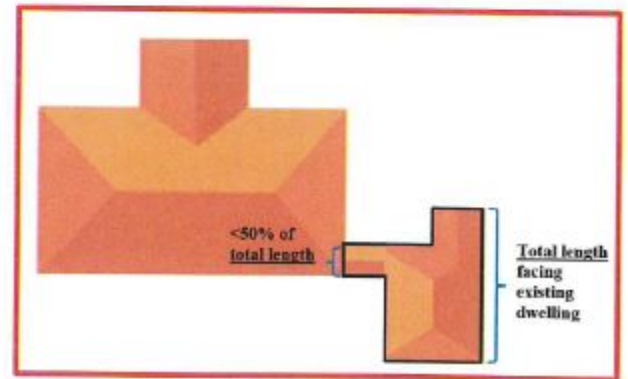
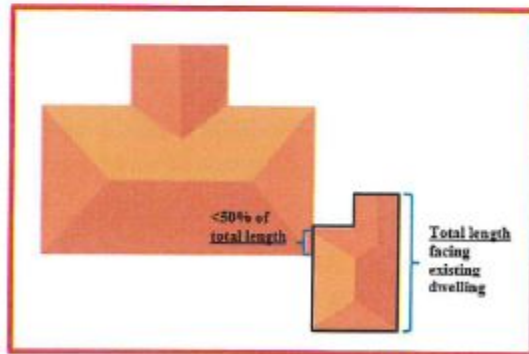
1. To be considered part of the main dwelling, any addition to the original dwelling shall include the previous requirements described above and shall include a majority or more to be attached and in common with the original dwelling. The connection shall be a majority of the length of the portion of the addition that faces the main dwelling. See the figures below for examples of what is permitted.
2. Structures connected by a breezeway shall not be considered part of the main dwelling.
3. Covered decks and patios shall be considered part of the main dwelling.

4. Residential construction that does not meet the criteria above shall meet all requirements for an accessory structure.

**PERMITTED**



**NOT PERMITTED**



**23-27. Elderly Person.** A person who is 60 years or older, who desires or who needs to live with other elderly persons in a group setting, but who is capable of living independently.

**24-28. Family.**

1. One or more persons related by blood, marriage, adoption or legal guardianship, including foster children; or
2. A group of not more than four persons not related by blood, marriage, adoption or legal guardianship, including foster children living together as a common household (see Utah Code 10-9a-505.5).

**25-29. Final Plat.** Record of Survey Map — A plat or plats of survey of land within a subdivision or other large-scale development, which have been prepared in accordance with applicable City standards and state statutes for the purposes of recording in the office of the county recorder.

**26-30. Floor Area.** The sum of the areas of the several floors of the building, including basements, mezzanines, and penthouses of headroom height (6

feet), measured from the exterior walls or from the center line of walls separating buildings.

**27.31. Fundamental Fairness.** shall mean that decisions that are adjudicatory or quasi-judicial in nature (and not legislative) meet two requirements: hearings must be “procedurally fair,” and must appear to be conducted by an “impartial decision-maker.” Fundamental fairness is designed to guarantee that strict procedural requirements are followed so that land use hearings are not only fair, but also appear to be fair. The goal of this is to instill and maintain confidence in the fairness of City land use proceedings.

**28.32. Garage.** A detached accessory building or portion of a main building designed for the parking or temporary storage of automobiles of the occupants of the premises.

**29.33. General Plan.** A document that the City adopts setting forth general guidelines for proposed future development of land within the city.

**30.34. Grade of Building.** Grade of building is the top of the foundation at its closest point to finished grade where the grade of the lot is at its highest elevation. The bottom of the first finished floor may not exceed 24" above grade at the point where finished grade is at its highest elevation and meets the foundation. This point where grade is at its highest elevation and touches the foundation shall not exceed a vertical elevation exceeding a 12% positive slope from the top of the curb adjacent to the driveway approach at its highest elevation. A negative grade within ten (10) feet of the foundation is not permitted. (Amended: 6/7/05, 3/7/06, 10/3/06)

**31.35. Habitable Floor.** Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a habitable floor.

**32.36. Handicapped person.** A person who has a severe, chronic disability attributable to a mental or physical impairment or to a combination of mental and physical impairments, which is likely to continue indefinitely, and which results in a substantial functional limitation in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency; and who requires a combination or sequence of special interdisciplinary or generic care, treatment, or other services that are individually planned and coordinated to allow the person to function in, and contribute to, a residential neighborhood.

**33.37. Height of Building.** The largest vertical distance between the “Grade of Building” and the highest point of the building. The greatest vertical distance on one side of a home between the foundation where the grade of the lot is at its highest elevation to the highest peak of any exposed roofline.

Structures including chimneys, church towers, and similar structures, are excluded in determining height. (Amended 6/7/05, 3/7/06, 10/3/06)

~~34.~~**38. Home Occupation.** Any use conducted entirely within a building and carried on by persons residing in the dwelling unit, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. A business license does not automatically grant the privilege of conducting a business in a residential dwelling unit.

~~35.~~**39. Household Pets.** Animals or fowl ordinarily permitted in the house and kept for company or pleasure, including, but not limited to, dogs, cats, canaries and chinchillas.

**40. In-home Instruction.** The provision of classes, lessons, training, practice, and other organized instruction in fields such as, but not limited to, dance, music, art, swimming, fitness, health, school subjects, or other similar subjects, offered within a residence to people, including children, who do not live at the residence. Includes in-home preschools.

~~36.~~**41. Land Use Authority.** The individual(s) or body responsible and authorized to act upon and decide a land use application or other land use matter in accordance with Chapter 2.

~~37.~~**42. Land-Use Plan.** A plan adopted and maintained by the City Planning Commission, which shows how the land should be used, an element of the Comprehensive Plan.

~~38.~~**43. Landscaping.** Landscaping shall mean the use and integrations of traditional landscape design methods including Xeriscape. A combination of planted trees, shrubs, vines, ground covers, grass, rocks, fountains, pools, art works, screens, walls, fences, benches or surrounding walkways set into any aesthetically pleasing arrangement should be implanted. The use of structures or surfaced walkways, alone, in the absence of planted trees, grass, etc., shall not meet the requirements of this Code.

~~39.~~**44. Living Area.** Those portions of a dwelling having a headroom height of six feet eight inches or greater and which are used for customary living activities. For purposes of this Code, living area shall not include portions of the structure used for parking of vehicles, unenclosed porches, storage rooms having only outside access, and rooms devoted exclusively to the housing of heating or ventilating or similar mechanical equipment.

~~40.~~**45. Lot.** Land occupied or to be occupied by a building or buildings, together with such open spaces as required under this Code, and having its principal frontage on a street or an officially approved place. Also building sites without reference to lots as recorded on official plats.

~~41.46.~~ **Lot, Corner.** A lot situated at a junction of two radii which are thirty five (35) feet or less, and where the angle formed by the intersection of the tangent is one hundred five (105) degrees or less, or any lot which is adjacent to or shares a mutual boundary with two (2) intersecting right-of-ways and may include any easement including, but not limited to parkway detail, within the right-of-way or within private property adjacent to that right-of-way. (Amended 3/1/05)

~~42.47.~~ **Lot, Interior.** A lot other than a corner lot.

~~43.48.~~ **Lot of Record.** A parcel of land which is shown as a separate and independent parcel on the records of the county recorder.

~~44.49.~~ **Lot, Zoning.** A lot of record which:

1. Complies with all current area, frontage, width, setback, and supplementary requirements of the zone in which it is located,
2. Has frontage on a City street, which street has been improved in accordance with City standards including asphalt, curb, gutter, and sidewalk, and is served by all public utilities in accordance with City standards
3. Is shown as a separate, developable lot in an approved and recorded subdivision plat that was approved in accordance with the applicable ordinances, and
4. Has not been designated, by plat or other recorded document, for use as common area, open space, conservation area, or other non-development purposes.

~~45.50.~~ **Major Street Plan.** A map approved by the Planning Commission and City Council which is part of the General Plan showing the approximate location of the existing and future collector and arterial class roads.

~~46.51.~~ **General Plan.** Comprehensive Plan — The Master Plan.

~~47.52.~~ **Nonconforming Structure.** A structure, or portion thereof, which legally existed before its current land use designation and because of subsequent changes to governing law, does not conform with zoning, setbacks, height, size, material, access, or other regulations and restrictions that govern the structure.

~~48.53.~~ **Nonconforming Use.** A use of land that legally existed before its current land use designation, has been maintained continuously since the time governing governing law regulating governing the land changed, and because of subsequent changes to governing law, does not conform with the regulations that now govern the land.

- ~~49-54.~~ **Nonconforming Lot of Record.** A lot of record that was legally created and developed in conformance with the subdivision requirements of the Utah Code and Highland City ordinances at that time, or was exempted from compliance with such requirements, and, because of subsequent changes to governing law, does not conform as a zoning lot under its current land use designation. Does not include lots and parcels that have been designated, by plat or other recorded document, for use as common area, open space, conservation areas, or other non-development purposes.
- ~~50-55.~~ **Off Street Parking Space.** An area for the parking of automobiles which does not include a public street but has convenient access to it.
- ~~51-56.~~ **Off site.** Shall mean of or pertaining to the territory outside of the boundaries of a particular project.
- ~~52-57.~~ **On site.** Shall mean of or pertaining to the territory within the boundaries of a particular project.
- ~~58.~~ **Open Space.** Land which is open from the ground upward and which is not covered by dwellings or other buildings, or by pavement or other impervious material.
- ~~53-59.~~ **Planning Commission.** The body established pursuant to Chapter 2, Article 2.
- ~~54-60.~~ **Preschool.** An early childhood program that provides education and care to pre-elementary school aged children that emphasizes learning and development rather than daycare services.
- ~~55-61.~~ **Parking Space.** A space, not less than eighteen (18) feet in length and not less than nine (9) feet in width for the parking of a mobile vehicle, exclusive of driveways and ramps.
- ~~56-62.~~ **Public and Parochial Schools and Grounds.** An educational institution accredited by the state as a primary or secondary school and consisting of a parcel of land containing one or more classroom buildings and certain ancillary structures and areas which are operated by the institution as an integral part of the educational curriculum.
- ~~57-63.~~ **Public-Agency Park.** Shall mean a tract of land which is owned by the public and which has been partially or totally developed or designated for recreational purposes.
- ~~58-64.~~ **Public Street.** A roadway which has been designated as a federal or state highway or which has been designated as a City street.
- ~~59-65.~~ **Public Building.** A structure, owned and operated by a unit of government, which houses equipment or activities performed by that agency,

including City buildings, libraries, fire stations, and similar uses not requiring outside storage of materials.

**66. Recreational Vehicle.** A vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel, recreational and vacation use, which is either self propelled or is mounted on or pulled by another vehicle, including but not limited to, a travel trailer, a camping trailer, a truck camper, and a motor home. A recreational vehicle is capable of being transported on public streets and highways without a special permit. It is eight (8) feet or less in width and thirty two (32) feet or less in length.

