

Highland City Planning Commission Agenda

Date: Tuesday, April 13, 2010
Place: Highland City Building,
5400 West Civic Center Drive Suite 1
Time: 7:00 P.M.



Item 1: Call to Order

Item 2: Invocation: Melissa Wright

Item 3: Pledge of Allegiance: Kelly Sobotka

Item 4: Appearances ~ Time has been set aside for the public to express their ideas, concerns and comments to the Planning Commission

Item 5: Buhler Ranch 19 Lot Subdivision Preliminary Plan ~ Public Hearing & Consideration for Preliminary Approval
p. 3

Item 6: Ashford 1 Lot Subdivision Preliminary Plan and Final Plan ~ Public Hearing, Consideration for Preliminary Approval & Final Recommendation
p. 9

Item 7: Residences for the Disabled, Residential Rehabilitation and Treatment Facilities for the Disabled, and Residential Facilities for Elderly Persons Code Amendment ~ Public Hearing Continued & Recommendation
p. 17

Item 8: Town Center Overlay Ordinance ~ Discussion
p. 61

Item 9: Planning Commission Future Business, Questions & Recommendations ~ Discussion
p. 109

Item 10: Minutes ~ Consider Approval
~ August 25, 2009
~ February 23, 2010
~ March 9, 2010

This Agenda and a Full Agenda are available on the City Web Site at www.highlandcity.org

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Gina Peterson, City Recorder, 756-5751 ext. 4506, at least three working days prior to the meeting.

Remember...

Planning Commission Chair Wright wrote:

Colleagues -

I have been doing some research regarding successful Planning Commissions. The Utah League of Cities and Towns provides the following information:

***Important Characteristics of a Successful Planning Commission*:**

1. The selection of commission members provides broad-based representation (a cross section of the community, who have various backgrounds, talents, and abilities).
2. Orientation is provided for new members.
3. There is good communication characterized by openness at meetings and positive relationships between commission members, staff, and the general public.
4. There is an understanding and acceptance of responsibilities as evidenced by a willingness to work to face difficult issues, to stay informed, to listen and learn, and to give the time necessary for the job.
5. Members have an understanding of the legal elements, especially the open meetings act, due process, and individual rights as guaranteed by the Constitution.

Item 5: Buhler Ranch 19 Lot Subdivision Preliminary Plan ~ Public Hearing & Consideration for Preliminary Approval

Motion:

That the Planning Commission Grant Preliminary Subdivision Approval for the Buhler Subdivision per the recommendations of Staff.

The Planning Commission will need to specifically list any additional conditions or recommendations in the motion that the Planning Commission would like to impose that have not been specifically identified by staff.

Sponsor:

Buhler Family
Fred Clark, Engineer

Staff Presentation:

Lonnie Crowell, Community Development Director to present

Recommendation:

That the Planning Commission Grant Preliminary Subdivision Approval with the following recommendations:

1. That the Preliminary Title Report be submitted by the applicant to Highland City (already complete); and
2. That Utility Easements be marked on all lots for Final Approval; and
3. That the Applicant/Developer adhere to the Dust and Mud Prevention Plan including a staging area and washout area to remedy the changes of tracking dirt into the right-of-way; and
4. That improvements along 10400 North will be required with subdivision development including the parkway detail; and
5. That the applicant complete the remaining requirements for the final plat as per the checklist (i.e., include addresses on each lot, etc.); and
6. That the Applicant/Developer obtain a demolition permit prior to removing any existing structures on Lot 1 (still Lot 1).
7. That the Subdivision be subject to Annexation (already complete); and
8. That the existing property be cleaned off by the applicant, including all tires and abandoned vehicles and that none of the material, tires, or vehicles that are not considered legal by City ordinance be transferred to another property in Highland City's municipal boundary (partially completed); and
9. Completion of a soil test be done (already completed); and
10. That the remnant parcel on southwest corner be deeded to the parcel (adjacent property owner) to the west when the subdivision is recorded and that the City obtain a copy of this deed transaction prior to recording the subdivision phase where the parcel is located (proposed to be deeded on submitted plan); and
11. Developer align the street on the east property line with the Mountain Ridge Subdivision (proposed on submitted plan).
12. That the developer be responsible for piping the ditches per the requirements of the respective ditch companies; and
13. That the applicant be required to bury the power lines along 10400 North as required by ordinance; and
14. That all lots, including proposed Lot 13 have the minimum frontage required by Code. (Lots along the road shall have a minimum of 130' of frontage measured at the 30' setback; Lots within a cul-de-sac may have 85% of the frontage requirement equal to at least 110.5' measured at the 30' setback); and
15. That the applicant construct/repair and/or leave the existing fence along the west property line during and following construction (proposed on submitted plan); and



16. That the applicant remove the fence along 10400 N to meet the current fencing ordinances; and
17. That any road recorded as part of a phase for this subdivision be equal in width to at least one-half of the required right-of-way width plus twelve (12) additional feet of asphalt as typical; and
18. That the applicant indicate on the final plat any easements that are identified by the title report unless those easements are under a proposed right-of-way; and
19. That the applicant pay any greenbelt taxes and any back taxes owed to Utah County prior to recording.

Findings:

The Planning Commission may use findings to approve or not approve this application

Background:

The Buhler family, owners of property located at approximately 5830 W 10400 N is requesting Preliminary Approval for a 19 Lot subdivision within the R-1-40 Zone (R-1-40 Zone would allow 21 lots on this property). The Buhler Ranch subdivision is 19.330 acres in size and includes one 4.5580 acre lot that has been set aside for an LDS church building at some point in the future. The proposed road alignment is consistent with a previously considered subdivision with the exception of the church site, which was located on the west side of the development along 10400 N instead of the east as currently proposed.

On October 10, 2006 a previous applicant obtained Preliminary Approval for a 21 lot subdivision on the proposed property. There were previously recommended conditions, including a soils report due to the use of the land prior to incorporation from Utah County into Highland City. The previous Planning Commission recommendations were as follows:

1. That the Preliminary Title Report be submitted by the applicant to Highland City; and
2. That Utility Easements be marked on all lots for Final Approval; and
3. That the Applicant/Developer adhere to the dust and mud prevention plan including a staging area and washout area to remedy the changes of tracking dirt into the right-of-way; and
4. That improvements along 10400 North will be required with subdivision development; and
5. That the applicant complete the remaining requirements for the final plat as per the checklist (i.e., include addresses on each lot, etc.); and
6. That the Applicant/Developer obtain a demolition permit prior to removing the existing home on Lot 1 (still Lot 1).
7. That the Subdivision be subject to Annexation (already complete); and
8. The existing property to be cleaned off (partially completed); and
9. Completion of a soil test be done (already completed); and
10. Parcel on southwest corner be deeded to the parcel to the west (proposed on submitted plan); and
11. Developer align the street on the east property line with the Mountain Ridge Subdivision (proposed on submitted plan).

The applicant completed many of the previous requirements from the Planning Commission's conditions in 2006. The applicant has submitted a preliminary title report and has also submitted a complete Geotechnical Study on the property as well. The Public Works Director has reviewed the soils report and may answer any questions from the Planning Commission. The property was annexed into Highland City (from Utah County, unincorporated island) by the City Council on February 5, 2008. The applicant had removed hundreds of vehicles and other equipment, etc. at that time as a requirement of the City Council for annexation. There are several piles of tires still remaining as well as some vehicles that may not be licensed. Staff would recommend the Planning Commission emphasize the removal of the tires and unlicensed vehicles from the property, per ordinance, prior to the recording of this subdivision.

The subdivision before you now is being proposed by the Buhler family rather than a 3rd party developer and will be recorded in phases as indicated on the proposed Plan. There are a few additional concerns that Staff



would like to reference and recommend that the Planning Commission consider addressing.

- The first would be the existing ditches. The applicant should be required to pipe and bury these ditches per ordinance and per the requirements of the ditch companies.
- The second would be the existing power lines; the Highland City Development Code requires all power lines that are not high voltage transmission lines to be underground. This requirement would be consistent with previously approved subdivisions in Highland and consistent with 3-622 and 5-9-107(2) of the Highland City Development Code.
- The third concern would be the frontage on Lot 13 of the proposed subdivision. Ordinance requires a minimum of 130' of frontage along a public road measured from the 30' setback line. Referenced in Section 3-4203, a cul-de-sac may have an exception equal to 85% of the requirement if the lot is entirely located within the bulb of that cul-de-sac. This has been policy for years in both the R-1-40 and R-1-20 zones and has been approved prior in every subdivision that included a cul-de-sac for at least a decade. If the cul-de-sac allowed for 85% of the 130' minimum requirement, the minimum frontage would be at least 110.5' as measured at the 30' setback line. The proposed lot indicates a frontage of 104' which does not meet this requirement. The applicant will need to change the proposed lot to meet this requirement.
- The fourth concern is related to an existing fence that runs along the west subdivision boundary. The adjacent property owners are concerned about cut-through traffic from children heading to school as well as large animals that need to be contained within this property. The applicant has indicated that this fence will remain and has also indicated that it will be repaired if necessary.
- The fifth concern is the existing fence located along 10400 North. The fence is somewhat dilapidated and is located within the Parkway Detail setback and will need to be removed. The Planning Commission may consider requiring the applicant to remove this fence as part of the subdivision approval.
- The sixth concern is related to any phasing and/or construction of road improvements for this subdivision. Any portion of a road that will not be completed due to the phasing of this subdivision should have a minimum width as required with previous subdivision approvals equal to at least half of the right-of-way width plus 12' for a travel lane. The subdivision should be recorded as such with this width included for each phase (a minimum of 40' for a typical right-of-way equal to 56' feet in width).
- The seventh concern is regarding public improvements. The applicant will be required to install the parkway detail along 10400 North per the General Plan and Development Code and install any street lights, street signs, water lines, sewer lines and all other improvements typical with an R-1-40 subdivision per the Public Works Director.
- Finally, the applicant will be required to pay all greenbelt taxes, any back taxes, and indicate any easements not within a right-of-way but identified by the title report on the plat prior to recording. If the easements have been abandoned, the applicant will be required to provide a letter from each person entitled to that easement indicating that it has been abandoned.

Legal Authority:

- Chapter 5, Subdivision; Highland City Development Code
- 10-9a-601-606; Chapter 10-9a, Land Use Management and Development Act, Utah Code

Fiscal Impact:

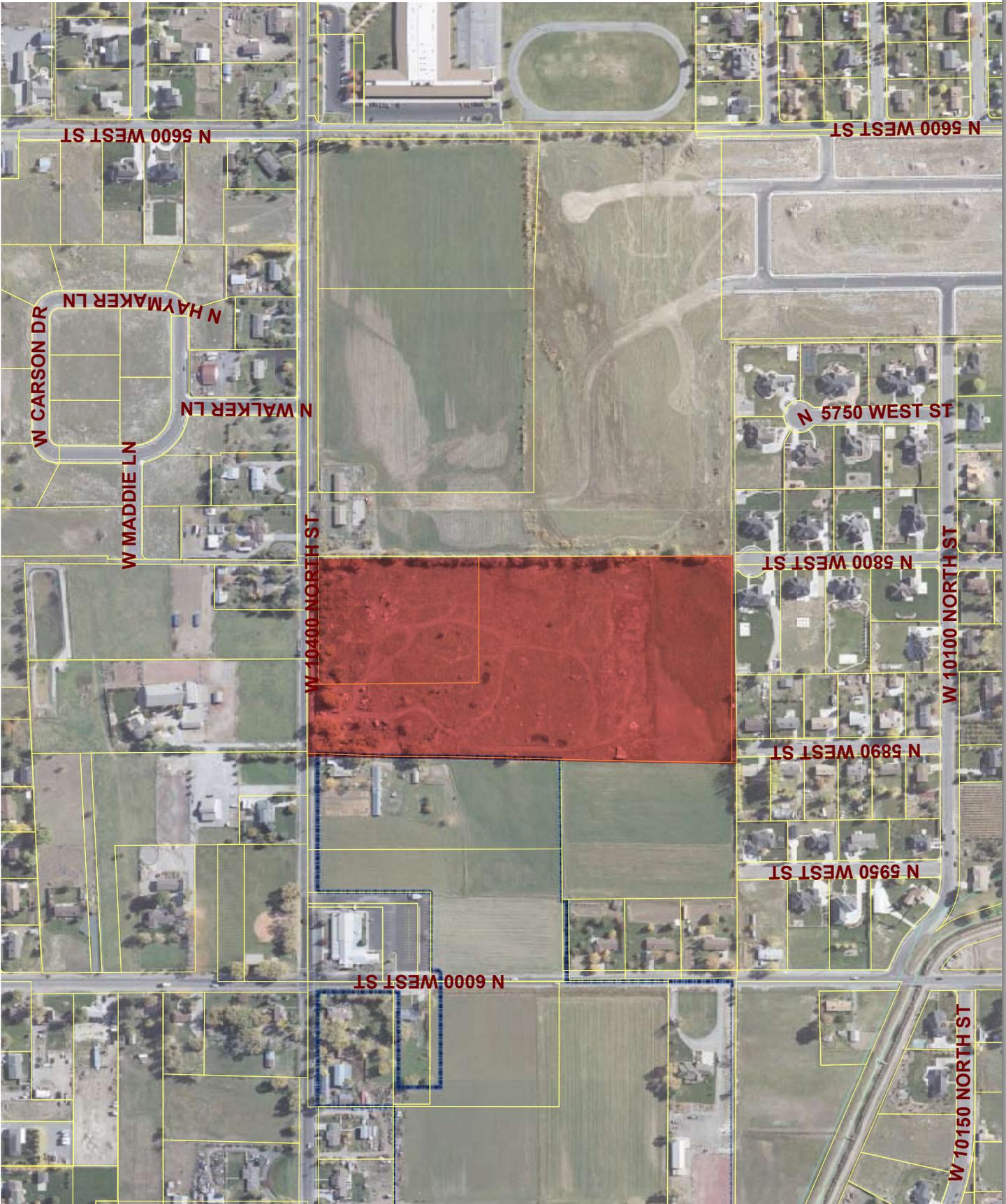
The typical cost of maintaining an R-1-40 subdivision

List of Attachments:

- Aerial of property location
- Proposed Subdivision Plat
- Planning Commission Minutes from previous approval, October 10, 2006



Aerial of Proposed Property Site



PUBLIC HEARING

Item 4: Buhler Ranch Subdivision – Preliminary Approval and Public Hearing

Larry Mendenhall reviewed the information and recommendations of the proposed subdivision.

Jared Bishop explained they are in the process of cleaning up the property and would like to start the process of a residential subdivision.

Jennifer Tucker inquired regarding the cleanup and if any of the existing possessions will remain on the property. Jared Bishop stated there will be CC&R's that would restrict the way things will be built and what can be placed on those lots. The existing home will be torn down and the new home will have to comply with those CC&R's.

Brent Wallace inquired if it would be reasonable to ask that there be soil test done in this subdivision. Barry Edwards indicated that as far as the annexation, they are recommending that the developers do a second level environmental assessment to test the soil. Jared Bishop stated that they have done a phase one test, due to the amount of things on the property it was difficult to test. Jared stated they will have the test done again at a later date.

Brian Braithwaite inquired regarding the requirement of cleaning up the property. Barry Edwards stated that the condition the City Council placed on this property is

Highland City Planning Commission

October 10, 2006

that it will not be annexed until it is cleaned up. This subdivision is conditioned upon annexation, annexation is conditioned upon it being cleaned up and having the phase 2 soil testing done.

Roger Dixon inquired regarding why the road is not completed along 5890 west. Jared Bishop stated they are only required to construct a 40' road along the undeveloped property leaving the balance to be finished by the future development to the west.

Larry Mendenhall opened the public hearing. Hearing no comments, Larry closed the public hearing and brought the item back to the commission for further discussion.

Motion by Brian Braithwaite, Planning Commission grants Preliminary approval for the Buhler's Ranch Subdivision subject to all conditions and recommendations of staff and additional conditions as follows: 1) Subdivision is subject to annexation, 2) The existing property to be cleaned off, 3) Completion of a soil test be done, 4) Parcel on southwest corner be deeded to the parcel to the west, 5) Developer align the street on the east property line with the Mount Ridge Subdivision.

**Seconded by Roger Dixon.
Unanimous vote, motion carried.**

Highland City Planning Commission

October 10, 2006

Item 6: Ashford 1 Lot Subdivision Preliminary Plan and Final Plan
 ~ Public Hearing, Consideration for Preliminary Approval & Final Recommendation

Motion:

That the Planning Commission Grant Preliminary Subdivision Approval and Recommend the Council Grant Final Subdivision Approval for the Ashford Subdivision per the recommendations of Staff.

The Planning Commission will need to specifically list any additional conditions or recommendations in the motion that the Planning Commission would like to impose that have not been specifically identified by staff.

Sponsor:

Greg Nield, Owner

Staff Presentation:

Lonnie Crowell, Community Development Director to present

Recommendation:

That the Planning Commission grant Preliminary Subdivision Approval and Recommend the Council Grant Final Subdivision Approval with the following recommendations:

1. That the applicant indicate on the Final Plat any easements that are identified by the title report unless those easements are under a proposed right-of-way; and
2. That improvements along 4800 West will be required with this subdivision development including the parkway detail by the applicant, or the applicant shall obtain a written guarantee from Utah County indicating all of the improvements will be completed with the 4800 W widening project including the Parkway Detail; and
3. That the applicant pay any back taxes owed to Utah County prior to recording; and
4. That the applicant work with the Public Works Director and Utah County to determine bonding for the public improvements for this subdivision; and
5. That the Applicant/Developer obtain a demolition permit prior to removing any existing structures on Lot 1 (still Lot 1); and
6. That the applicant construct an 8' masonry wall on the north, east, and south property line per the requirements of the Conditional Use Permit associated with this property; and
7. That the applicant complete the remaining requirements for the final plat as per the checklist (i.e., include addresses on each lot, etc.).

Findings:

The Planning Commission may use findings to approve or not approve this application

Background:

Greg Nield, owner of property located at 10428 N 4800 W is requesting a one-lot subdivision within the R-1-40 Zone. The property is approximately 1.1 acres in size with approximately 185' of frontage and does meet all of the requirements of the R-1-40 Zone. The Highland City Development Code does allow for a person to enter into a development agreement with the City, bonding for and installing all of the improvements on a "parcel of record" without having to record a subdivision; however, if the owner desires to construct, remodel or modify any original structure than the applicant is required to be within a recorded subdivision by ordinance. The applicant has chosen to record a one-lot subdivision and has submitted a plan that should satisfy the requirements of the R-1-40 Zone and the Highland City Development Code. The Planning Commission may



Grant Preliminary Subdivision Approval and recommend Final Subdivision Approval because this application is less than three (3) lots as allowed by the Development Code (without requiring the additional meeting for final review).

The improvements will be completed by either the applicant or Utah County as 4800 West is expanded. Staff would recommend that the Planning Commission require the applicant to either construct the improvements and bond for them or obtain something in writing guaranteeing that Utah County will install all of the required improvements which include the parkway detail. The applicant has indicated the parkway detail on the proposed plan.

At DRC, a resident immediately to the east along the south side of the proposed lot indicated a concern for the previously approved Conditional Use Permit associated with the Assisted Living Facility to be constructed at this location. The resident was concerned they were not able to attend the Conditional Use Permit public hearing and is concerned that the assisted living facility will not be screened sufficiently from their home. The applicant has already applied for and received approval for the Conditional Use Permit from the City Council including Site Plan Approval and Architectural Approval per ordinance. The applicant may wish to address these concerns however the City can not require additional conditions of approval upon the assisted living facility associated with the Conditional Use Permit; this is simply a one-lot subdivision application. The applicant has already met or has agreed to meet all of the previously required conditions associated with the Conditional Use Permit placed upon that use by the Planning Commission and City Council (see attached minutes).

Legal Authority:

- Chapter 5, Subdivision; Highland City Development Code
- 10-9a-601-606; Chapter 10-9a, Land Use Management and Development Act, Utah Code

Fiscal Impact:

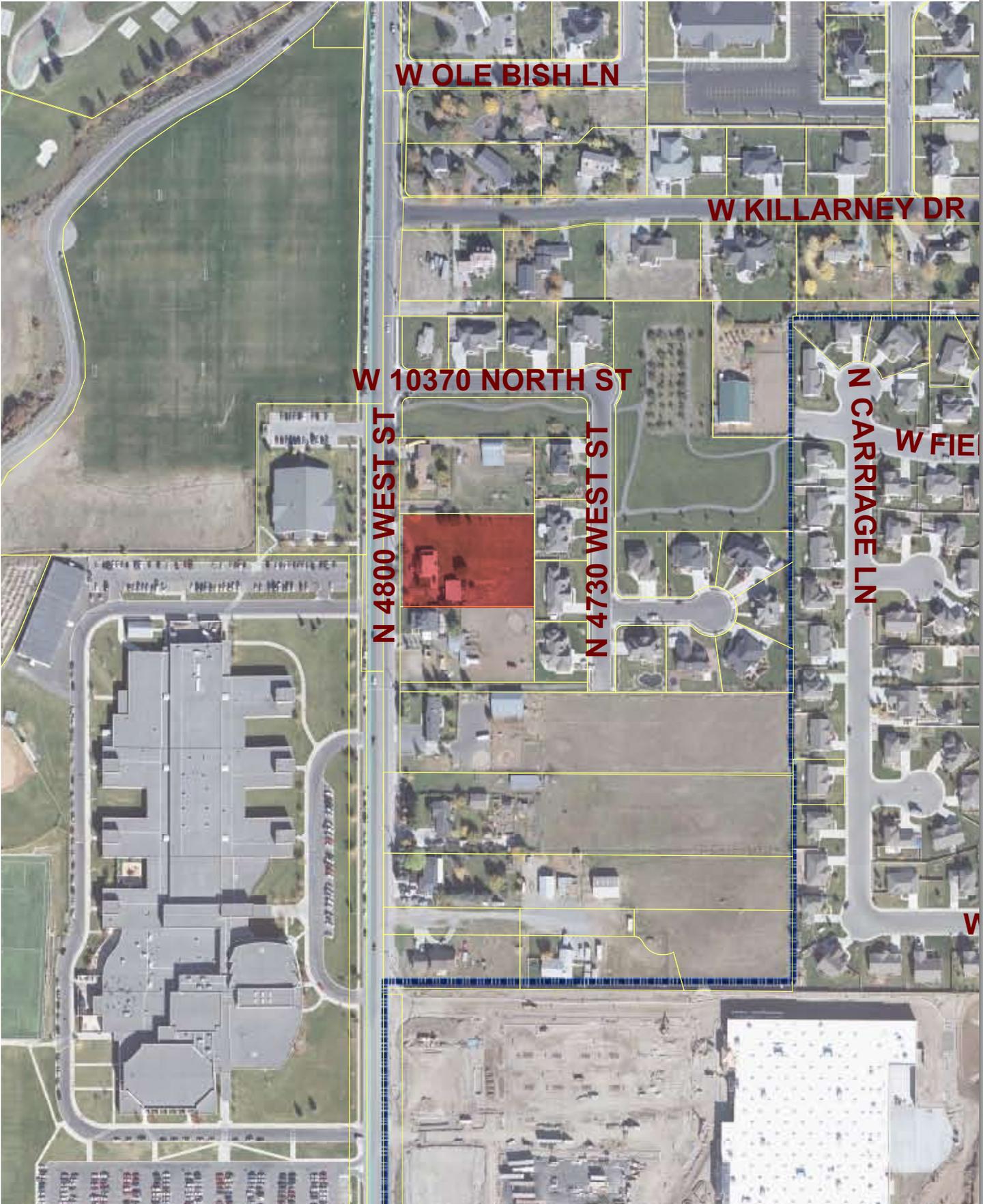
The typical cost of maintaining a 1-Lot R-1-40 subdivision

List of Attachments:

- Aerial of property location
- Proposed Preliminary Plan
- Proposed Final Subdivision Plan
- Minutes from City Council Approval of Conditional Use Permit

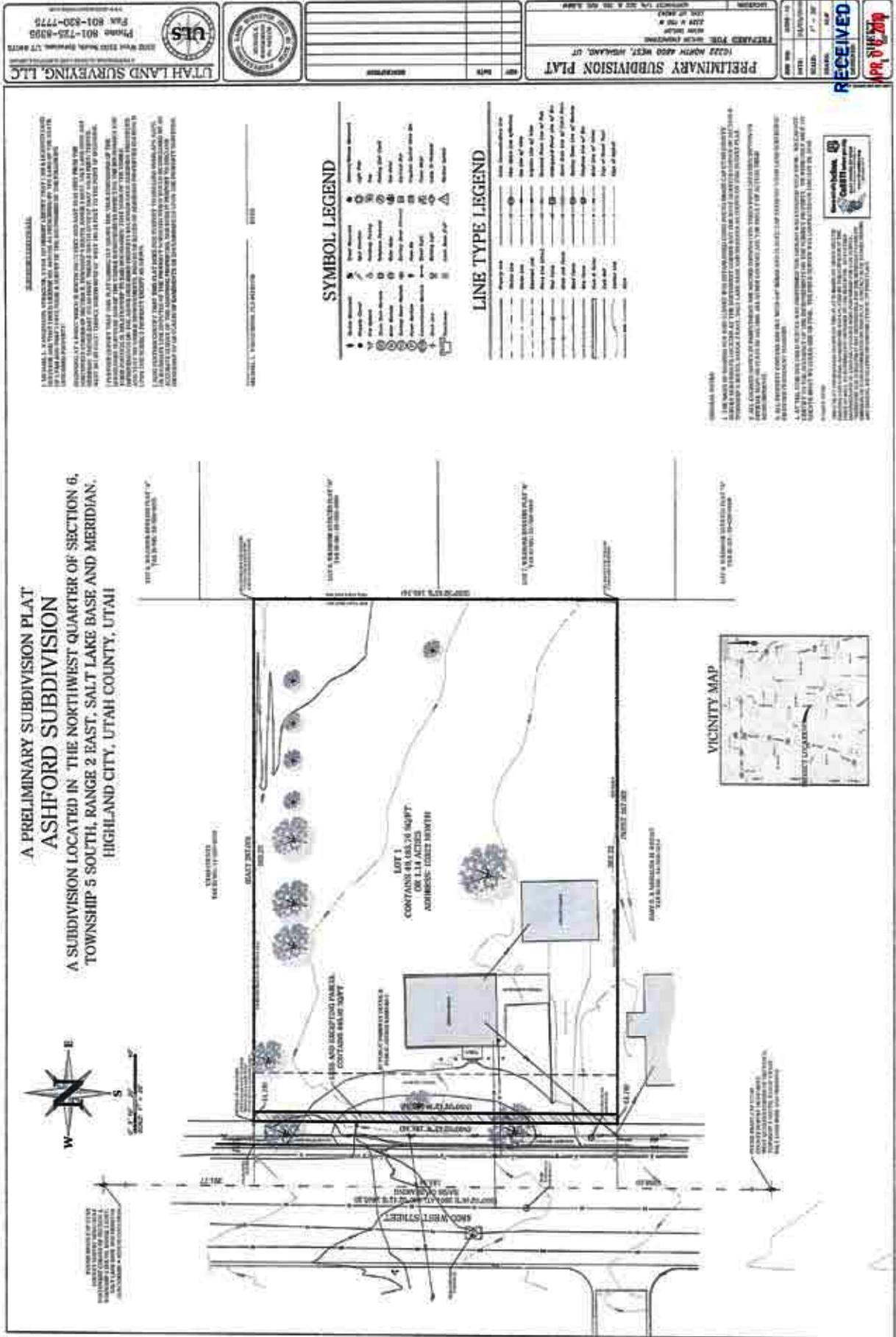


Aerial of Proposed Property Site



PUBLIC HEARING

Proposed Preliminary Subdivision Plan



DRAFT

City Council Minutes, October 6, 2009; CUP Approval

There were no comments expressed in opposition.

