

Highland City Planning Commission Agenda

Date: Tuesday, June 8, 2010
Place: Highland City Building,
5400 West Civic Center Drive Suite 1
Time: 7:00 P.M.



HIGHLAND CITY HALL

Parliamentary Procedure is followed at Highland City Planning Commission Meetings. Parliamentary Procedure refers to the rules of democracy – that is, the commonly accepted way in which a group of people come together, present and discuss possible courses of action, and make decisions. Parliamentary rule is based upon the will of the majority; the right of the minority to be heard; protection of the rights of absentees; courtesy and justice for all; and consideration of one subject at a time. Audience members may make comments to the Planning Commission during Public Hearings by filling out a comment card provided by staff. Audience members will be called by name to the podium when it is their turn to speak. Please limit your comments to two minutes.

Item 1: Call to Order

Item 2: Invocation: Tim Irwin

Item 3: Pledge of Allegiance: Jay Roundy

Item 4: Appearances ~ Time has been set aside for the public to express their ideas, concerns and comments to the Planning Commission. Please fill out a comment card provided by staff. Audience members will be called by name to the podium when it is their turn to speak. Please limit your comments to two minutes.

Item 5: 3-617: Amendments to Zoning Code; Chapter 9 Amendments to Title and Zone Map - Code Amendment ~ Public Hearing & Recommendation
p. 3

Item 6: Article 4.8 Open Space Density Bonus - Code Amendment ~ Public Hearing & Recommendation
p. 9

Item 7: Definition of a Family - Code Amendment ~ Public Hearing & Recommendation
p. 13

Item 8: Chapter 2, Article 2, Planning Commission - Code Amendment ~ Public Hearing & Recommendation
p. 21

Item 9: Town Center Overlay Ordinance - Code Amendment ~ Recommendation
p. 25

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...

Public Hearings

“There is a difference between a public meeting and a public hearing. All public hearings are public meetings but not all public meetings are public hearings. In general a public meeting is one in which the public is invited to come and watch you deliberate on and decide matters. There is no right for any individual member of the public to actively participate in the meeting (although there is nothing wrong about allowing it to). In a public hearing the public has the right to participate by giving information or testimony about the topic of the hearing. All meetings that meet the definition of meeting in the Open and Public Meeting Act must be public meetings. A public meeting must also be a public hearing when some specific law, ordinance or policy requires it to be so.”

“For purposes of the Act a “meeting” is defined as the convening of a public body when a quorum is present. It includes workshops and executive sessions even though the Act does not define either. The definition also includes electronic communications. The definition of “meeting” is qualified by the description that it must be for the purpose of discussing, receiving comments from the public about, or acting on a matter over which the public body has jurisdiction or advisory power. “Convening” is defined to mean the calling of a meeting of a public body by a person, authorized to do so, for the purpose of either discussing or acting on a matter over which that public body has either jurisdiction or advisory power. These very broad definitions are intended to include almost all gatherings of the city council or other committees of a municipality.”

Powers and Duties Handbook
Utah League of Cities and Towns, 2009
pages 64, 69

Item 5: 3-617: Amendments to Zoning Code; Chapter 9 Amendments to Title and Zone Map - Code Amendment ~ Public Hearing and Recommendation

Motion:

That the Planning Commission Recommend the City Council Adopt an Ordinance as drafted Amending Chapter 9 Amendments to Title and Zone Map and Deleting Section 3-617, for consistency within the Development Code and consistency with State Law.

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 to the City Council

Findings:

The Planning Commission may use findings to recommend, or not recommend, the City Council adopt this Code Amendment

Background:

There are two sections of the Development Code that are redundant and contradict State Law regarding the process to Amend the Development Code. There are two sections in the Development Code (Land Use Ordinance) that define the process to Amend ordinances. It appears that “Chapter 9 Amendments to Title and Map” was amended more recently (3-617: Amendments to Zoning Code was Amended last in 1995). State Law has been amended several times over the past few years requiring some changes to existing text within the Development Code when Amending ordinances. The current ordinance indicates that every Code Amendment requires a public hearing by the City Council however this has not been the process since State Law was changed in 2005; State law requires that this public hearing to take place with the Planning Commission.