~~60.67.~~ **Recommending Body.** The individual(s) or body responsible to issue a formal recommendation regarding a land use matter to the Land Use Authority in accordance with Chapter 2. Not every land use matter entails a recommending body or formal recommendation.

~~61.68.~~ **Residential Facility for Persons with a Disability.** A residence:

1. in which more than one person with a disability resides; and
2. is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, Utah Code.
3. which meets the requirements of this ordinance as defined in Article 4.1 and 4.2 in this Code.

(Ord: #2010-09, 07/20/2010)

**69. Residential Facility for Handicapped Persons.** A one-family or multiple-family dwelling unit, consistent with existing zoning of the desire location, that is occupied on a 24-hour basis by four or fewer handicapped persons in a family-type arrangement under the supervision of a house family or manager, and that conforms to all applicable standards and requirements of the Utah State Department of Social Services, and is operated by or operated under contract with that department.

~~62.70.~~ **Reviewing Body.** The individual(s) or body responsible to review a land use matter for conformance with applicable regulations, plans, and standards prior to formal recommendation and/or decision of the matter, in accordance with Chapter 2.

~~63.71.~~ **Setback.** The shortest distance between the property line, back of asphalt, back of curb, or back of sidewalk, whichever is closest to the structure, and outside surface of support posts, cantilevers, bay, bow, or box windows, or any hard wall line of the structure.

**64.72. Sign, Freestanding.** Any sign that is standing on or erected into the ground. Such signs are usually, but not necessarily, supported from the ground by one or more poles or similar uprights, with or without braces. Any sign that is mounted onto the ground but has the supports passing through any portion of the roof of a building or structure shall be considered a roof sign.

**65.73. Sign, Projecting.** Any sign attached to a building or structural wall and extending horizontally outward from such wall more than eighteen inches.

**66.74. Sign, Roof.** Any sign which is erected upon or over the roof or over a parapet of any building or structure.

**67.75. Sign, Wall.** Any sign posted or painted upon, suspended from or otherwise affixed to a wall, fascia, canopy, or marquee with the face of the sign approximately parallel with the wall or fascia to which it is attached.

**68.76. Sign, Area.** The area of a sign that is used for display purposes, excluding the minimum frame and supports. In computing sign area only one side of back to back or double-face sign covering the same subject shall be computed when the two faces diverge by an angle of not more than forty five degrees. For signs that do not have a frame or a separate background, sign area shall be computed on the basis of the least rectangle, triangle or circle large enough to frame the display.

**69.77. Sign, Electric.** A sign which has any portion thereof lighted by artificial light in any manner or which rotates or otherwise moves.

**70.78. Sign, Illuminated.** A sign which has any portion thereof lighted by artificial light, including floodlighting or reflecting lighting of any kind.

**71.79. Sign, Accessory.** A sign which directs attention to a business or profession conducted on the premises.

**72.80. Sign, Non-accessory.** A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than on the premises, and only incidentally on the premises, if at all.

**73.81. Slope.** The average grade of the surface of land expressed either in percentage or in degrees.

**74.82. Start of Construction.** Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as a pouring of slabs or footings, the installation of piles, the construction of piles, or any work beyond the stage of excavation; or the placement of a

manufactured home on a foundation. Permanent construction does not include land preparation, such as a clearing, grading, and filling; nor does it include the installation of streets or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

~~75.83.~~ **Story.** That portion of a building included between the surface of a floor and the ceiling next above it.

~~76.84.~~ **Street, Major.** A road which has been designated on the City Master Plan as a collector, arterial, or other principal thoroughfare as distinguished from a minor street.

~~77.85.~~ **Structure.** Anything constructed or erected which requires location on the ground, but not including a tent or automobile.

~~78.86.~~ **Subdivision.** Any land that is divided, re-subdivided or proposed to be divided into two or more lots, parcels, sites, units, plots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions. Subdivision includes the division or development of land whether by deed, meets and bounds, description, devise and testacy, lease, map, plat, or other recorded instrument and divisions of land for all residential and non-residential uses, including land used or to be used for commercial, agricultural, and industrial purposes. All large-scale developments involving the division of land shall be deemed to be subdivisions.

~~79.87.~~ **Temporary Uses.** Uses which are proposed to exist for a relatively short period of time.

~~80.88.~~ **Tender.** An offer or proposal made for acceptance.

~~81.89.~~ **Variance.** A reduction of a frontage, setback, area, or improvement requirements to a level which is less than that which is specifically set forth in this Code.

~~82.90.~~ **Yard.** The open-space area on a lot or parcel, except for permitted projections and landscaping, encompassing the territory between the outer wall of the building and closest opposite property line and extending the full width of depth, as appropriate, of the lot or parcel.

~~83.91.~~ **Yard, Required.** The open space around buildings which is required by the terms of this Code.

~~84.92.~~ **Rambler.** A home built with one level only. (May have an optional basement or crawl space below). It is conceivable for a rambler to have a step down of more than seven inches and not be classified as a split level.

~~85.93.~~ **Two-Story.** A home with two floors above Grade of Building, neither of which has a step down of more than seven inches. It is Conceivable to have a Two-Story with a step down of more than seven inches and not be classified as a Split-Level.

~~86.94.~~ **Split-Level.** A home with a differential between floor levels of more than seven inches wherein the current or future habitable floor space on any one level is 300 square feet or greater wherein the differential between floor levels described above is duplicated on more than one floor.

**95.Xeriscape.** Xeriscape is interpreted to be landscaping in a manner that reduces the need for supplemental irrigation, conserves water and enhances the beauty of the property. Residents should be conscientious of utilizing plants, trees and shrubs appropriate to the climate to avoid losing water to evaporation and run- off. Xeriscape shall consist of an attractive mix of plantings, rocks and other landscaping materials. For front yards and park strips, at least 25% of any xeriscape must contain plants, trees and shrubs.

~~87.96.~~ **Zoning Administrator.** The person appointed pursuant to Chapter 2, Article 4.

## 11-101 Zoning Clearance Required

No building permit shall be issued for construction within the City until the application therefore has been approved by the Land Use Authority~~Zoning Administrator~~. The ~~Zoning Administrator~~Land Use Authority shall not give such approval until ~~he~~they is-are satisfied that the proposed construction and subsequent use of the building proposed to be constructed will comply with the requirements of the zone in which the building will be situated.

#### **11-104 Construction And Use To Comply With Application**

Permits for excavations and buildings, and Certificates of Zoning Compliance issued on the basis of plans and specifications approved by the ~~Zoning Administrator~~ Land Use Authority authorize only the use, arrangement, and construction set forth in such approved plans and application. Any use, arrangement, or construction at variance with that authorized shall be deemed to be a violation of this Code. Any misrepresentation or fraudulent statement of fact submitted with an application shall render any related approval voidable.

## 11-108 Certificate Of Zoning Compliance Required

1. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premise, or to change the occupancy of any building or premise, until ~~at the appropriate application required by this Code has been approved by the Land Use Authority -Certificate of Zoning Compliance shall have been issued therefore by the Zoning Administrator~~ stating that the proposed use of the building or land conforms to the requirements of this Code.
- ~~1.2.~~ No nonconforming structure or use shall be changed or extended until a Certificate of Zoning Compliance is issued by the Land Use Authority in accordance with Chapter 3, Article 2.~~shall state specifically wherein the nonconforming use differs with the requirements of this Code.~~ The Zoning Administrator may permit the occupancy of a building prior to the completion of all required work; provided a bond or other assurance has been posted with the City Recorder in an amount equal to the cost of completing said required work, guaranteeing the completion of such work, as determined by the City Council. ~~The Zoning Administrator shall maintain a record of all Certificates of Zoning Compliance for a period of five (5) years, and a copy shall be furnished upon request to any applicant.~~ Failure to obtain a Certificate of Zoning Compliance shall constitute a violation of this Code.



# CITY COUNCIL AGENDA REPORT

## ITEM #4b

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**DATE:** October 1, 2024  
**TO:** Honorable Mayor and Members of the City Council  
**FROM:** Rob Patterson, City Attorney/Planning & Zoning Administrator  
**SUBJECT:** Development Agreement - Howden 6000 West Sidewalk and Fence  
**TYPE:** Land Use (Legislative)

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### **PURPOSE:**

The City Council will consider the City's entering into a development agreement with the Howdens regarding the construction of a sidewalk and theme wall along 6000 West adjacent to their property.

### **STAFF RECOMMENDATION:**

Staff recommends that the City Council consider and APPROVE the proposed development agreement with the Howdens.

### **PRIOR COUNCIL DIRECTION:**

In a brief discussion on September 17, 2024, the City Council indicated they would support this agreement.

### **BACKGROUND:**

Chris and Jacqui Howden live on 11366 North 6000 West, immediately adjacent to the new Williams View subdivision. Chris is the developer of that subdivision, and he approached City staff with a proposal to extend a sidewalk and theme wall along their property line in connection with the Williams View subdivision.

Currently, there is no sidewalk on the east side of 6000 West along the Howden property between the Williams View and Quail Creek subdivisions. This means that anyone walking on the east side of 6000 West must enter the street or walk along an uneven grassy area. Quail Creek is an older subdivision, and it was developed with a 4-foot wide sidewalk that is immediately adjacent to the curb (no park strip). Williams View has been developed according to the City's current standards, with a 5-foot sidewalk and 4-foot park strip.

Because of the topography of 6000 West and the Howden property, there is only about 4 to 4.5 feet of level ground adjacent to 6000 West on the east side. This makes installing a standard park strip and sidewalk impossible without extensive regrading and filling the property. The Howdens are willing to install a public sidewalk at their own expense on the existing level ground, if the City is willing to allow the sidewalk to match what was done on the Quail Creek side -- 4-foot sidewalk with no park strip. The Howdens are not developing their property, so the City cannot require the Howdens to install a sidewalk at all, let alone regrade their property to allow for the typical park strip and sidewalk.

In addition to the sidewalk, the Howdens ask that the City allow them to extend the 6-foot theme wall

being installed with the Williams View subdivision along their property line. Because of the topography, this wall would need to be installed adjacent to the sidewalk, instead of being set back 14 feet from the curb, as would otherwise be required.

In summary, the Howdens are offering to install a public sidewalk at their expense, if the City is willing to be flexible on its normal sidewalk/park strip requirements and its fence setback requirements. City staff are amenable to this request, provided that, if and when the property is subdivided or redeveloped in the future, the sidewalk and wall are removed and reinstalled according to City standards by the developer at that time.

Because the Howdens' request requires an exception to City standards, it must be approved through a development agreement that is reviewed by the Planning Commission at a public hearing and then approved by the City Council. A proposed development agreement is included.