Mayor Franson called for a vote on the motion. Those voting aye: Brian W. Braithwaite, Brian Brunson, Larry Mendenhall, Kathryn Schramm, and Claudia Stillman. The motion passed with a unanimous vote.

Consideration and approval of a Conditional Use Permit for the Greg Nield Senior Care Assisted Living facility at 10322 North 4800 West (Agenda Item 7.8)

Lonnie Crowell outlined the request for the conditional use permit on the above referenced item. He noted the applicant has agreed to the conditions as proposed by the Planning Commission and staff.

MOTION: Claudia Stillman moved to grant a Conditional Use Permit for the Greg Nield Senior Care Assisted Living facility at 10322 North 4800 West subject to the following conditions:

1. That the applicant install a sign at each exit from the property per the specifications of the Public Works Department and Police Chief indicating that “a left hand turn is not permitted between the hours of 7:15-8:15 a.m. and 2:30-3:30 p.m.; and
2. That the porte cochere be designed to ensure emergency vehicle access around the west side of the building within the front driveway per approval by the Fire Chief; and
3. That the parking lot lighting be limited to bollard lighting designed to direct light toward the ground so that it will not extend beyond the property line and that the building lighting be designed specifically to direct light toward the ground with a low watt bulb so that lighting will not be directed toward the adjacent property owners; and
4. That an additional large evergreen tree be included in the landscaping plans and installed by the applicant on the northeast corner of the property; and
5. That the applicant include the parkway detail within the frontage and landscaping improvements, at minimum, per the requirements of City specifications and approval from the Public Works Department; and
6. That the applicant install a 6 foot masonry wall around the property line per the requirements of the proposed ordinance and Development Code; and
7. That the submitted building plans replicate the proposed architectural renderings for the building; and
8. That any future expansion be considered toward the north, if possible, prior to expansion proposals toward the east.

Kathryn Schramm seconded the motion.

Comments were made about lights coming from the parking lot as well as trash collection. Much discussion took place about the orientation of the building and which adjacent residents would be impacted the most.

MOTION TO AMEND: Brian Braithwaite moved to amend the motion to modify the following:

- Condition #4 be amended to read: That NINE additional large evergreen trees (2” caliper) be included in the landscaping plans and installed by the applicant, staggered at the east end of the parking lot; and

to add the following conditions:

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- 9. The building must be located on the north side of the lot with the parking lot on the south side.
- 10. The applicant require garbage retrieval be done between the hours of 7 a.m. and 10 p.m.

Claudia Stillman seconded the motion to amend. Those voting aye: Brian W. Braithwaite, Brian Brunson, Larry Mendenhall, Kathryn Schramm, and Claudia Stillman. The motion to amend passed with a unanimous vote.

AMENDED MOTION: to grant a Conditional Use Permit for the Greg Nield Senior Care Assisted Living facility at 10322 North 4800 West subject to the following conditions:

1. That the applicant install a sign at each exit from the property per the specifications of the Public Works Department and Police Chief indicating that “a left hand turn is not permitted between the hours of 7:15-8:15 a.m. and 2:30-3:30 p.m.”; and
2. That the porte cochere be designed to ensure emergency vehicle access around the west side of the building within the front driveway per approval by the Fire Chief; and
3. That the parking lot lighting be limited to bollard lighting designed to direct light toward the ground so that it will not extend beyond the property line and that the building lighting be designed specifically to direct light toward the ground with a low watt bulb so that lighting will not be directed toward the adjacent property owners; and
4. That nine (9) additional large evergreen trees (2” caliper) be included in the landscaping plans and installed by the applicant on the northeast corner of the property; and
5. That the applicant include the parkway detail within the frontage and landscaping improvements, at minimum, per the requirements of City specifications and approval from the Public Works Department; and
6. That the applicant install a 6 foot masonry wall around the property line per the requirements of the proposed ordinance and Development Code; and
7. That the submitted building plans replicate the proposed architectural renderings for the building; and
8. That any future expansion be considered toward the north, if possible, prior to expansion proposals toward the east.
9. The building must be located on the north side of the lot with the parking lot on the south side.
10. The applicant require garbage retrieval be done between the hours of 7 a.m. and 10 p.m.

Mayor Franson called for a vote on the motion. Those voting aye: Brian W. Braithwaite, Brian Brunson, Larry Mendenhall, Kathryn Schramm, and Claudia Stillman. The motion passed with a unanimous vote.

Consideration of a Property Purchase Agreement for the purchase of property located at 5423 West Pebble Lane (portion of Lot 3, Pebble Lane Estates Subdivision) Highland, Utah which may affect “Highland City - 4800 So. (W.)/S.R. 74 East West Connector Road” (Agenda Item 7.9)

This parcel is on the south portion of a larger parcel of lot 3 in the Pebble Lane Estates Subdivision. The purpose of the purchase is to construct an East/West corridor with street improvements of curb, gutter and sidewalk. With the grant from Mountainland Association of Governments the City is able to

City Council Minutes, October 6, 2009; CUP Approval

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Item 7: Residences for the Disabled, Residential Rehabilitation and Treatment Facilities for the Disabled, and Residential Facilities for Elderly Persons ~ Public Hearing Continued & Recommendation

Motion:

That the Planning Commission Recommend the City Council Adopt an Ordinance Amending Sections 3-4102/3-4202, 3-4108/3-4208 and 10-102 for the purpose of providing an updated ordinance for Residences for the Disabled, Residential Rehabilitation Treatment Facilities for the Disabled, and Residential Facilities for Elderly Persons.

The Planning Commission will need to specifically list any additional conditions or recommendations in the motion that the Planning Commission would like to impose that have not been specifically identified by staff.

Sponsor:

Highland City

Staff Presentation:

Lonnie Crowell, Community Development Director to present

Recommendation:

That the Planning Commission recommend this ordinance be approved as drafted and per the recommendations of the City Attorney

Findings:

The Planning Commission may use findings to approve or not approve this application

Background:

As the Planning Commission is aware, the City has been reviewing this ordinance for some time. Staff met with the representative of a small group of residents within the Alpine Country Club subdivision as well as the City Attorney and has drafted an ordinance that should address the City Council, Planning Commission, and resident's concerns. The ordinance has separated the uses into three categories, separating group homes associated with therapy for drug and alcohol addiction from those with physical disabilities not related to those addictions.

It is important to understand there are many Federal and State laws governing these uses. Staff has provided the City Council and Planning Commission with a substantial amount of data, research and links for the purpose of understanding the legal rights of this use. There are still some questions regarding some of the text within the proposed ordinance indicated by bold magenta text. They are related to a few general questions as follows:

1. Can Highland City legally require a business license for this use? **(YES per Attorney)**
2. Can Highland require these "group homes" to meet the requirement for fire safety per the International Building Code given the general exemption by the Federal Fair Housing Act and State and Federal Disabilities protections? **(STILL IN QUESTION)**
3. Can the City require additional approvals such as site plan approval with the understanding that this would be the only residentially zoned permitted use that would require this type of approval in Highland? **(YES per Attorney)**
4. Can the City require an applicant to bring an existing home into compliance with commercial ADA requirements? **(NO per Attorney)**



These questions have been thoroughly researched/reviewed and have been addressed by legal counsel. Any remaining questions will require recommendations from the City Attorney and will be necessary prior to the City Council adopting these ordinance amendments. The Planning Commission may wish to recommend this ordinance as drafted with the amendments noted per the recommendation of the City Attorney so that this ordinance may continue to the Council and move forward quickly, or the Planning Commission may desire to continue the item until the City Attorney can answer any additional questions.

Legal Authority:

Chapter 9, Amendments to Title and Zone Map, Highland City Development Code
10-9a-501-503; Chapter 10-9a, Land Use Development and Management Act, Utah Code
10-9a-104, 516-520; Chapter 10-9a, Land Use Management and Development Act, Utah Code

Fiscal Impact:

Potentially substantial in any case

List of Attachments:

- Proposed Ordinance showing edits
- Proposed Ordinance clean, without edits
- A copy of a Draft Ordinance with City Attorney edits with comments is attached separately
- Reasonable Accommodation Policy Draft

COLORS INDICATED ON THE "EDITED" VERSION OF THE PROPOSED ORDINANCE ARE REPRESENTED BY THE FOLLOWING:

- Blue Bold:** Text recommended by Staff to ADD, based upon comments, suggestions and recommendations of the City Council or Planning Commission, City Attorney or public comment.
- ~~Red Strikeout:~~ Text recommended by Staff to be DELETED
- Green Bold:** Text taken from other surrounding City ordinances to be ADDED based upon comments, suggestions and recommendations of the City Council or Planning Commission, City Attorney or public comment
- ~~Green Strikeout:~~ Text from previous drafts of other City's ordinances proposed to be DELETED
- Purple Bold:** Text recommended by the City Attorney to ADD
- ~~Purple Strikeout:~~ Text recommended by the City Attorney to DELETE

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3-4102: Permitted Uses. (Amended: 2/18/97, 7/15/08, 12/2/08)

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

- (1) Single-family dwellings, conventional construction, which include a garage of sufficient size for storage of two automobiles (*see 10-102(16) for definition of Dwelling*).
- (2) Accessory uses such as storage buildings, private garages, carports, noncommercial greenhouses, and swimming pools.
- (3) Public utility lines and subject to 5-114(6).
- (4) Household pets.
- (5) Fences, walls, hedges.
- (6) Gardens, fruit trees, and field crops.
- (7) Keeping of animals subject to the following requirements:
 - (a) All large animals shall be provided shelter or cover. The shelter or cover where animals are normally fed, watered, and corralled shall be at minimum of one hundred (100) feet from any residence, except that it may be a minimum of seventy-five (75) feet from the animal owner's residence.
 - (b) All large animals shall be enclosed in a fence and no part of the enclosure shall be nearer than twenty (20) feet from any residential structure.
 - (c) No large animal shall be kept on a lot of less than 30,000 square feet in area. Two (2) large animals may be kept on a lot with a minimum area of 30,000 square feet and four (4) large animals may be kept on a lot with a minimum area of 40,000 square feet. One additional large animal may be kept on a lot for each 10,000 square feet of area of the lot in excess of 40,000 square feet. No small animal shall be kept on a lot of less than 20,000 square feet. No more than twelve (12) small animals shall be kept per 20,000 square feet of lot area. In determining the number of animals allowed on any lot based on its area, no proration of numbers shall be allowed within the area increments specified in this paragraph.
 - (d) Pigs shall not be kept on any lot.
- (8) **Residences for Persons with a Disability.** Residences for Persons with a Disability shall be a permitted use in all residential zones and requires ~~site plan~~ **final zoning** approval by the City Council; **and** provided that the building and use **comply with all of the requirements defined by this Section.** ~~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) "Disabled" or "Disability" 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 or has a history of having such an 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** ~~the current illegal use of, or addiction to, any~~ **federally** controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.
 - A. For Residential Rehabilitation and Treatment Facilities for the Disabled, referring to residential facilities for disabled persons treating 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) ~~Residences for Persons with a Disability shall not be considered multi-family dwellings; and~~
- (c) "Residences for Persons with a Disability" means a residence:
 - (i) in which more than one person with a disability resides; and
 - A. is licensed or certified by the State of Utah Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or
 - B. is licensed or certified by the State of Utah Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.
 - C. **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.**
- (d) **Discrimination against Residences for Persons with a Disability shall be prohibited.**
- (e) **Residences for Persons with a Disability shall not be considered multi-family dwellings provided that;**
 - (i) **Any Residence for the Disabled 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.**
- (f) Persons occupying a Residence for Persons with a Disability exceeding two (2) 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(8)(a) per State Law, Utah Code 10-9a-103;** and
 - (i) **The home shall not be occupied by more than four (4) unrelated persons when full time, 24 hour a day, professional staff is required to meet the physical, medical or emotional needs of the residents; or**
 - (ii) **The home shall not be occupied by more than ~~four (4)~~ eight (8) unrelated individuals living in a family type environment consistent with 10-102(12); and**
 - (iii) **The owner/operator of such facilities shall provide adequate personal space for each resident. -as follows:**
 - A. ~~A residential facility for the elderly shall ensure that each bedroom space in the facility has a floor area, exclusive of closet space, of at least 74 square feet for the initial occupant and 50 square feet for each other occupant in the space.~~
- (g) ~~No more than four (4) unrelated persons may occupy a residence for persons with a disability not including caretakers of which the number shall be defined by state law determined by the number of persons occupying the home; or the home shall not be occupied by more than four (4) unrelated individuals living in a family type environment consistent with who meet the criteria set forth in this ordinance including paid professional staff.~~

- (i) ~~The facility shall be owned by one of the residents or an immediate family member of one of the residents for which title has been placed in trust for a resident;~~
- (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.~~
- (iii) ~~The **Any Residence for the Disabled home** shall be occupied only by individuals who ~~meet the following criteria~~ **are considered disabled per 3-4102(8)(a)** (and **excluding** staff members).~~
 - A. ~~Disabled or Disability 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 or has a history of having such an impairment.~~
 - B. ~~For the purpose of Section 3-4102(8) "Disability" does not include treatment homes/facilities for the purpose of treating the current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.~~
 - C. ~~Individuals who have been diagnosed with an addiction to alcohol or a controlled substance (as defined in Utah Code Section 58-37-2, as amended);~~
 - D. ~~Individuals who 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~~
 - E. ~~Individuals who 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.~~
- (iv) ~~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 residence for 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 60 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.~~
- (h) ~~No alcohol or controlled substance shall be allowed on the premises of the home.~~
 - (i) ~~A first violation of this requirement shall result in a warning to the permit holder.~~
 - (ii) ~~A second violation occurring within a twelve month period shall result in a fine of five hundred dollars (\$500) to the permit holder.~~
 - (iii) ~~A third violation occurring within a twelve month period shall result in the revocation of a permit to operate a residence for the disabled for the purpose of substance abuse and no permit shall be reissued to the permit holder (or principals of the permit holder if the permit is an entity) for a period of at least one year following such revocation.~~
 - (iv) ~~The City shall have the right to deny a permit to any individual or entity that has had more than one revocation of a permit to operate a residence for the disabled.~~

- ~~(v) — The 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 residence for the disabled operating for the purpose of substance abuse patient care.~~
 - ~~A. The permit holder shall not allow any person whose hair follicle test results indicate the use of alcohol or drugs in the previous thirty (30) days to become an occupant of the home.~~
- ~~(vi) — The permit holder shall conduct random urinalysis testing (or other equally effective testing methods) on each of the residents at least twice per month to verify ongoing abstinence from alcohol and drugs.~~
 - ~~A. Any resident who test positive for alcohol or drugs or who refuses to submit to a test shall be immediately expelled from the home.~~
- ~~(vii) — The permit holder shall maintain records of the initial hair follicle testing and the ongoing urinalysis test results and shall submit to the City a monthly report representing an accurate accounting of these tests.~~
- (i) Residency within a Residence 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 the disabled shall not include any persons referred by the Utah State Department of Corrections or any adult juvenile court.
- (j) Residency within a Residence 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 would result in substantial physical damage to the property of others.
 - ~~(i) — The owner/operator of the facility shall conduct 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.~~
 - ~~A. 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.~~
 - ~~B. 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.~~
 - ~~C. 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.~~
 - ~~(iii) — Prior to the initial occupancy of a residence for persons with a disability at least quarterly, the owner/operator of the facility shall certify, in a sworn affidavit, that the individualized assessments have been performed on each resident and that each resident meets the requirements of this section.~~
- (k) "Residences for Persons with a Disability" means a residence:
 - ~~(i) — in which more than one person with a disability resides; and~~

- A. ~~is licensed or certified by the State of Utah Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or~~
- B. ~~is licensed or certified by the State of Utah Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.~~
- C. ~~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.~~

- (l) **Residency within a Residence 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 the disabled shall not include any persons referred by the Utah State Department of Corrections or any adult juvenile court.**
- (m) **Residency within a Residence 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.**
- (n) Owners or operators of Residences for Persons with a Disability ~~shall~~ **may** provide training or treatment programs for residents with disabilities ~~which are in~~ **provided that such training or treatment programs are** compliance with the State of Utah Department of Human Services standards as set forth in the Utah Administrative Code.
- (o) ~~The facility shall comply with all applicable state and federal laws.~~
- (p) **Zoning Approval. The owner of any group home shall obtain final zoning approval from the City Council in accordance with 3-4102(11) prior to occupancy and prior to obtaining a permit and in all cases shall comply with the following requirements:**
- (q) **The facility shall comply with all applicable state and federal laws,**~~including laws related to access.~~
- (r) **Owners of Residences for Persons with a Disability shall be required to obtain permits that verify compliance with the same building, safety, and health regulations** ~~(including accessibility requirements for group homes as defined by building code)~~ **as are applicable in the same zone to similar uses that are not residential facilities for persons with a disability; and**
- (s) **Prior to obtaining a permit and occupancy all group homes require final site plan approval from the City Council; and**
- (t) **Safety Plan.** To ensure the safety of the residents and surrounding community, the facility operators shall develop of safety plan demonstrating adequate supervision and control of the residents.
 - (i) The safety plan shall be reviewed by law enforcement officials and **d** shall be approved by the City Council.
 - (ii) **The safety plan shall address the following:**
 - A. **Parking and circulation plan.**
 - B. **Security and surveillance operation.**
 - C. ~~Testing procedures and operations.~~
 - D. **Visitation hours.**

- (u) **Residential Character.** Residences for Persons with a Disability 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) A Residence for **Persons with a Disability** ~~the disabled may be~~ located within an existing residential dwelling or located within a residential zone ~~shall be~~ **only if that structure is** capable of use as such a facility, ~~which includes being fully handicap accessible,~~ without structural or landscaping alterations that would change the structure's residential character.
 - A. A site plan must be submitted showing any alteration of the structure and landscaping and must be approved by the City Council before a permit is issued.
 - B. Any new structure constructed for use as a residential home for the disabled shall be of a size, scale and design that is in harmony with other residential homes and residential uses in the neighborhood and subdivision.
 - C. **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 four off-street parking stalls shall be provided to serve the needs of residents, visitors and staff members and, at minimum, there shall be at least 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.
 - A. **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.**
 - ~~(iii) A residence for the disabled shall include a six (6) foot sight obscuring fence along the side and rear yards that is constructed in a manner consistent with the residential character of the neighborhood. Such fencing shall be constructed and maintained in accordance with Highland City ordinances.~~
 - ~~A. A chain link fence with slats shall not be considered sight obscuring for the purposes of this section.~~
 - ~~B. The Planning Commission shall approve the style and design of any fencing; and~~
- (v) **Group Home Separation.** Residences for Persons with a Disability shall be reasonably dispersed throughout Highland as follows:
 - (i) Residences for Persons with a Disability ~~Residences for Persons with a Disability~~ shall not be located within **three quarters 3/4 of a** ~~one (1)~~ mile from **other Residences for Persons with a Disability or other** ~~another~~ similar uses which **shall may** include, **but not be limited to,** residential facilities for elderly persons, **Residential Rehabilitation and Treatment Facilities,** ~~a juvenile group home, or transitional victim home~~ as measured in a straight line between the closest property lines of any group home listed above. ~~and~~
 - ~~(ii) Owners of Residential facilities for persons with a disability that are substance abuse facilities for persons with a disability with a residents with disabilities related to any form of substance abuse or that have a history of past violence, sexual aggression or any offense involving a weapon or which resulted in serious bodily injury to another person and are located within 1000~~

~~feet of a school, are required to provide, in accordance with rules established by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities:~~

- ~~A. A security plan satisfactory to local law enforcement authorities;~~
- ~~B. 24-hour supervision for residents; and~~
- ~~C. Other 24-hour security measures; and~~

- (w) **Licensing Requirements.** Owners of Residences for Persons with a Disability shall provide to the City a copy of the following documentation prior to occupying a Residence for Persons with a Disability:
 - (i) Verification of a State License to operate a Residence for Persons with a Disability; 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 to the facility falls within the definition of disability as set forth in this section and that the disability substantially limits the resident in a major life function; and
 - (iv) The facility operator shall provide 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; and
 - (v) Any additional required information, documentation, testing, or other data as required by this ordinance.
 - (vi) **Highland City business license.**
 - A. **In the event that an owner of a Residence for Persons with a Disability 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 Residence for Persons with a Disability secure appropriate State licenses and/or approvals as are required herein.**
 - B. **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.**
- (x) ~~Owners of Residences for Persons with a Disability shall be required to obtain permits that verify compliance with the same building, safety, and health regulations (including accessibility requirements for group homes as defined by building code) as are applicable in the same zone to similar uses that are not residential facilities for persons with a disability; and~~
- (y) **Enforcement.** The responsibility to license programs or entities that operate facilities for persons with a disability, 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.
- (z) **Inspections.** Representatives of the City shall have the right to enter onto the premises of a residential home for the disabled ~~at any time and without~~ **with reasonable** prior notice to verify compliance with the provisions of this section.
 - A. As part of the permit application for a residential home for the disabled, the applicant shall provide the City with written authorization to enter upon the premises of the residence ~~at any time~~.
 - B. Failure of the permit holder, any staff member, or any tenant to ~~immediately~~ allow the City to enter upon the premises in accordance with this section, shall result in a fine to the permit holder in the amount of two-hundred fifty dollars (\$250) for the first violation, five hundred dollars (\$500) for the second violation, and one thousand dollars (\$1,000) for a third violation and every subsequent violation occurring in any twelve month period.
- (aa) **Termination.** Any permit granted under this subsection is nontransferable and shall terminate if **the person or entity applying for the permit ceases to operate the facility**, the structure is devoted to another use or if it at any time **the facility** fails to comply with any applicable requirement as defined in this Code.
- (bb) ~~All Residences for the Disabled shall be subject to 3-4102(10) of this Code.~~
- (cc) **Appeals.** **Appeals from any decision of the City Council with respect to a residences for the disabled may be directed to the appeal authority per Chapter 2, Article 3 in this Code.**
- (9) **Residential Rehabilitation and Treatment Facilities for the Disabled** shall be a permitted use in all residential zones and requires ~~site-plan zoning~~ approval by the City Council; 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 Rehabilitation and Treatment Facilities for the Disabled** ~~or Disability~~ 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 ~~or has a history of having such an impairment. "Disability" does not include current illegal~~ **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** ~~else~~ 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) ~~Residences for persons with a disability shall not be considered multi-family dwellings; and~~
 - (c) **"Residential Rehabilitation and Treatment Facilities for the Disabled Residential facility for persons with a disability"** means a residence:
 - (i) in which more than one person with a disability resides; and

- A. is licensed or certified by the State of Utah Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or
 - B. is licensed or certified by the State of Utah Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.
 - C. **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.**
- (d) **Discrimination against disabled persons or against Residential Rehabilitation and Treatment Facilities for the Disabled shall be prohibited.**
- (e) **Residential Rehabilitation and Treatment Facilities for the Disabled shall not be considered multi-family dwellings provided that; and**
- (i) **Any Residential Rehabilitation and Treatment Facilities for 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:**
 - A. **Individuals who have been diagnosed with an addiction to alcohol or a controlled substance (as defined in ~~Utah Code Section 58-37-2, Section 102 of the Controlled Substance Act, 21 U.S.C. 802 as amended~~);**
 - B. **Individuals who 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**
 - C. **Individuals who 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.**
 - D. **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 residence for 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.**
- (f) Persons occupying a **Residential Rehabilitation and Treatment Facility for the Disabled** ~~residence for persons with a disability~~ exceeding two (2) unrelated persons shall meet all of the requirements of a person with a disability according to the definition of "disability" ~~per State Law, Utah Code 10-9a-103~~ **as contained in 3-4102(9)(a); and**
- (i) **No more than four (4) ~~eight (8)~~ unrelated persons may occupy a residence for persons with a disability that include full time, 24 hour a day, paid professional staff; or**
 - (ii) **The home shall not be occupied by more than four (4) ~~eight (8)~~ unrelated individuals living in a family type environment consistent with 10-102(12); and**

- (iii) **The owner/operator of such facilities** shall provide adequate personal space for each resident. ~~as follows:~~
 - A. ~~A residential facility for the elderly shall ensure that each bedroom space in the facility has a floor area, exclusive of closet space, of at least 74 square feet for the initial occupant and 50 square feet for each other occupant in the space.~~
- (g) ~~No more than four (4) unrelated persons may occupy a residence for persons with a disability not including caretakers of which the number shall be defined by state law determined by the number of persons occupying the home; or the home shall not be occupied by more than four (4) unrelated individuals living in a family type environment consistent with who meet the criteria set forth in this ordinance including paid professional staff.~~
 - (i) ~~The facility shall be owned by one of the residents or an immediate family member of one of the residents for which title has been placed in trust for a resident;~~
 - (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.~~
 - (iii) ~~The home shall be occupied only by individuals who meet the following criteria (and staff members):~~
 - A. ~~Individuals who have been diagnosed with an addiction to alcohol or a controlled substance (as defined in Utah Code Section 58-37-2, as amended);~~
 - B. ~~Individuals who 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~~
 - C. ~~Individuals who 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.~~
 - (iv) ~~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 residence for 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 60 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.~~
- (h) ~~No alcohol or controlled substance shall be allowed on the premises of the home. A first violation of this requirement shall result in a warning to the permit holder. A second violation occurring within a twelve month period shall result in a fine of five hundred dollars (\$500) to the permit holder. A third violation occurring within a twelve month period shall result in the revocation of a permit to operate a residence for the disabled for the purpose of substance abuse and no permit shall be reissued to the permit holder (or principals of the permit holder if the permit is an entity) for a period of at least one year following such revocation. The City shall have the right to deny a permit to any individual or entity that has had more than one revocation of a permit to operate a residence for the disabled.~~

- ~~(i) The 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 residence for the disabled operating for the purpose of substance abuse patient care.

 - ~~A. The permit holder shall not allow any person whose hair follicle test results indicate the use of alcohol or drugs in the previous thirty (30) days to become an occupant of the home.~~~~
- ~~(ii) The permit holder shall conduct random urinalysis testing (or other equally effective testing methods) on each of the residents at least twice per month to verify ongoing abstinence from alcohol and drugs.

 - ~~A. 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 permit holder shall maintain records of the initial hair follicle testing and the ongoing urinalysis test results and shall submit to the City a monthly report representing an accurate accounting of these tests.~~

- (i) **Residency within a Residential Rehabilitation and Treatment Facility for the Disabled** ~~residence for a person with a disability~~ shall be strictly voluntary and not part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional facility, nor a condition of probation/parole. A Residential Rehabilitation and Treatment Facility for the Disabled residential facility for the disabled shall not include any persons referred by the Utah State Department of Corrections or any adult juvenile court.
- (j) **Residency within a Residential Rehabilitation and Treatment Facility for the Disabled** ~~residence for a person 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 ~~would~~ **could** result in substantial physical damage to the property of others.
 - (i) The owner/operator of the facility shall conduct 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.
 - A. 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.
 - B. 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.
 - C. 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.
- ~~(iii) Prior to the initial occupancy of a residence for persons with a disability and at least quarterly, the owner/operator of the facility shall certify, in a sworn affidavit, that the individualized assessments have been performed on each resident and that each resident meets the requirements of this section.~~

- (k) Owners or operators of **Residential Rehabilitation and Treatment Facilities for the Disabled** ~~Residences for persons with a disability~~ shall ~~may~~ provide training or treatment programs for residents with disabilities **provided that such training or treatment programs** ~~which~~ are in compliance with the State of Utah Department of Human Services standards as set forth in the Utah Administrative Code.
- (l) ~~The facility shall comply with all applicable state and federal laws.~~
- (m) **Zoning Approval. The owner of any group home shall obtain final zoning approval from the City Council in accordance with 3-4102(11) prior to occupancy and prior to obtaining a permit and in all cases shall comply with the following requirements:**
- (n) **The facility shall comply with all applicable state and federal laws,** ~~including laws related to access.~~
- (o) **Owners of Residential Rehabilitation and Treatment Facilities for the Disabled shall be required to obtain permits that verify compliance with the same building, safety, and health regulations** ~~(including accessibility requirements for group homes as defined by building code)~~ **as are applicable in the same zone to similar uses that are not Residential Rehabilitation and Treatment Facilities for the Disabled; and**
- (p) **Prior to the initial occupancy of a Residential Rehabilitation and Treatment Facility for the Disabled and at least quarterly, the owner/operator of the facility shall certify that the individualized assessments have been performed on each resident and that each resident meets the requirements of this section.**
- (q) **Prior to obtaining a permit and occupancy all group homes require final site plan approval from the City Council; and**
- (r) **Safety Plan.** To ensure the safety of the residents and surrounding community, the facility operators shall develop of safety plan demonstrating adequate supervision and control of the residents.
 - (i) The safety plan shall be reviewed by law enforcement officials and **d** shall be approved by the City Council.
 - (ii) **The safety plan shall address the following:**
 - A. **Parking and circulation plan.**
 - B. **Security and surveillance operation.**
 - C. **Testing procedures and operations.**
 - D. **Visitation hours.**
- (s) **Residential Character. Residential Rehabilitation and Treatment Facilities for the Disabled** ~~Residential facilities for persons with a disability~~ 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) A **Residential Rehabilitation and Treatment Facility for Disabled** ~~residence for the disabled~~ **may be** located within an existing residential dwelling or located within a residential zone ~~shall be~~ **only if that structure is** capable of use as such **a** facility, ~~which includes being fully handicap accessible,~~ without structural or landscaping alterations that would change the structure's residential character.
 - A. A site plan must be submitted showing any alteration of the structure and landscaping and must be approved by the City Council before a permit is issued.
 - B. Any new structure constructed for use as a **Residential Rehabilitation and Treatment Facility for Disabled** ~~residential home for the disabled~~ shall be of a size, scale and design that is in harmony with other

residential homes and residential uses in the neighborhood and subdivision.