State Law was changed in 2005 specifically stating that only one Public Hearing is required to Amend a Land Use Ordinance and that the Planning Commission SHALL hold that Public Hearing and make a recommendation to the Legislative body (please see attached 10-9a-502; 10-9a-503). It is Staff’s recommendation that 3-617 be deleted from the Development Code (redundant and an older version) and that Chapter 9 be Amended to be consistent with State Law. The definitions section, which has been added to the possible draft ordinance, reflects definitions for terms as provided in Utah Code.

Proposed Action:

Provide Staff with any comments, concerns or recommended amendments with regard to the existing ordinance language and/or draft ordinance.



Legal Authority:

- Chapter 9, Amendments to Title and Zone Map, Highland City Development Code
- Article 3-617 Amendments to Zoning Code, 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 DRAFT Ordinance by Staff indicating possible language to consider
- Utah Code; 10-9a-205, 502, 503

HIGHLAND CITY DEVELOPMENT CODE

ARTICLE 6

SUPPLEMENTARY REGULATIONS

3-617: (blank) ~~Amendments to Zoning Code~~

3-617: (blank) ~~Amendments to Zoning Code. (Amended: April 11, 1995) The Zoning Code, including the Zoning Map, may be amended, but all proposed amendments shall be submitted first to the Planning Commission for its recommendations, which recommendations will be considered by the Planning Commission.~~

- (1) ~~For the Purpose of establishing and maintaining sound, stable, and desirable development within the City, it is declared to be public policy that amendments shall not be made to the Zoning Code and Map except to promote more fully the objectives and purposes of the General Plan, this code or to correct manifest errors.~~
- (2) ~~Any person seeking an amendment to this Zoning Code or Map shall submit to the Zoning Administrator a written petition designating a change desired the reasons therefore, and wherein the proposed amendment would further promote the objectives and purposes of this Zoning Code, together with a fee.~~
- (3) ~~The Zoning Administrator shall, in turn, transmit the said petition to the Planning Commission as established by this Code, and the Planning Commission may call a hearing prior to submitting the matter to deliberation by the City Council.~~
- (4) ~~The Amendments to this Code may be adopted only after a Public Hearing in relation thereto, before the Planning Commission, in which the parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be given as provided by Section 9-102(3) placed in no less than three (3) public places within the corporate limits of the City, and shall in a newspaper having general circulation within the City, at least fourteen (14) days before the date of such hearing.~~

CHAPTER 9

AMENDMENTS TO LAND USE ORDINANCE AND ZONE MAP

- 9-101: Intent
- 9-102: Definitions
- 9-103: Procedure for Amendments

9-101: Intent. All amendments to this Land Use Ordinance (Development Code) shall follow due process and be shall be consistent with the General Plan of the City.

9-102: Definitions.

- (1) "Affected Entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, a property owner, a property owners association, or the Utah Department of Transportation, if:
 - (a) The entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;



HIGHLAND CITY DEVELOPMENT CODE

- (b) The entity has filed with the municipality a copy of the entity's general or long-range plan; or
- (c) The entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.
- (2) **"Code Amendment"** means the procedure to alter the text within the Land Use Ordinance; does not require an amendment to the General Plan unless a new zone is created.
- (3) **"Land Use Authority"** means a person, board, commission, agency, or other body designated by the local legislative body to act upon a land use application.
- (4) **"Land Use Ordinance"** means a planning, zoning, development, or subdivision ordinance of the municipality, but does not include the general plan (*historically referred to as the Development Code or Zoning Code*).
- (5) **"Legislative Body"** means the City Council.
- (6) **"Public Hearing"** means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.
- (7) **"Public Meeting"** means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act, Utah Code.
- (8) **"Zoning Change"** means the procedure to amend the Zoning Map and/or the Land Use Ordinance for the creation of a new Zone or new Zone location within the City; may require an amendment to the General Plan.
- (9) **"Zoning Map"** means a map, adopted as part of a Land Use Ordinance that depicts land use zones, overlays, or districts.