### **Planning Commission**

The Planning Commission held a public hearing on this item on September 24, 2024. No public comment was received. Mr. Howden spoke regarding the proposed development agreement and expressed that he did not believe a recorded agreement was necessary to ensure future development addressed the sidewalk and wall and brought them up to City standard as part of the future development. The Planning Commission voted 6-0 in to recommend approval of the proposed development agreement. (Mr. Howden is a member of the Planning Commission and recused himself for this vote.)

### **Staff Review**

This is a legislative matter that is subject to the discretion of the Planning Commission and City Council. Staff believes that having a complete sidewalk along the east side of 6000 West, even if substandard, will be a benefit to Highland residents. Further, if and when the Howden property is subdivided, the developer will be required to install a City standard park strip and sidewalk.

### **Proposed Findings:**

- The proposed development agreement will provide a benefit to Highland City residents that justifies the limited scope of the exceptions requested.

### **FISCAL IMPACT:**

No anticipated fiscal impact.

### **MOTION:**

I move that the City Council APPROVE the proposed development agreement with the Howdens for a sidewalk and fence along 6000 West.

[Council may specify different or additional terms to be included]

### **ATTACHMENTS:**

1. Development Agreement - Howden 6000 W - 09.19.2024.1

When recorded, return to:  
Highland City  
5400 W Civic Center Dr Ste.1  
Highland, UT 84003

**DEVELOPMENT AGREEMENT  
HOWDEN 6000 WEST SIDEWALK AND FENCE**

This DEVELOPMENT AGREEMENT (“**Agreement**”) is entered into by HIGHLAND CITY, a Utah municipality and a political subdivision of the State of Utah (the “**City**”), and JACQUELINE R. HOWDEN, individual, (“**Owner**”), and their respective principals, agents, officers, employees, heirs, assigns, and successors-in-interest.

- A. Owner owns the property (“**Property**”) located generally at 11366 N 6000 W, Highland, UT 84003, Utah County parcel 11:026:0054, more particularly described as:

COMMENCING NORTH 0 DEG 28’ WEST 962.73 FEET AND  
EAST 29.06 FEET FROM THE SOUTH QUARTER CORNER OF  
SECTION 26, TOWNSHIP 4 SOUTH, RANGE 1 EAST, SALT  
LAKE BASE AND MERIDIAN; THENCE NORTH 0 DEG 21’  
WEST 403.35 FEET; THENCE NORTH 89 DEG 51’ EAST 625.89  
FEET; THENCE SOUTH 1 DEG 30’ WEST 322.82 FEET;  
THENCE SOUTH 88 DEG 48’ WEST 332.25 FEET; THENCE  
SOUTH 56 DEG 04’ WEST 59.68 FEET; THENCE SOUTH 89  
DEG 57’ WEST 128.40 FEET; THENCE SOUTH 68 DEG 24’  
WEST 112.80 FEET TO THE POINT OF BEGINNING

AREA 5.055 AC.

- B. Owner desires to install a public sidewalk along the Property’s frontage on 6000 West within the City’s right of way (“**Sidewalk**”), in addition to a private theme wall on Owner’s Property adjacent to the sidewalk (“**Theme Wall**”), which improvements are collectively referred to herein as the “**Owner Improvements**.”
- C. Due to the topography of the 6000 West right of way adjacent to the Property, there is currently insufficient level ground to facilitate the installation of the Owner Improvements according to the City’s standards.
- D. City recognizes the benefit of having the Sidewalk installed and the generosity of Owner in constructing the Sidewalk for the benefit of the City and therefore desire to facilitate the installation of the Sidewalk and Theme Wall for the benefit of the City and its residents, provided that, in the event the Property

is subdivided and developed in the future, the Owner Improvements will be replaced and reinstalled in accordance with then-applicable City standards.

- E. In order to accomplish the goals and objective set forth in these recitals, the parties desire to enter into this Agreement to establish the terms and conditions by which the Owner Improvements will be installed.

## AGREEMENT

1. **Owner Improvements.** The City agrees to allow Owner to install the Owner Improvements, at Owner's sole cost and expense, as follows:
  - a. **Sidewalk.** The Sidewalk shall consist of a concrete, 4-foot wide sidewalk adjacent to the existing curb of the City's 6000 West right of way along the frontage of the Property, connecting the existing sidewalks of the Quail Creek subdivision on the north and the Williams View subdivision on the south. The Sidewalk shall be installed without a park strip. Except for the size of the sidewalk (4 feet instead of 5 feet) and the lack of park strip, the Sidewalk shall conform to City development, design, and construction standards and ordinances.
  - b. **Theme Wall.**
    - i. The Theme Wall shall be a pre-cast concrete fence, of a similar type, style, and material to be installed with the Williams View subdivision immediately south of the Property. The City agrees to allow Owner to install the Theme Wall adjacent to the Sidewalk on the Property, without the standard fence setback. Except for the setback, the Theme Wall shall conform to City development, design, and construction standards and ordinances.
    - ii. City shall not be responsible to maintain or repair the Theme Wall. Owner acknowledges that City shall not be liable for any damage or degradation to or of the Theme Wall due to its proximity to the Sidewalk and 6000 West and the impact from snow plowing, snow melt, and public use of the Sidewalk.
  - c. **Design.** Attached as Exhibit A is a concept diagram showing the approved design of the Owner Improvements. Owner shall provide and submit all required applications, designs and construction documents, and other materials required by City development, design, and construction standards in connection with the construction of the Owner Improvements, which shall generally conform to Exhibit A.

## 2. **Future Development.**

- a. In the event the Property is subdivided or otherwise redeveloped from its current, one-unit, single-family residential use, Owner or Owner's successors-in-interest, shall be required, in connection with such subdivision or redevelopment, to remove and demolish the Owner Improvements and design, construct, improve, and install all right of way improvements along the Property's 6000 West frontage according to the City's development, design, and construction standards in effect at the time of subdivision or redevelopment. Such right of way improvements include, but are not limited to, road improvements, park strip, sidewalk, curb, and gutter, including all grading, fill, and/or retention necessary to support such improvements.
  - b. The removal and demolition of the Owner Improvements, and design, construction, improvement, and installation of right of way improvements along the Property's 6000 West frontage, shall be imposed as a condition of approval of the future subdivision or redevelopment of the Property.
3. **Successors Bound.** This Agreement shall be recorded against title to the Property as covenants, obligations, and equitable servitudes running with the land to Owner's successors-in-interest, each of whom shall be obligated as though named herein to perform each and every of Owner's obligations set forth herein.
  4. **No Development Approval.** Nothing in this Agreement constitutes approval of any building permit, subdivision plat, or other land use application nor waives any requirements related thereto. Except as expressly provided herein, Owner shall comply with all City land use regulations related to the construction, occupancy, and use of the Property and Owner Improvements.
  5. **Representations.** The parties represent and warrant that the person signing this Agreement on behalf of each party is authorized to so sign and to bind the party to the obligations set forth herein, and that all steps and procedures required by a party to execute and enter into this Agreement have been completed.
  6. **Complete Agreement.** This written Agreement is the entire contract entered into between the parties, and no party is relying or may rely on any other representations, promises, or understandings of any kind not expressly set forth herein. This Agreement may not be altered, amended, modified, or otherwise changed in any respect except in a writing executed by all parties.

~~SIGNATURES TO FOLLOW~~

For OWNER Jacqueline R. Howden

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Date]

STATE OF \_\_\_\_\_)

§

COUNTY OF \_\_\_\_\_)

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me,  
\_\_\_\_\_, proved on the basis of satisfactory evidence  
to be the person whose name is/are subscribed to the foregoing instrument, and who acknowledged  
they executed the same.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

For HIGHLAND CITY, UTAH

\_\_\_\_\_  
[Signature]

Attested:

\_\_\_\_\_  
[Date]

\_\_\_\_\_  
City Recorder

STATE OF \_\_\_\_\_)

§

COUNTY OF \_\_\_\_\_)

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me, \_\_\_\_\_, proved on the basis of satisfactory evidence to be the person whose name is/are subscribed to the foregoing instrument, and who acknowledged they executed the same.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

STATE OF \_\_\_\_\_)

§

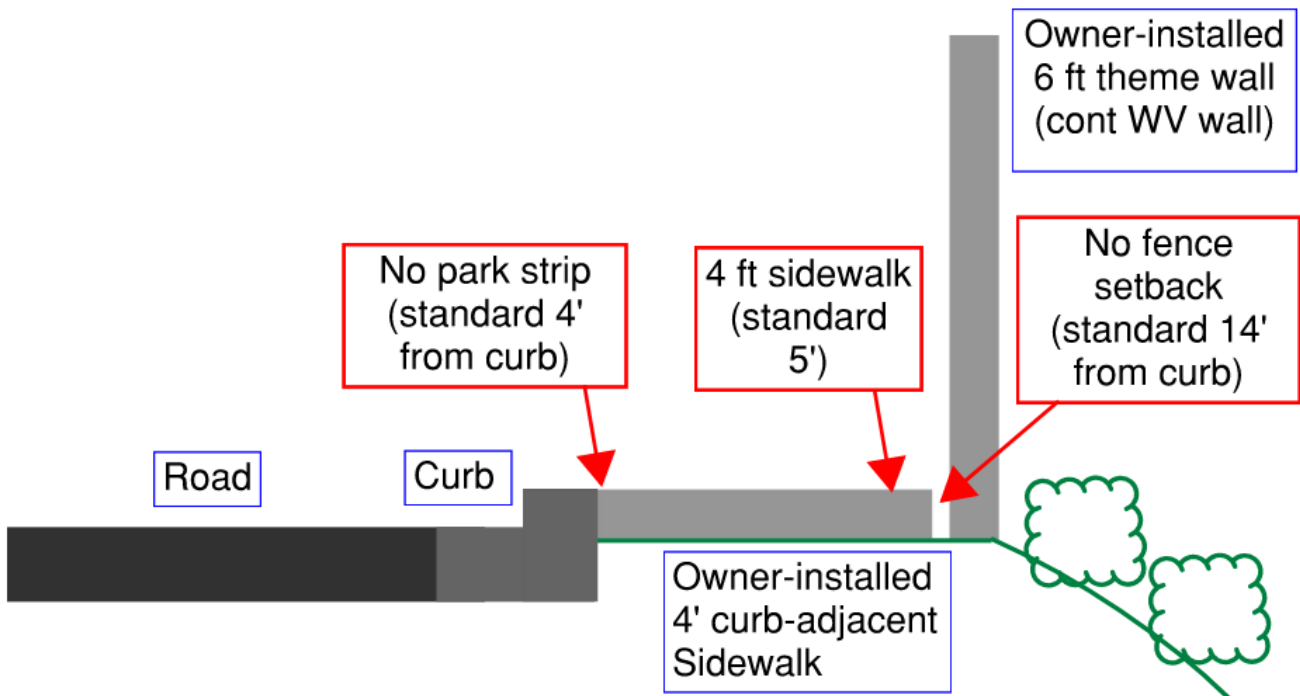
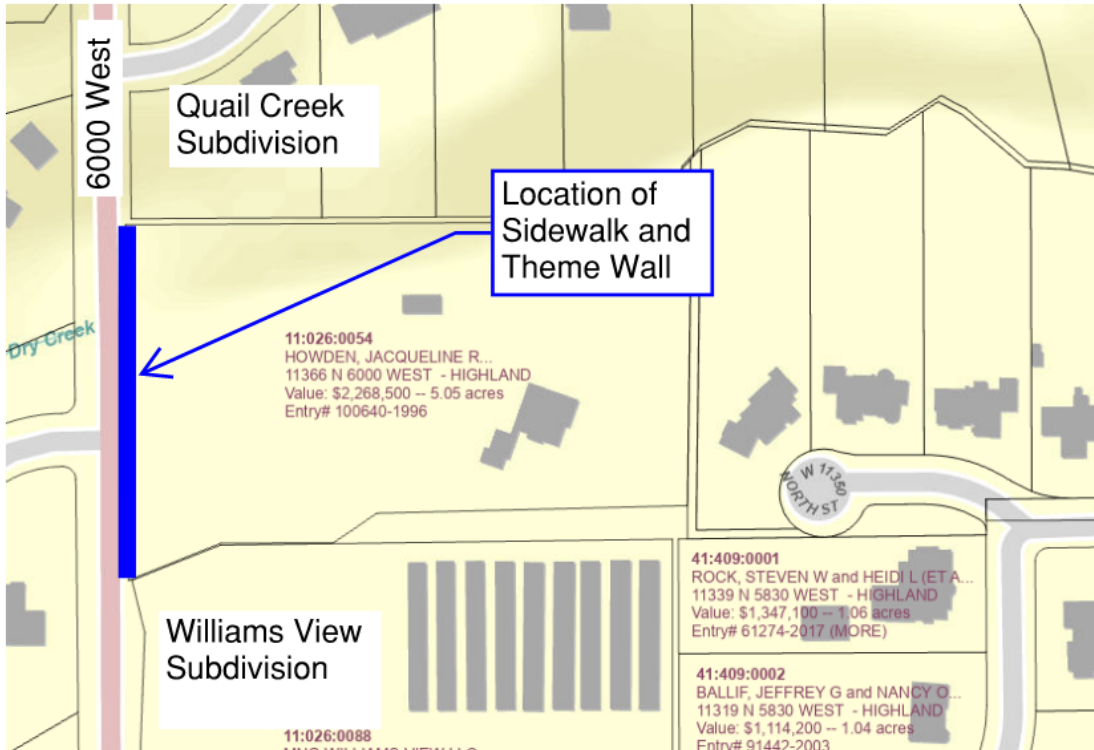
COUNTY OF \_\_\_\_\_)