- C. **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 four off-street parking stalls shall be provided to serve the needs of residents, visitors and staff members and, at minimum, there shall be at least 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.

- A. **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.**

~~(iii) A residence for the disabled shall include a six (6) foot sight obscuring fence along the side and rear yards that is constructed in a manner consistent with the residential character of the neighborhood. Such fencing shall be constructed and maintained in accordance with Highland City ordinances.~~

- A. ~~A chain link fence with slats shall not be considered sight obscuring for the purposes of this section.~~
- B. ~~The Planning Commission shall approve the style and design of any fencing; and~~

(t) **Group Home Separation. Residential Rehabilitation and Treatment Facilities for the Disabled** ~~Residences for persons with a disability~~ shall be reasonably dispersed throughout Highland as follows:

(i) **Residential Rehabilitation and Treatment Facilities for Disabled** ~~Residences for Persons with a Disability~~ shall not be located within **three quarters 3/4 of a** ~~one (1)~~ mile from **other Residential Rehabilitation and Treatment Facilities for the Disabled or other** ~~another~~ similar uses which ~~may~~ **shall** include, **but not be limited to,** residential facilities for elderly persons **and Residences for Persons with a Disability,** ~~a juvenile group home, or transitional victim home~~ as measured in a straight line between the closest property lines of any group home listed above.; and

(ii) Owners of **Residential Rehabilitation and Treatment Facilities for the Disabled** ~~Residential facilities for persons with a disability~~ that are ~~substance abuse facilities for persons with a disability with a residents with disabilities related to any form of substance abuse or that have a history of past violence, sexual aggression or any offense involving a weapon or which resulted in serious bodily injury to another person and are~~ located within ~~1000~~ **500** feet of a school, are required to provide, in accordance with rules established by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities:

- A. A security plan satisfactory to local law enforcement authorities;
- B. 24-hour supervision for residents; and
- C. Other 24-hour security measures; and

~~(iii) No Residential Rehabilitation and Treatment Facility for Disabled with any resident with disabilities related to any form of substance abuse and a history of past violence, sexual aggression or any offense involving a weapon or which resulted in serious bodily injury to another person shall be established~~

Proposed Ordinance with Edits

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~~within 500 feet of a license day care, or public or private school as measured in a straight line between the closest property lines of these uses as defined above.~~

- (u) **Licensing Requirements.** Owners of **Residential Rehabilitation and Treatment Facilities for the Disabled** ~~Residences for persons with a disability~~ shall provide to the City a copy of the following documentation prior to occupying a Residence for Persons with a Disability:
 - (i) Verification of a State License to operate a **Residential Rehabilitation and Treatment Facility for Disabled** ~~Residence for Persons with a Disability~~; 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 to the facility falls within the definition of disability as set forth in this section and that the disability substantially limits the resident in a major life function; and
 - (iv) The facility operator shall provide 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; and
 - (v) Any additional required information, documentation, testing, or other data as required by this ~~ordinance~~ **Section**.
 - (vi) **Highland City business license**
 - A. **In the event that an owner of a Residential Rehabilitation and Treatment Facility shall charge for services or care provided to residents of the home, 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 Residential Rehabilitation and Treatment Facility secure appropriate State licenses and/or approvals as are required herein.**
 - B. **In the event that the applicant needs a business license in order to obtain the proper State licenses, 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.**
- (v) ~~Owners of Residential Rehabilitation and Treatment Facilities for the Disabled Residential facilities for persons with a disability shall be required to obtain 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~~
- (w) **Enforcement.** The responsibility to license programs or entities that operate facilities for persons with a disability, 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**:
 - (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.
- (x) **Inspections.** Representatives of the City shall have the right to enter onto the premises of a residential home for the disabled at any time and ~~without~~ **with reasonable** prior notice to verify compliance with the provisions of this section.
 - (i) As part of the permit application for a residential home for the disabled, the applicant shall provide the City with written authorization to enter upon the premises of the residence at any time.
 - (ii) Failure of the permit holder, any staff member, or any tenant to ~~immediately~~ allow the City to enter upon the premises in accordance with this section, shall result in a fine to the permit holder in the amount of two-hundred fifty dollars (\$250) for the first violation, five hundred dollars (\$500) for the second violation, and one thousand dollars (\$1,000) for a third violation and every subsequent violation occurring in any twelve month period.
- (y) **No alcohol or controlled substance shall be allowed on the premises of the home. A first violation of this requirement shall result in a warning to the permit holder. A second violation occurring within a twelve month period shall result in a fine of five hundred dollars (\$500) to the permit holder. A third violation occurring within a twelve month period shall result in the revocation of a permit to operate a residence for the disabled for the purpose of substance abuse and no permit shall be reissued to the permit holder (or principals of the permit holder if the permit is an entity) for a period of at least one year following such revocation. The City shall have the right to deny a permit to any individual or entity that has had more than one revocation of a permit to operate a residence for the disabled.**
 - (i) **The permit holder shall be required to perform a hair follicle test, random urine analysis test, 24/7 sweat patch or by using some other proved and successful method on each potential resident before allowing such person to become an occupant in a Residential Rehabilitation and Treatment Facility residence for the disabled operating for the purpose of substance abuse patient care.**
 - A. **The 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 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.**
 - A. **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 permit holder shall maintain records of the initial testing results and the ongoing urinalysis test results and shall submit to the City a monthly report representing an accurate accounting of these tests.**
 - A. **The method and frequency of testing procedures must be included in a Policy and Procedures manual presented along with the application for a 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.**

- (z) **Termination.** Any permit granted under this subsection is nontransferable and shall terminate if **the person or entity applying for the application ceases to operate the facility**, the structure is devoted to another use or if it at any time **the facility** fails to comply with any applicable requirement as defined in this Code.
 - (aa) All Residences for the Disabled shall be subject to 3-4102(~~10~~ **11**) of this Code.
 - (bb) **Appeals. Appeals from any decision of the City Council with respect to a residences for the disabled may be directed to the appeal authority per Chapter 2, Article 3 in this Code.**
- (10) **Residential Facilities for Elderly Persons.** Residential Facilities for Elderly Persons shall be considered a permitted use in any residential zone and shall require ~~site plan~~ **final zoning** approval **by the City Council**. Upon application to establish a Residential Facility for Elderly Persons in any area where residential dwellings are allowed, the City ~~shall~~ **may** grant the requested permit ~~to~~ **for** the facility if the facility ~~is~~ 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) ~~Each Residential Facility for Elderly Persons is subject to state licensing procedures and 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.~~
 - (c) ~~The use granted and permitted by this section is nontransferable and terminates if the structure is devoted to a use other than a residential facility for elderly persons or if the structure fails to comply with the ordinances adopted under this section.~~
 - (d) **Discrimination against elderly persons and against Residential Facilities for Elderly Persons shall be prohibited.**
 - (e) ~~The facility shall comply with all applicable state and federal laws.~~
 - (f) **Persons occupying a Residential Facility for Elderly Persons exceeding two (2) unrelated 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 ~~four (4)~~ eight (8) unrelated individuals living in a family type environment consistent with 10-102(12); 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:**
 - A. **No person who is being treated for alcoholism or drug abuse may be placed in a Residential Facility for Elderly Persons; and**
 - (vi) **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.**
 - (g) **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 because a fee is charged for food or for actual and necessary costs of operation and maintenance of the facility.**

- (h) **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.**
- (i) **Zoning Approval. The owner of any group home shall obtain final zoning approval from the City Council in accordance with 3-4102(11) prior to occupancy and prior to obtaining a permit and in all cases shall comply with the following requirements:**
- (j) **The facility shall comply with all applicable state and federal laws, ~~including laws related to access.~~**
- (k) **Owners of Residential Facilities for Elderly Persons shall be required to obtain permits that verify compliance with the same building, safety, and health regulations ~~(including accessibility requirements for group homes as defined by building code)~~ as are applicable in the same zone to similar uses that are not Residential Facilities for Elderly Persons; and**
- (l) **Prior to obtaining a permit and occupancy all group homes require final site plan approval from the City Council; and**
- (m) **Safety Plan. To ensure the safety of the residents and surrounding community, the facility operators shall develop of safety plan demonstrating adequate supervision and control of the residents.**
 - (i) **The safety plan shall be reviewed by law enforcement officials and shall be approved by the City Council.**
 - (ii) **The safety plan shall address the following:**
 - A. **Parking and circulation plan.**
 - B. **Security and surveillance operation.**
 - C. **Testing procedures and operations.**
 - D. **Visitation hours.**
- (n) **Residential Character. Residential Facilities for Elderly Persons 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) **A Residential Facility for Elderly Persons 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, ~~which includes being fully handicap accessible,~~ without structural or landscaping alterations that would change the structure's residential character.**
 - A. **A site plan must be submitted showing any alteration of the structure and landscaping and must be approved by the City Council before a permit is issued.**
 - B. **Any new structure constructed for use as a Residential Facility for Elderly Persons shall be of a size, scale and design that is in harmony with other residential homes and residential uses in the neighborhood and subdivision.**
 - C. **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 four off-street parking stalls shall be provided to serve the needs of residents, visitors and staff members and, at minimum, there shall be at least 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.**

- A. **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.**
- (o) ~~A Residential Facility for Elderly Persons shall:~~
 - (i) ~~Require site plan approval by the City Council; and~~
 - (ii) ~~Meet each building, safety, land use, and health ordinance applicable to similar dwellings; and~~
 - (iii) ~~Provide adequate personal space for each resident as follows:~~
 - A. ~~A residential facility for the elderly shall ensure that each bedroom space in the facility has a floor area, exclusive of closet space, of at least 74 square feet for the initial occupant and 50 square feet for each other occupant in the space.~~
 - (iv) ~~Provide adequate off-street parking spaces equal to one (1) parking space for each person within the facility including any person, staff or resident over the age of sixteen (16) years of age and a minimum of 0.5 parking spaces per persons within the facility for visitors.~~
 - A. ~~The facility operator shall provide 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; and~~
 - (v) ~~Be capable of use as a residential facility for elderly persons which includes being fully handicap accessible without structural or landscaping alterations that would change the structure's residential character.~~
 - A. ~~A site plan must be submitted showing any alteration of the structure or landscaping and must be approved by the City Council before a permit can be issued.~~
 - (vi) ~~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;~~
 - (vii) ~~Be consistent with any existing, applicable land use ordinance affecting the desired location; and~~
 - (viii) ~~Be occupied on a 24-hour per day basis by four (4) or fewer unrelated elderly persons in a family type arrangement or four or fewer unrelated elderly persons in a live-in care provider arrangement.~~
 - (ix) ~~Include a six (6) foot sight obscuring fence along the side and rear yards that is constructed in a manner consistent with the residential character of the neighborhood. Such fencing shall be constructed and maintained in accordance with Highland City ordinances.~~
 - A. ~~A chain link fence with slats shall not be considered sight obscuring for the purposes of this section.~~
 - B. ~~The Planning Commission shall approve the style and design of any fencing; and~~
 - (x) **Group Home Separation.** A Residential Facility for Elderly Persons shall not be established within **three quarters 3/4 of a one (1)** mile of another existing ~~residential facility for elderly persons, Residential Facility for Persons with a Disability, a juvenile group home, or transitional victim home~~ **or Residential Rehabilitation and Treatment Facility for the Disabled** as measured in a

straight line between the closest property lines of any group home listed above.

- (xi) ~~Comply with all applicable State and Federal laws.~~
- (p) ~~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 because a fee is charged for food or for actual and necessary costs of operation and maintenance of the facility.~~
- (q) ~~For purposes of this section:~~
 - (i) ~~No person who is being treated for alcoholism or drug abuse may be placed in a residential facility for elderly persons; and~~
 - (ii) ~~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.~~
- (r) ~~The use granted and permitted by this section is nontransferable and terminates if the structure is devoted to a use other than as a residential facility for elderly persons or if the structure fails to comply with applicable health, safety, and building codes.~~
- (s) ~~Discrimination against elderly persons and against residential facilities for elderly persons shall be prohibited.~~
- (t) **Licensing Requirements. Each Residential Facility for Elderly Persons which is subject to state licensing procedures, and 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.**
- (u) ~~All Residences for the Elderly shall be subject to 3-4102(10) of this Code.~~
- (v) **Termination.** Any permit granted under this subsection is nontransferable and shall terminate if the **person or entity applying for the permit ceases to own or operate the facility**, structure is devoted to another use or if it at any time fails to comply with any applicable requirement as defined in this Code.
- (w) **Appeals. Appeals from any decision of the City Council with respect to a Residential Facility for Elderly Persons may be directed to the appeal authority per Chapter 2, Article 3 in this Code.**

- (11) Procedure for **Initial Approval and Annual Review of a Residence for the Disabled, Residential Rehabilitation and Treatment Facility for the Disabled and Residence Residential Facilities for the Elderly Persons and Residence for the Disabled. All Residences for the Disabled, Residential Rehabilitation and Treatment Facilities for the Disabled and Residential Facilities for Elderly Persons shall first obtain final zoning approval from the City Council prior to receiving a 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-516-520 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 hears the application for a Residence for the Disabled, Residential Rehabilitation and Treatment Facility for Disabled and Residential Facility for Elderly Persons, 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 line of the proposed facility.**

- (c) Upon review of an application for a new **Residence for the Disabled, Residential Rehabilitation and Treatment Facility for the Disabled and Residential Facility for Elderly Persons** ~~Residence for the Elderly and/or Residence for the Disabled~~ and upon determination of compliance with all of the above requirements, the application may be approved.
 - (i) However, where in the opinion of the City Council the information provided by the applicant is insufficient for the ~~Residence for the Elderly and~~ **Residence for the Disabled, Residential Rehabilitation and Treatment Facility for the Disabled or Residential Facility for Elderly Persons** in compliance with 3-4102(8), ~~and 3-4102(9)~~ **and 3-4102(10)**, the application may be denied.
- (d) **If approved, the City shall provide written notice of approval for the proposed Residence for the Disabled, Residential Rehabilitation and Treatment Facility for Disabled and Residence for Elderly Persons** ~~Residence for the Elderly and/or Residence for the Disabled~~ **to all citizens living within 500 feet of the proposed Residence for the Elderly and Residence for the Disabled as measured in a straight line between the closest property line of the proposed facility.**
 - (i) If denied, the City shall provide the applicant written notice of the decision to deny the application.
 - (ii) The notice of approval or denial shall be in addition to the notice required in 3-4102(11)(b) and shall be provided by mail within one week (seven days) of the decision.
- (e) Upon receipt of approval from the City Council, the owner/operator of the **Residence for the Disabled, Residential Rehabilitation and Treatment Facility for Disabled and Residence for Elderly Persons** ~~Residence for the Elderly and/or Residence for the Disabled~~ shall be eligible to secure an annual permit from the City. Said 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 3-4102(9)~~ **and 3-4102(10)** 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 City Council hearing the renewal application, the City shall provide written notification by mail to all citizens living within or owning property within 500 feet of the existing facility.
 - (iii) A finding by the City Council that during the preceding year that the **Residence for the Disabled, Residential Rehabilitation and Treatment Facility for Disabled and Residence for Elderly Persons** ~~Residence for the Elderly and/or Residence for the Disabled~~ operated under compliance with the terms of 3-4102(8) or 3-4102(9) and any other conditions of approval.
- (f) A permit to operate a **Residence for the Disabled, Residential Rehabilitation and Treatment Facility for Disabled and Residence for Elderly Persons** ~~Residence for the Elderly and/or Residence for the Disabled~~ shall be:
 - (i) Non-transferable and shall terminate if the **person or entity that applied for the permit ceases to operate or own the facility**, structure is devoted to a use other than ~~a~~ **that specifically approved by the City Council**, ~~Residence for the Elderly and/or Residence for the Disabled~~ or the structure fails to comply with all building, safety, health and zoning requirements of Highland City.

- (ii) Shall terminate if at any time it is demonstrated to the City Council that:
 - A. The structure **or operation** fails to comply with the requirements of 3-4102(8), ~~and 3-4102(9)~~ **and 3-4102(10)**; or
 - B. ~~The program has failed to operate in accordance with the requirements of 3-4102(8), and 3-4102(9).~~

(g) **Appeals. Appeals from any decision of the City Council with respect to a Residence for the Disabled, Residential Rehabilitation and Treatment Facility for Disabled or Residence for the Elderly may be directed to the appeal authority per Chapter 2, Article 3 in this Code.**

3-4108: Conditional Uses. (Amended 2/18/97, 4/21/98, 11/3/98, 1/15/02, 6/17/03, 12/2/03, 3/2/04, 6/15/04, 12/2/2008) The following buildings, structures and uses of land 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:

- (1) Public schools and school grounds.
- (2) Churches, not including temporary facilities.
- (3) Libraries, museums, art galleries.
- (4) Nonprofit country clubs used for recreational purposes as defined in this Section by members of the club. A non-profit country club shall be limited to golf. Preparation and serving of food and/or beverages associated with golf, on property specifically associated for these uses may be approved with Conditional Use. Sale of equipment and/or supplies may be approved with the conditional Use. Preparation and serving of food and/or beverages and the sale of equipment and/or supplies shall be a secondary and ancillary use to golf. Non-profit country clubs shall have memberships and regular periodic dues associated with the country club. A minimum of 50% of the proposed property associated with a non-profit country club shall be landscaped. The proposed landscaping area shall be limited to 15% non-living material. The applicant shall submit annually to Highland City a copy of the certified annual report required by the Utah Department of Commerce.
 - (a) Applicants desiring to obtain a nonprofit country club conditional use shall provide the following information when applying for a Conditional Use:
 - (i) Legal evidence and documentation of their non-profit corporation status with the Utah State Department of Commerce; and
 - (ii) Two (2) copies of detailed Architectural elevations (1/8" scale) for any structures and associated site plan (1" = 20' scale); and
 - (iii) Two (2) copies of a detailed Landscaping Plan (1" = 20' scale).
- (5) ~~Residential facilities for handicapped persons sess sections 10-102 (24), (52); provided that the building to be used for such purposes and the use thereof conform to the following requirements:~~
 - (a) ~~The facility conforms to all applicable health, building and safety codes;~~
 - (b) ~~The facility is capable of use without structural or landscaping alterations that would change the structure's residential character;~~
 - (c) ~~The facility is located not closer than three-quarters of a mile from any other existing residential facility for handicapped persons;~~
 - (d) ~~Not more than two handicapped persons reside at the facility;~~
 - (e) ~~The operator of the facility provides assurance satisfactory to the Planning Commission that the residents of the facility will be adequately supervised on a 24-hour basis;~~
 - (f) ~~The facility shall not house any person being treated for alcoholism or drug abuse;~~

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- (g) ~~The facility shall not house any person who is violent;~~
- (h) ~~Placement of any person in such facility shall be voluntary and may not be a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution;~~
- (i) ~~Such other conditions as the Planning Commission may require as part of the conditional use approval process.~~
- (6) ~~Residential facilities for elderly persons see section 10-102(24), providing that the building to be used for such purpose and the use thereof conform to the following requirements:~~
 - (a) ~~The building conforms to all applicable health, safety, zoning, and building codes;~~
 - (b) ~~The building is capable of use as a residential facility for elderly persons without structural or landscaping alterations that would change the structure's residential character;~~
 - (c) ~~The facility is located not closer than three-quarters of a mile from any other residential facility for elderly persons or residential facility for handicapped persons.~~
 - (d) ~~Not more than four elderly persons reside at the facility;~~
 - (e) ~~The facility shall be owned by one of the residents or an immediate family member of one of the residents for which title has been placed in trust for a resident;~~
 - (f) ~~The facility shall not house any person being treated for alcoholism or drug abuse;~~
 - (g) ~~Placement of any person in such a facility shall be voluntary and may not be part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution;~~
 - (h) ~~Such other conditions as the Planning Commission may require as part of the conditional use approval process.~~
- (7) ~~Any conditional use permit granted under subsections (5) or (6) is nontransferable and shall terminate if the structure is devoted to another use or if it at any time fails to comply with applicable health, safety or building codes.~~
- (5) Churches, public buildings and grounds, including storage yards and repair shops.
- (6) Permanent public maintenance buildings that may include storage yards, storage structures and repair shops.
- (7) Public parks and open space including appurtenances primarily associated with a public park as follows: playground equipment, pavilions, restrooms, temporary restrooms, benches, tables, outdoor athletic courts, outdoor athletic fields, outdoor sand pits, permanent barbeque pits/stands, and permanent accessory buildings associated with the maintenance of those grounds (if smaller than 1800 square feet (footprint), two (2) stories maximum), concessions (if associated with a sport park and attached to a restroom facility), and temporary facilities associated with temporary City held events.
- (8) Communications and other towers, masts or towers.
- (9) Basement Apartments for residential property (see Chapter 4, Conditional Use Procedure in this Code).
- (10) All Conditional Uses shall landscape 35% of their site and comply with parking requirements as determined by the Planning Commission.
- (11) Model Homes used for the sale of homes/lots within a subdivision in Highland, provided that the model home thereof conforms to the following requirements:
 - (a) Model home is used for lot/home sales within the city.
 - (b) The maximum number of personnel shall not exceed three at any given time.
 - (c) Off street parking shall be provided such that it does not impede, disrupt, or cause a hazard to the flow of traffic or pedestrians.
 - (d) No model home use shall exceed two years.
 - (e) Outdoor lighting shall be limited to outdoor and landscape lighting normally permitted in a residential setting limited to the hours of dusk to 9:00 p.m.

- (f) Signage shall be regulated by existing sign ordinance.
 - (g) A model home shall operate only between the hours of 7:00 a.m. To 9:00 p.m. Monday through Saturday.
 - (h) Garages used as sales office shall be converted back before occupancy is permitted.
 - (i) All homes permitted under this section shall have a final inspection prior to conversion as residential use.
 - (j) All pre-existing use prior to January 15, 2002 shall have six months to come into compliance.
- (12) Drilling wells.

3-4202: Permitted Uses. (Amended 2/18/97, 7/15/08)

The following buildings, structures, and uses of land shall be permitted in the R-1-20 Zone upon compliance with requirements set forth in this Code:

- (1) Single-family dwellings, conventional construction, which include a garage of sufficient size for storage of two automobiles (see 10-102(16) for definition of Dwelling).
- (2) Accessory uses such as storage buildings, private garages, carports, noncommercial greenhouses, and swimming pools.
- (3) Public utility lines and subject to 5-114(6).
- (4) Household pets.
- (5) Fences, walls, hedges.
- (6) Gardens, fruit trees.
- (7) Keeping of animals subject to the following requirements: Please refer to Section 3-4102(7) in this Code.
- (8) **Residences for persons with a disability; please refer to Section 3-4102(8) in this Code.**
- (9) **Residential Rehabilitation and Treatment Facilities for the Disabled; please refer to Section 3-4102(9) in this Code.**
- (10) **Residences facilities for elderly persons; please refer to Section 3-4102(10) in this Code.**

3-4208: Conditional Uses. (Amended 2/18/97, 4/21/98, 11/3/98, 1/15/02, 6/17/03, 12/2/03, 3/2/04, 6/15/04, 6/15/04, 11/1/05, 12/2/08) The following buildings, structures and uses of land 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:

- (1) Public schools and school grounds.
- (2) Churches, church grounds, and accessory buildings associated with the maintenance of those grounds, not including temporary facilities.
- (3) Libraries, museums, art galleries.
- (4) Nonprofit country clubs used for recreational purposes as defined in this Section by members of the club. A non-profit country club shall be limited to golf. Preparation and serving of food and/or beverages associated with golf, on property specifically associated for these uses may be approved with Conditional Use. Sale of equipment and/or supplies may be approved with the conditional Use. Preparation and serving of food and/or beverages and the sale of equipment and/or supplies shall be a secondary and ancillary use to golf. Non-profit country clubs shall have memberships and regular periodic dues associated with the country club. A minimum of 50% of the proposed property associated

with a non-profit country club shall be landscaped. The proposed landscaping area shall be limited to 15% non-living material. The applicant shall submit annually to Highland City a copy of the certified annual report required by the Utah Department of Commerce.

- (a) Applicants desiring to obtain a nonprofit country club conditional use shall provide the following information when applying for a Conditional Use:
 - (i) Legal evidence and documentation of their non-profit corporation status with the Utah State Department of Commerce; and
 - (ii) Two (2) copies of detailed Architectural elevations (1/8" scale) for any structures and associated site plan (1" = 20' scale); and
 - (iii) Two (2) copies of a detailed Landscaping Plan (1" = 20' scale).
- (5) ~~Residential facilities for handicapped persons see sections 10-102 (24), (52); provided that the building to be used for such purposes and the use thereof conform to the following requirements:~~
 - (a) ~~The facility conforms to all applicable health, building and safety codes;~~
 - (b) ~~The facility is capable of use without structural or landscaping alterations that would change the structure's residential character;~~
 - (c) ~~The facility is located not closer than three-quarters of a mile from any other existing residential facility for handicapped persons;~~
 - (d) ~~Not more than two handicapped persons reside at the facility;~~
 - (e) ~~The operator of the facility provides assurance satisfactory to the Planning Commission that the residents of the facility will be adequately supervised on a 24-hour basis;~~
 - (f) ~~The facility shall not house any person being treated for alcoholism or drug abuse;~~
 - (g) ~~The facility shall not house any person who is violent;~~
 - (h) ~~Placement of any person in such facility shall be voluntary and may not be a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution;~~
 - (i) ~~Such other conditions as the Planning Commission may require as part of the conditional use approval process.~~
- (6) ~~Residential facilities for elderly persons see section 10-102(24), providing that the building to be used for such purpose and the use thereof conform to the following requirements:~~
 - (a) ~~The building conforms to all applicable health, safety, zoning, and building codes;~~
 - (b) ~~The building is capable of use as a residential facility for elderly persons without structural or landscaping alterations that would change the structure's residential character;~~
 - (c) ~~The facility is located not closer than three-quarters of a mile from any other residential facility for elderly persons or residential facility for handicapped persons.~~
 - (d) ~~Not more than four elderly persons reside at the facility;~~
 - (e) ~~The facility shall be owned by one of the residents or an immediate family member of one of the residents for which title has been placed in trust for a resident;~~
 - (f) ~~The facility shall not house any person being treated for alcoholism or drug abuse;~~
 - (g) ~~Placement of any person in such a facility shall be voluntary and may not be part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution;~~
 - (h) ~~Such other conditions as the Planning Commission may require as part of the conditional use approval process.~~
- (7) ~~Any conditional use permit granted under subsections (5) or (6) is nontransferable and shall terminate if the structure is devoted to another use or if it at any time fails to comply with applicable health, safety or building codes.~~
- (5) Permanent public maintenance buildings that may include storage yards, storage

- structures and repair shops.
- (6) Public parks and open space including appurtenances primarily associated with a public park as follows: playground equipment, pavilions, restrooms, temporary restrooms, benches, tables, outdoor athletic courts, outdoor athletic fields, outdoor sand pits, permanent barbeque pits/stands, and permanent accessory buildings associated with the maintenance of those grounds (if smaller than 1800 square feet (footprint), two (2) stories maximum), concessions (if associated with a sport park and attached to a restroom facility), and temporary facilities associated with temporary City held events.
- (7) Communications and other towers, masts or towers.
- (8) All Conditional Uses shall landscape 35% of their site and comply with parking requirements as determined by the Planning Commission.
- (9) Model Homes used for the sale of homes/lots within a subdivision in Highland, provided that the model home thereof conforms to the following requirements:
 - (a) Model home is used for lot/home sales within the city.
 - (b) The maximum number of personnel shall not exceed three at any given time.
 - (c) Off street parking shall be provided such that it does not impede, disrupt, or cause a hazard to the flow of traffic or pedestrians.
 - (d) No model home use shall exceed two years.
 - (e) Outdoor lighting shall be limited to outdoor and landscape lighting normally permitted in a residential setting limited to the hours of dusk to 9:00 p.m.
 - (f) Signage shall be regulated by existing sign ordinance.
 - (g) A model home shall operate only between the hours of 7:00 a.m. To 9:00 p.m. Monday through Saturday.
 - (h) Garages used as sales office shall be converted back before occupancy is permitted.
 - (i) All homes permitted under this section shall have a final inspection prior to conversion as residential use.
 - (j) All pre-existing use prior to January 15, 2002 shall have six months to come into compliance.
- (10) Drilling wells.
- (11) Basement Apartments for residential property (*see Chapter 4, Conditional Use Procedure in this Code*).