9-103: Procedure for Amendments. (Amended: 5/2/06)

- (1) All proposed amendments to this Code shall be submitted first to the Planning Commission for a Public Hearing and for its recommendations, which recommendations shall then be submitted to the City Council who may consider the ordinance for adoption.
- (2) Any person seeking an amendment to those Chapters or to the Official Zone Map shall submit to the Planning Commission a written petition designating the change desired and the reasons therefore and shall pay a filing fee in the amount set forth by a resolution of the City Council.
 - (a) All petitions for a Zoning change shall include a vicinity map, drawn to scale and showing the names and addresses of the owners of adjacent property, and a legal description of the property for which the change is sought.
 - (b) The applicant shall provide a legible vicinity map indicating the exact location of their property and each property within 1/4 mile (1,320 feet). The map shall include the address of the subject property and shall be part of each notice required for the public hearing.
 - (c) The fee required herein shall not be returned to the applicant. The Planning Commission may also initiate amendments to this Title by recommendation of such amendments to the City Council.
- (3) The Planning Commission shall provide notice and hold a public hearing on any newly proposed or amended land use ordinances or zoning map amendments.
- (4) The Planning Commission shall prepare and recommend to the City Council a proposed land use ordinance or ordinances and zoning map that represent the Planning Commission's recommendation for regulating the use and development of land within all or any part of the area of the municipality.
- (5) The City shall provide notice as follows:



HIGHLAND CITY DEVELOPMENT CODE

- (a) Each notice shall include the date, time, and place of the first public hearing to consider the adoption or any modification of a land use ordinance; and
- (b) Notice of each public meeting on the subject.
- (c) Each notice of a Public Hearing shall be:
 - (i) Mailed to each affected entity at least 10 calendar days before the public hearing;
 - (ii) Posted:
 - A. In at least three public locations within the municipality; or
 - B. On the municipality's official website; and
 - (iii) Published in a newspaper of general circulation in the area at least 10 calendar days before the public hearing; and
 - (iv) Published in accordance with Utah Law, at least 10 calendar days before the public hearing; or
 - (v) Mailed at least three days before the public hearing to:
 - A. Each property owner whose land is directly affected by the land use ordinance change; and
 - B. Every resident within 500' of the property.
 - (vi) Each notice of a Public Meeting shall be at least 24 hours before the meeting and shall be posted:
 - A. In at least three public locations within the municipality; or
 - B. On the municipality's official website.
- (6) The City Council shall consider each proposed Land Use Ordinance and Zoning Map amendment recommended to it by the Planning Commission, and, after providing notice and holding a Public Meeting, the City Council may adopt or reject the ordinance or map either as proposed by the Planning Commission or after making any revision the City Council considers appropriate.
 - (a) The City Council may amend:
 - (i) The number, shape, boundaries, or area of any zoning district;
 - (ii) Any regulation of or within the zoning district; or
 - (iii) Any other provision of a land use ordinance.
 - (b) The City Council may not make any amendment authorized by this subsection unless the amendment was proposed by the Planning Commission or was first submitted to the Planning Commission for its recommendation.
 - (c) The City Council shall comply with the procedure specified in 9-102(3) in preparing and adopting or amending the Land Use Ordinance or a Zoning Map.

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Utah Code
Title 10 Utah Municipal Code
Chapter 9a Municipal Land Use, Development, and Management

10-9a-205. Notice of public hearings and public meetings on adoption or modification of land use ordinance.