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me, \_\_\_\_\_, proved on the basis of satisfactory evidence to be the person whose name is/are subscribed to the foregoing instrument, and who acknowledged they executed the same.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

EXHIBIT A  
Concept Design for Sidewalk and Theme Wall





# CITY COUNCIL AGENDA REPORT

## ITEM #5a

---

**DATE:** October 1, 2024  
**TO:** Honorable Mayor and Members of the City Council  
**FROM:** Rob Patterson, City Attorney  
**SUBJECT:** Chad Christopherson Donation Agreement  
**TYPE:** General City Management

---

### **PURPOSE:**

The City Council will consider approving a recognition and naming agreement with Chad Christopherson related to his donation for the baseball field for Highland Family Park.

### **STAFF RECOMMENDATION:**

Staff recommends that the City Council APPROVE the recognition and naming agreement with Chad Christopherson.

### **PRIOR COUNCIL DIRECTION:**

On January 3, 2023, the Council approved the template "Special Recognition and Naming Agreement - Mountain Ridge Park" (now updated to "Highland Family Park") for the city to use to enter into naming right agreements with donors of significant dollar amounts. This agreement establishes:

- The donation is a gift to the City
- The donor has the right to choose a name/statement to be recognized and honored in association with the facility funded by the donation
- The naming rights will generally continue for the useful life of the facilities (including any repairs/restoration)
- The naming rights will generally be terminated (subject to a right of first refusal) if and when the facilities reach the end of their useful life or are otherwise fully demolished and reconstructed by the City, to allow for redevelopment of City property

### **BACKGROUND:**

The City has used the Council-approved template agreement for the larger donations to the park (pavilion, all-abilities playground, etc.). In discussions with the Christophersons related to their donation of \$250,000 for a baseball field in the Highland Family Park park, the Christophersons were concerned that the "useful life" of a baseball field is somewhat ambiguous, since fields require reconstruction regularly. The Christophersons desired to have a more specific timeframe in which their naming rights would continue.

Accordingly, staff has proposed that the agreement be clarified (paragraph #5) that the "useful life" of the field be a time period of not less than 30 years. This means that--absent any decision by the City to redevelop or repurpose the baseball fields--the Christophersons would have naming rights associated

with the baseball field for at least 30 years. Staff supports clarifying the agreement to alleviate the Christophersons' concerns that the City will remove their name prematurely. 30 years seems to be a reasonable, minimum timeframe for the naming rights to continue. The expiration of 30 years would not require the City to remove the recognition of the Christophersons' donation, but having that timeframe established would simply allow the City, if it chooses after 30 years, to reconstruct the baseball field without any special naming rights or recognition.

The terms and conditions of naming rights and accepting donations are subject to the Council's discretion.

**FISCAL IMPACT:**

There is no direct fiscal impact related to this agreement other than incidental costs to install a plaque or other appropriate marker to honor the Christophersons' donation.

**MOTION:**

I move that City Council APPROVE the Special Recognition and Naming Agreement for the Christophersons with a minimum period for the naming rights to continue of 30 years.

**ATTACHMENTS:**

1. Highland Family Park Donation - Naming - Christopherson



**Highland City**  
**5400 West Civic Center Drive, Suite 1**  
**Highland, UT 84003**  
**Phone (801) 756-5751**  
**www.highlandcity.org**

**SPECIAL RECOGNITION AND NAMING AGREEMENT –  
HIGHLAND FAMILY PARK**

This Agreement is made by and between \_\_\_\_\_  
\_\_\_\_\_ (“**Donor**”), and Highland City (“**City**”), regarding a gift and donation made  
by Donor to City.

1. Donor hereby irrevocably gifts to City \$ \_\_\_\_\_  
 (“**Donation**”), either by way of the Highland City Foundation or by direct  
donation to the City, for the improvement of Highland Family Park (“**Park**”).  
The Donation is by way of gift, and City has not and shall not provide any  
good, property, service, or other benefit to Donor in exchange for the  
Donation.
2. The Donation is intended to provide for the following facilities (“**Facilities**”):  
\_\_\_\_\_
3. City shall, without further approval or consent of Donor, use the Donation to  
develop and improve the Park and provide the Facilities. The specific use of  
the Donation and details the Park’s improvement shall be determined solely  
by City, provided the Donation shall be used for public purposes per 26  
U.S.C. § 170(c)(1) and consistent with this agreement.
4. City shall recognize and honor the Donation by allowing Donor to provide a  
name or statement that will be displayed and honored (“**Naming**”), as  
follows:
  - a. Name/Statement to be Recognized: \_\_\_\_\_  
\_\_\_\_\_
  - b. Naming may be limited, removed, or restricted to avoid protect the  
integrity or reputation of City, as City may reasonably and in good  
faith determine, in which case Donor shall have an opportunity to  
provide a different name/statement.
  - c. The Naming shall be placed on or near the Facilities by way of plaque,  
sign, monument, or other appropriate, visible acknowledgment; on the  
general donor monument, if applicable; and shall be used to denote,  
describe, and reference the Facilities for all City purposes, including  
for signage, reservations, and websites.
  - d. Donor may change the name/statement during the duration of Donor’s

Naming rights by paying City's actual costs to rename the acknowledging materials.

5. Donor's Naming rights shall continue for the useful life of the Facilities, which shall be a period of not less than 30 years from the execution of this Agreement. In the event the Facilities are involuntarily damaged or destroyed, and City determines, in its discretion, to rebuild, repair, or reconstruct the Facilities, City shall reestablish and continue the Naming with the rebuilt, repaired, or reconstructed Facilities for their useful life. If the City does not rebuild, repair, or reconstruct the Facilities, the Naming rights shall cease, subject to Donor's right of first refusal set forth in section 7.
6. In the event City voluntarily demolishes the Facilities, or, after the end of the useful life of the Facilities, significantly reconstructs, rebuilds, renovates, upgrades, or modifies the Facilities, the Naming shall cease, and Donor shall have no further rights thereto, subject to Donor's right of first refusal set forth in section 7.
7. Donor shall be given the first right of refusal to make a new donation or other contribution, according to City's then-existing donation policy, for naming rights related to any new facility or improvement constructed in the place of the Facilities or related to any renovated, upgraded, or modified Facilities.
8. This agreement and the rights and benefits hereunder may not be assigned by either party without the prior written consent of the other party, which consent shall be in the sole and absolute discretion of the non-assigning party.
9. This agreement constitutes the entire agreement and understanding of the parties with regard to the matters referred to herein, and supersedes all prior oral and written agreements or representations. This agreement may not be modified or amended except by written agreement executed by both parties hereto.
10. Donor represents that Donor is legally authorized to execute this agreement, and that all steps or actions required for Donor to execute this agreement and provide the Donation to City have been completed.
11. Nothing herein grants Donor any right, title, or interest to any property owned by City, nor any control over or special rights to the Facilities or the Park.

SIGNATURE PAGE TO FOLLOW

**For Donor:**

---

Signature

---

Name

---

Title

---

Date

---

Signature

---

Name

---

Title

---

Date

**For Highland City**

---

Signature

---

Name

---

Title

---

Date

Attested:

---

City Recorder



# CITY COUNCIL AGENDA REPORT

## ITEM #5b

**DATE:** October 1, 2024  
**TO:** Honorable Mayor and Members of the City Council  
**FROM:** Jeff Murdoch, Assistant Public Works Director  
**SUBJECT:** Annual Fertilizer Order  
**TYPE:** General City Management

---

### **PURPOSE:**

The City Council will consider the annual purchase of fertilizer for the fall and spring park and cemetery applications. The council will take appropriate action.

### **STAFF RECOMMENDATION:**

Staff recommends the Council authorize the purchase of fertilizer in the amount of \$74,888 for use in the City parks and Cemetery.

### **PRIOR COUNCIL DIRECTION:**

The approved FY2025 Parks & Recreation budget includes \$129,000 for fertilizer and weed control treatments in GL 10-70-39 and also \$15,000 included in the Cemetery Perpetual Fund GL 21-43-21.