3-4102: Permitted Uses. (Amended: 2/18/97, 7/15/08, 12/2/08)

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

- (1) Single-family dwellings, conventional construction, which include a garage of sufficient size for storage of two automobiles (see 10-102(16) for definition of Dwelling).
- (2) Accessory uses such as storage buildings, private garages, carports, noncommercial greenhouses, and swimming pools.
- (3) Public utility lines and subject to 5-114(6).
- (4) Household pets.
- (5) Fences, walls, hedges.
- (6) Gardens, fruit trees, and field crops.
- (7) Keeping of animals subject to the following requirements:
 - (a) All large animals shall be provided shelter or cover. The shelter or cover where animals are normally fed, watered, and corralled shall be at minimum of one hundred (100) feet from any residence, except that it may be a minimum of seventy-five (75) feet from the animal owner's residence.
 - (b) All large animals shall be enclosed in a fence and no part of the enclosure shall be nearer than twenty (20) feet from any residential structure.
 - (c) No large animal shall be kept on a lot of less than 30,000 square feet in area. Two (2) large animals may be kept on a lot with a minimum area of 30,000 square feet and four (4) large animals may be kept on a lot with a minimum area of 40,000 square feet. One additional large animal may be kept on a lot for each 10,000 square feet of area of the lot in excess of 40,000 square feet. No small animal shall be kept on a lot of less than 20,000 square feet. No more than twelve (12) small animals shall be kept per 20,000 square feet of lot area. In determining the number of animals allowed on any lot based on its area, no proration of numbers shall be allowed within the area increments specified in this paragraph.
 - (d) Pigs shall not be kept on any lot.
- (8) **Residences for Persons with a Disability.** Residences for Persons with a Disability shall be a permitted use in all residential zones and requires final zoning approval by the City Council; and provided that the building and use comply with all of the requirements defined by this Section.
 - (a) "Disabled" or "Disability" 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 or has a history of having such an 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.
 - A. For Residential Rehabilitation and Treatment Facilities for the Disabled, referring to residential facilities for disabled persons treating 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) "Residences for Persons with a Disability" means a residence:
 - (i) in which more than one person with a disability resides; and
 - A. is licensed or certified by the State of Utah Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or
 - B. is licensed or certified by the State of Utah Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.
 - C. 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 Residences for Persons with a Disability shall be prohibited.
- (d) Residences for Persons with a Disability shall not be considered multi-family dwellings provided that:
 - (i) Any Residence for the Disabled 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.
- (e) Persons occupying a Residence for Persons with a Disability exceeding two (2) 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(8)(a); and
 - (i) The home shall not be occupied by more than four (4) unrelated persons when full time, 24 hour a day, professional staff is required to meet the physical, medical or emotional needs of the residents; 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); and
 - (iii) The owner/operator of such facilities shall provide adequate personal space for each resident.
 - (iv) Any Residence for the Disabled shall be occupied only by individuals who are considered disabled per 3-4102(8)(a) (*excluding staff members*).
- (f) Residency within a Residence 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 the disabled shall not include any persons referred by the Utah State Department of Corrections or any adult juvenile court.
- (g) Residency within a Residence 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 Residences for Persons with a Disability may provide training or treatment programs for residents with disabilities provided that such training or treatment programs are compliance with the State of Utah Department of Human Services standards as set forth in the Utah Administrative Code.

- (i) **Zoning Approval.** The owner of any group home shall obtain final zoning approval from the City Council in accordance with 3-4102(11) prior to occupancy and prior to obtaining a permit and in all cases shall comply with the following requirements:
- (j) The facility shall comply with all applicable state and federal laws.
- (k) Owners of Residences for Persons with a Disability shall be required to obtain 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
- (l) Prior to obtaining a permit and occupancy all group homes require final site plan approval from the City Council; and
- (m) **Safety Plan.** To ensure the safety of the residents and surrounding community, the facility operators shall develop of safety plan demonstrating adequate supervision and control of the residents.
 - (i) The safety plan shall be reviewed by law enforcement officials and shall be approved by the City Council.
 - (ii) The safety plan shall address the following:
 - A. Parking and circulation plan.
 - B. Security and surveillance operation.
 - C. Visitation hours.
- (n) **Residential Character.** Residences for Persons with a Disability 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) A Residence for Persons with a Disability 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.
 - A. A site plan must be submitted showing any alteration of the structure and landscaping and must be approved by the City Council before a permit is issued.
 - B. Any new structure constructed for use as a residential home for the disabled shall be of a size, scale and design that is in harmony with other residential homes and residential uses in the neighborhood and subdivision.
 - C. 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 four off-street parking stalls shall be provided to serve the needs of residents, visitors and staff members and, at minimum, there shall be at least 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.
 - A. 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.
- (o) **Group Home Separation.** Residences for Persons with a Disability shall be reasonably dispersed throughout Highland as follows:
 - (i) Residences for Persons with a Disability shall not be located within three quarters 3/4 of a mile from other Residences for Persons with a Disability or

other similar uses which shall include, but not be limited to, residential facilities for elderly persons, Residential Rehabilitation and Treatment Facilities as measured in a straight line between the closest property lines of any group home listed above.

- (p) **Licensing Requirements.** Owners of Residences for Persons with a Disability shall provide to the City a copy of the following documentation prior to occupying a Residence for Persons with a Disability:
 - (i) Verification of a State License to operate a Residence for Persons with a Disability; 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 to the facility falls within the definition of disability as set forth in this section and that the disability substantially limits the resident in a major life function; and
 - (iv) The facility operator shall provide 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; and
 - (v) Any additional required information, documentation, testing, or other data as required by this ordinance.
 - (vi) **Highland City business license.**
 - A. In the event that an owner of a Residence for Persons with a Disability 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 Residence for Persons with a Disability secure appropriate State licenses and/or approvals as are required herein.
 - B. 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.
- (q) **Enforcement.** The responsibility to license programs or entities that operate facilities for persons with a disability, 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.
- (r) **Inspections.** Representatives of the City shall have the right to enter onto the premises of a residential home for the disabled with reasonable prior notice to verify compliance with the provisions of this section.

- A. As part of the permit application for a residential home for the disabled, the applicant shall provide the City with written authorization to enter upon the premises of the residence.
 - B. Failure of the 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 permit holder in the amount of two-hundred fifty dollars (\$250) for the first violation, five hundred dollars (\$500) for the second violation, and one thousand dollars (\$1,000) for a third violation and every subsequent violation occurring in any twelve month period.
 - (s) **Termination.** Any permit granted under this subsection is nontransferable and shall terminate if the person or entity applying for the permit ceases to operate the facility, the structure is devoted to another use or if it at any time the facility fails to comply with any applicable requirement as defined in this Code.
 - (t) **Appeals.** Appeals from any decision of the City Council with respect to residences for the disabled may be directed to the appeal authority per Chapter 2, Article 3 in this Code.
- (9) Residential Rehabilitation and Treatment Facilities for the Disabled shall be a permitted use in all residential zones and requires zoning approval by the City Council; 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 Rehabilitation and Treatment Facilities for 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 Rehabilitation and Treatment Facilities for the Disabled" means a residence:
 - (i) in which more than one person with a disability resides; and
 - A. is licensed or certified by the State of Utah Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or
 - B. is licensed or certified by the State of Utah Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.
 - C. 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 Rehabilitation and Treatment Facilities for the Disabled shall be prohibited.

- (d) Residential Rehabilitation and Treatment Facilities for the Disabled shall not be considered multi-family dwellings provided that;
 - (i) Any Residential Rehabilitation and Treatment Facilities for 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:
 - A. 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);
 - B. 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
 - C. 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.
 - D. 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 residence for 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.
- (e) Persons occupying a Residential Rehabilitation and Treatment Facility for the Disabled exceeding two (2) 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) No more than four (4) unrelated persons may occupy a residence for persons with a disability that include full time, 24 hour a day, paid professional staff; or
 - (ii) The home shall not be occupied by more than four (4) unrelated individuals living in a family type environment consistent with 10-102(12); and
 - (iii) The owner/operator of such facilities shall provide adequate personal space for each resident.
- (f) Residency within a Residential Rehabilitation and Treatment Facility for the Disabled shall be strictly voluntary and not part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional facility, nor a condition of probation/parole. A Residential Rehabilitation and Treatment Facility for the Disabled residential facility for the disabled shall not include any persons referred by the Utah State Department of Corrections or any adult juvenile court.
- (g) Residency within a Residential Rehabilitation and Treatment Facility for the Disabled 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.
 - (i) The owner/operator of the facility shall conduct 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.
 - A. 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.
 - B. 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.
 - C. 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 Rehabilitation and Treatment Facilities for the Disabled 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) **Zoning Approval.** The owner of any group home shall obtain final zoning approval from the City Council in accordance with 3-4102(11) prior to occupancy and prior to obtaining a permit and in all cases shall comply with the following requirements:
- (j) The facility shall comply with all applicable state and federal laws.
- (k) Owners of Residential Rehabilitation and Treatment Facilities for the Disabled shall be required to obtain 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 Rehabilitation and Treatment Facilities for the Disabled; and
- (l) Prior to the initial occupancy of a Residential Rehabilitation and Treatment Facility for the Disabled and at least quarterly, the owner/operator of the facility shall certify that the individualized assessments have been performed on each resident and that each resident meets the requirements of this section.
- (m) Prior to obtaining a permit and occupancy all group homes require final site plan approval from the City Council; and
- (n) **Safety Plan.** To ensure the safety of the residents and surrounding community, the facility operators shall develop of safety plan demonstrating adequate supervision and control of the residents.
 - (i) The safety plan shall be reviewed by law enforcement officials and shall be approved by the City Council.
 - (ii) The safety plan shall address the following:
 - A. Parking and circulation plan.
 - B. Security and surveillance operation.
 - C. Testing procedures and operations.
 - D. Visitation hours.
- (o) **Residential Character.** Residential Rehabilitation and Treatment Facilities for the Disabled 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) A Residential Rehabilitation and Treatment Facility for Disabled 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.
 - A. A site plan must be submitted showing any alteration of the structure and landscaping and must be approved by the City Council before a permit is issued.
 - B. Any new structure constructed for use as a Residential Rehabilitation and Treatment Facility for Disabled shall be of a size, scale and design that is in harmony with other residential homes and residential uses in the neighborhood and subdivision.
 - C. 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 four off-street parking stalls shall be provided to serve the needs of residents, visitors and staff members and, at minimum, there shall be at least 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.
 - A. 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.
- (p) **Group Home Separation.** Residential Rehabilitation and Treatment Facilities for the Disabled shall be reasonably dispersed throughout Highland as follows:
 - (i) Residential Rehabilitation and Treatment Facilities for Disabled shall not be located within three quarters 3/4 of a mile from other Residential Rehabilitation and Treatment Facilities for the Disabled or other similar uses which shall include, but not be limited to, residential facilities for elderly persons and Residences for Persons with a Disability as measured in a straight line between the closest property lines of any group home listed above.; and
 - (ii) Owners of Residential Rehabilitation and Treatment Facilities for the Disabled that are located within 500 feet of a school, are required to provide, in accordance with rules established by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities:
 - A. A security plan satisfactory to local law enforcement authorities;
 - B. 24-hour supervision for residents; and
 - C. Other 24-hour security measures; and
- (q) **Licensing Requirements.** Owners of Residential Rehabilitation and Treatment Facilities for the Disabled shall provide to the City a copy of the following documentation prior to occupying a Residence for Persons with a Disability:
 - (i) Verification of a State License to operate a Residential Rehabilitation and Treatment Facility for Disabled; 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 to the facility falls within the definition of disability as set forth in this section and that the disability substantially limits the resident in a major life function; and
- (iv) The facility operator shall provide 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; and
- (v) Any additional required information, documentation, testing, or other data as required by this Section.

(vi) **Highland City business license.**

- A. In the event that an owner of a Residential Rehabilitation and Treatment Facility shall charge for services or care provided to residents of the home, 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 Residential Rehabilitation and Treatment Facility secure appropriate State licenses and/or approvals as are required herein.
- B. In the event that the applicant needs a business license in order to obtain the proper State licenses, 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.

(r) **Enforcement.** The responsibility to license programs or entities that operate facilities for persons with a disability, 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:

- (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.

(s) **Inspections.** Representatives of the City shall have the right to enter onto the premises of a residential home for the disabled at any time and with reasonable prior notice to verify compliance with the provisions of this section.

- (i) As part of the permit application for a residential home for the disabled, the applicant shall provide the City with written authorization to enter upon the premises of the residence at any time.
- (ii) Failure of the 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 permit holder in the amount of two-hundred fifty dollars (\$250) for the first violation, five hundred dollars (\$500) for the second violation, and one thousand dollars (\$1,000) for a third violation and every subsequent violation occurring in any twelve month period.

(t) No alcohol or controlled substance shall be allowed on the premises of the home. A first violation of this requirement shall result in a warning to the permit holder. A

second violation occurring within a twelve month period shall result in a fine of five hundred dollars (\$500) to the permit holder. A third violation occurring within a twelve month period shall result in the revocation of a permit to operate a residence for the disabled for the purpose of substance abuse and no permit shall be reissued to the permit holder (or principals of the permit holder if the permit is an entity) for a period of at least one year following such revocation. The City shall have the right to deny a permit to any individual or entity that has had more than one revocation of a permit to operate a residence for the disabled.

- (i) The permit holder shall be required to perform a hair follicle test, random urine analysis test, 24/7 sweat patch or by using some other proved and successful method on each potential resident before allowing such person to become an occupant in a Residential Rehabilitation and Treatment Facility.
 - A. The 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 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.
 - A. 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 permit holder shall maintain records of the initial testing results and the ongoing urinalysis test results and shall submit to the City a monthly report representing an accurate accounting of these tests.
 - A. The method and frequency of testing procedures must be included in a Policy and Procedures manual presented along with the application for a 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.
 - (u) **Termination.** Any permit granted under this subsection is nontransferable and shall terminate if the person or entity applying for the application ceases to operate the facility, the structure is devoted to another use or if it at any time the facility fails to comply with any applicable requirement as defined in this Code.
 - (v) All Residences for the Disabled shall be subject to 3-4102(11) of this Code.
 - (w) **Appeals.** Appeals from any decision of the City Council with respect to residences for the disabled may be directed to the appeal authority per Chapter 2, Article 3 in this Code.
- (10) **Residential Facilities for Elderly Persons.** Residential Facilities for Elderly Persons shall be considered a permitted use in any residential zone and shall require final zoning approval by the 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 permit for the facility 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) Persons occupying a Residential Facility for Elderly Persons exceeding two (2) unrelated 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); 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:
 - A. No person who is being treated for alcoholism or drug abuse may be placed in a Residential Facility for Elderly Persons; and
 - (vi) 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 because 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) **Zoning Approval.** The owner of any group home shall obtain final zoning approval from the City Council in accordance with 3-4102(11) prior to occupancy and prior to obtaining a permit and in all cases shall comply with the following requirements:
- (g) The facility shall comply with all applicable state and federal laws.
- (h) Owners of Residential Facilities for Elderly Persons shall be required to obtain 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 Elderly Persons; and
- (i) Prior to obtaining a permit and occupancy all group homes require final site plan approval from the City Council; and
- (j) **Safety Plan.** To ensure the safety of the residents and surrounding community, the facility operators shall develop of safety plan demonstrating adequate supervision and control of the residents.
 - (i) The safety plan shall be reviewed by law enforcement officials and shall be approved by the City Council.
 - (ii) The safety plan shall address the following:
 - A. Parking and circulation plan.
 - B. Security and surveillance operation.
 - C. Testing procedures and operations.
 - D. Visitation hours.
- (k) **Residential Character.** Residential Facilities for Elderly Persons 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) A Residential Facility for Elderly Persons 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.
 - A. A site plan must be submitted showing any alteration of the structure and landscaping and must be approved by the City Council before a permit is issued.
 - B. Any new structure constructed for use as a Residential Facility for Elderly Persons shall be of a size, scale and design that is in harmony with other residential homes and residential uses in the neighborhood and subdivision.
 - C. 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 four off-street parking stalls shall be provided to serve the needs of residents, visitors and staff members and, at minimum, there shall be at least 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.
 - A. 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.
- (iii) **Group Home Separation.** A Residential Facility for Elderly Persons shall not be established within three quarters 3/4 of a mile of another existing Residential Facility for Persons with a Disability or Residential Rehabilitation and Treatment Facility for the Disabled as measured in a straight line between the closest property lines of any group home listed above.
- (l) **Licensing Requirements.** Each Residential Facility for Elderly Persons 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.
- (m) **Termination.** Any permit granted under this subsection is nontransferable and shall terminate if the person or entity applying for the permit ceases to own or operate the facility, 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 from any decision of the City Council with respect to a Residential Facility for Elderly Persons may be directed to the appeal authority per Chapter 2, Article 3 in this Code.
- (11) **Procedure for Initial Approval and Annual Review of a Residence for the Disabled, Residential Rehabilitation and Treatment Facility for the Disabled and Residential Facilities for Elderly Persons.** All Residences for the Disabled, Residential Rehabilitation and Treatment Facilities for the Disabled and Residential Facilities for Elderly Persons shall first obtain final zoning approval from the City Council prior to receiving a 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-516-520 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 hears the application for a Residence for the Disabled, Residential Rehabilitation and Treatment Facility for Disabled and Residential Facility for Elderly Persons, 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 line of the proposed facility.
- (c) Upon review of an application for a new Residence for the Disabled, Residential Rehabilitation and Treatment Facility for the Disabled and Residential Facility for Elderly Persons and upon determination of compliance with all of the above requirements, the application may be approved.
 - (i) However, where in the opinion of the City Council the information provided by the applicant is insufficient for the Residence for the Disabled, Residential Rehabilitation and Treatment Facility for the Disabled or Residential Facility for Elderly Persons in compliance with 3-4102(8), 3-4102(9) and 3-4102(10), the application may be denied.
- (d) If approved, the City shall provide written notice of approval for the proposed Residence for the Disabled, Residential Rehabilitation and Treatment Facility for Disabled and Residence for Elderly Persons to all citizens living within 500 feet of the proposed Residence for the Elderly and Residence for the Disabled as measured in a straight line between the closest property line of the proposed facility.
 - (i) If denied, the City shall provide the applicant written notice of the decision to deny the application.
 - (ii) The notice of approval or denial shall be in addition to the notice required in 3-4102(11)(b) and shall be provided by mail within one week (seven days) of the decision.
- (e) Upon receipt of approval from the City Council, the owner/operator of the Residence for the Disabled, Residential Rehabilitation and Treatment Facility for Disabled and Residence for Elderly Persons shall be eligible to secure an annual permit from the City. Said 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), 3-4102(9) and 3-4102(10) 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 City Council hearing the renewal application, the City shall provide written notification by mail to all citizens living within or owning property within 500 feet of the existing facility.
 - (iii) A finding by the City Council that during the preceding year that the Residence for the Disabled, Residential Rehabilitation and Treatment Facility for Disabled and Residence for Elderly Persons operated under compliance with the terms of 3-4102(8) or 3-4102(9) and any other conditions of approval.
- (f) A permit to operate a Residence for the Disabled, Residential Rehabilitation and Treatment Facility for Disabled and Residence for Elderly Persons shall be:
 - (i) Non-transferable and shall terminate if the person or entity that applied for the permit ceases to operate or own the facility, structure is devoted to a use other than that specifically approved by the City Council, or the structure fails to comply with all building, safety, health and zoning requirements of Highland City.

- (ii) Shall terminate if at any time it is demonstrated to the City Council that:
 - A. The structure or operation fails to comply with the requirements of 3-4102(8), 3-4102(9) and 3-4102(10); or
- (g) Appeals. Appeals from any decision of the City Council with respect to a Residence for the Disabled, Residential Rehabilitation and Treatment Facility for Disabled or Residence for the Elderly may be directed to the appeal authority per Chapter 2, Article 3 in this Code.

3-4108: Conditional Uses. (Amended 2/18/97, 4/21/98, 11/3/98, 1/15/02, 6/17/03, 12/2/03, 3/2/04, 6/15/04, 12/2/2008) The following buildings, structures and uses of land 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:

- (1) Public schools and school grounds.
- (2) Churches, not including temporary facilities.
- (3) Libraries, museums, art galleries.
- (4) Nonprofit country clubs used for recreational purposes as defined in this Section by members of the club. A non-profit country club shall be limited to golf. Preparation and serving of food and/or beverages associated with golf, on property specifically associated for these uses may be approved with Conditional Use. Sale of equipment and/or supplies may be approved with the conditional Use. Preparation and serving of food and/or beverages and the sale of equipment and/or supplies shall be a secondary and ancillary use to golf. Non-profit country clubs shall have memberships and regular periodic dues associated with the country club. A minimum of 50% of the proposed property associated with a non-profit country club shall be landscaped. The proposed landscaping area shall be limited to 15% non-living material. The applicant shall submit annually to Highland City a copy of the certified annual report required by the Utah Department of Commerce.
 - (a) Applicants desiring to obtain a nonprofit country club conditional use shall provide the following information when applying for a Conditional Use:
 - (i) Legal evidence and documentation of their non-profit corporation status with the Utah State Department of Commerce; and
 - (ii) Two (2) copies of detailed Architectural elevations (1/8" scale) for any structures and associated site plan (1" = 20' scale); and
 - (iii) Two (2) copies of a detailed Landscaping Plan (1" = 20' scale).
- (5) Churches, public buildings and grounds, including storage yards and repair shops.
- (6) Permanent public maintenance buildings that may include storage yards, storage structures and repair shops.
- (7) Public parks and open space including appurtenances primarily associated with a public park as follows: playground equipment, pavilions, restrooms, temporary restrooms, benches, tables, outdoor athletic courts, outdoor athletic fields, outdoor sand pits, permanent barbeque pits/stands, and permanent accessory buildings associated with the maintenance of those grounds (if smaller than 1800 square feet (footprint), two (2) stories maximum), concessions (if associated with a sport park and attached to a restroom facility), and temporary facilities associated with temporary City held events.
- (8) Communications and other towers, masts or towers.
- (9) Basement Apartments for residential property (see Chapter 4, Conditional Use Procedure in this Code).
- (10) All Conditional Uses shall landscape 35% of their site and comply with parking requirements as determined by the Planning Commission.

- (11) Model Homes used for the sale of homes/lots within a subdivision in Highland, provided that the model home thereof conforms to the following requirements:
 - (a) Model home is used for lot/home sales within the city.
 - (b) The maximum number of personnel shall not exceed three at any given time.
 - (c) Off street parking shall be provided such that it does not impede, disrupt, or cause a hazard to the flow of traffic or pedestrians.
 - (d) No model home use shall exceed two years.
 - (e) Outdoor lighting shall be limited to outdoor and landscape lighting normally permitted in a residential setting limited to the hours of dusk to 9:00 p.m.
 - (f) Signage shall be regulated by existing sign ordinance.
 - (g) A model home shall operate only between the hours of 7:00 a.m. To 9:00 p.m. Monday through Saturday.
 - (h) Garages used as sales office shall be converted back before occupancy is permitted.
 - (i) All homes permitted under this section shall have a final inspection prior to conversion as residential use.
 - (j) All pre-existing use prior to January 15, 2002 shall have six months to come into compliance.
- (12) Drilling wells.

3-4202: Permitted Uses. (Amended 2/18/97, 7/15/08)

The following buildings, structures, and uses of land shall be permitted in the R-1-20 Zone upon compliance with requirements set forth in this Code:

- (1) Single-family dwellings, conventional construction, which include a garage of sufficient size for storage of two automobiles (*see 10-102(16) for definition of Dwelling*).
- (2) Accessory uses such as storage buildings, private garages, carports, noncommercial greenhouses, and swimming pools.
- (3) Public utility lines and subject to 5-114(6).
- (4) Household pets.
- (5) Fences, walls, hedges.
- (6) Gardens, fruit trees.
- (7) Keeping of animals subject to the following requirements: Please refer to Section 3-4102(7) in this Code.
- (8) Residences for persons with a disability; please refer to Section 3-4102(8) in this Code.
- (9) Residential Rehabilitation and Treatment Facilities for the Disabled; please refer to Section 3-4102(9) in this Code.
- (10) Residences facilities for elderly persons; please refer to Section 3-4102(10) in this Code.

3-4208: Conditional Uses. (Amended 2/18/97, 4/21/98, 11/3/98, 1/15/02, 6/17/03, 12/2/03, 3/2/04, 6/15/04, 6/15/04, 11/1/05, 12/2/08) The following buildings, structures and uses of land 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:

- (1) Public schools and school grounds.
- (2) Churches, church grounds, and accessory buildings associated with the maintenance of those grounds, not including temporary facilities.