- (1) Each municipality shall give:
 - (a) notice of the date, time, and place of the first public hearing to consider the adoption or any modification of a land use ordinance; and
 - (b) notice of each public meeting on the subject.
- (2) Each notice of a public hearing under Subsection (1)(a) shall be:
 - (a) mailed to each affected entity at least 10 calendar days before the public hearing;
 - (b) posted:
 - (i) in at least three public locations within the municipality; or
 - (ii) on the municipality's official website; and
 - (c) (i) (A) published in a newspaper of general circulation in the area at least 10 calendar days before the public hearing; and
 (B) published in accordance with Section [45-1-101](#), at least 10 calendar days before the public hearing; or
 - (ii) mailed at least three days before the public hearing to:
 - (A) each property owner whose land is directly affected by the land use ordinance change; and
 - (B) each adjacent property owner within the parameters specified by municipal ordinance.
- (3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the meeting and shall be posted:
 - (a) in at least three public locations within the municipality; or
 - (b) on the municipality's official website.

10-9a-502. Preparation and adoption of land use ordinance or zoning map.

- (1) The planning commission shall:
 - (a) provide notice as required by Subsection [10-9a-205](#)(1)(a);
 - (b) hold a public hearing on a proposed land use ordinance or zoning map; and
 - (c) prepare and recommend to the legislative body a proposed land use ordinance or ordinances and zoning map that represent the planning commission's recommendation for regulating the use and development of land within all or any part of the area of the municipality.
- (2) The municipal legislative body shall consider each proposed land use ordinance and zoning map recommended to it by the planning commission, and, after providing notice as required by Subsection [10-9a-205](#)(1)(b) and holding a public meeting, the legislative body may adopt or reject the ordinance or map either as proposed by the planning commission or after making any revision the municipal legislative body considers appropriate.

10-9a-503. Land use ordinance or zoning map amendments.

- (1) The legislative body may amend:
 - (a) the number, shape, boundaries, or area of any zoning district;
 - (b) any regulation of or within the zoning district; or
 - (c) any other provision of a land use ordinance.
- (2) The legislative body may not make any amendment authorized by this subsection unless the amendment was proposed by the planning commission or was first submitted to the planning commission for its recommendation.
- (3) The legislative body shall comply with the procedure specified in Section [10-9a-502](#) in preparing and adopting an amendment to a land use ordinance or a zoning map.

Utah Code: 10-9a-205, 502, 503

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Item 6: Article 4.8 Open Space Density Bonus - Code Amendment ~ Public Hearing and Recommendation

Motion:

That the Planning Commission

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 the Council Adopt an Ordinance addressing setbacks within the Open Space subdivisions.

Findings:

The Planning Commission may use findings to recommend, or not recommend, the City Council adopt this Code Amendment

Background:

There are problems beginning to surface within the Highland Hills subdivision resulting from required setbacks. The setbacks for the final two phases of the Highland Hills subdivision are greater than required for the first two phases; Plat A & B were approved with a 10' rear yard setback while Plats C & D required a 25' rear yard setback. Changes in the rear yard setbacks occurred because of issues that arose with the smaller ten foot (10') setback, including encroachment onto the publicly owned open space by some property owners; however, requiring larger setbacks on smaller lots reduced the available space for a home footprint. The concern with less available space is that the footprint/house plans were originally approved by the City Council and the approval only allowed the developer/builder to use each plan ten (10) times within the subdivision. The change in the rear setback has resulted in home footprints and plans that cannot provide for 2nd story decks that are necessary to meet the requirements of the Building Code; a deck of any dimension constructed on the back of these homes will encroach into the setback as currently written. If the ordinance is amended to reduce setback limits, the City Council may then consider amending the conditions of approval to permit these homes/decks to be constructed.

State Law requires that zoning allowances and restrictions be specifically defined within each municipality's Land Use Ordinance (Development Code) in order for those allowances or restrictions to be considered. The Highland City Development Code presently restricts all open space subdivisions to the same setbacks as that required for properties within the R-1-40 Zone; lots in the R-1-40 Zone are typically much larger with greater frontages than those in open space subdivisions. The Development Code should be Amended to reflect the setbacks that have been permitted by the City Council for various open space subdivisions. The Development Code does not specify the setbacks that were originally or presently approved as an option for the Highland Hills Subdivision (or many other Open Space subdivisions); consequently, this does not provide the Council the opportunity to re-consider or amend these restrictions for anything other than those setbacks defined within the R-1-40 Zone.