### **BACKGROUND:**

The expenditure of \$74,888 in fertilizer is a normal expenditure for the City. With the combination of the Cemetery and Parks funding sources, these expenditures for the fall and spring fertilizer purchases exceed the City Administrator's authorized amount for a single expenditure. As such, the item is brought to the Council for authorization. For expediency, the fall and spring fertilizer orders have been combined into one Council authorization. Ewing does not have the state contract for this particular fertilizer; however, they are honoring the state contract price as shown in the quote.

The prices from the quote are per pallet price. The Parks/Cemetery Department's plan to purchase the following:

#### **Parks/Open Space**

21 pallets of line item #2 @\$1,678.80 per pallet (Fall Fertilizer)

24 pallets of line item #3 @\$1,235.60 per pallet (Spring/Early Summer Fertilizer)

#### **Cemetery**

3 pallets of line item #2 @\$1,678.80 per pallet (Fall Fertilizer)

4 pallets of line item #3 @\$1,235.60 per pallet (Spring/Early Summer Fertilizer)

### **FISCAL IMPACT:**

The cost of this purchase is \$74,888.00. Funding for this expense is included within the FY2025 budget as follows:

\$64,909.20 in GL 10-70-39, Parks & Recreation - Fertilizer & Weed Killer; and  
\$9,978.80 in GL 21-43-21, Cemetery - Fertilizer & Weed Killer.

**MOTION:**

I move that City Council APPROVE the purchase of fertilizer from Ewing in the amount of \$74,888 and AUTHORIZE the City Administrator to sign the necessary purchase contracts.

**ATTACHMENTS:**

1. Fertilizer Quote



Home Office  
3441 E. Harbour Drive, Phoenix, AZ 85034  
602.437.9530  
EwingIrrigation.com



QUOTATION

\* 29863 \*

34 Ewing Orem  
712 N Orem Blvd  
Orem, UT 84057-8823  
PHN 8012220777 FAX 8012265557

QUOTE # 18466348  
PAGE 1 of 1  
QUOTED 08/28/2024  
QUOTE EXPIRES ON: 09/27/2024

SOLD TO: HIGHLAND CITY  
# 109034 5400 W CIVIC CENTER DR STE 1  
HIGHLAND, UT 84003-3856  
PH 8017565751

SHIP TO: HIGHLAND CITY  
5400 W CIVIC CENTER DR STE 1  
HIGHLAND, UT 84003  
PH 8017565751

DELIVERY INSTRUCTIONS:

PO#: FALL FERTILIZER BUYER: Josh Castleberry PH:  
P21 JOB: EIP#: BY: DUSTIN Q QUOTE#  
EWING JOB: JOB REF: FALL FERTILIZER

| QTY ORDER | ITEM DESCRIPTION                      | NET     | EXTENDED | LINE# |
|-----------|---------------------------------------|---------|----------|-------|
| 40        | 51001020 BEST 25-5-5 GX SUPER TURF    | 41.5506 | 1,662.02 | 1     |
| 40        | 51990078 BEST 21-2-21 GX CASCADE K    | 41.9700 | 1,678.80 | 2     |
| 40        | 51161010 PROPEAT 13-5-8 FAIRWAY GRADE | 30.8900 | 1,235.60 | 3     |

Quotes do not include estimated tax. Once invoiced and local tax location is identified, applicable taxes will be calculated and applied.

**SUB-TOTAL:** 4,576.42  
**TAX:** 0.00  
**AMOUNT DUE:** 4,576.42

No recommendation has been made by, or provided to, the seller concerning the use of the pesticide covered by this invoice.  
**PROPOSITION 65 WARNING:** Some of the products on your order may expose you to chemicals that are known to the State of California to cause cancer, birth defects and reproductive harm. Learn more at <https://www.p65warnings.ca.gov/>

# PARKS P.O. REQUEST

|                                      |
|--------------------------------------|
| Location Ewing                       |
| GL 21-43-21                          |
| Amount \$5036.40                     |
| Discription Cemetery Fall Fertilizer |
|                                      |
| Open P.O. <input type="checkbox"/>   |

|                                        |
|----------------------------------------|
| Location Ewing                         |
| GL 21-43-21                            |
| Amount \$4942.40                       |
| Discription Cemetery Spring Fertilizer |
|                                        |
| Open P.O. <input type="checkbox"/>     |

|                                    |
|------------------------------------|
| Location Ewing                     |
| GL 10-70-39                        |
| Amount \$35254.80                  |
| Discription Fall Fertilizer        |
|                                    |
| Open P.O. <input type="checkbox"/> |

|                                              |
|----------------------------------------------|
| Location Ewing                               |
| GL 10-70-39                                  |
| Amount \$29654.40                            |
| Discription Spring & Early Summer Fertilizer |
|                                              |
| Open P.O. <input type="checkbox"/>           |

|                                    |
|------------------------------------|
| Location                           |
| GL                                 |
| Amount                             |
| Discription                        |
|                                    |
| Open P.O. <input type="checkbox"/> |

|                                    |
|------------------------------------|
| Location                           |
| GL                                 |
| Amount                             |
| Discription                        |
|                                    |
| Open P.O. <input type="checkbox"/> |

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| Location                           |
| GL                                 |
| Amount                             |
| Discription                        |
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| Open P.O. <input type="checkbox"/> |

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| Open P.O. <input type="checkbox"/> |

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| Location                           |
| GL                                 |
| Amount                             |
| Discription                        |
|                                    |
| Open P.O. <input type="checkbox"/> |

|                                    |
|------------------------------------|
| Location                           |
| GL                                 |
| Amount                             |
| Discription                        |
|                                    |
| Open P.O. <input type="checkbox"/> |



# CITY COUNCIL AGENDA REPORT

## ITEM #5c

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**DATE:** October 1, 2024  
**TO:** Honorable Mayor and Members of the City Council  
**FROM:** Rob Patterson, City Attorney/Planning & Zoning Administrator  
**SUBJECT:** Land Purchase Agreement with Jordan Valley Water Conservancy District  
**TYPE:** General City Management

---

### **PURPOSE:**

The City Council will consider approving a real estate purchase agreement with Jordan Valley Water Conservancy District for the City to acquire the property on the southwest corner of the intersection of Alpine Highway and Town Center Blvd.

### **STAFF RECOMMENDATION:**

Staff recommends that the City Council approve the real estate purchase agreement with Jordan Valley Water Conservancy District.

### **PRIOR COUNCIL DIRECTION:**

The Council previously directed staff to submit a purchase offer for the property located on the southwest corner of the intersection of Alpine Highway and Town Center Blvd at the end of 2023. After negotiation and discussions that followed, the parties appear to have reached a mutually agreeable purchase price and contract terms.

### **BACKGROUND:**

Jordan Valley Water Conservancy District (JVWCD) owns the property on the southwest corner of Town Center Blvd and Alpine Highway (across from the credit union). The City owns the property immediately to the west, which is part of the City's Town Center Meadows park and includes the City Center Trail that begins at this location and continues west until it connects (in the near future) to the Murdock Canal Trail through Canterbury and the new Foxwood Estates subdivision.

The City owns and maintains a PI well on this property, which is located on a prescriptive easement held by the City, rather than fee title due to a historical error in a deed's legal description. The well occupies approximately 2,200 square feet of the property. The property is also crossed by three Lehi Irrigation ditches, which will remain. The City benefits from these ditches, as the City occasionally uses them (with Lehi Irrigation's agreement) to exchange water between the City's PI system and Lehi Irrigation. The well also uses the ditches for drainage.

JVWCD offered the property for sale through Q4 2023 and Q1/Q2 2024. When the property initially went up for sale, the Council directed staff to make an offer. JVWCD did not accept that offer and sought additional offers. However, JVWCD did not accept other offers and remained in contact with City staff to continue discussions. Recently, the Council directed staff to make an offer for a lump-sum payment of \$300,000 to acquire the property, which JVWCD, through its agent, has accepted. JVWCD

had an appraisal performed of the property, which showed the value of the property at \$300,000 in its as-is condition.

Staff sees several benefits to the City owning the property:

1. The City could continue the City Center trail east and along Alpine Highway, down into Highland Glen, and then connecting to the Murdock Canal on the southeast side of the city, allowing for a large, fully connected trail system.
2. The area of the property not occupied by the well, ditches, or trail could be improved as a public park or as a specialty park (dog park, skate park, etc.), as an expansion of the City's existing park in that area.
3. The City will own fee title to the property on which its PI well is located, which provides better protection and security for the well site than a prescriptive easement.
4. Public Works has wanted to modify and expand the well area to provide better maintenance access and service to the well, which was not feasible with the City not owning the property.

The proposed purchase agreement has the following key terms:

- \$300,000 purchase price
- City takes the property subject to existing easements of record
- JVWCD gives title by special (not general) warranty deed, protecting the City against title issues that arose since JVWCD acquired the property

Closing takes place November 7, though dates can be adjusted by agreement of the parties

#### **FISCAL IMPACT:**

The purchase price is \$300,000, plus minor closing costs. Funding for this expense was not included in the FY25 budget. Because the well site (current and future expansion) and the ditches together occupy approximately half of the property, which benefit the City's PI system, and the other half of the property is available for trails and open space uses, staff proposes to split the purchase expenses equally between the Parks Capital Improvement Fund (split between trails 40-40-76 and major park construction/repair 40-40-71) and the PI Capital Expenses/Projects account (53-40-60), \$150,000 each. As this expenditure was not included in the budget, it will need to be funded and will be included as part of the mid-year budget adjustments unless otherwise directed by the Council.

With the recently approved expenses for the Highland Family Park, the fund balance for the Parks Capital Improvement Fund is estimated to be \$3,039,160 at the end of FY25 with \$2,020,428 remaining in bond payments. The fund balance for the Pressurized Irrigation Fund is estimated to be \$3,425,766 at the end of FY25.