- (3) Libraries, museums, art galleries.
- (4) Nonprofit country clubs used for recreational purposes as defined in this Section by members of the club. A non-profit country club shall be limited to golf. Preparation and serving of food and/or beverages associated with golf, on property specifically associated for these uses may be approved with Conditional Use. Sale of equipment and/or supplies may be approved with the conditional Use. Preparation and serving of food and/or beverages and the sale of equipment and/or supplies shall be a secondary and ancillary use to golf. Non-profit country clubs shall have memberships and regular periodic dues associated with the country club. A minimum of 50% of the proposed property associated with a non-profit country club shall be landscaped. The proposed landscaping area shall be limited to 15% non-living material. The applicant shall submit annually to Highland City a copy of the certified annual report required by the Utah Department of Commerce.
 - (a) Applicants desiring to obtain a nonprofit country club conditional use shall provide the following information when applying for a Conditional Use:
 - (i) Legal evidence and documentation of their non-profit corporation status with the Utah State Department of Commerce; and
 - (ii) Two (2) copies of detailed Architectural elevations (1/8" scale) for any structures and associated site plan (1" = 20' scale); and
 - (iii) Two (2) copies of a detailed Landscaping Plan (1" = 20' scale).
- (5) Permanent public maintenance buildings that may include storage yards, storage structures and repair shops.
- (6) Public parks and open space including appurtenances primarily associated with a public park as follows: playground equipment, pavilions, restrooms, temporary restrooms, benches, tables, outdoor athletic courts, outdoor athletic fields, outdoor sand pits, permanent barbeque pits/stands, and permanent accessory buildings associated with the maintenance of those grounds (if smaller than 1800 square feet (footprint), two (2) stories maximum), concessions (if associated with a sport park and attached to a restroom facility), and temporary facilities associated with temporary City held events.
- (7) Communications and other towers, masts or towers.
- (8) All Conditional Uses shall landscape 35% of their site and comply with parking requirements as determined by the Planning Commission.
- (9) Model Homes used for the sale of homes/lots within a subdivision in Highland, provided that the model home thereof conforms to the following requirements:
 - (a) Model home is used for lot/home sales within the city.
 - (b) The maximum number of personnel shall not exceed three at any given time.
 - (c) Off street parking shall be provided such that it does not impede, disrupt, or cause a hazard to the flow of traffic or pedestrians.
 - (d) No model home use shall exceed two years.
 - (e) Outdoor lighting shall be limited to outdoor and landscape lighting normally permitted in a residential setting limited to the hours of dusk to 9:00 p.m.
 - (f) Signage shall be regulated by existing sign ordinance.
 - (g) A model home shall operate only between the hours of 7:00 a.m. To 9:00 p.m. Monday through Saturday.
 - (h) Garages used as sales office shall be converted back before occupancy is permitted.
 - (i) All homes permitted under this section shall have a final inspection prior to conversion as residential use.
 - (j) All pre-existing use prior to January 15, 2002 shall have six months to come into

compliance.

- (10) Drilling wells.
- (11) Basement Apartments for residential property (*see Chapter 4, Conditional Use Procedure in this Code*).

Proposed Ordinance Clean without Edits

ATTACHMENT

Proposed Action:

Provide staff with any additional comments, questions, amendments and/or recommendations that may be applied prior to a public hearing that will be required prior to the Planning Commission recommendation to the City Council.

Legal Authority:

Chapter 9, Amendments to Title and Zone Map, Highland City Development Code
10-9a-501-503; Chapter 10-9a, Land Use Development and Management Act, Utah Code

Fiscal Impact:

N/A

List of Attachments:

- Proposed ordinance showing edits
- Proposed ordinance clean, without edits
- “Timeless Design Principles for Town Centers” and “Main Street Design Standards and Specifications” attached separately
- Existing ordinance (please refer to your copy of the Development Code)

Lynn Ritchie
Brian Braithwaite
Tom Butler

Larry Mendenhall

Kathryn Schramm
Scott Smith
Abe Day
Roger Dixon
Tim Irwin

Christopher Kemp
Steve Rock

Jay Roundy
Kelly Sobotka

Melissa Wright

Staff per Council/PC Work Session

DID NOT MAKE ELECTRONIC EDITS

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- Lynn Ritchie
- Brian Braithwaite
- Tom Butler
- Larry Mendenhall
- Kathryn Schramm
- Scott Smith
- Abe Day
- Roger Dixon
- Tim Irwin
- Christopher Kemp
- Steve Rock
- Jay Roundy
- Kelly Sobotka
- Melissa Wright

Staff per Council/PC Work Session

3/31/2010ARTICLE 4.7

Article 4.7 Adopted: 9/22/99, Amended 4/7/09

TOWN CENTER OVERLAY

- 3-4701: Purpose
- 3-4702: Definitions
- 3-4703: Land Area
- 3-4704: Density
- 3-4705: Permitted Uses
- 3-4706: Conditional Uses
- 3-4707: Prohibited Uses
- 3-4708: Change of Use
- 3-4709: Non-Conforming Structures and Uses
- 3-4710: Lot Coverage
- 3-4711: Location of Open Space
- 3-4712: Architectural Standards
- 3-4713: Architectural Design
- 3-4714: Signs / Sign Illumination
- 3-4715: Lighting
- 3-4716: Residential Use
- 3-4717: Location of Gasoline Pumps
- 3-4718: Substructures / Storage / Refuse Collections / Etc
- 3-4719: Utilities / Equipment
- 3-4720: Roadways
- 3-4721: Parking
- 3-4722: Loading
- 3-4723: Driveway and Curb Openings
- 3-4724: Landscaping
- 3-4725: Landscaping Maintenance
- 3-4726: Hardscape
- 3-4727: Submittal Requirements
- 3-4728: Irrigation Water Requirements
- 3-4729: Grading
- 3-4730: Development Review Committee
- 3-4731: Action of Site Plan and Architectural Building Elevations

- 3-4732: Nuisances
- 3-4733: Appeals
- 3-4734: Security: Site Improvement/Project Completion

3-4701: Purpose.

~~For the good of Highland City and its residents, this section of the development code is added to provide the following:~~ **The following provisions fill the City Objectives to promote the public health, safety, and general welfare of present and future Highland residents:**

- (1) To provide a central area where commercial, retail and residential could be blended in an attractive walkable, open space environment ~~less dependent on motorized movements.~~
- (2) **To provide** ~~More intense~~ **higher density** development ~~infused~~ with well planned open space **and public gathering areas.**
- (3) **To provide** commercial, retail and civic opportunities of a wide variety which meet the basic needs of the Highland area and its residents.
- (4) **To promote clarity,** ~~Promotion of~~ flexibility and cooperation, **in** long term planning ~~and thinking,~~ working with ~~those that will partner~~ for the success and future of the Town Center.

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 **required** 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 ~~typically the third or uppermost division of a entablature.~~
- (3) Development Review Committee. The Development Review Committee consists of the ~~City Administrator,~~ Public Works Director, Community Development Director, Fire Chief, Police Chief, **a Planning Commission member as appointed by the Planning Commission Chair and a member of the City Council as appointed by the Mayor. A member of each utility company with utilities located within Highland City boundaries shall also be invited to attend.**
- (4) 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 the~~ four.
- (5) Ground Floor. The first floor of a building constructed above grade with available access from a sidewalk.
- (6) Hardscape. Hardscape shall include ~~approved~~ pavers, ~~approved~~ concrete planter boxes, ~~approved~~ masonry trash receptacles, ~~approved~~ pedestrian benches, ~~approved~~ bicycle racks, plazas, paseos, ~~approved~~ fountains, outdoor eating areas, and ~~approved~~ sculptures. ~~Hardscape shall not include; colored or stamped concrete, asphalt, parking areas.~~ **Hardscape shall be approved as part of the overall site plan approval.**
- (7) HCESCC (Highland City Environmentally Sustainable Construction Credits) is a checklist located **on pages 44-48** within the Commercial Design Standards ~~carefully compiled and edited from the following green building checklists: LEED, the American Institute of Architects, and "the Ultimate Green Design Checklist" Eco-logikal: making ecology economical and logical.~~
- (8) Open Space. All areas not used for parking or structures will be open space as defined in 3-4711 and 3-4726 within this ordinance.
- (9) 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) Parking Plan Schematic. These are schematics illustrated in the Town Center Master Plan and the Commercial Design Guidelines which generally identify the areas where parking stalls are permitted. Parking requirements are defined in Section **3-4713,** 3-4716 and 3-4721 of this ordinance and determined by proposed use.



- (11) 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 as specified in ~~3-4705(B)(8)~~ **3-4705(2)(h)** in this Code.
- (12) 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) Upper Floor. Any building story constructed above the Ground Floor.

3-4703: Land Area. It is determined to be in the best interest of **the** Highland City to limit the applicability of this ordinance to the area known as the "Town Center". This area is bounded by 11000 North on the north, Alpine Highway on the east, 5600 West on the west and 10700 North on the South. ~~The provisions of this ordinance are not applicable to any other area in Highland.~~

3-4704: Density. Density within the Town Center is determined by each district a project is located **in**, and its proposed use, as follows:

- (1) Residential density. ~~Residential Density is determined by the district in which the property is located and shall be differentiated as follows:~~
 - (a) The Town Center Overlay Urban Subdivision as identified in Article 4.7.4 Highland Development Code, recorded as the Highland Village Subdivision and indicated within an area defined by the Town Center Land Use Map located in the Commercial Design Standards shall have a maximum density of 2.5 units per acre.
 - (b) The Town Center Transitional Housing Overlay as identified in Article 4.7.6 Highland Development Code, recorded as the Coventry Subdivision and indicated within an area defined by the Town Center Land Use Map located in the Commercial Design Standards shall have a maximum density of 7.5 units per acre.
 - (c) The Town Center Flex Use District within the area defined by the Town Center Land Use Map located in the Commercial Design Standards shall have density (residential, office, or retail) that is determined by parking requirements, access requirements and height restrictions.
 - (d) ~~The~~ Town Center Residential ~~Townhome~~ District. **Residential density** within the **Town Center Flex District** area defined by the Town Center Land Use Map located in the Commercial Design Standards shall have ~~density that is determined by parking requirements, access requirements and height restrictions with~~ **a maximum density of 7.5 dwelling units per acre (du/ac).**
- (2) Non-residential building density. Non-residential density shall be defined as area that is not comprised of residential use only and is determined by the adopted Town Center Master Land Use Plan which is incorporated as a part of this ordinance within the adopted Commercial Design Standards. Density shall be limited by parking requirements, access requirements and height restrictions.

3-4705: Permitted Uses. The only permitted uses allowed within the Town Center Overlay which satisfy the primary intent or purpose for the Zone are ~~subject to conditions as~~ defined **by** the Land Use Table 3-47A **on page 91-92** in this ordinance. **Permitted uses may be subject to additional conditions as described within this Code.** Locations of specifically permitted uses are defined in the Commercial Design Standards in the Town Center Master Land Use Map and shall be applied at site plan and architectural approval if applicable. Applicants seeking building permits for structures within the Town Center Overlay shall first obtain site plan design and architectural design approval as defined in this ordinance prior to application for a building permit. The following list of uses shall be considered permitted for the Town Center Overlay identified by district:

- (1) **Town Center Commercial Retail District:** For all buildings with frontage along SR-92 or SR-74, a minimum of seventy percent (70%) of the ground floor shall include retail uses. Projects that propose

a minimum of two (2) stories of residential use, retail use or office use above the ground floor shall be preferred. Only those uses specifically identified as follows shall be considered permitted:

- (a) Retail food stores, grocery and meat markets, bakeries, organic food stores, doughnut shop, candy store, nut or cheese store and other similar food and beverage sales facilities, ice cream/yogurt parlor. Retail sales of alcoholic beverages are prohibited by City Ordinance 1977-9; or
- (b) Sports and Fitness Centers, day spa, dry cleaner and laundry, copy center, barber shop, beauty parlor, pharmacy, optical shop or eye products, hearing center and sales; or
- (c) Florist, indoor nursery or plant sales; or
- (d) Full service restaurants, catering, delicatessen; or
- (e) Variety stores, jewelry and watch stores, stamp and coin store, home furnishings and appliances, book stores, retail sale of clothing, shoes and accessories, sporting goods stores, office supplies and furnishing, furniture and home furnishings, hardware and home improvement, craft and hobby supplies, new and re-manufactured auto-parts and accessories, electronics, rental and sale of DVDs, CDs, games and videos, wireless phone and related products, computer services/sales, pet products and grooming, travel agency; or
- (f) ATV or motorcycle sales (see 3-4713(j) for additional requirements); or
- (g) Public Parks, Public Trails, and Public Open Space.
- (h) Retail sporting goods and recreation stores.
- (i) Upper floor uses may include; Doctor's office, dentist's office, physical therapy, optometrist, audiologist, Psychologist and other general professional uses associated with typical professional office uses such as:
 - (j) Architects
 - (k) Certified Public Accountants
 - (l) Insurance (not claims adjustment)
 - (m) Lawyers
 - (n) Professional Registered Engineer or Surveyors
 - (o) Computer Software Engineer and Software Developers; or
 - (p) Realtors, Real Estate uses, Mortgage, Title Companies, or similar
 - (q) Art and craft galleries, and studios for the teaching of arts and crafts; or
 - (r) Temporary outdoor sales events.

(Recommendation to eliminate list of permitted uses and only specify unwanted uses. After further discussion with staff it was determined not to go that direction but to provide a "fast track" option to allow a use that is preferred when it is applied for)

(2) **Town Center Flex Use District:** Only those uses specifically identified as follows shall be considered permitted:

- (a) Financial institutions not requiring a drive-through
- (b) Health Care Facilities, Doctor, Dentist, Psychologies, Psychiatrist, Nurse, pharmacist, Optometrist, hearing center and sales;
- (c) Professional Offices as follows:
 - (i) Architect
 - (ii) Certified Public Accountant
 - (iii) Realtors, Real Estate uses, Mortgage, Title Companies, or similar
 - (iv) Insurance (not claims adjustment)
 - (v) Lawyer
 - (vi) Professional Registered Engineer or Surveyor
 - (vii) Physical Therapist
 - (viii) Computer Software Engineer and Software Developers; or
 - (ix) Other general professional uses associated with typical professional office uses.
- (d) Commercial Retail as follows:

- (i) All uses defined in 3-4705(1) and Table 3-47A are permitted in the Flex Use District as defined by this Code.
- (e) Public Parks, Public Trails, and Public Open Space.
- (f) Public or private cultural arts center.
- (g) Attached Multi-family Residential, Live-Work Residential.
 - (i) **Upper floor uses may include; attached high density multi-family residential units, professional offices (see (3c) above), or retail sales and/or services as defined in this Code.**
 - (ii) A minimum of ten percent (10%) and a maximum of seventeen percent (17%) of all multi-family projects shall qualify for moderate income housing as defined by State and Federal law provided for by the Developer. **(comment to eliminate this subsection inferring that moderate income housing will simply come with high-density housing. As Highland has found out with Highland Village and Coventry, density does not guarantee moderate income housing. Staff believes it is important to require something to ensure something is built - since that is one reason behind why the previous Council considered this use in the Town Center)**
- (h) ~~Senior Housing as specifically defined in Chapter 9, Senior Housing, within the General Plan, Title 26 Utah Code; Title 62A Utah Code; and the Federal Housing for Older Persons Act of 1995 of the Federal Fair Housing Act are additional restrictions required for senior housing. The three stages of senior living that shall be permitted within the Town Center are identified as follows:~~
 - (i) **Age-restricted adult housing;**
 - (ii) **Senior Independent Living; and**
 - (iii) **Senior Continuing Care Retirement Communities.**
- (i) ~~Upper floor uses may include; attached high density multi-family residential units, professional offices (see (3) above), or retail sales and/or services as defined in this Code.~~
 - (i) ~~A minimum of ten percent (10%) and a maximum of seventeen percent (17%) of all multi-family projects shall qualify for moderate income housing as defined by State and Federal law provided for by the Developer.~~
- (3) ~~Town Center Senior Residential District: Only those uses specifically identified as follows shall be considered permitted:~~
 - (a) ~~Attached and Detached Single family residential uses as defined in Article 4.7.4 and 4.7.6 of this code.~~
 - (b) ~~Public Parks, Public Trails, and Public Open Space.~~
- (4) **Town Center Civic District:** Only those uses specifically identified as follows shall be considered permitted:
 - (a) Municipal buildings and uses (City Hall, Community Center, Library, Cultural Arts, or similar).
 - (b) Public Safety buildings and uses (fire, police, justice or similar).
 - (c) Ancillary structures or uses typically associated with municipal or public safety buildings.
 - (d) Public Parks, Public Trails, Public Open Space, and any accessory use associated with parks, trails or open space.
- (5) ~~Open Space District: Only those uses specifically identified as follows shall be considered permitted:~~
 - (a) ~~Public Parks, Public Trails, and Public Open Space.~~
 - (b) ~~Ancillary buildings such as pavilions, playground equipment, restrooms or other similar structures typically associated with public parks.~~

3-4706: Conditional Uses. Uses identified as Conditional Uses in Land Use Table 3-47A within this code are subject to conditions as defined in this ordinance and in the Commercial Design Standards. These standards may be recommended by the Planning Commission and applied by the City Council at site plan and architectural approval if applicable. Only those uses specifically identified in Land Use Table 3-47A shall be considered as Conditional Uses:

- (1) **Attached Multi-family Residential, Live-Work Residential shall be allowed within this zone if all of the conditions and requirements defined within this ordinance are met, specifically sections 3-4713, 3-4716, 3-4721, 3-4724, and 3-4726. Any applicant/owner/developer shall provide in addition to any other requirement adequate information, illustrations, elevations and evidence that the ground floor of such units adjacent to any road may be converted to retail, office or other non-residential use sufficient and consistent in size to that of a typical retail or office use constructed elsewhere.**
 - (a) **Upper floor uses may include; attached high density multi-family residential units, professional offices (see (3) above), or retail sales and/or services as defined in this Code.**
 - (i) **A minimum of ten percent (10%) and a maximum of seventeen percent (17%) of all multi-family projects shall qualify for moderate income housing as defined by State and Federal law provided for by the Developer.**
- (2) Accessory structures and accessory uses necessarily and customarily incidental to the above uses and specifically provided for in the Conditional Use Permit. All uses must be compatible with the Zone as follows:
 - (a) All accessory structures shall be attached to the primary building or a masonry wall; and
 - (b) Accessory structures shall be designed and constructed consistent with all aspects of the primary building;
 - (c) Accessory structures shall only be located behind the primary structure and shall be significantly screened by landscaping from any right-of-way;
 - (d) In all cases, an accessory structure shall be a minimum of fifty (50) feet from the nearest right-of-way.
 - (e) Only accessory uses that are necessarily and customarily incidental to the primary use shall be considered under this ordinance.
- (3) Convenience store, gas stations, freestanding fuel centers (only permitted in the Town Center Commercial Retail District and if adjacent to SR-92 or SR-74 but not immediately adjacent to Town Center Boulevard, Parkway East, Parkway West, Town Square East, or Town Square West); or
- (4) ~~Art and craft galleries, and studios for the teaching of arts and crafts; or~~
- (5) ~~Temporary outdoor sales events.~~
 - (a) ~~Temporary outdoor sales shall not exceed two (2) consecutive days for each event; and~~
 - (b) ~~Temporary outdoor sales events shall not exceed five (5) separate events per year per business.~~
 - (c) ~~Outdoor sales events shall only include items that are sold on premises or legally grown within Highland City Boundaries.~~
- (6) Temporary outdoor farmer's market events.
 - (a) Participants in a temporary outdoor farmer's market event shall obtain a business license from the City.
 - (i) Participants in a temporary outdoor farmer's market event shall provide evidence that they are a resident of Highland or a resident from an adjacent contiguously connected municipality.
 - (b) Temporary outdoor farmer's market events shall not exceed two (2) consecutive days for each event; and
 - (c) Temporary outdoor sales events shall only be available Friday and Saturday between the months of July through October at a City designated location.
- (7) Hotels; Multi-story or Mixed Use, two stories minimum.
 - (a) If the majority of a hotel frontage is located along Town Center Boulevard, Parkway East, Parkway West, Town Square East, or Town Square West the Hotel shall provide some ground floor retail opportunities adjacent to those right-of-ways; and
 - (b) A hotel shall provide ground floor "front door" architecture adjacent to all planned right-of-ways. Hotels placed along SR-92 or SR-74 shall provide significant 360 degree architectural detail on the ground floor unless immediately adjacent to the power substation then there shall be significant architectural detail provided on the north, east, and south elevations; and

- (c) All hotel parking shall be located on the interior of the lot; and
- (d) A courtyard porte-cochere may not be located adjacent to **front along** Town Center Boulevard, Parkway East, Parkway West, Town Square East, or Town Square West
- (8) Mixed-Use automobile service facilities a minimum of two (2) stories in height.
- (9) The Planning Commission may recommend **and the City Council may require** ~~the~~ additional ~~requirements~~ **conditions** for Conditional Uses within the Town Center Zone as listed below. The City Council shall approve a Conditional Use permit if the following requirements are met:
 - (a) All of the requirements within this zone are exceeded as follows:
 - (i) It is apparent that the building design was conceptualized from traditional architectural styles defined in ~~34713A(1)~~ **3-4713(1)(a)** and is consistent with the local vocabulary; and
 - A. Exception: If it is proven that the building has been designed with the intention of meeting the HCESCC requirements (Highland City Environmentally Sustainable Construction Credits - a minimum of 80% of the qualifying elements) the building may be designed consistent with typical LEED and other environmentally conscious structures which are commonly post modern in form and aesthetic. In all cases the design of any building shall not ~~distract~~ **deduct** from the overall form of the Town Center.
 - (ii) Additional pedestrian elements are provided; and
 - (iii) Significant landscaping features are provided such as large scale water features or statues; and
 - (iv) Exceptional pedestrian links are provided between the parking lot area and the storefront; and
 - (v) On-street parking is provided along the storefront providing access to the front entry door; and
 - (vi) Planters, benches, bike racks and garbage cans are all provided along the front of the building; and
 - (vii) Pavers are provided along the building front connecting adjacent buildings.

3-4707: Prohibited Uses. In the Town Center Zone, any use not expressly listed as a permitted use or a conditional use shall be deemed specifically prohibited including but not limited to the following:

- (1) Slaughtering of animals or live animal processing
- (2) Sexually Oriented Businesses
- (3) Call centers (**comment to remove. Not recommended due to the exceptionally large parking requirements**)
- (4) Alcohol sales
- (5) Thrift Stores or Pawn Shops (**question as to why this is not permitted. Was not previously recommended due to the law enforcement involvement necessary to oversee the operations**)
- (6) Tattoos, non-medically prescribed body massages, or body piercing shops, parlors or facilities.

3-4708: Change of Use. Change of use is considered a permitted use if that use is listed as permitted and the proposed **new** use does not violate any other portion of this ordinance. **A change of use considered permitted that is located within an approved building shall not require additional approvals.** Change of use that is listed as a Conditional Use shall require the applicant to obtain a new Conditional Use Permit prior to proceeding with that proposed use. Any uses not defined as permitted or conditional are specifically not permitted and shall not be allowed in this zone. ~~A change of use considered permitted that is located within an approved building shall not require additional approvals.~~

3-4709: Non-Conforming Structures and Uses. These provisions provide for the orderly termination of non-conforming buildings, structures, and uses to promote the public health, safety, and general welfare, and to bring these buildings, structures, and uses into conformity with the intent of the Town Center Zone of

Highland City. For more information relating to non-conforming uses see (Chapter 3, Article 2 page 16) of this Code.

3-4710: Lot Coverage. A project which applies for a land use under this ordinance must conform to this ordinance and the Highland Commercial Design Standards. Building locations are generally defined in this ordinance. Applications which are not entirely consistent with these requirements shall not be recommended **by the Planning Commission** for approval **by the City Council**. As a condition of site plan and subdivision approval for construction on an identified building pad, the applicant must agree to develop all improvements outlined on the Plan **(on their property)** and identified in the Commercial Design Standards adjacent and contiguous to that parcel in a timely manner and prior to occupancy.

3-4711: Location of Open Space. All projects must conform to the requirements imposed for open space as shown on the master plan. Any property not utilized for a structure, sidewalks, parking, and parking access shall be landscaped by the owner/developer. The parkway detail shall be installed by each property owner/developer at the time of construction along SR-92 or SR-74 per the city standard.

3-4712: Architectural Standards. Incorporated as part of this ordinance are the Commercial Design Standards. All projects must conform to the architectural standards as set forth in the Commercial Design Standards and Section 3-4713 in this Code. The Planning staff shall make recommendations to the Planning Commission regarding architecture, however it is the responsibility of the Planning Commission to insure conformity to these standards **before making a recommendation to the City Council**.

3-4713: Architectural Design. Prior to the issuance of building permits for any permitted or conditional use within the Town Center Zone, the applicant shall first meet with the Development Review Committee who shall make recommendations to the Planning Commission based upon compliance and consistency with the Commercial Design Standards. The City Planning Commission shall review the proposed development plans to assure compliance with the Commercial Design Standards. **The Planning Commission shall approve the architecture if the applicant has met all of the requirements of this ordinance. The Planning Commission shall deny the application if it does not meet all of the requirements of this ordinance.** Appeals of actions on architectural compliance may be heard by the City Council.

- (1) **Overall Architectural Outline:** It shall be clearly evident that building design has been initially conceptualized from traditional architectural styles and generally consistent with the local vocabulary within the Town Center as defined below. If it is proven that the building has been designed with the intention of meeting the HCESCC requirements (Highland City Environmentally Sustainable Construction Credits - a minimum of 80% of the qualifying elements) an exception shall be considered and the building may be designed consistent with typical LEED and other environmentally conscious structures which are commonly post modern in form and aesthetic. In all cases the design of any building shall not distract from the overall form of the Town Center. Each building shall include traditional design elements associated with that architectural style.
 - (a) Property owner/developer may choose one of the following architectural styles as a basis for their building design and the final product shall be visually identified as one of the following classic architectural styles however Craftsman, French Provincial, and Italianate are preferred architectural styles. Buildings will only be approved if they are similar in design to the approved representations of buildings from each of the following styles provided in the Design Guidelines:
 - (i) Academic Classicism
 - (ii) Colonial Revival
 - (iii) Craftsman
 - (iv) English Revival
 - (v) Federalist, Federal
 - (vi) French Provincial
 - (vii) Georgian



- (viii) Italianate
 - (ix) Neoclassical
 - (x) Post Modern (if meets 80% of HCESCC requirements only)
 - (b) As a guideline, special sensitivity should be given to provide continuity of building development along street fronts; and
 - (i) Buildings located along Town Center Boulevard, Parkway East, Parkway West, Town Square Street East or Town Square Street West shall be designed to front that right-of-way which it faces.
 - (c) All commercial buildings along Town Center Boulevard, Town Square Park East, Town Square Park West, Parkway East and Parkway West shall be located as close to each other as allowed by Building Code except in areas designated for drives to access parking areas. Any area between buildings shall be developed as paseos (pedestrian access points between parking and building fronts) or plazas (see 3-4726 in this ordinance).
 - (d) Strip-mall or in-line type developments shall be avoided. Multi-user buildings shall be designed to appear as a separate building with a different architectural style (defined above) for each leasable ground floor space along the building front.
- (2) **Door and Window Openings.** Doors and windows may be considered one of the most important design elements for successful building design and shall be required to have the following elements incorporated into their design:
- (a) **Entries and Doors.** Commercial entries are a significant contributor to the success of building design and shall be designed to emphasize the front door.
 - (i) Doors may be constructed of high grade architectural solid wood or metal and glass construction.
 - (ii) All ground floor doorways facing a right-of-way shall be set in and designed with a minimum separation of twelve inches from the fronting wall.
 - (iii) All buildings that are located along Town Center Boulevard, Parkway East, Parkway West, Town Square Street East or Town Square Street West shall provide a front door and pedestrian entry into that structure from that right-of-way which it faces.
 - A. Additional access (side and rear) shall be permitted if the front access has been architecturally addressed giving the appearance of a main entrance along the pedestrian sidewalk. The front shall be any portion of a building that is immediately adjacent to a designated right-of-way (not including driveway or parking lot access).
 - B. Special consideration shall also be given to the Town Center Park. Structures with a wall adjacent to the Town Center Park shall be designed to address the park with a main entrance or front door.
 - (b) **Entrance Element.** Every building shall provide an architectural element over each entrance according to the architectural style associated with that building. At minimum a building shall incorporate one of the following:
 - (i) Pediment
 - (ii) Portico
 - (iii) Stoop
 - (iv) Arcade
 - (c) **Windows.** Each building shall include a minimum of fifty percent (50%) fenestration on the ground floor for any facade that faces a right-of-way and is located within thirty (30) feet of that right-of-way for the purpose of providing visibility into the store (this is calculated from the building width). It is recommended the display window front is utilized for visible exposure to retail products sold inside each unit.
 - (i) Each window shall incorporate a majority of the following window elements:
 - A. Mullions
 - B. Sash
 - C. Sill

- D. Apron
- E. Casing
- F. Jamb
- (ii) All upper story windows shall be of a high quality casement, single-hung or double-hung type similar in color and material to the ground floor windows; and
- (iii) All building front ground floor windows shall be one-hundred percent (100%) transparent for the purpose of displaying business products and providing visibility into the building with the exception of window signage as permitted and defined in Section 3-47 Signs in this Code; and
- (iv) Architectural quality storefront windows shall be provided as defined in the Commercial Design Standards; and
- (v) Every window shall include architectural window treatment and finish elements defined by the architectural style associated with the building the window is associated with; and
- (vi) Every building shall include upper floor transparent fenestration for each story with an amount equal in rhythm and scale to the ground floor windows as defined in the Commercial Design Standards.
- (d) **Window Treatments.** Each building shall provide an architectural window canopy/awning of some type on the ground floor consisting of a high quality architecturally treated materials consistent with the architecture of the building.
- (3) **Architectural Elements.** All buildings shall incorporate the four (4) common building design elements (see C(1) through (4) below) and seven (7) common architectural design elements (see C(2) below) typically associated with Highland City if those elements are consistent with 3-4713(1) as follows:
 - (a) **Common Lighting Theme;**
 - (i) Building lighting,
 - (ii) Parking lot lighting,
 - (iii) Street lighting.
 - (b) **Common Architectural Design Elements;**
 - (i) Columns,
 - (ii) Dentils,
 - (iii) Window treatments, high percentage of fenestration, mullions,
 - (iv) Portico/arbor/arcade/pediment,
 - (v) Quoins,
 - (vi) Common high quality roofing materials,
 - (vii) High quality building materials (earhtone colors, brick, rock, trim).
 - (c) **Common Sign Theme.** All signage shall adhere to an approved common sign theme and be consistent with the requirements of Chapter 7 Signs in this Code.
 - (d) **Interior Parking.** A significant majority of all parking areas shall be located behind buildings and not adjacent to a public right-of-ways.
 - (e) **Color and Material.** Colors shall be limited to an earthtone palette.
 - (i) A building front shall be any building facade parallel to a right-of-way and located within thirty (30) feet of that right-of-way. With the exception of exposed wood/timber architectural elements, fifty percent (50%) of a building front facade on the ground floor shall be a high quality architectural rock or stone.
 - (ii) A corner building shall be considered to have two (2) building fronts and shall be required to be finished with a minimum of fifty percent (50%) high quality architectural rock or stone on the ground floor for each facade parallel to a right-of-way within thirty (30) feet.
 - (iii) In all cases, exposed heavy timber shall be incorporated in the building front design.
 - (f) **Roof Design.** All roof design shall conform to the Commercial Design Standards. At minimum, a roof may not continue the same height or style for a horizontal distance exceeding seventy-five (75) feet unless it would not be consistent with the architectural style

associated with a single structure as defined in 3-4713 of this Code. All buildings shall incorporate use heavy cornices, raking cornices, eaves and friezes to provide aesthetic character to the roof, mitigate large long rooflines, allow sunlight to access the pedestrian network. Whenever possible rooflines should be designed to provide view corridors to American Fork Canyon and the Alpine Bowl.