The Mayor has created an Open Space Committee (Chaired by Council person Scott Smith) which will be addressing concerns such as the maintenance and development of the open space, however this process may not resolve the issues stated above; the ordinance may need to be amended again following the Open Space Committee review.

The Planning Commission may consider a smaller setback based upon a mathematical formula for the open space subdivisions; the options for reduced setbacks need to be justified based upon physical evidence to avoid being arbitrarily created. In addition, these setbacks need to be spelled out in the Development Code in order for the City Council to approve them and for Staff to enforce them. Staff has provided a draft amendment to consider as previously reviewed and discussed by the Planning Commission.

Proposed Action:

That the Planning Commission discuss the Open Space ordinance and direct staff regarding amendments to these ordinances.

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:

NA

List of Attachments:

- Existing ordinances showing potential ordinance amendments

HIGHLAND CITY DEVELOPMENT CODE

ARTICLE 4.8

(Adopted 5/18/99 as 5-4-400b - 5-4-409b
- section numbers changed 3/7/2000)

OPEN SPACE DENSITY BONUS

Adopted: 5/18/99

- 3-4801: Definitions
- 3-4802: Purpose
- 3-4803: Land Area
- 3-4804: Density
- 3-4805: Minimum Percentage of Open Space
- 3-4806: Open Space Bonus**
- 3-4807: Location of Open Space
- 3-4808: Application Procedures for Open Space Bonus Subdivisions**
- 3-4809: Ownership and Maintenance of Open Space

3-4806: Open Space Bonus.

(19) **Setbacks within the Open Space Density Bonus Overlay may be determined by lot depth and lot frontage. Setbacks shall be consistent with the underlying zone unless a minimum of 80% of the lots within an approved Open Space Density Bonus subdivision meet the following dimensions; if 80% of the lots meet the following dimensions, then setbacks shall be as follows:**

FRONTAGE	DEPTH	SETBACKS		
		<i>Front</i>	<i>Rear</i>	<i>Side</i>
<90'	<110'	25'	15'	12.5' or (10' min. 25' total)
90' - 100'	<110'	25'	20'	12.5' or (10' min. 25' total)
90' - 120'	110' - 130'	25'	25'	12.5' or (10' min. 25' total)
110' - 130'	130' - 180'	30'	30'	12.5' or (10' min. 25' total)
>130'	>180'	30'	30'	15'

3-4808: Application Procedures for Open Space Bonus Subdivisions.

- (2) Sketch Plan.
 - (b) Sketch Plan Requirements.
 - (iv) The sketch plan shall show the proposed private residential space and proposed number of lots within contiguous areas and the total lot count with average, minimum, and maximum lot size. The sketch plan does not include lot lines, but will address building set-backs and roadway profile. **All subdivisions shall be regulated by setbacks as defined in 3-4806 of this Code.**



Item 7: 10-102: Definition of a Family - Code Amendment ~ Public Hearing and Recommendation

Motion:

That the Planning Commission Recommend the City Council Adopt an Ordinance Amending

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:

What

Findings:

The Planning Commission may use findings to recommend, or not recommend, the City Council adopt this Code Amendment

Background:

The Utah State Legislature defined a family during the most recent Legislative session, requiring Highland City to update the Development Code to be consistent. State Bill 45 was Adopted by the State Legislature defining a family as follows:

10-9a-505.5. Limit on single family designation.

- 41 **(1) As used in this section, “single-family limit” means the number of unrelated**
- 42 **individuals allowed to occupy a unit in a zone permitting occupancy by a single family.**
- 43 **(2) A municipality may not adopt a single-family limit that is less than:**
- 44 (a) three, if the municipality has within its boundary:
- 45 (i) a state university; or
- 46 (ii) a private university with a student population of at least 20,000; or
- 47 **(b) four, for each other municipality.**

The Highland City Development Code defines a family as “A family may include two, but not more than two, non-related persons living with the residing family. The term “family” shall not be construed to mean a group of non-related individuals, a fraternity, club or institutional group.”