#### **MOTION:**

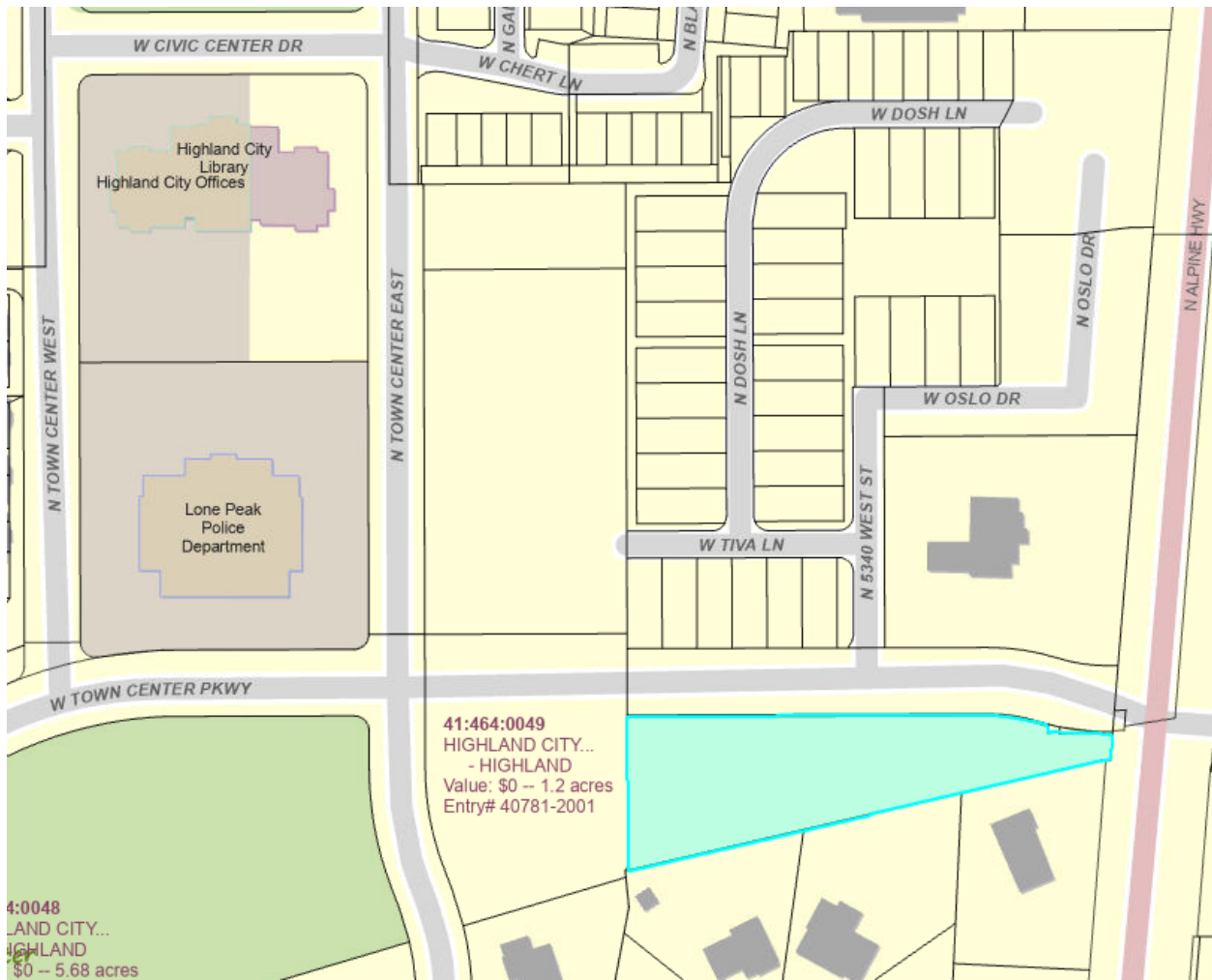
I move that City Council APPROVE the real estate purchase agreement with Jordan Valley Water Conservancy District and AUTHORIZE the Mayor to sign the agreement, allowing for non-substantive changes to be worked through by the respective attorneys.

#### **ATTACHMENTS:**

1. Vicinity Map
2. Aerial Image
3. Ditch Locations
4. Real Estate Purchase Agreement JVWCD



## Vicinity Map



Parcel: 11:038:0078

Size: 1.0529 acres (45,864 sqft)

City Parks

JVWCD Property  
being purchased

City PI Well Site



City Trail

Lehi Irrigation  
Ditch Area



Lower North  
Club Ditch

Main Lehi  
Irrigation Ditch  
Channel

Lower South  
Club Ditch

## REAL ESTATE PURCHASE AGREEMENT

This Real Estate Purchase Agreement (“**Agreement**”), dated December 21, 2023, is entered into by and between JORDAN VALLEY WATER CONSERVANCY DISTRICT, a Utah local district (“**Owner**”) and HIGHLAND CITY, a Utah municipality (the “**City**”), together with their respective principals, agents, officers, attorneys, and representatives (collectively, “**Parties**”). For good and valuable consideration, the sufficiency and adequacy of which is hereby acknowledged, the Parties agree and covenant as follows:

1. **Property.** The City agrees to purchase and Owner agrees to transfer certain property (collectively, the “**Property**”), which Property consists of

- a. Real Property: Fee title to certain real property, +/- 1.053 acres, located in Utah county, Utah County Parcel ID #11:038:0078, located generally at the southwest corner of the intersection of Alpine Highway and Town Center Parkway in Highland City, Utah. The legal description of the Property shall be provided with the Commitment for Title Insurance required by Section 9.
- b. All fixtures presently attached to the Property and all appurtenances thereof.
- c. Without waiving the City’s right to complete Due Diligence, City agrees to take title to the Property subject to existing easements of record.

2. **Purchase Price.**

- a. The Purchase Price for the Property is \$300,000.00. The Purchase Price shall be paid in cash at Settlement.
- b. No financing or appraisal is required or made a condition of this Agreement. The Parties agree that this amount represents fair market value and adequate consideration for the Property.

3. **Warranties.** Owner represents and warrants as follows:

- a. Owner lawfully has fee title the Property described in Section 1;
- b. Owner is authorized and able to convey marketable title to the Property to City;
- c. Owner has completed and obtained, or shall complete and obtain by Settlement, all processes, procedures, and approvals necessary to execute this Agreement and consummate the transactions contemplated herein.
- d. Other than items disclosed pursuant to Section 9, Owner has not received notice of, Owner has not permitted or approved, and/or to Owner’s knowledge there are no existing or extant:
  - i. liens (including but not limited to mechanic’s and materialman’s liens), leases, other rental or use agreements;

- ii. claims, violations or conditions relating to geologic or environmental problems;
    - iii. hazardous substances (meaning any substance that may give rise to liability under Federal, State, or local environmental laws) that have been used, authorized, manufactured, handled, generated, stored, treated, discharged, released, buried, or disposed on, under, or about the Property;
    - iv. pending or threatened action, suit, or other legal proceeding threatened against Seller and/or the Property that may adversely affect the transactions contemplated by this Agreement; or
    - v. any other encumbrance that would limit or restrict the City's ownership, occupation, and use of the Property or that would adversely affect the consummation of this Agreement, other than existing easements of record; and
  - e. Owner is not a foreign person under FIRPTA.
4. **Settlement.** Settlement shall take place no later than the Settlement Deadline described in Section 14. "**Settlement**" will occur only when all of the following have been completed:
- a. The Parties have signed and delivered to each other or to the escrow/closing office all documents required by this Agreement, by the title insurance and escrow/closing offices, by written escrow instructions (including any split closing instructions, if applicable), or by applicable law;
  - b. Any monies required to be paid by the Parties under this Agreement have been delivered by the responsible Party to the other Party or to the escrow/closing office, in the form of cash, wire transfer, cashier's check, or other form acceptable to the Party or escrow/closing office.
5. **Closing.** Closing shall take place no later than four calendar days after Settlement. "**Closing**" will occur only when all of the following have been completed:
- a. Settlement has been completed;
  - b. The applicable Closing documents, including deeds and other legal instruments, have been recorded in the office of the county recorder ("**Recording**").
6. **Possession.** Owner shall deliver physical possession of the Property to the City upon Recording. These provisions shall survive closing.
7. **Payment Obligations.** The following obligations and provisions shall survive Closing:
- a. All prorations, including homeowner's association dues, property taxes for the current year, rents, and interest on assumed obligations; any assessments for capital improvements; and any change of ownerships fees assessed by any entity

that is due to such entity as a result of the transfer of title to the Property from Owner to the City, shall be paid for by Owner at or before Settlement.

- b. Owner shall maintain and be responsible for all utilities and other services provided to the Property prior to Settlement. The City shall maintain and be responsible for all utilities and other services provided to the Property after Settlement.
- c. Except as otherwise provided herein, each Party shall be responsible for their own fees and costs charged by real estate agents, attorneys, and other agents for their services regarding this Agreement and in the Settlement/Closing process, provided that each Party each shall pay one-half of the fee charged by the escrow/closing office.
- d. The escrow/closing office is authorized and directed to withhold from Owner's proceeds at Closing sufficient funds to pay off on Owner's behalf all mortgages, trust deeds, judgments, mechanic's liens, tax liens and warrants.

**8. Title and Title Insurance.**

- a. Owner shall convey marketable title to all of the Property to the City at Closing. Title to all real property shall be conveyed by special warranty deed.
- b. The City will accept title to the Property subject to the contents of the Commitment for Title Insurance, as reviewed and approved by the City under Section 9.
- c. Owner shall pay for and cause to be issued in favor of the City the most current available version of an ALTA Owner's Policy of Title Insurance.

**9. Owner Disclosures.** No later than the Owner Disclosure Deadline described in Section 14, Owner shall provide to the City the following documents in hard copy or electronic format (collectively, the "**Owner Disclosures**"):

- a. A written Owner property condition disclosure for the Property, completed, signed, and dated by Owner as set forth in Section 11.
- b. A commitment for ALTA Owner's Policy of Title Insurance.
- c. A copy of any restrictive covenants (CC&Rs), rules, and regulations affecting the Property.
- d. A copy of any lease, rental, and any other use or management agreement affecting the Property as of the date of this Agreement.
- e. Written notice of any claims or conditions known to Owner relating to geologic or environmental problems, and a copy of any studies, reports, findings, notices,

claims, or other documents describing or relating to geologic or environmental issues, conditions, or claims related to the Property.

- f. Written notice of any pending or threatened action, suit, or other legal proceeding threatened against Seller and/or the Property that may adversely affect the transactions contemplated by this Agreement.

**10. The City's Conditions of Purchase.** The City's obligation to purchase the Property under this Agreement is conditioned upon the City's Due Diligence, as described below:

- a. The City's Due Diligence shall consist of the City's review and approval of the contents of the Owner Disclosures referenced in Section 9, and any other tests, evaluations and verifications of the Property deemed necessary or appropriate by the City, such as: Commitment for Title Insurance and issues regarding title to the Property; the physical condition of the Property; the existence of any hazardous substances, environmental issues or geologic conditions; the square footage or acreage of the land and/or improvements; surveys of the Property; the condition of any structures, improvements, or other construction on the Property; the costs and availability of property and flood insurance, if applicable; water source, availability and quality; the location of property lines; regulatory use restrictions or violations; fees for services such as HOA dues, municipal services, and utility costs; and any other matters deemed material to the City in making a decision to purchase the Property.
- b. All of the City's Due Diligence shall be paid for by the City and shall be conducted by individuals or entities of the City's choice. Owner shall cooperate with the City's Due Diligence. The City agrees to pay for any damage to the Property or to Owner resulting from any such inspections or tests during the Due Diligence.
- c. If the City determines, in the City's sole discretion, that the results of the Due Diligence are unacceptable, the City may either:
  - i. No later than the Due Diligence Deadline described in Section 14, cancel and terminate this Agreement by providing written notice to Owner. Upon such termination, all obligations and rights of the Parties under this Agreement shall immediately terminate.
  - ii. No later than the Due Diligence Deadline described in Section 14, resolve in writing with Owner any objections the City has arising from the City's Due Diligence. If unable to resolve the objections, the City may elect to terminate this Agreement as set forth above.
- d. If the City fails to terminate this Agreement or to resolve in writing with Owner any objections the City has arising from the City's Due Diligence, the City shall be deemed to have waived the Due Diligence Condition.