- (i) A sloped ~~mansford~~ **mansard** type roof may not exceed 14 feet in vertical height and in all cases any type of sloped roof may not exceed seventy feet **(70') (50')** to its highest point measured from ~~finished grade~~ **the top of the foundation**.

(4) **General Requirements.** In addition to the previous requirements of this Code and requirements outlined in the Commercial Design Standards, the following shall also apply:

- (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. **(comment of who defines this. Staff recommends this stays to give the Planning Commission some say if a project comes in that is, in the opinion of the Planning Commission, either monotonous or repetitive)**
- (c) The design shall incorporate historic materials that will create community identity and define the Town Center by separating it from other similar developments **with the use of such materials as rock, brick, and the four common architectural design elements found in Highland defined by the Commercial Design Standards, page 10;** and
 - (i) Varying from a company's prototypical building design is encouraged, and required if it is not consistent with all of the requirements of this zone.
- (d) Proposed signage shall be an integral architectural feature which does not overwhelm or dominate the structure or property and is consistent with the architectural style of the building the signage is associated with; and
- (e) Down lighting shall be stationary, baffled on all sides and directed/deflected away from adjacent residential properties. Lighting located on light poles shall not exceed fifteen feet (15') in height above a three foot (3') base maximum.
- (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 incorporate 360 degree architecture except for building sides that are less than ten (10) feet from an adjacent building and if a paseo does not exist between them.
- (h) If parking structures are proposed, they shall be architecturally compatible with the primary structure and shall incorporate landscaping features along the exterior walls on each level of parking.
- (i) All perimeter walls shall be architecturally treated and heavily landscaped.
- (j) ATV or Motorcycle Sales. Permitted uses associated with the sale of vehicles per Section 3-4705 may have additional regulations and restrictions placed upon that use by the Planning Commission in order to mitigate any detrimental affects that this use may have upon adjacent residential and/or commercial properties. It is the intent of this provision to minimize noise and light pollution while enhancing the aesthetic and architectural impacts consistent with the Commercial Design Standards and the Town Center. These additional requirements which may be required by the Planning Commission in order to obtain Architectural and Site Plan Approvals are as follows:
 - (i) **Building Location.** In all cases, Sales buildings associated with ATV or Motorcycle sales shall be subject to all of Section 3-4713(5) of this ordinance.
 - A. All buildings shall be designed so that the largest portion of that building is located adjacent to the nearest primary right-of-way; and





- B. All buildings shall incorporate a significant amount of fenestration adjacent to the nearest primary right-of-way which may be used to exhibit vehicles for sale; and
- C. All buildings shall be designed with two primary entrances which shall include an architecturally significant primary entrance from the nearest adjacent right-of-way; and
- (ii) **Parking.** The majority of parking locations for customers shall be located between the portion of the building opposite the nearest right-of-way and the rear property line (not including on-street parking); and
 - A. The majority of parking locations for vehicles for sale shall be located between the portion of the building opposite the nearest right-of-way and the rear property line (not permitted within the on-street parking locations); and
- (iii) **Noise.** In no case shall any structure include exterior speakers, intercoms or similar; and
 - A. In no case shall any noise not primarily associated with other permitted uses in the Town Center be heard from adjacent property owners; and
- (iv) **Signage.** All signage associated with this use shall strictly adhere to Chapter 3, Article 7, Signs and 3-4713(4)(d) in this Code; and
 - A. **Sales Events.** ATV or Motorcycle Sales uses may use balloons and/or window signs on vehicles to be sold to advertise a sales event *on Saturday only*.
- (v) **Lighting.** In no case shall any lighting be designed to project onto an adjacent property and in all cases shall lighting be designed to face downward; and
 - A. All lighting shall be subject to 3-4713(4)(e) and 3-4715 of this ordinance.
- (vi) **Service.** Any service or mechanic shop facility associated with this use shall be subject to 3-4706(1) in this ordinance.
- (5) **Building Height and Location.** Buildings shall be defined by District. It is the intent of this zone to create separate unique districts with specific determined uses and environments appealing to both automotive and pedestrian scales. This will be accomplished by defining the street edge and incorporating pedestrian elements to the street and buildings. In addition, buildings shall be designed and located to address the street it is located adjacent to. These important elements are defined as follows:
 - (a) All buildings shall be set back a **minimum** ~~maximum~~ of five (5) **feet and a maximum of ten (10) feet (too close? This was previously required to define the edge of the street and create the shop and window front environment typical with historic town centers and is in addition to the width of the sidewalks, etc. of the street cross-section. Additional width could be considered. In this type of development pattern, the building height is typically equal in height to the space between opposing buildings including the right-of-way width)** feet from the nearest right-of-way; and
 - (b) All commercial buildings along Town Center Boulevard, Town Square Park East, Town Square Park West, Parkway East and Parkway West shall be located as close as reasonably possible to adjacent buildings with the preference of a zero lot line design concept except in areas designated as access for parking or pedestrians. Any area between buildings along the previously identified right-of-ways shall be developed as paseos (pedestrian access points between parking and building fronts) or plazas.
 - (c) Residential units above the ground floor shall be setback a minimum of ~~five (5)~~ **eight (8)** feet from the lower fronting vertical wall along Town Center Boulevard, Parkway East, Parkway West, Town Square East, and 10700 North.
 - (i) The area above the ground floor within the setback shall be designed and engineered to be a functional balcony, courtyard, garden, outdoor patio, outdoor seating area, or similar that promotes private use and public interaction.
 - (d) **Town Center Commercial Retail District.**

- (i) **Height.** Height shall be measured from ~~finished grade~~ **the foundation** to the ~~bottom of the eave or~~ **highest point of a building which may be** the top of the cornice **or roof ridge**. Buildings within the Town Center Commercial Retail District shall be a maximum of forty (40) feet tall.
- (ii) **Upper floors.** Upper floor uses shall not exceed two (2) stories for a total of three (3) stories.
- (iii) **Location.** Any portion of all buildings within the Commercial Retail District shall be a maximum of fifteen (15) feet from an existing right-of-way. A building may be located a maximum of 20 feet from the right-of-way along SR-92 or SR-74 or a maximum of ten (10) feet along Parkway East or Town Center boulevard guaranteeing massing and pedestrian activity along the planned right-of-ways within the Town Center.
 - A. If a building is located adjacent to a right-of-way a significant majority of the building front and front door shall be a maximum of five (5) feet from Parkway West, Parkway East or Town Center Boulevard if that right-of-way is closer.
- (e) **Town Center Flex Use District.**
 - (i) **Height.** Height shall be measured from ~~finished grade~~ **the foundation** to the ~~bottom of the eave or~~ **highest point of a building which may be** the top of the cornice **or roof ridge**. Buildings within the Town Center Flex Use District shall be a maximum of fifty (50) feet in height.
 - (ii) **Upper floors.** Upper floor uses shall not exceed ~~three (3)~~ **two (2)** stories for a total of ~~four (4)~~ **three (3)** stories.
 - (iii) **Balconies. Residential units above the ground floor along Town Center Boulevard, Town Square Park East, 10700 North, Parkway East and Parkway West shall be setback horizontally a minimum of eight (8) feet from the lower fronting vertical wall.**
 - A. **The area above the ground floor within the setback shall be designed and engineered to be a functional balcony, courtyard, garden, outdoor patio, outdoor seating area, or similar that promotes private use and public interaction.**
 - (iv) **Location.** A significant majority of all building fronts and front doors within the Town Center Flex Use District shall be a maximum of five (5) feet from an existing/planned right-of-way (not driveway or parking area). A building may be located a maximum of 20 feet from a rear property line if a structure has already been constructed along its adjacent right-of-way first, guaranteeing massing and pedestrian activity along the planned right-of-ways within the Town Center.
- (f) **Town Center Civic District.**
 - (i) **Height.** Height shall be measured from ~~finished grade~~ **the foundation** to the ~~bottom of the eave or~~ **highest point of a building which may be** the top of the cornice **or roof ridge**. Buildings within the Town Center Civic District shall be a maximum of fifty (50) feet tall to create a more substantial, prominent and aesthetically permanent structure consistent with adjacent structures within the Town Center.
 - (ii) **Location.** Any portion of all buildings within the Town Center Civic District shall be a maximum of fifteen (15) feet from a property line or fifteen (15) feet from an existing/planned right-of-way, whichever is closer.

3-4714: Signs/Sign Illumination. (Section deleted 7/5/05) Sign/ Sign illumination requirements shall be defined by the Commercial Design Standards and Chapter 3 Article 7 of this code. All signage shall be consistent with the approved sign theme for the Town Center.

- (1) **Town Center Monument.** An approved Town Center Monument identifying the entrance into the Town Center shall be constructed on each corner of the intersections of SR-92 and Town Center Boulevard, 5600 West and Parkway West, and SR-74 and Parkway East.



- (a) The monuments shall be located adjacent to each intersection and landscaped per the landscaping requirements for monument signs as defined in Chapter 3 Article 7, Signs, in this Code.
 - (i) The monument landscaping shall be maintained by the owner/developer; or
 - (ii) A landscaping easement shall be provided for maintenance by a recorded Landscaping, Lighting and Parking Maintenance Governing Board created to maintain the landscaping within the Town Center.

3-4715: Lighting. All lighting shall conform to the Commercial Design Standards and the approved lighting specifications for the Town Center Zone.

- (1) Properties along Parkway East, Parkway West, Town Center Boulevard, Town Square Street - East or Town Square Street - West shall include street lights consistent with the approved Town Center street light and placed 90 feet apart. This distance shall be a linear measurement as measured along the back of the curb.
- (2) Property along SR-92 or SR-74 shall install street lights consistent with the approved Town Center street light and placed 90 feet apart. This distance shall be a linear measurement as measured along the back of the curb.
- (3) All lighting and lighting fixtures, with the exception of street lights that are owned and maintained by the city, shall be maintained in proper order and good condition by each owner/developer according to an approved site plan and architectural approval associated with each development.

3-4716: Residential Uses.

- (1) Flex use residential developments 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 and provide places for outdoor balconies and spaces.
 - (i) **Balconies.** A minimum of twenty-five 25% of all residential units located on an upper floor (first floor of residential), which faces a parking area or designated right-of-way, shall be designed with a functional and practical balcony that faces onto that parking area or designated right-of-way.
 - (c) **Windows.** Only windows of high residential quality shall be used. Window details as defined within the Commercial Design Standards and 3-4713(2)(c) of this ordinance shall be included. The window pane for all residential windows shall be recessed a minimum of three (3) inches from the exterior facing wall.
 - (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 one and ~~one-half (1.5)~~ **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 eighteen feet (18').**
- (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.
- (h) **Minimum Residential Height.** Uses proposed as exclusively attached residential shall be a minimum of three (3) 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.**

3-4717: Location of Gasoline Pumps. Gasoline pumps shall be located between the primary building and the interior parking area not less than fifty (50) feet from any right-of-way, and not less than fifty (50) feet from a residential zone boundary line and conform to all relevant State and Federal Regulations. If the pump island is set at an angle on the property, it shall be so located that automobiles stopped for service will not extend over the property line. Gasoline storage will not be permitted above ground.

3-4718: Substructures; Storage/Refuse Collections, Etc.

- (1) Substructure requirements shall be defined by the Commercial Design Standards. All substructures, outdoor storage areas or outdoor collection areas shall require a Conditional Use Permit prior to use. In addition, The following articles shall relate to the screening and location of storage and refuse collection areas:
 - (a) Free-standing flagpoles may not exceed the building height restrictions by more than six (6) feet.
 - (b) 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.
- (2) **Storage:**
 - (a) 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.
 - (b) 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.
 - (c) All outdoor storage shall be enclosed by a six (6) foot masonry wall consistent with the architecture and materials associated with the main structure and shall be attached to the main structure.
 - (d) No storage shall be permitted between ~~a the curb frontage-street~~ and the building line. Furthermore, no outdoor storage shall be located within forty (40) feet of any district zoned for residential use.
- (3) **Refuse:**
 - (a) Every parcel with a building or structure shall have a trash receptacle on the premises. 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 six (6) 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) All refuse collection areas shall be designed constructed with materials and architecture and specifications per the approved refuse collection areas for the Town Center Zone as defined in the Commercial Design Standards. All refuse collection areas shall be visually screened from access streets and adjacent properties by significant landscaping. The commercial owner and/or manager shall be responsible for the abatement, clean-up and removal of all garbage or refuse thrown, placed, or blown on surrounding property or streets of right-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.
- (e) No refuse collection areas shall be permitted between ~~a the curb frontage street~~ and the building line. No refuse collection area shall be located within forty (40) feet of any residential use or zone.
- (f) Refuse removal and trash collection operations shall occur between the hours of 7:00 a.m. and 10:00 p.m.
- (g) 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. All freestanding refuse containers shall be constructed according to the approved freestanding refuse container specification for the Town Center Zone.

3-4719: Utilities/Equipment. All Utilities and Utility Facilities shall conform to the Commercial Design Standards. In addition, 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 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 located within a front or side setback visible from the nearest right-of-way. 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 where possible.
 - (a) Easements for non-municipal utilities shall be located on the interior of each lot providing adequate space for utility boxes that shall not be visible from the prominent right-of-ways.
- (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 located on a building wall opposite from the nearest public right-of-way (interior lot side).
- (4) Roof mounted mechanical equipment shall be set back from the street fronting wall so that it is not visible from the ground floor of surrounding buildings as much as possible. In addition the units shall be placed in roof locations that block the view from upper floors of buildings of equal height if possible.
- (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 devices shall not be located in any required front setback area or side yard. Screening by way of landscaping shall be provided so that utility equipment is screened from adjacent streets and public view.
- (7) Electric transformers, utility pads, cable TV and telephone boxes shall be located on the interior of each lot out of view from public rights-of-way and or under grounded. All utility equipment boxes

shall be screened with significant landscaping materials that would conceal the device completely on all sides during all seasons from public view.

3-4720: Roadways. It is the responsibility of the owner/developer to install roadways and associated landscaping and landscaping elements, hardscape and hardscape elements, street lighting per the approved street light, and pedestrian elements as defined in the Commercial Design Standards along their frontage. If a project proposes to use a building site which can not be served by an existing road, it shall be the responsibility of the project Developer/Owner to build an appropriate access.

- (1) With the exception of on-street parking, a significant majority of commercial, flex use residential, or office parking areas shall be located on the interior of each project, separated from adjacent right-of-ways by buildings.
- (2) Development along Parkway East, Parkway West, Town Center Boulevard/Drive, Town Square Street East, Town Square Street West, or Town Square Park Street may only provide access to interior parking through planned driveways as defined by the Town Center Circulation Master Plan, carefully planned to promote good circulation patterns.
- (3) Access to building fronts from Parkway East, Parkway West, Town Center Boulevard/Drive, Town Square Street East, Town Square Street West, or Town Square Park Street shall not be impeded by parking spaces except for parallel parking as defined in the Commercial Design Standards.
- (4) The developer shall include concrete crosswalks at all intersections for the purpose of providing pedestrian circulation per the approved standard set forth by the City Engineer.

3-4721: Parking (Not Associated with Residential Districts). ~~Parking needs will determine density.~~ 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 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: ~~1.5~~ **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 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
 - A. 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.

3-4722: 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 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.

3-4723: Driveway and Curb Openings. Curb openings and sidewalk driveway crossings for access to private property shall not be authorized unless they are consistent with the Town Center Transportation Master Plan Map located within the Commercial Design Standards. 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.

- (1) The following specifications shall apply to Hardscape curbing:
 - (a) Access shall be limited to one (1) access driveway 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 and SR-92 and 74 at intersections, but in no case shall be located within the operational area of the intersection.
 - (c) Curb cuts and driveway aisles shall be shared at property lines between parcels.

3-4724: Landscaping. All areas not incorporated in the building footprint, parking area or access drives shall be landscaped. A minimum of fifteen (15%) of the project area shall be landscaped. The developer/owner shall incorporate the following landscaping design concepts and landscaping elements into each project and shall submit the following landscaping information with each project:

- (1) Quality: Landscaping shall enhance the overall visual appearance of the development.
- (2) Trees: Minimum caliper for all trees shall be 2" and minimum shrub size shall be one gallon and shall be consistent with the tree variety as approved for each location.
- (3) Irrigation: All landscaping shall have an automatic irrigation system.
- (4) Installation: All required landscaping shall be properly installed, irrigated, and maintained prior to use inauguration or occupancy.
- (5) Maintenance: Maintenance of approved landscaping shall consist of regular watering, pruning, fertilizing, clearing of debris and weeds, the removal and replacement of dead plants, and the repair and replacement of irrigation systems and integrated architectural features.
- (6) Front Setback Areas: Landscaping in these areas shall consist of an effective combination of street trees, trees, ground cover, annual and perennial flower beds, turf grass and shrubbery.
- (7) Non-Parking Areas: All unpaved areas not utilized for parking, sidewalks, plazas or paseo hardscape shall be landscaped consistent with 3-4724(6).
 - (a) Paseos. A minimum of twenty-five percent (30%) of the area within a paseo shall be landscaped with a variety of landscaping materials (see 3713(1)(c) and 3-4726(2)(a)(v) in this ordinance).
 - (b) Plazas. A minimum of ten percent (10%) of the area within a plaza shall be landscaped with a variety of landscaping, however a minimum of 50% of the plaza area shall be covered by tree canopy (see 3-4726(2)(a)(iv) in this ordinance).
- (8) Right-of-ways. Properties along designated right-of-ways are required to install landscaping improvements as defined in the Commercial Design Standards.
 - (a) Properties along Parkway East, Parkway West, Town Center Boulevard/Drive, Town Square Street East, Town Square Street West, or Town Square Park Street shall include tree grates with street trees a minimum of 30 feet apart adjacent to the street curb except at locations where street lights are located.
 - (b) Properties along Parkway East, Parkway West, Town Center Boulevard/Drive, Town Square Street East, Town Square Street West, or Town Square Park Street shall include concrete planters between the trees and street lights as follows:
 - (i) Planters shall include area for perennial and annual plants; and
 - (ii) Planters shall incorporate 50% evergreen into the landscaping design; and
 - (iii) Planters shall be constructed to allow seating; and



- (iv) Planters shall be constructed with the same materials and colors within the Town Center Zone.
- (9) Parkway Detail: If any property is adjacent to SR-92 or SR-74, the property owner/developer shall install the parkway detail per Highland specifications.
- (10) Landscaped Medians: All owners/developers adjacent to SR-92, SR-74, Town Center Boulevard/Drive, Parkway East or Parkway West shall be responsible for their portion of landscaped medians within the center of those right-of-ways.
- (11) At Intersections: Landscaping along all streets and boundaries shall be limited to a height of not more than three (3) feet within the area required for minimum sight distance as specified in the AASHTO Policy on Geometric Design for the following intersections.
 - (a) A vehicular trafficway or driveway and a street;
 - (b) A vehicular trafficway or driveway and a sidewalk;
 - (c) Two or more vehicular traffic ways, driveways, or streets.
- (12) Parking Areas: Parking area landscaping design requirements are defined in Section 3-4721 of this Code.

3-4725: Landscaping Maintenance. Landscaping shall be maintained in proper order and good living condition by each owner/developer according to an approved landscaping plan associated with each development. Businesses within the Town Center may enter into an agreement with a third party for the purpose of maintenance.

- (1) Landscaping, Lighting and Parking Maintenance Governing Board. There is hereby created by this ordinance a Landscaping, Lighting and Parking Maintenance Governing Board. The Board consists of five members. Two members will be appointed by the Mayor of Highland City, two members will be appointed by the Town Center Business Association, and the fifth member to be appointed by the four other members. The terms of the members will be determined by the appointing authority. The term of the fifth member will be established by the Board as a part of their by-laws. It will be the responsibility of the Board to establish by-laws to govern its operation. The Board will have the power to enforce its rules, levy annual maintenance assessments for the cost of the responsibilities enumerated below, enforce conditions of approval, impose sanctions and perform such other activities which will further the purpose of this ordinance and enhance the well being of the town center. It is the responsibility of the Board to **maintain ensure that** landscaping, state and local highway medians, parking lots, sidewalks, streetscape, street furniture, roadways, snow removal and lighting **are properly maintained.**
- (2) All projects approved under this ordinance must sign an agreement with the Board assenting to its jurisdiction over the matters covered in this ordinance. Said agreement will clearly state that the right to **develop and** operate is subject continuing adherence to the directives of the Board.

3-4726: Hardscape. Hardscape should be used in coordination with architecture and landscaping to provide a link between the street edge and individual developments and shall conform to the Commercial Design Standards. 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.

- (1) Each project shall include hardscape improvements. Hardscape improvements shall include: **approved** pavers, **approved** concrete planter boxes, **approved** masonry trash receptacles, **approved** pedestrian benches, **approved** bicycle racks, plazas, paseos, **approved** fountains, outdoor eating areas, and **approved** sculptures. Hardscape shall not include; colored or stamped concrete, asphalt, parking areas. Hardscape elements shall be consistent throughout the Town Center. A detailed plan of Hardscape design shall accompany landscape plans.
 - (a) Hardscape Elements. Each project shall include a minimum of two (2) hardscape elements and shall incorporate a minimum hardscape area equal to 5% of the entire property. Certain hardscape improvements are required by any development as follows:

- (i) Medians and Planters. Properties along Parkway East, Parkway West, Town Center Boulevard, Town Square Street East, Town Square Street West or Town Square Park Street may use the designated 10 foot sidewalk when calculating the 5% requirement, however landscaped medians shall be provided by the developer/owner as defined in 3-4718(9)(b).
- (ii) Landscape Planters. Properties along Parkway East, Parkway West, Town Center Boulevard, Town Square Street East, Town Square Street West or Town Square Park Street may use the designated 10 foot sidewalk when calculating the 15% landscaping requirement, however landscaping planters shall be provided by the developer/owner as defined in 3-4718(9)(b).
- (iii) Pedestrian Elements. For every building adjacent to an existing or planned right-of-way the developer/owner shall provide to the City a financial contribution equal to 50% of one of the following pedestrian amenities: bench, bike rack, garbage can, or other aesthetic feature (fountain, sculpture or similar). A bench, bike rack or garbage receptacle can not be used if an existing one is immediately adjacent. The remaining financial portion and installation shall be provided by Highland City.
- (iv) Plazas. It is encouraged that the developer/owner improve areas between building side setbacks along Town Center Boulevard, Parkway East, Parkway West, and Town Square Park East as plazas to provide gathering places for pedestrian interaction and to minimize maintenance.
 - A. Plazas shall be considered as five percent (5%) of the required landscaping.
- (v) Paseos. Areas between building side setbacks along Town Center Boulevard, Parkway East, Parkway West and Town Square Park East that have not been developed as plazas or access drives shall be improved as paseos to keep these areas accessible and clean. A minimum of ~~25%~~ **30%** of the area within a paseo shall be landscaped.

3-4727: Submittal Requirements. All 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 Design Review Committee ~~and Planning Commission~~ a plan for the use and development of each building and building site for the purpose of evaluating whether the proposed project meets all of the requirements set forth in this ordinance. Said plan shall be accompanied by information concerning physical conditions proving that such use meets the requirements of the building type as outlined in the Commercial Design Standards, and the provisions outlined in this ordinance. **After completing the Development Review process, the applicant shall provide revised plans for the City Council, Planning Commission and Staff based upon those comments given during the Development Review process. The Planning Commission may grant Architectural Approval and the City Council may grant Site Plan and Final Approval for any project if that project meets all of the requirements of this ordinance. All applications for development within the Town Center shall include including,** at minimum, the following:

- (1) A site plan to scale that legibly and clearly identifies the following:
 - (a) Lot lines defining the area to be occupied by buildings; and
 - (b) 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
 - (c) Location of any adjacent roads or driveways with cross-section(s); and
 - (d) Spaces for loading and refuse collection and their respective screening; and
 - (e) 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
 - (f) **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.

- (2) Landscaping plans provided with site plan proposals and shall include:
 - (a) Preliminary list of plants, trees, shrubs, and ground cover
 - (b) Preliminary location of plants, trees, shrubs, and ground cover
 - (c) Any proposed sign locations and in accordance with Section 3.7 Signs of this Code; and
 - (d) General and conceptual lighting plans including parking lighting, building lighting, and street lighting and specifications; and
 - (e) Temporary screening plans for adjacent property remaining in residential use; and
 - (f) 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 3-4726 of this Code; and
- (3) 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.
- (4) Any additional information as required by the 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.

3-4728: Water Requirements. Developments occurring under the provisions of this Article must provide water to Highland City in compliance with the water requirements defined in Section 5-8-112 of this Code.

3-4729: Grading. The following guidelines shall apply to grading of commercial properties:

- (1) Grading shall conform to natural topography as much as possible and result in a harmonious transition of the man-made grades with the natural terrain.
- (2) Man-made land forms shall be graded to avoid unnatural sharp or straight edges and planes. The top and toe of graded slopes shall be rounded to avoid a harsh machine-made appearance.
- (3) 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, snow, or ice. All surface drainage shall be contained within development site and approved by City Engineer.
- (4) Parking lots shall have minimum and maximum percent grades as set forth by the City Engineer.
- (5) Berms are to be graded in gentle, undulating naturalistic forms. No straight, steep or erodible slopes are permitted. Provisions are to be made for drainage around or through berms as necessary. Generally, a berm height of thirty-six (36) inches from top of adjacent curb is the maximum desired.
- (6) Grading shall not be engineered to flow onto adjacent property.