**11. Condition of Property.** The following obligations and provisions shall survive Closing:

- a. The City agrees that in reference to the physical condition of the Property, the City is purchasing the Property in its “As-Is” condition, subject to the warranties, representations, and disclosures of Owner set forth herein.
- b. In reference to the physical condition of the Property, Owner agrees to:
  - i. disclose in writing to the City defects in the Property known to Owner that materially affect the value of the Property that cannot be discovered by a reasonable inspection by an ordinary prudent purchaser;
  - ii. carefully review, complete, and provide to the City a written Owner property condition disclosure and such other disclosures as required by Section 9; and
  - iii. deliver the Property to the City in substantially the same general condition as it was on the date of this Agreement, ordinary wear and tear excepted.

**12. Final Pre-Settlement Walk-Through Inspection.** No earlier than seven (7) calendar days prior to Settlement, and upon reasonable notice and at a reasonable time, the City may conduct a final pre-Settlement walk-through inspection of the Property to determine only that the Property is “as represented,” meaning that the items referenced in Sections 1 and 10.c.ii (“the items”) are respectively present, repaired or corrected as agreed. The failure to conduct a walk-through inspection or to claim that an item is not as represented shall not constitute a waiver by the City of the right to receive, on the date of possession, the items as represented.

**13. Changes During Transaction.** Owner agrees that from the date of this Agreement, Owner shall not, without the prior written consent of the City:

- a. Make any substantial alterations or improvements to the Property;
- b. Further financially encumber the Property;
- c. Make any changes to the legal title to the Property;
- d. Enter into any additional lease, rental, or any other use or management agreement affecting the Property;
- e. Change any existing lease, rental, or any other use or management agreement affecting the Property;
- f. Change the present use or physical condition of the Property.

**14. Schedule of Deadlines.**

- a. Owner Disclosure Deadline: Monday, October 14, 2024
- b. Due Diligence Deadline: Monday, October 28, 2024

c. Settlement Deadline: Thursday, November 7, 2024

d. The Parties may agree in writing to adjust the deadlines set forth herein.

15. **Time Is of the Essence.** Time is of the essence regarding the dates set forth in this Agreement. Extensions must be agreed to in writing by all Parties. Unless otherwise explicitly stated herein: (a) performance under each Section of this Agreement which references a date shall absolutely be required by 5:00 PM Mountain Time on the stated date; and (b) the term "days" and "calendar days" shall mean calendar days and shall be counted beginning on the day following the event which triggers the timing requirement. Performance dates and times referenced herein shall not be binding upon title companies, lenders, appraisers, and others not parties to the Agreement, except as otherwise agreed to in writing by such nonparty.
16. **Insurance and Risk of Loss.** Prior to closing, if any part of the Property is damaged or destroyed by fire, vandalism, flood, earthquake, or act of God, the risk of such loss or damage shall be borne by Owner, provided that if the cost of repairing such damage or loss would exceed ten percent (10%) of the Purchase Price, either the City or Owner may elect to cancel and terminate this Agreement by providing written notice to the other Party. Upon such termination, all obligations and rights of the Parties under this Agreement shall immediately terminate. As of Closing, the City shall be responsible to obtain casualty and liability insurance coverage on the Property in amounts acceptable to the City. These provisions shall survive closing.
17. **Documents and Deeds.** The Parties agree to promptly and timely complete and provide all forms, deeds, assignments, receipts and any other instrument or document required to carry out the terms of this Agreement. These provisions shall survive closing.
18. **Complete Agreement.** This written Agreement is the entire contract entered into between the Parties, and no Party is relying or may rely on any other representations, promises, or understandings of any kind not expressly set forth herein. This Agreement may not be altered, amended, modified, or otherwise changed in any respect except in a writing executed by all Parties.
19. **No Third Parties.** The rights, duties, and obligations of this Agreement are for the sole benefit of the named Parties, and no third party, other than successors in interest as described in Section 20, has any rights hereunder to enforce the terms of this Agreement.
20. **Assignment and Successors.** This Agreement may not be assigned to any other person without the prior written consent of the other Party. Provided, however, that the Parties agree that this Agreement shall continue and be binding on all successors-in-interest, partners, agents, officers, trustees, attorneys, insurers, representatives, heirs, executors, and administrators of each of the Parties, and the transfer of a Party's interest to such person shall not be treated as an assignment requiring prior written consent.
21. **Authority to Execute.** The person executing this Agreement on behalf of each Party hereby represents that they have full authority to execute the Agreement and to bind each

Party to the terms of this Agreement, and that all necessary actions for them to enter into this Agreement have heretofore been completed.

22. **Counterparts.** This Agreement may be executed in counterparts, whether physical or electronic, which together form a single Agreement. Signatures on this Agreement, whether executed physically or by electronic means, shall be deemed original signatures and shall have the same legal effect as original signatures.
23. **Governing Law and Forum.** This Agreement shall be governed and construed in accordance with Utah law. Any action to enforce this Agreement or adjudicate any issues under or in connection with this Agreement shall be brought and maintained in the Utah Fourth District Court, Utah County, and the Parties agree to submit to the jurisdiction thereof for purposes of this Agreement and any dispute arising out of the same. These provisions shall survive closing.
24. **Remedies.** In the event of a breach by either Party of any of their obligations under this Agreement, each Party shall be entitled to exercise all rights granted by law and under this Agreement and pursue all remedies available at law and equity. The Parties shall be entitled to specific performance of their rights under this Agreement, and the City and Owner each agree that monetary damages would not provide adequate compensation for any losses incurred by reason of a breach by it of any of the provisions in this Agreement and agree to waive and not assert in any action for specific performance the defense that a remedy at law would be adequate. These provisions shall survive closing.
25. **Attorney Fees and Costs.** Both Parties agree to pay for their own attorney fees and costs arising out of or connected in any way to the execution of this Agreement. Any Party that prevails in any legal proceeding, including court proceedings, arbitration, and administrative proceedings, to enforce this Agreement or adjudicate any issues under or in connection with this Agreement will be entitled to recover its reasonable attorney fees, costs, and expenses of such proceedings. These provisions shall survive closing.

-- SIGNATURE PAGE TO FOLLOW --

THE UNDERSIGNED HAVE READ AND HAVE HAD THE OPPORTUNITY TO SEEK THE ADVICE OF INDEPENDENT COUNSEL WITH RESPECT TO THE FOREGOING, AND HEREBY ACKNOWLEDGE AND AGREE TO BE BOUND BY THESE TERMS.

On Behalf of Owner, Jordan Valley Water Conservancy District

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Name]

\_\_\_\_\_  
[Name]

\_\_\_\_\_  
[Title]

\_\_\_\_\_  
[Title]

\_\_\_\_\_  
[Date]

\_\_\_\_\_  
[Date]

On Behalf of City, Highland City

\_\_\_\_\_  
Kurt Ostler, Highland City Mayor

\_\_\_\_\_  
[Date]

ATTEST:

\_\_\_\_\_  
Stephannie Cottle, City Recorder



# CITY COUNCIL AGENDA REPORT

## ITEM #5d

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**DATE:** October 1, 2024  
**TO:** Honorable Mayor and Members of the City Council  
**FROM:** Rob Patterson, City Attorney/Planning & Zoning Administrator  
**SUBJECT:** Reimbursement Interlocal Agreement with Utah County for 6800 West Road Resurfacing  
**TYPE:** General City Management

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### **PURPOSE:**

The City Council will consider entering into an interlocal cooperation agreement with Utah County for Utah County to reimburse Highland City certain costs associated with resurfacing 6800 West.

### **STAFF RECOMMENDATION:**

Staff recommends that the City Council ADOPT the resolution approving the interlocal agreement with Utah County for the 6800 West microsurfacing reimbursement.

### **PRIOR COUNCIL DIRECTION:**

On December 3, 2019, the Council approved an interlocal agreement between Utah County, Lehi City, and Highland to widen and extend 6800 West from 900 North in Lehi to 9600 North in Highland with funding from MAG. The three parties agreed to split the cost of the required local match Highland 34.25%, Lehi 18.65%, and Utah County 47.10%.

On February 3, 2022, MAG awarded additional funds to the project to cover escalated costs. On February 15, 2022, the Highland Council awarded the construction contract to Geneva Rock, and amended the 2019 interlocal agreement to reflect the additional MAG funds on March 15, 2022.

On April 18, 2023, the Council approved a contract with Geneva to perform microsurfacing work on certain roads, including on portions of 6800 West. This work was done by Geneva, who was already mobilized in connection with the MAG-funded 6800 West project, but was outside the scope of the MAG project and therefore was funded entirely by Highland City. The overall cost to the City for this additional work was \$225,304, with \$68,504.20 of the project being on portions of 6800 West in or near Utah County land. Utah County indicated to city staff at the time that the County may be willing to help with some of the cost of this portion of the microsurfacing project, as it would benefit roads in or adjacent to the County.

### **BACKGROUND:**

The 6800 West microsurfacing project approved by the Council in April 2023 has been completed. Staff has worked with Utah County staff to prepare an agreement that would formalize the County's reimbursement of a portion of the 6800 West microsurfacing project. The agreement provides that Utah County will reimburse Highland City for Utah County's share of the microsurfacing treatment for the portion of the treatment project affecting the County according to the original allocation percentages

from the 6800 West project.

This means that the County will reimburse the City 47.1% of the \$68,504.20 spent by Highland on resurfacing roads in or adjacent to the County, for a total reimbursement of \$32,265.48 from the County. At the request of the Utah County attorney's office, this agreement is being submitted to the legislative bodies of Highland City and Utah County for approval by resolution.

Lehi City has also agreed to pay for their portion of this project based on the original allocation percentages from the 6800 West project. The amount they will be reimbursing Highland City is \$12,776.03 or 18.65% of the total cost.

**FISCAL IMPACT:**

This agreement will provide \$32,265.48 in revenue to the City's Roads Capital Improvement Fund, as reimbursement for costs already expended by Highland City.

**MOTION:**

I move that City Council ADOPT the resolution approving the 6800 West microsurfacing interlocal agreement with Utah County.

**ATTACHMENTS:**

1. Interlocal Agreement - Utah County 6800 Microsurfacing 9.23.24

**INTERLOCAL COOPERATION AGREEMENT**  
**between**  
**UTAH COUNTY and**  
**HIGHLAND CITY**

**6800 WEST ROAD MICROSURFACING**

This Agreement, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by and between **UTAH COUNTY**, a body corporate and politic and a legal subdivision of the State of Utah, with principal offices located at 100 East Center St., Suite 2300, Provo, Utah 84606, and **HIGHLAND CITY**, Utah municipality and a political subdivision of the State of Utah, with principal offices located at 5400 West Civic Center Dr., Highland, Utah 84003.