3-4730: Development Review Committee. All applications submitted under this ordinance will be reviewed by the Development Review Committee with the applicant. It is the duty of this Committee to review all projects for compliance with this ordinance and the Commercial Design Standards. The Committee can request additional information from the applicant as they deem necessary. The Committee will be comprised of the City Engineer, the Community Development Director, ~~the City Administrator~~ the Police Chief, ~~and~~ the Fire Chief, **a member of the Planning Commission as appointed by the Planning Commission Chair and a member of the City Council as appointed by the Mayor. A member of each utility company with utilities in Highland shall notified and invited to attend each meeting.** The Committee will submit their findings with recommendations to the Planning Commission. **The Planning Commission will evaluate each application and make a recommendation to the City Council who may grant Final Approval.**



3-4731: Action of Site Plan and Architectural Building Elevations. The ~~City Council Planning Commission~~ shall approve the site plan and architectural building elevations if ~~they are~~ **it is** consistent with the requirements of this ordinance and after receiving a recommendation from the ~~Development Review Committee~~ **Planning Commission and following a public notice and open house.** **The Planning Commission shall approve the architectural building elevations if they are consistent with the requirements of this ordinance and after receiving a recommendation from the Development Review Committee.** The ~~City Council or~~ **City Council or** Planning Commission shall deny any application that is not consistent with the requirements of this Code and the Commercial Design Standards.

- (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 the Commercial Design Standards. It should be strongly encouraged that recommendations of the Development Review Committee **and Planning Commission** are considered by the ~~Planning Commission~~ **City Council** during final review **for final approval.** Each of these ~~departments~~ **entity present for the DRC meeting** shall review the proposed site plan and submit their written comments to the ~~Planning Commission and~~ City Council.
 - (b) ~~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.~~
- (2) **Findings necessary to granting architectural approval are:**
 - (a) **The proposed use and architectural building elevations conform to the provisions of this ordinance (specifically but not limited to Sections 3-4713 to 3-4716) and the Commercial Design Standards. It should be strongly encouraged that recommendations of the Development Review Committee are considered by the Planning Commission during final review. Each entity present for the DRC meeting shall review the proposed architectural building elevations and submit their written comments to the Planning Commission prior to approval.**

3-4732: Nuisances.

- (1) No portion of the property shall be used in such a manner as to create a nuisance to adjacent sites, such as, but not limited to, vibration, sound, electromechanical disturbance and radiation, electromagnetic disturbance, air or water pollution, dust emission of odorous, toxic, or noxious matter, or placement, dumping or blowing refuse, paper or other garbage.
- (2) Noise Attenuation: All commercial areas within Highland City shall be subject to the following noise limitations measured at the source:
 - (a) Noise from external sources may not exceed 65 d.b.a. during daylight operations.
 - (b) Noise from external sources may not exceed 45 d.b.a. during nighttime operations.
 - (c) Commercial developments shall incorporate site planning techniques in order to reduce resident exposure to noise and shall, if needed provided adequate sound attenuation walls in conformance with the standards set forth in these articles.

3-4733: Appeals. Appeals from any decision of the Planning Commission **regarding Architectural Approval or City Council for Site Plan and Final Approval** 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 3-4713 in this ordinance.~~ (Amended: 4/21/98)

3-4734: Security: Site Improvements/Project Completion.

The following articles shall apply to all commercial developments within Highland City.

- (1) Site Improvements:
 - (a) Guarantee: To guarantee the construction, repair and/or replacement of required public improvements, the permittee shall post a bond in the form of a cash deposit per Chapter 6, Guarantee of Performance, in this Code.

3/31/2010ARTICLE 4.7

Article 4.7 Adopted: 9/22/99, Amended 4/7/09

TOWN CENTER OVERLAY

- 3-4701: Purpose**
- 3-4702: Definitions**
- 3-4703: Land Area**
- 3-4704: Density**
- 3-4705: Permitted Uses**
- 3-4706: Conditional Uses**
- 3-4707: Prohibited Uses**
- 3-4708: Change of Use**
- 3-4709: Non-Conforming Structures and Uses**
- 3-4710: Lot Coverage**
- 3-4711: Location of Open Space**
- 3-4712: Architectural Standards**
- 3-4713: Architectural Design**
- 3-4714: Signs / Sign Illumination**
- 3-4715: Lighting**
- 3-4716: Residential Use**
- 3-4717: Location of Gasoline Pumps**
- 3-4718: Substructures / Storage / Refuse Collections / Etc**
- 3-4719: Utilities / Equipment**
- 3-4720: Roadways**
- 3-4721: Parking**
- 3-4722: Loading**
- 3-4723: Driveway and Curb Openings**
- 3-4724: Landscaping**
- 3-4725: Landscaping Maintenance**
- 3-4726: Hardscape**
- 3-4727: Submittal Requirements**
- 3-4728: Irrigation Water Requirements**
- 3-4729: Grading**
- 3-4730: Development Review Committee**
- 3-4731: Action of Site Plan and Architectural Building Elevations**
- 3-4732: Nuisances**
- 3-4733: Appeals**
- 3-4734: Security: Site Improvement/Project Completion**

3-4701: Purpose.

The following provisions fill the City Objectives to promote the public health, safety, and general welfare of present and future Highland residents:

- (1) To provide a central area where commercial, retail and residential could be blended in an attractive walkable, open space environment;
- (2) To provide higher density development with well planned open space *and public gathering areas*.
- (3) To provide commercial, retail and civic opportunities of a wide variety which meet the basic needs of the Highland area and its residents.
- (4) To promote clarity, flexibility and cooperation in long term planning, working with for the success and future of the Town Center.



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, Police Chief, a Planning Commission member as appointed by the Planning Commission Chair and a member of the City Council as appointed by the Mayor. A member of each utility company with utilities located within Highland City boundaries shall also be invited to attend.
- (4) 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 the four.
- (5) Ground Floor. The first floor of a building constructed above grade with available access from a sidewalk.
- (6) 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) HCESCC (Highland City Environmentally Sustainable Construction Credits) is a checklist located on pages 44-48 within the Commercial Design Standards.
- (8) Open Space. All areas not used for parking or structures will be open space as defined in 3-4711 and 3-4726 within this ordinance.
- (9) 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) Parking Plan Schematic. These are schematics illustrated in the Town Center Master Plan and the Commercial Design Guidelines which generally identify the areas where parking stalls are permitted. Parking requirements are defined in Section 3-4713, 3-4716 and 3-4721 of this ordinance and determined by proposed use.
- (11) 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 as specified in 3-4705(2)(h) in this Code.
- (12) 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) Upper Floor. Any building story constructed above the Ground Floor.

3-4703: Land Area. It is determined to be in the best interest of Highland City to limit the applicability of this ordinance to the area known as the "Town Center". This area is bounded by 11000 North on the north, Alpine Highway on the east, 5600 West on the west and 10700 North on the South. .

3-4704: Density. Density within the Town Center is determined by each district a project is located, and its proposed use, as follows:

- (1) Residential density.
 - (a) The Town Center Overlay Urban Subdivision as identified in Article 4.7.4 Highland Development Code, recorded as the Highland Village Subdivision and indicated within an area defined by the Town Center Land Use Map located in the Commercial Design Standards shall have a maximum density of 2.5 units per acre.
 - (b) The Town Center Transitional Housing Overlay as identified in Article 4.7.6 Highland Development Code, recorded as the Coventry Subdivision and indicated within an area defined by the Town Center Land Use Map located in the Commercial Design Standards shall have a maximum density of 7.5 units per acre.

- (c) The Town Center Flex Use District within the area defined by the Town Center Land Use Map located in the Commercial Design Standards shall have density (residential, office, or retail) that is determined by parking requirements, access requirements and height restrictions.
- (d) Town Center Residential. Residential density within the Town Center Flex District area defined by the Town Center Land Use Map located in the Commercial Design Standards shall have a maximum density of 7.5 dwelling units per acre (du/ac).
- (2) Non-residential building density. Non-residential density shall be defined as area that is not comprised of residential use only and is determined by the adopted Town Center Master Land Use Plan which is incorporated as a part of this ordinance within the adopted Commercial Design Standards. Density shall be limited by parking requirements, access requirements and height restrictions.

3-4705: Permitted Uses. The only permitted uses allowed within the Town Center Overlay which satisfy the primary intent or purpose for the Zone are defined by the Land Use Table 3-47A on page 91-92 in this ordinance. Permitted uses may be subject to additional conditions as described within this Code. Locations of specifically permitted uses are defined in the Commercial Design Standards in the Town Center Master Land Use Map and shall be applied at site plan and architectural approval if applicable. Applicants seeking building permits for structures within the Town Center Overlay shall first obtain site plan design and architectural design approval as defined in this ordinance prior to application for a building permit. The following list of uses shall be considered permitted for the Town Center Overlay identified by district:

- (1) **Town Center Commercial Retail District:** For all buildings with frontage along SR-92 or SR-74, a minimum of seventy percent (70%) of the ground floor shall include retail uses. Projects that propose a minimum of two (2) stories of residential use, retail use or office use above the ground floor shall be preferred. Only those uses specifically identified as follows shall be considered permitted:
 - (a) Retail food stores, grocery and meat markets, bakeries, organic food stores, doughnut shop, candy store, nut or cheese store and other similar food and beverage sales facilities, ice cream/yogurt parlor. Retail sales of alcoholic beverages are prohibited by City Ordinance 1977-9; or
 - (b) Sports and Fitness Centers, day spa, dry cleaner and laundry, copy center, barber shop, beauty parlor, pharmacy, optical shop or eye products, hearing center and sales; or
 - (c) Florist, indoor nursery or plant sales; or
 - (d) Full service restaurants, catering, delicatessen; or
 - (e) Variety stores, jewelry and watch stores, stamp and coin store, home furnishings and appliances, book stores, retail sale of clothing, shoes and accessories, sporting goods stores, office supplies and furnishing, furniture and home furnishings, hardware and home improvement, craft and hobby supplies, new and re-manufactured auto-parts and accessories, electronics, rental and sale of DVDs, CDs, games and videos, wireless phone and related products, computer services/sales, pet products and grooming, travel agency; or
 - (f) ATV or motorcycle sales (see 3-4713(j) for additional requirements); or
 - (g) Public Parks, Public Trails, and Public Open Space.
 - (h) Retail sporting goods and recreation stores.
 - (i) Upper floor uses may include; Doctor's office, dentist's office, physical therapy, optometrist, audiologist, Psychologist and other general professional uses associated with typical professional office uses such as:
 - (j) Architects
 - (k) Certified Public Accountants
 - (l) Insurance (not claims adjustment)
 - (m) Lawyers
 - (n) Engineer or Surveyors
 - (o) Computer Software Engineer and Software Developers; or

- (p) Realtors, Real Estate uses, Mortgage, Title Companies, or similar
- (q) Art and craft galleries, and studios for the teaching of arts and crafts; or
- (r) Temporary outdoor sales events.

(Recommendation to eliminate list of permitted uses and only specify unwanted uses. After further discussion with staff it was determined not to go that direction but to provide a "fast track" option to allow a use that is preferred when it is applied for)

(2) **Town Center Flex Use District:** Only those uses specifically identified as follows shall be considered permitted:

- (a) Financial institutions not requiring a drive-through
- (b) Health Care Facilities, Doctor, Dentist, Psychologies, Psychiatrist, Nurse, pharmacist, Optometrist, hearing center and sales;
- (c) Professional Offices as follows:
 - (i) Architect
 - (ii) Certified Public Accountant
 - (iii) Realtors, Real Estate uses, Mortgage, Title Companies, or similar
 - (iv) Insurance (not claims adjustment)
 - (v) Lawyer
 - (vi) Engineer or Surveyor
 - (vii) Physical Therapist
 - (viii) Computer Software Engineer and Software Developers; or
 - (ix) Other general professional uses associated with typical professional office uses.
- (d) Commercial Retail as follows:
 - (i) All uses defined in 3-4705(1) and Table 3-47A are permitted in the Flex Use District as defined by this Code.
- (e) Public Parks, Public Trails, and Public Open Space.
- (f) Public or private cultural arts center.
- (g) Attached Multi-family Residential, Live-Work Residential.
 - (i) Upper floor uses may include; attached high density multi-family residential units, professional offices (see (c) above), or retail sales and/or services as defined in this Code.
 - (ii) A minimum of ten percent (10%) and a maximum of seventeen percent (17%) of all multi-family projects shall qualify for moderate income housing as defined by State and Federal law provided for by the Developer.
- (h) Senior Housing. The three stages of senior living that shall be permitted within the Town Center are identified as follows:
 - (i) Age-restricted adult housing;
 - (ii) Senior Independent Living; and
 - (iii) Senior Continuing Care Retirement Communities.

(3) **Town Center Civic District:** Only those uses specifically identified as follows shall be considered permitted:

- (a) Municipal buildings and uses (City Hall, Community Center, Library, Cultural Arts, or similar).
- (b) Public Safety buildings and uses (fire, police, justice or similar).
- (c) Ancillary structures or uses typically associated with municipal or public safety buildings.
- (d) Public Parks, Public Trails, Public Open Space, and any accessory use associated with parks, trails or open space.

3-4706: Conditional Uses. Uses identified as Conditional Uses in Land Use Table 3-47A within this code are subject to conditions as defined in this ordinance and in the Commercial Design Standards. These standards may be recommended by the Planning Commission and applied by the City Council at site plan and architectural approval if applicable. Only those uses specifically identified in Land Use Table 3-47A shall be considered as Conditional Uses:

- (1) Attached Multi-family Residential, Live-Work Residential shall be allowed within this zone if all of the conditions and requirements defined within this ordinance are met, specifically sections 3-4713, 3-4716, 3-4721, 3-4724, and 3-4726. Any applicant/owner/developer shall provide in addition to any other requirement adequate information, illustrations, elevations and evidence that the ground floor of such units adjacent to any road may be converted to retail, office or other non-residential use sufficient and consistent in size to that of a typical retail or office use constructed elsewhere.
 - (a) Upper floor uses may include; attached high density multi-family residential units, professional offices (see (3) above), or retail sales and/or services as defined in this Code.
 - (i) A minimum of ten percent (10%) and a maximum of seventeen percent (17%) of all multi-family projects shall qualify for moderate income housing as defined by State and Federal law provided for by the Developer.
- (2) Accessory structures and accessory uses necessarily and customarily incidental to the above uses and specifically provided for in the Conditional Use Permit. All uses must be compatible with the Zone as follows:
 - (a) All accessory structures shall be attached to the primary building or a masonry wall; and
 - (b) Accessory structures shall be designed and constructed consistent with all aspects of the primary building;
 - (c) Accessory structures shall only be located behind the primary structure and shall be significantly screened by landscaping from any right-of-way;
 - (d) In all cases, an accessory structure shall be a minimum of fifty (50) feet from the nearest right-of-way.
 - (e) Only accessory uses that are necessarily and customarily incidental to the primary use shall be considered under this ordinance.
- (3) Convenience store, gas stations, freestanding fuel centers (only permitted in the Town Center Commercial Retail District and if adjacent to SR-92 or SR-74 but not immediately adjacent to Town Center Boulevard, Parkway East, Parkway West, Town Square East, or Town Square West); or
- (4) Temporary outdoor farmer's market events.
 - (a) Participants in a temporary outdoor farmer's market event shall obtain a business license from the City.
 - (i) Participants in a temporary outdoor farmer's market event shall provide evidence that they are a resident of Highland or a resident from an adjacent contiguously connected municipality.
 - (b) Temporary outdoor farmer's market events shall not exceed two (2) consecutive days for each event; and
 - (c) Temporary outdoor sales events shall only be available Friday and Saturday between the months of July through October at a City designated location.
- (5) Hotels; Multi-story or Mixed Use, two stories minimum.
 - (a) If the majority of a hotel frontage is located along Town Center Boulevard, Parkway East, Parkway West, Town Square East, or Town Square West the Hotel shall provide some ground floor retail opportunities adjacent to those right-of-ways; and
 - (b) A hotel shall provide ground floor "front door" architecture adjacent to all planned right-of-ways. Hotels placed along SR-92 or SR-74 shall provide significant 360 degree architectural detail on the ground floor unless immediately adjacent to the power substation then there shall be significant architectural detail provided on the north, east, and south elevations; and
 - (c) All hotel parking shall be located on the interior of the lot; and
 - (d) A courtyard porte-cochere may not front along Town Center Boulevard, Parkway East, Parkway West, Town Square East, or Town Square West
- (6) Mixed-Use automobile service facilities a minimum of two (2) stories in height.
- (7) The Planning Commission may recommend and the City Council may require additional conditions for Conditional Uses within the Town Center Zone as listed below. The City Council shall approve a Conditional Use permit if the following requirements are met:

- (a) All of the requirements within this zone are exceeded as follows:
 - (i) It is apparent that the building design was conceptualized from traditional architectural styles defined in 3-4713(1)(a) and is consistent with the local vocabulary; and
 - A. Exception: If it is proven that the building has been designed with the intention of meeting the HCESCC requirements (Highland City Environmentally Sustainable Construction Credits - a minimum of 80% of the qualifying elements) the building may be designed consistent with typical LEED and other environmentally conscious structures which are commonly post modern in form and aesthetic. In all cases the design of any building shall not detract from the overall form of the Town Center.
 - (ii) Additional pedestrian elements are provided; and
 - (iii) Significant landscaping features are provided such as large scale water features or statues; and
 - (iv) Exceptional pedestrian links are provided between the parking lot area and the storefront; and
 - (v) On-street parking is provided along the storefront providing access to the front entry door; and
 - (vi) Planters, benches, bike racks and garbage cans are all provided along the front of the building; and
 - (vii) Pavers are provided along the building front connecting adjacent buildings.

3-4707: Prohibited Uses. In the Town Center Zone, any use not expressly listed as a permitted use or a conditional use shall be deemed specifically prohibited including but not limited to the following:

- (1) Slaughtering of animals or live animal processing
- (2) Sexually Oriented Businesses
- (3) Call centers
- (4) Alcohol sales
- (5) Thrift Stores or Pawn Shops
- (6) Tattoos, non-medically prescribed body massages, or body piercing shops, parlors or facilities.

3-4708: Change of Use. Change of use is considered a permitted use if that use is listed as permitted and the proposed new use does not violate any other portion of this ordinance. A change of use considered permitted that is located within an approved building shall not require additional approvals. Change of use that is listed as a Conditional Use shall require the applicant to obtain a new Conditional Use Permit prior to proceeding with that proposed use. Any uses not defined as permitted or conditional are specifically not permitted and shall not be allowed in this zone.

3-4709: Non-Conforming Structures and Uses. These provisions provide for the orderly termination of non-conforming buildings, structures, and uses to promote the public health, safety, and general welfare, and to bring these buildings, structures, and uses into conformity with the intent of the Town Center Zone of Highland City. For more information relating to non-conforming uses see (Chapter 3, Article 2) of this Code.

3-4710: Lot Coverage. A project which applies for a land use under this ordinance must conform to this ordinance and the Highland Commercial Design Standards. Building locations are generally defined in this ordinance. Applications which are not entirely consistent with these requirements shall not be recommended by the Planning Commission for approval by the City Council. As a condition of site plan and subdivision approval for construction on an identified building pad, the applicant must agree to develop all improvements outlined on the Plan (on their property) and identified in the Commercial Design Standards adjacent and contiguous to that parcel in a timely manner and prior to occupancy.

3-4711: Location of Open Space. All projects must conform to the requirements imposed for open space as shown on the master plan. Any property not utilized for a structure, sidewalks, parking, and parking access shall be landscaped by the owner/developer. The parkway detail shall be installed by each property owner/developer at the time of construction along SR-92 or SR-74 per the city standard.

3-4712: Architectural Standards. Incorporated as part of this ordinance are the Commercial Design Standards. All projects must conform to the architectural standards as set forth in the Commercial Design Standards and Section 3-4713 in this Code. The Planning staff shall make recommendations to the Planning Commission regarding architecture however it is the responsibility of the Planning Commission to insure conformity to these standards before making a recommendation to the City Council.

3-4713: Architectural Design. Prior to the issuance of building permits for any permitted or conditional use within the Town Center Zone, the applicant shall first meet with the Development Review Committee who shall make recommendations to the Planning Commission based upon compliance and consistency with the Commercial Design Standards. The City Planning Commission shall review the proposed development plans to assure compliance with the Commercial Design Standards. The Planning Commission shall approve the architecture if the applicant has met all of the requirements of this ordinance. The Planning Commission shall deny the application if it does not meet all of the requirements of this ordinance. Appeals of actions on architectural compliance may be heard by the City Council.

- (1) **Overall Architectural Outline:** It shall be clearly evident that building design has been initially conceptualized from traditional architectural styles and generally consistent with the local vocabulary within the Town Center as defined below. If it is proven that the building has been designed with the intention of meeting the HCESCC requirements (Highland City Environmentally Sustainable Construction Credits - a minimum of 80% of the qualifying elements) an exception shall be considered and the building may be designed consistent with typical LEED and other environmentally conscious structures which are commonly post modern in form and aesthetic. In all cases the design of any building shall not distract from the overall form of the Town Center. Each building shall include traditional design elements associated with that architectural style.
 - (a) Property owner/developer may choose one of the following architectural styles as a basis for their building design and the final product shall be visually identified as one of the following classic architectural styles however Craftsman, French Provincial, and Italianate are preferred architectural styles. Buildings will only be approved if they are similar in design to the approved representations of buildings from each of the following styles provided in the Design Guidelines:
 - (i) Academic Classicism
 - (ii) Colonial Revival
 - (iii) Craftsman
 - (iv) English Revival
 - (v) Federalist, Federal
 - (vi) French Provincial
 - (vii) Georgian
 - (viii) Italianate
 - (ix) Neoclassical
 - (x) Post Modern (if meets 80% of HCESCC requirements only)
 - (b) As a guideline, special sensitivity should be given to provide continuity of building development along street fronts; and
 - (i) Buildings located along Town Center Boulevard, Parkway East, Parkway West, Town Square Street East or Town Square Street West shall be designed to front that right-of-way which it faces.
 - (c) All commercial buildings along Town Center Boulevard, Town Square Park East, Town Square Park West, Parkway East and Parkway West shall be located as close to each other as allowed by Building Code except in areas designated for drives to access parking areas.

Any area between buildings shall be developed as paseos (pedestrian access points between parking and building fronts) or plazas (see 3-4726 in this ordinance).

- (d) Strip-mall or in-line type developments shall be avoided. Multi-user buildings shall be designed to appear as a separate building with a different architectural style (defined above) for each leasable ground floor space along the building front.
- (2) **Door and Window Openings.** Doors and windows may be considered one of the most important design elements for successful building design and shall be required to have the following elements incorporated into their design:
 - (a) **Entries and Doors.** Commercial entries are a significant contributor to the success of building design and shall be designed to emphasize the front door.
 - (i) Doors may be constructed of high grade architectural solid wood or metal and glass construction.
 - (ii) All ground floor doorways facing a right-of-way shall be set in and designed with a minimum separation of twelve inches from the fronting wall.
 - (iii) All buildings that are located along Town Center Boulevard, Parkway East, Parkway West, Town Square Street East or Town Square Street West shall provide a front door and pedestrian entry into that structure from that right-of-way which it faces.
 - A. Additional access (side and rear) shall be permitted if the front access has been architecturally addressed giving the appearance of a main entrance along the pedestrian sidewalk. The front shall be any portion of a building that is immediately adjacent to a designated right-of-way (not including driveway or parking lot access).
 - B. Special consideration shall also be given to the Town Center Park. Structures with a wall adjacent to the Town Center Park shall be designed to address the park with a main entrance or front door.
 - (b) **Entrance Element.** Every building shall provide an architectural element over each entrance according to the architectural style associated with that building. At minimum a building shall incorporate one of the following:
 - (i) Pediment
 - (ii) Portico
 - (iii) Stoop
 - (iv) Arcade
 - (c) **Windows.** Each building shall include a minimum of fifty percent (50%) fenestration on the ground floor for any facade that faces a right-of-way and is located within thirty (30) feet of that right-of-way for the purpose of providing visibility into the store (this is calculated from the building width). It is recommended the display window front is utilized for visible exposure to retail products sold inside each unit.
 - (i) Each window shall incorporate a majority of the following window elements:
 - A. Mullions
 - B. Sash
 - C. Sill
 - D. Apron
 - E. Casing
 - F. Jamb
 - (ii) All upper story windows shall be of a high quality casement, single-hung or double-hung type similar in color and material to the ground floor windows; and
 - (iii) All building front ground floor windows shall be one-hundred percent (100%) transparent for the purpose of displaying business products and providing visibility into the building with the exception of window signage as permitted and defined in Section 3-47 Signs in this Code; and
 - (iv) Architectural quality storefront windows shall be provided as defined in the Commercial Design Standards; and

- (v) Every window shall include architectural window treatment and finish elements defined by the architectural style associated with the building the window is associated with; and
- (vi) Every building shall include upper floor transparent fenestration for each story with an amount equal in rhythm and scale to the ground floor windows as defined in the Commercial Design Standards.
- (d) **Window Treatments.** Each building shall provide an architectural window canopy/awning of some type on the ground floor consisting of a high quality architecturally treated materials consistent with the architecture of the building.
- (3) **Architectural Elements.** All buildings shall incorporate the four (4) common building design elements (see C(1) through (4) below) and seven (7) common architectural design elements (see C(2) below) typically associated with Highland City if those elements are consistent with 3-4713(1) as follows:
 - (a) **Common Lighting Theme;**
 - (i) Building lighting,
 - (ii) Parking lot lighting,
 - (iii) Street lighting.
 - (b) **Common Architectural Design Elements;**
 - (i) Columns,
 - (ii) Dentils,
 - (iii) Window treatments, high percentage of fenestration, mullions,
 - (iv) Portico/arbor/arcade/pediment,
 - (v) Quoins,
 - (vi) Common high quality roofing materials,
 - (vii) High quality building materials (earhtone colors, brick, rock, trim).
 - (c) **Common Sign Theme.** All signage shall adhere to an approved common sign theme and be consistent with the requirements of Chapter 7 Signs in this Code.
 - (d) **Interior Parking.** A significant majority of all parking areas shall be located behind buildings and not adjacent to a public right-of-ways.
 - (e) **Color and Material.** Colors shall be limited to an earthtone palette.
 - (i) A building front shall be any building facade parallel to a right-of-way and located within thirty (30) feet of that right-of-way. With the exception of exposed wood/timber architectural elements, fifty percent (50%) of a building front facade on the ground floor shall be a high quality architectural rock or stone.
 - (ii) A corner building shall be considered to have two (2) building fronts and shall be required to be finished with a minimum of fifty percent (50%) high quality architectural rock or stone on the ground floor for each facade parallel to a right-of-way within thirty (30) feet.
 - (iii) In all cases, exposed heavy timber shall be incorporated in the building front design.
 - (f) **Roof Design.** All roof design shall conform to the Commercial Design Standards. At minimum, a roof may not continue the same height or style for a horizontal distance exceeding seventy-five (75) feet unless it would not be consistent with the architectural style associated with a single structure as defined in 3-4713 of this Code. All buildings shall incorporate use heavy cornices, raking cornices, eaves and friezes to provide aesthetic character to the roof, mitigate large long rooflines, allow sunlight to access the pedestrian network. Whenever possible rooflines should be designed to provide view corridors to American Fork Canyon and the Alpine Bowl.
 - (i) A sloped mansard type roof may not exceed 14 feet in vertical height and in all cases any type of sloped roof may not exceed seventy feet (50') to its highest point measured from the top of the foundation.
- (4) **General Requirements.** In addition to the previous requirements of this Code and requirements outlined in the Commercial Design Standards, the following shall also apply:

- (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 incorporate historic materials that will create community identity and define the Town Center by separating it from other similar developments with the use of such materials as rock, brick, and the four common architectural design elements found in Highland defined by the Commercial Design Standards, page 10; and
 - (i) Varying from a company's prototypical building design is encouraged, and required if it is not consistent with all of the requirements of this zone.
- (d) Proposed signage shall be an integral architectural feature which does not overwhelm or dominate the structure or property and is consistent with the architectural style of the building the signage is associated with; and
- (e) Down lighting shall be stationary, baffled on all sides and directed/deflected away from adjacent residential properties. Lighting located on light poles shall not exceed fifteen feet (15') in height above a three foot (3') base maximum.
- (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 incorporate 360 degree architecture except for building sides that are less than ten (10) feet from an adjacent building and if a paseo does not exist between them.
- (h) If parking structures are proposed, they shall be architecturally compatible with the primary structure and shall incorporate landscaping features along the exterior walls on each level of parking.
- (i) All perimeter walls shall be architecturally treated and heavily landscaped.
- (j) ATV or Motorcycle Sales. Permitted uses associated with the sale of vehicles per Section 3-4705 may have additional regulations and restrictions placed upon that use by the Planning Commission in order to mitigate any detrimental affects that this use may have upon adjacent residential and/or commercial properties. It is the intent of this provision to minimize noise and light pollution while enhancing the aesthetic and architectural impacts consistent with the Commercial Design Standards and the Town Center. These additional requirements which may be required by the Planning Commission in order to obtain Architectural and Site Plan Approvals are as follows:
 - (i) **Building Location.** In all cases, Sales buildings associated with ATV or Motorcycle sales shall be subject to all of Section 3-4713(5) of this ordinance.
 - A. All buildings shall be designed so that the largest portion of that building is located adjacent to the nearest primary right-of-way; and
 - B. All buildings shall incorporate a significant amount of fenestration adjacent to the nearest primary right-of-way which may be used to exhibit vehicles for sale; and
 - C. All buildings shall be designed with two primary entrances which shall include an architecturally significant primary entrance from the nearest adjacent right-of-way; and
 - (ii) **Parking.** The majority of parking locations for customers shall be located between the portion of the building opposite the nearest right-of-way and the rear property line (not including on-street parking); and
 - A. The majority of parking locations for vehicles for sale shall be located between the portion of the building opposite the nearest right-of-way and the rear property line (not permitted within the on-street parking locations); and

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- (iii) **Noise.** In no case shall any structure include exterior speakers, intercoms or similar; and
 - A. In no case shall any noise not primarily associated with other permitted uses in the Town Center be heard from adjacent property owners; and
 - (iv) **Signage.** All signage associated with this use shall strictly adhere to Chapter 3, Article 7, Signs and 3-4713(4)(d) in this Code; and
 - A. **Sales Events.** ATV or Motorcycle Sales uses may use balloons and/or window signs on vehicles to be sold to advertise a sales event.
 - (v) **Lighting.** In no case shall any lighting be designed to project onto an adjacent property and in all cases shall lighting be designed to face downward; and
 - A. All lighting shall be subject to 3-4713(4)(e) and 3-4715 of this ordinance.
 - (vi) **Service.** Any service or mechanic shop facility associated with this use shall be subject to 3-4706(1) in this ordinance.
- (5) **Building Height and Location.** Buildings shall be defined by District. It is the intent of this zone to create separate unique districts with specific determined uses and environments appealing to both automotive and pedestrian scales. This will be accomplished by defining the street edge and incorporating pedestrian elements to the street and buildings. In addition, buildings shall be designed and located to address the street it is located adjacent to. These important elements are defined as follows:
- (a) All buildings shall be set back a minimum of five (5) feet and a maximum of ten (10) feet from the nearest right-of-way; and
 - (b) All commercial buildings along Town Center Boulevard, Town Square Park East, Town Square Park West, Parkway East and Parkway West shall be located as close as reasonably possible to adjacent buildings with the preference of a zero lot line design concept except in areas designated as access for parking or pedestrians. Any area between buildings along the previously identified right-of-ways shall be developed as paseos (pedestrian access points between parking and building fronts) or plazas.
 - (c) Residential units above the ground floor shall be setback a minimum of eight (8) feet from the lower fronting vertical wall along Town Center Boulevard, Parkway East, Parkway West, Town Square East, and 10700 North.
 - (i) The area above the ground floor within the setback shall be designed and engineered to be a functional balcony, courtyard, garden, outdoor patio, outdoor seating area, or similar that promotes private use and public interaction.
 - (d) **Town Center Commercial Retail District.**
 - (i) **Height.** Height shall be measured from the foundation to the highest point of a building which may be the top of the cornice or roof ridge. Buildings within the Town Center Commercial Retail District shall be a maximum of forty (40) feet tall.
 - (ii) **Upper floors.** Upper floor uses shall not exceed two (2) stories for a total of three (3) stories.
 - (iii) **Location.** Any portion of all buildings within the Commercial Retail District shall be a maximum of fifteen (15) feet from an existing right-of-way. A building may be located a maximum of 20 feet from the right-of-way along SR-92 or SR-74 or a maximum of ten (10) feet along Parkway East or Town Center boulevard guaranteeing massing and pedestrian activity along the planned right-of-ways within the Town Center.
 - A. If a building is located adjacent to a right-of-way a significant majority of the building front and front door shall be a maximum of five (5) feet from Parkway West, Parkway East or Town Center Boulevard if that right-of-way is closer.
 - (e) **Town Center Flex Use District.**
 - (i) **Height.** Height shall be measured from the foundation to the highest point of a building which may be the top of the cornice or roof ridge. Buildings within the Town Center Flex Use District shall be a maximum of fifty (50) feet in height.

- (ii) **Upper floors.** Upper floor uses shall not exceed two (2) stories for a total of three (3) stories.
- (iii) **Balconies.** Residential units above the ground floor along Town Center Boulevard, Town Square Park East, 10700 North, Parkway East and Parkway West shall be setback horizontally a minimum of eight (8) feet from the lower fronting vertical wall.
 - A. The area above the ground floor within the setback shall be designed and engineered to be a functional balcony, courtyard, garden, outdoor patio, outdoor seating area, or similar that promotes private use and public interaction.
- (iv) **Location.** A significant majority of all building fronts and front doors within the Town Center Flex Use District shall be a maximum of five (5) feet from an existing/planned right-of-way (not driveway or parking area). A building may be located a maximum of 20 feet from a rear property line if a structure has already been constructed along its adjacent right-of-way first, guaranteeing massing and pedestrian activity along the planned right-of-ways within the Town Center.
- (f) **Town Center Civic District.**
 - (i) **Height.** Height shall be measured from the foundation to the highest point of a building which may be the top of the cornice or roof ridge. Buildings within the Town Center Civic District shall be a maximum of fifty (50) feet tall to create a more substantial, prominent and aesthetically permanent structure consistent with adjacent structures within the Town Center.
 - (ii) **Location.** Any portion of all buildings within the Town Center Civic District shall be a maximum of fifteen (15) feet from a property line or fifteen (15) feet from an existing/planned right-of-way, whichever is closer.

3-4714: Signs/Sign Illumination. (Section deleted 7/5/05) Sign/ Sign illumination requirements shall be defined by the Commercial Design Standards and Chapter 3 Article 7 of this code. All signage shall be consistent with the approved sign theme for the Town Center.

- (1) **Town Center Monument.** An approved Town Center Monument identifying the entrance into the Town Center shall be constructed on each corner of the intersections of SR-92 and Town Center Boulevard, 5600 West and Parkway West, and SR-74 and Parkway East.
 - (a) The monuments shall be located adjacent to each intersection and landscaped per the landscaping requirements for monument signs as defined in Chapter 3 Article 7, Signs, in this Code.
 - (i) The monument landscaping shall be maintained by the owner/developer; or
 - (ii) A landscaping easement shall be provided for maintenance by a recorded Landscaping, Lighting and Parking Maintenance Governing Board created to maintain the landscaping within the Town Center.

3-4715: Lighting. All lighting shall conform to the Commercial Design Standards and the approved lighting specifications for the Town Center Zone.

- (1) Properties along Parkway East, Parkway West, Town Center Boulevard, Town Square Street - East or Town Square Street - West shall include street lights consistent with the approved Town Center street light and placed 90 feet apart. This distance shall be a linear measurement as measured along the back of the curb.
- (2) Property along SR-92 or SR-74 shall install street lights consistent with the approved Town Center street light and placed 90 feet apart. This distance shall be a linear measurement as measured along the back of the curb.
- (3) All lighting and lighting fixtures, with the exception of street lights that are owned and maintained by the city, shall be maintained in proper order and good condition by each owner/developer according to an approved site plan and architectural approval associated with each development.

3-4716: Residential Uses.

- (1) Flex use residential developments 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 and provide places for outdoor balconies and spaces.
 - (i) **Balconies.** A minimum of twenty-five 25% of all residential units located on an upper floor (first floor of residential), which faces a parking area or designated right-of-way, shall be designed with a functional and practical balcony that faces onto that parking area or designated right-of-way.
 - (c) **Windows.** Only windows of high residential quality shall be used. Window details as defined within the Commercial Design Standards and 3-4713(2)(c) of this ordinance shall be included. The window pane for all residential windows shall be recessed a minimum of three (3) inches from the exterior facing wall.
 - (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 one and 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 eighteen feet (18').
 - (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.
 - (h) **Minimum Residential Height.** Uses proposed as exclusively attached residential shall be a minimum of three (3) 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.

3-4717: Location of Gasoline Pumps. Gasoline pumps shall be located between the primary building and the interior parking area not less than fifty (50) feet from any right-of-way, and not less than fifty (50) feet from a residential zone boundary line and conform to all relevant State and Federal Regulations. If the pump island is set at an angle on the property, it shall be so located that automobiles stopped for service will not extend over the property line. Gasoline storage will not be permitted above ground.

3-4718: Substructures; Storage/Refuse Collections, Etc.

- (1) Substructure requirements shall be defined by the Commercial Design Standards. All substructures, outdoor storage areas or outdoor collection areas shall require a Conditional Use Permit prior to use. In addition, The following articles shall relate to the screening and location of storage and refuse collection areas:
 - (a) Free-standing flagpoles may not exceed the building height restrictions by more than six (6) feet.
 - (b) 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.
- (2) **Storage:**
 - (a) 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.
 - (b) 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.
 - (c) All outdoor storage shall be enclosed by a six (6) foot masonry wall consistent with the architecture and materials associated with the main structure and shall be attached to the main structure.
 - (d) No storage shall be permitted between the curb and the building line. Furthermore, no outdoor storage shall be located within forty (40) feet of any district zoned for residential use.
- (3) **Refuse:**
 - (a) Every parcel with a building or structure shall have a trash receptacle on the premises. 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 six (6) 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) All refuse collection areas shall be designed constructed with materials and architecture and specifications per the approved refuse collection areas for the Town Center Zone as defined in the Commercial Design Standards. All refuse collection areas shall be visually screened from access streets and adjacent properties by significant landscaping. The commercial owner and/or manager shall be responsible for the abatement, clean-up and removal of all garbage or refuse thrown, placed, or blown on surrounding property or streets of right-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.
 - (e) No refuse collection areas shall be permitted between the curb and the building line. No refuse collection area shall be located within forty (40) feet of any residential use or zone.
 - (f) Refuse removal and trash collection operations shall occur between the hours of 7:00 a.m. and 10:00 p.m.
 - (g) 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. All freestanding refuse containers shall be constructed according to the approved freestanding refuse container specification for the Town Center Zone.

3-4719: Utilities/Equipment. All Utilities and Utility Facilities shall conform to the Commercial Design Standards. In addition, 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 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 located within a front or side setback visible from the nearest right-of-way. 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 where possible.
 - (a) Easements for non-municipal utilities shall be located on the interior of each lot providing adequate space for utility boxes that shall not be visible from the prominent right-of-ways.
- (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 located on a building wall opposite from the nearest public right-of-way (interior lot side).
- (4) Roof mounted mechanical equipment shall be set back from the street fronting wall so that it is not visible from the ground floor of surrounding buildings as much as possible. In addition the units shall be placed in roof locations that block the view from upper floors of buildings of equal height if possible.
- (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 devices shall not be located in any required front setback area or side yard. Screening by way of landscaping shall be provided so that utility equipment is screened from adjacent streets and public view.
- (7) Electric transformers, utility pads, cable TV and telephone boxes shall be located on the interior of each lot out of view from public rights-of-way and or under grounded. All utility equipment boxes shall be screened with significant landscaping materials that would conceal the device completely on all sides during all seasons from public view.

3-4720: Roadways. It is the responsibility of the owner/developer to install roadways and associated landscaping and landscaping elements, hardscape and hardscape elements, street lighting per the approved street light, and pedestrian elements as defined in the Commercial Design Standards along their frontage. If a project proposes to use a building site which can not be served by an existing road, it shall be the responsibility of the project Developer/Owner to build an appropriate access.

- (1) With the exception of on-street parking, a significant majority of commercial, flex use residential, or office parking areas shall be located on the interior of each project, separated from adjacent right-of-ways by buildings.
- (2) Development along Parkway East, Parkway West, Town Center Boulevard/Drive, Town Square Street East, Town Square Street West, or Town Square Park Street may only provide access to interior parking through planned driveways as defined by the Town Center Circulation Master Plan, carefully planned to promote good circulation patterns.
- (3) Access to building fronts from Parkway East, Parkway West, Town Center Boulevard/Drive, Town Square Street East, Town Square Street West, or Town Square Park Street shall not be impeded by parking spaces except for parallel parking as defined in the Commercial Design Standards.
- (4) The developer shall include concrete crosswalks at all intersections for the purpose of providing pedestrian circulation per the approved standard set forth by the City Engineer.

3-4721: Parking (Not Associated with Residential Districts). 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 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 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
 - A. 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.

3-4722: 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 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.

3-4723: Driveway and Curb Openings. Curb openings and sidewalk driveway crossings for access to private property shall not be authorized unless they are consistent with the Town Center Transportation Master Plan Map located within the Commercial Design Standards. 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.

- (1) The following specifications shall apply to Hardscape curbing:
 - (a) Access shall be limited to one (1) access driveway 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 and SR-92 and 74 at intersections, but in no case shall be located within the operational area of the intersection.
 - (c) Curb cuts and driveway aisles shall be shared at property lines between parcels.

3-4724: Landscaping. All areas not incorporated in the building footprint, parking area or access drives shall be landscaped. A minimum of fifteen (15%) of the project area shall be landscaped. The developer/owner shall incorporate the following landscaping design concepts and landscaping elements into each project and shall submit the following landscaping information with each project:

- (1) **Quality:** Landscaping shall enhance the overall visual appearance of the development.
- (2) **Trees:** Minimum caliper for all trees shall be 2" and minimum shrub size shall be one gallon and shall be consistent with the tree variety as approved for each location.

- (3) **Irrigation:** All landscaping shall have an automatic irrigation system.
- (4) **Installation:** All required landscaping shall be properly installed, irrigated, and maintained prior to use inauguration or occupancy.
- (5) **Maintenance:** Maintenance of approved landscaping shall consist of regular watering, pruning, fertilizing, clearing of debris and weeds, the removal and replacement of dead plants, and the repair and replacement of irrigation systems and integrated architectural features.
- (6) **Front Setback Areas:** Landscaping in these areas shall consist of an effective combination of street trees, trees, ground cover, annual and perennial flower beds, turf grass and shrubbery.
- (7) **Non-Parking Areas:** All unpaved areas not utilized for parking, sidewalks, plazas or paseo hardscape shall be landscaped consistent with 3-4724(6).
 - (a) **Paseos.** A minimum of twenty-five percent (30%) of the area within a paseo shall be landscaped with a variety of landscaping materials (see 3713(1)(c) and 3-4726(2)(a)(v) in this ordinance).
 - (b) **Plazas.** A minimum of ten percent (10%) of the area within a plaza shall be landscaped with a variety of landscaping, however a minimum of 50% of the plaza area shall be covered by tree canopy (see 3-4726(2)(a)(iv) in this ordinance).
- (8) **Right-of-ways.** Properties along designated right-of-ways are required to install landscaping improvements as defined in the Commercial Design Standards.
 - (a) Properties along Parkway East, Parkway West, Town Center Boulevard/Drive, Town Square Street East, Town Square Street West, or Town Square Park Street shall include tree grates with street trees a minimum of 30 feet apart adjacent to the street curb except at locations where street lights are located.
 - (b) Properties along Parkway East, Parkway West, Town Center Boulevard/Drive, Town Square Street East, Town Square Street West, or Town Square Park Street shall include concrete planters between the trees and street lights as follows:
 - (i) Planters shall include area for perennial and annual plants; and
 - (ii) Planters shall incorporate 50% evergreen into the landscaping design; and
 - (iii) Planters shall be constructed to allow seating; and
 - (iv) Planters shall be constructed with the same materials and colors within the Town Center Zone.
- (9) **Parkway Detail:** If any property is adjacent to SR-92 or SR-74, the property owner/developer shall install the parkway detail per Highland specifications.
- (10) **Landscaped Medians:** All owners/developers adjacent to SR-92, SR-74, Town Center Boulevard/Drive, Parkway East or Parkway West shall be responsible for their portion of landscaped medians within the center of those right-of-ways.
- (11) **At Intersections:** Landscaping along all streets and boundaries shall be limited to a height of not more than three (3) feet within the area required for minimum sight distance as specified in the AASHTO Policy on Geometric Design for the following intersections.
 - (a) A vehicular trafficway or driveway and a street;
 - (b) A vehicular trafficway or driveway and a sidewalk;
 - (c) Two or more vehicular traffic ways, driveways, or streets.
- (12) **Parking Areas:** Parking area landscaping design requirements are defined in Section 3-4721 of this Code.

3-4725: Landscaping Maintenance. Landscaping shall be maintained in proper order and good living condition by each owner/developer according to an approved landscaping plan associated with each development. Businesses within the Town Center may enter into an agreement with a third party for the purpose of maintenance.

- (1) Landscaping, Lighting and Parking Maintenance Governing Board. There is hereby created by this ordinance a Landscaping, Lighting and Parking Maintenance Governing Board. The Board consists of five members. Two members will be appointed by the Mayor of Highland City, two members will be appointed by the Town Center Business Association, and the fifth member to be appointed by

the four other members. The terms of the members will be determined by the appointing authority. The term of the fifth member will be established by the Board as a part of their by-laws. It will be the responsibility of the Board to establish by-laws to govern its operation. The Board will have the power to enforce its rules, levy annual maintenance assessments for the cost of the responsibilities enumerated below, enforce conditions of approval, impose sanctions and perform such other activities which will further the purpose of this ordinance and enhance the well being of the town center. It is the responsibility of the Board to ensure that landscaping, state and local highway medians, parking lots, sidewalks, streetscape, street furniture, roadways, snow removal and lighting are properly maintained.

- (2) All projects approved under this ordinance must sign an agreement with the Board assenting to its jurisdiction over the matters covered in this ordinance. Said agreement will clearly state that the right to operate is subject continuing adherence to the directives of the Board.

3-4726: Hardscape. Hardscape should be used in coordination with architecture and landscaping to provide a link between the street edge and individual developments and shall conform to the Commercial Design Standards. 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.

- (1) Each project shall include hardscape improvements. Hardscape improvements shall include: pavers, concrete planter boxes, masonry trash receptacles, pedestrian benches, bicycle racks, plazas, paseos, fountains, outdoor eating areas, and sculptures. Hardscape shall not include: colored or stamped concrete, asphalt, parking areas. Hardscape elements shall be consistent throughout the Town Center. A detailed plan of Hardscape design shall accompany landscape plans.
 - (a) **Hardscape Elements.** Each project shall include a minimum of two (2) hardscape elements and shall incorporate a minimum hardscape area equal to 5% of the entire property. Certain hardscape improvements are required by any development as follows:
 - (i) **Medians and Planters.** Properties along Parkway East, Parkway West, Town Center Boulevard, Town Square Street East, Town Square Street West or Town Square Park Street may use the designated 10 foot sidewalk when calculating the 5% requirement, however landscaped medians shall be provided by the developer/owner as defined in 3-4718(9)(b).
 - (ii) **Landscape Planters.** Properties along Parkway East, Parkway West, Town Center Boulevard, Town Square Street East, Town Square Street West or Town Square Park Street may use the designated 10 foot sidewalk when calculating the 15% landscaping requirement, however landscaping planters shall be provided by the developer/owner as defined in 3-4718(9)(b).
 - (iii) **Pedestrian Elements.** For every building adjacent to an existing or planned right-of-way the developer/owner shall provide to the City a financial contribution equal to 50% of one of the following pedestrian amenities: bench, bike rack, garbage can, or other aesthetic feature (fountain, sculpture or similar). A bench, bike rack or garbage receptacle can not be used if an existing one is immediately adjacent. The remaining financial portion and installation shall be provided by Highland City.
 - (iv) **Plazas.** It is encouraged that the developer/owner improve areas between building side setbacks along Town Center Boulevard, Parkway East, Parkway West, and Town Square Park East as plazas to provide gathering places for pedestrian interaction and to minimize maintenance.
 - A. Plazas shall be considered as five percent (5%) of the required landscaping.
 - (v) **Paseos.** Areas between building side setbacks along Town Center Boulevard, Parkway East, Parkway West and Town Square Park East that have not been developed as plazas or access drives shall be improved as paseos to keep these

areas accessible and clean. A minimum of 30% of the area within a paseo shall be landscaped.

3-4727: Submittal Requirements. All 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 Design Review Committee a plan for the use and development of each building and building site for the purpose of evaluating whether the proposed project meets all of the requirements set forth in this ordinance. Said plan shall be accompanied by information concerning physical conditions proving that such use meets the requirements of the building type as outlined in the Commercial Design Standards, and the provisions outlined in this ordinance. After completing the Development Review process, the applicant shall provide revised plans for the City Council, Planning Commission and Staff based upon those comments given during the Development Review process. The Planning Commission may grant Architectural Approval and the City Council may grant Site Plan and Final Approval for any project if that project meets all of the requirements of this ordinance. All applications for development within the Town Center shall include including, at minimum, the following:

- (1) A site plan to scale that legibly and clearly identifies the following:
 - (a) Lot lines defining the area to be occupied by buildings; and
 - (b) 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
 - (c) Location of any adjacent roads or driveways with cross-section(s); and
 - (d) Spaces for loading and refuse collection and their respective screening; and
 - (e) 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
 - (f) 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.
- (2) Landscaping plans provided with site plan proposals and shall include:
 - (a) Preliminary list of plants, trees, shrubs, and ground cover
 - (b) Preliminary location of plants, trees, shrubs, and ground cover
 - (c) Any proposed sign locations and in accordance with Section 3.7 Signs of this Code; and
 - (d) General and conceptual lighting plans including parking lighting, building lighting, and street lighting and specifications; and
 - (e) Temporary screening plans for adjacent property remaining in residential use; and
 - (f) 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 3-4726 of this Code; and
- (3) 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.
- (4) Any additional information as required by the 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.

3-4728: Water Requirements. Developments occurring under the provisions of this Article must provide water to Highland City in compliance with the water requirements defined in Section 5-8-112 of this Code.

3-4729: Grading. The following guidelines shall apply to grading of commercial properties:

- (1) Grading shall conform to natural topography as much as possible and result in a harmonious transition of the man-made grades with the natural terrain.
- (2) Man-made land forms shall be graded to avoid unnatural sharp or straight edges and planes. The top and toe of graded slopes shall be rounded to avoid a harsh machine-made appearance.
- (3) 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, snow, or ice. All surface drainage shall be contained within development site and approved by City Engineer.
- (4) Parking lots shall have minimum and maximum percent grades as set forth by the City Engineer.
- (5) Berms are to be graded in gentle, undulating naturalistic forms. No straight, steep or erodible slopes are permitted. Provisions are to be made for drainage around or through berms as necessary. Generally, a berm height of thirty-six (36) inches from top of adjacent curb is the maximum desired.
- (6) Grading shall not be engineered to flow onto adjacent property.

3-4730: Development Review Committee. All applications submitted under this ordinance will be reviewed by the Development Review Committee with the applicant. It is the duty of this Committee to review all projects for compliance with this ordinance and the Commercial Design Standards. The Committee can request additional information from the applicant as they deem necessary. The Committee will be comprised of the City Engineer, the Community Development Director, the Police Chief, the Fire Chief, a member of the Planning Commission as appointed by the Planning Commission Chair and a member of the City Council as appointed by the Mayor. A member of each utility company with utilities in Highland shall notified and invited to attend each meeting. The Committee will submit their findings with recommendations to the Planning Commission. The Planning Commission will evaluate each application and make a recommendation to the City Council who may grant Final Approval.

3-4731: Action of Site Plan and Architectural Building Elevations. The City Council shall approve the site plan if it is consistent with the requirements of this ordinance and after receiving a recommendation from the Planning Commission and following a public notice and open house. The Planning Commission shall approve the architectural building elevations if they are consistent with the requirements of this ordinance and after receiving a recommendation from the Development Review Committee. The City Council or Planning Commission shall deny any application that is not consistent with the requirements of this Code and the Commercial Design Standards.

- (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 the Commercial Design Standards. It should be strongly encouraged that recommendations of the Development Review Committee and Planning Commission are considered by the City Council during final review for final approval. Each entity present for the DRC meeting shall review the proposed site plan and submit their written comments to the City Council.
- (2) Findings necessary to granting architectural approval are:
 - (a) The proposed use and architectural building elevations conform to the provisions of this ordinance (specifically but not limited to Sections 3-4713 to 3-4716) and the Commercial Design Standards. It should be strongly encouraged that recommendations of the Development Review Committee are considered by the Planning Commission during final review. Each entity present for the DRC meeting shall review the proposed architectural building elevations and submit their written comments to the Planning Commission prior to approval.

3-4732: Nuisances.

- (1) No portion of the property shall be used in such a manner as to create a nuisance to adjacent sites, such as, but not limited to, vibration, sound, electromechanical disturbance and radiation, electromagnetic disturbance, air or water pollution, dust emission of odorous, toxic, or noxious matter, or placement, dumping or blowing refuse, paper or other garbage.
- (2) Noise Attenuation: All commercial areas within Highland City shall be subject to the following noise limitations measured at the source:
 - (a) Noise from external sources may not exceed 65 d.b.a. during daylight operations.
 - (b) Noise from external sources may not exceed 45 d.b.a. during nighttime operations.
 - (c) Commercial developments shall incorporate site planning techniques in order to reduce resident exposure to noise and shall, if needed provided adequate sound attenuation walls in conformance with the standards set forth in these articles.

3-4733: Appeals. Appeals from any decision of the Planning Commission regarding Architectural Approval or City Council for Site Plan and Final Approval may be directed to the Appeal Authority per Chapter 2, Article 3 in this code. (Amended: 4/21/98)

3-4734: Security: Site Improvements/Project Completion.

The following articles shall apply to all commercial developments within Highland City.

- (1) Site Improvements:
 - (a) Guarantee: To guarantee the construction, repair and/or replacement of required public improvements, the permittee shall post a bond in the form of a cash deposit per Chapter 6, Guarantee of Performance, in this Code.

Item 9: Planning Commission Future Business, Questions & Recommendations ~ Discussion

Summary Statement:

The Planning Commission has requested a list of possible upcoming Planning Commission Items. Typically, items are immediately placed on the Planning Commission Agenda as soon as they are applied for and would not be seen as upcoming items with the following exceptions:

1. Town Center Overlay Ordinance and ordinance recommendations
2. Amendment to Permanent Sign Ordinance Sections in the Development Code per the request of the Highland City Merchants Committee
3. Master Plan State Training School property south of Lone Peak High School
4. Amending the Open Space Bonus Density Subdivision to be more productive and user friendly

In addition, the Planning Commission requested the opportunity to discuss ideas, concerns and or proposed Code Amendments/Additions of which they have authority. This item is simply to give each Planning Commissioner the opportunity to discuss these items.