**RECITALS:**

**WHEREAS**, the Utah Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code, as amended, (“**Act**”) permits local governmental units including cities, counties, interlocal agencies, and other political subdivision of the State of Utah to enter into agreements for mutual advantage and to exercise joint cooperative action;

**WHEREAS**, Utah County and Highland City previously entered into that certain INTER-LOCAL COOPERATION AGREEMENT BETWEEN UTAH COUNTY AND HIGHLAND CITY FOR A PROJECT KNOWN AS 6800 WEST ROAD WIDENING dated December 3, 2019, agreement no. 2019-929, which was amended by that certain FIRST AMENDMENT TO INTERLOCAL AGREEMENT 2019-929 BETWEEN UTAH COUNTY, UTAH AND THE HIGHLAND CITY FOR THE 6800 WEST ROAD WIDENING PROJECT, dated March 23, 2022, agreement no. 2022-242 (collectively, “**Original Agreement**”), to establish the terms and conditions by which the parties would cooperate in the facilitation of a road widening and improvement project for a road known as 6800 West in Highland;

**WHEREAS**, pursuant to the Original Agreement, the cost of providing a local match to obtain funding was allocated between Highland, Utah County, and Lehi as follows:

Utah County’s percentage: 47.10%  
Highland City’s percentage: 34.25%  
Lehi City’s percentage: 18.65%

**WHEREAS**, Highland City desires to facilitate additional improvements to 6800 West consisting of a microsurfacing treatment in addition to the scope of work approved or contemplated by the Original Agreement, which microsurfacing treatment has been completed (“**Microsurfacing Project**”); and

**WHEREAS**, Utah County desires to support and participate in the costs of the Microsurfacing Project.

**NOW THEREFORE**, in consideration of the covenants and agreements contained herein and other valuable consideration, the sufficiency of which is hereby acknowledged, Utah County and Highland City hereby agree as follows:

**Section 1. PURPOSES.**

This Agreement has been established and entered into between Utah County and Highland City for the purpose of outlining the respective rights and responsibilities of the parties related to the Microsurfacing Project.

**Section 2. Administration; No Separate Entity**

Pursuant to the Act, Highland City shall act as the administrator responsible for the administration of this Agreement. The parties further agree that this Agreement does not anticipate nor provide for any organizational changes in the parties, nor do the parties intend to establish a separate legal or administrative entity. The administrator agrees to keep all books and records, which shall be open for examination by the parties hereto at all reasonable times. Each party shall file an executed copy of this Agreement with their respective official keeper of records, which copies shall remain on file for public inspection.

**Section 3. Effective Date; Duration**

This Agreement shall be (a) approved by Resolution of the governing body of each of the parties, (b) executed by a duly authorized official of each of the parties (c) submitted to and approved by an Authorized Attorney of each of the parties, as required by Section 11-13-202.5, Utah Code, and (d) filed in the official records of each party. The term of this Agreement shall be from the date of execution hereof until the terms and obligations identified herein are completed, but in no event, longer than 1 year from the execution date.

**Section 4. Microsurfacing Project Funding; Reimbursement**

1. The Microsurfacing Project has been completed by Highland City. The contract cost of the Microsurfacing Project, which have been paid by Highland City, is \$68,504.20, broken down as follows:
  - a. 6800 West Traffic Control: \$2,850.00
  - b. 6800 West Microsurfacing: \$59,654.20
  - c. 6800 West 40% Mobilization: \$6,000.00

2. Utah County agrees to reimburse Highland City for Utah County's portion of the Microsurfacing Project according to Utah County's allocated match percentage under the Original Agreement, which percentage is 47.10%, for a total reimbursement from Utah County of \$32,265.48 ("**County Reimbursement**").
3. Utah County shall pay the County Reimbursement to Highland City within 60 days after the execution of this Agreement.

#### **Section 5.      Ownership and Maintenance**

Each party shall own and be responsible for the maintenance and repair of portions of 6800 West that fall within their jurisdiction, including improvements made thereto by the Microsurfacing Project. All other property, real or personal, shall remain under the ownership and control of the party that previously owned, acquired, and/or controlled such property, as this Agreement does not contemplate the acquisition or disposal of property.

#### **Section 6.      Indemnification**

Highland City shall indemnify and hold Utah County harmless from any and all claims of liability for any injury or damage to any person or property whatsoever occurring in, on, or about 6800 West related to the Microsurfacing Project, or any part thereof. Highland City shall further indemnify and hold Utah County harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Highland City's part to be performed under the terms of this Agreement, any other agreement related to the Microsurfacing Project, or arising from any act or negligence of Highland City, or any of Highland City's agents, employees, contractors, subcontractors, or invitees and from and against all costs, reasonable attorney fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon. Both Highland City and Utah County agree that the terms of this Agreement are subject to, and not a waiver of, the protections, immunities, and liability limits of the Governmental Immunity Act, UCA 63G-1-101 *et seq.* Highland City's obligations under this provision shall survive the expiration or termination of this Agreement.

#### **Section 7.      Financing**

Each party shall be separately responsible for the financing and budgeting of their respective obligations under this Agreement according to the parties' respective policies and budgetary practices and procedures.

#### **Section 8.      Amendments**

This Agreement may not be amended, changed, modified or altered except by an instrument in writing which shall be (a) approved by Resolution of the governing

body of each of the parties, (b) executed by a duly authorized official of each of the parties, (c) submitted to and approved by an Authorized Attorney of each of the parties, as required by Section 11-13-205.5, Utah Code, and (d) filed in the official records of each party.

## **Section 9.        Miscellaneous**

1. **Severability.** If any term or provision of this Agreement or the application thereof shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected thereby, and shall be enforced to the extent permitted by law. To the extent permitted by applicable law, the parties hereby waive any provision of law, which would render any of the terms of this Agreement unenforceable.
2. **Governing Law.** This Agreement, and all questions as to the construction thereof and the rights, obligations, and liabilities of the parties, shall be governed by the laws of the State of Utah.
3. **Entire Agreement.** This Agreement shall constitute the entire agreement of the parties and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either party except to the extent incorporated herein.
4. **No Presumption.** Should any provision of this Agreement require judicial interpretation, the Court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against the party, by reason of the rule of construction that a document is to be construed more strictly against the person who himself or through his agents prepared the same, it being acknowledged that each of the parties have participated in the preparation hereof.
5. **Headings.** Headings herein are for convenience of reference only and shall not be considered any interpretation of the Agreement.
6. **Binding Agreement.** This Agreement shall be binding upon the heirs, successors, administrators, and assigns of each of the parties hereto.
7. **Notices.** All notices, demands and other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been properly given if delivered by hand or by certified mail, return receipt requested, postage paid, to the parties at the addresses of the Highland City Mayor or Utah County Commission, or

at such other addresses as may be designated by notice given hereunder.

8. **Assignment.** The parties to this Agreement shall not assign this Agreement, or any part hereof, without the prior written consent of all other parties to this Agreement. No assignment shall relieve the original parties from any liability hereunder.

**IN WITNESS WHEREOF**, the parties have signed and executed this Agreement, after receiving all required approvals in conformance with the Act and other governing law, on the dates listed below:

**UTAH COUNTY**

APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2024

Board of County Commissioners  
UTAH COUNTY, UTAH

\_\_\_\_\_  
BRANDON B. GORDON, Chair

ATTEST:  
AARON R. DAVIDSON  
Utah County Clerk

By: \_\_\_\_\_  
Deputy Clerk

REVIEWED AS TO FORM AND LEGALITY:  
JEFFREY S. GRAY  
Utah County Attorney

By: \_\_\_\_\_  
Deputy County Attorney

**HIGHLAND CITY**

Authorized and executed on this \_\_\_\_\_ day of \_\_\_\_\_, 2024

HIGHLAND CITY, UTAH

\_\_\_\_\_  
Kurt Ostler, Highland City Mayor

ATTEST:

\_\_\_\_\_  
Stephannie Cottle, Highland City Recorder

REVIEWED AS TO FORM AND COMPATIBILITY  
WITH APPLICABLE LAW

\_\_\_\_\_  
Robert A. Patterson, Highland City Attorney



# CITY COUNCIL AGENDA REPORT

## ITEM #6a

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**DATE:** October 1, 2024  
**TO:** Honorable Mayor and Members of the City Council  
**FROM:** Brian Gwilliam, Police Chief, Erin Wells, City Administrator  
**SUBJECT:** Purchase of Flock Cameras  
**TYPE:** General City Management

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### **PURPOSE:**

The City Council will consider the costs and potential locations for Flock cameras in the City and provide direction to staff on next steps.

### **STAFF RECOMMENDATION:**

Staff recommends Council consider the information presented and provide feedback on their desire for the number and location of Flock cameras moving forward.

### **PRIOR COUNCIL DIRECTION:**

On August 6, 2024, City Council and staff discussed the possibility of deploying Flock cameras in Highland City. Council gave their initial approval for the concept and asked staff to bring the item back for discussion to finalize the number and location of the cameras.

### **BACKGROUND:**

Flock cameras are cameras strategically placed on major roadways to capture images of license plates. This allows law enforcement an additional tool to help respond to and solve crimes that have occurred. Access to the data collected by the cameras is heavily controlled and “shall only be used for official and legitimate law enforcement business” according to Utah Code 41-6a-2003. Because of the controlled access, the cameras should not cause concern regarding a violation of privacy of general motorists driving on the roads.

Alpine City has had the cameras operational within their City for over a year and the Lone Peak Police department have used the cameras in helping them to solve a handful of crimes during that time. The Flock camera system is also used by a number of law enforcement agencies around the state which creates a pool of information for the use of solving crimes.

The Police Department and Administration are recommending the addition of 5 cameras capturing vehicles entering the City located at approximately:

- Mouth of American Fork Canyon
- Alpine Highway and 9600 North
- Timpanogos Highway and 6400 West
- Highland Boulevard and Grant Boulevard

- 6800 West and 9400 North

Additional locations staff considered, but felt were not as high of a priority considering the typical entrants of the City from those locations were:

- North County Boulevard and Harvey Boulevard
- 6000 West and 9600 North

A map is attached with the possible camera locations.

**FISCAL IMPACT:**

Each Flock camera costs \$3,000 per year for equipment fees. There is also a one-time installation fee between \$150 and \$650 per camera. If Council elects to move forward with the 5 cameras staff is recommending, the ongoing cost of this project will be \$15,000. Funding for this expense was not included in the FY25 budget. As this expenditure was not included in the budget, it will need to be funded by General Fund net revenue and will be included as part of the mid-year budget adjustments unless otherwise directed by the Council.

Each camera also comes with additional software fees that the Police Department will cover as a part of their annual budget.

**MOTION:**

Not applicable. This item is for discussion purposes and depending on Council direction will be brought back as a future action item.

**ATTACHMENTS:**

1. Possible Flock Camera Map