Staff has recommended that this language be amended to state “four” persons rather than “two” to be consistent with State Law. Staff has included suggested language at the end of the second sentence, a disclaimer of sorts, to provide for groups of people that are legally considered to be treated as a “family” such residences for the disabled.

Legal Authority:

- Chapter 9, Amendments to Title and Zone Map, Highland City Development Code
- Article 3-617 Amendments to Zoning Code, 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 DRAFT Ordinance by Staff indicating possible language to consider
- Utah Code; 10-9a-505.5 as amended
- Staff Research, Definition of Family

HIGHLAND CITY DEVELOPMENT CODE

CHAPTER 10

DEFINITIONS

10-102: Definitions

10-102: Definitions. (Amended: 3/2/04, 3/1/05, 6/7/05, 3/7/06, 8/1/06, 10/3/06, 5/15/07, 7/15/08) The following words, as used in this Title, shall have the meaning ascribed to them:

- (20) **Family -- Means** persons related by blood, marriage, or adoption, living together in a single dwelling unit and maintaining a common household. A family may include any number of related persons and up to **four**, but not more than **four**, non-related persons living with the residing family. The term "family" shall not be construed to mean a group of non-related individuals, a fraternity, club or institutional group **except as permitted by law**.

Proposed Ordinance DRAFT

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Title/Chapter/Section:

[Utah Code](#)

[Title 10](#) Utah Municipal Code

[Chapter 9a](#) Municipal Land Use, Development, and Management Act

Section 505.5 Limit on single family designation.

10-9a-505.5. Limit on single family designation.

(1) As used in this section, "single-family limit" means the number of unrelated individuals allowed to occupy a unit in a zone permitting occupancy by a single family.

(2) A municipality may not adopt a single-family limit that is less than:

(a) three, if the municipality has within its boundary:

(i) a state university; or

(ii) a private university with a student population of at least 20,000; or

(b) four, for each other municipality.

Enacted by Chapter 352, 2010 General Session

Download Code Section [Zipped](#) WordPerfect [10_09a050505.ZIP](#) 1,800 Bytes

[<< Previous Section \(10-9a-505\)](#) [Next Section \(10-9a-506\) >>](#)

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Utah Code: 10-9a-505.5

LEGISLATIVE PUBLIC

Crestwood, MO

Family: An individual or any number of related persons, or a group of not more than three (3) unrelated persons, or two (2) unrelated non-transient adults and their dependents, **including foster children**, living together as a single non-profit housekeeping unit, sharing a common kitchen facility, but not including group quarters such as dormitories, fraternities, sororities, motels, hotels, rooming houses or boarding houses.

U.S. Census Bureau

Family.

A family is a group of two people or more (one of whom is the householder) related by birth, marriage, or adoption and residing together; all such people (including related subfamily members) are considered as members of one family.

Family group.

A family group is any two or more people (not necessarily including a householder) residing together, and related by birth, marriage, or adoption. A household may be composed of one such group, more than one, or none at all. The count of family groups includes family households, related subfamilies, and unrelated subfamilies.

Family household.

A family household is a household maintained by a householder who is in a family (as defined above), and includes any unrelated people (unrelated subfamily members and/or secondary individuals) who may be residing there. The number of family households is equal to the number of families. The count of family household members differs from the count of family members, however, in that the family household members include all people living in the household, whereas family members include only the householder and his/her relatives. See the definition of family.

New York State Legal Memorandum LU05

In the case of *City of White Plains v. Ferraioli*, 34 N.Y.2d 300, 357 N.Y.S.2d 449 (1974), the New York Court of Appeals held that a group home with ten foster children, headed by the natural parents of two additional children, could together constitute a "family." The Court invalidated a restrictive definition of family limited to blood relatives and spouses, which would have excluded the foster home. The Court stated: "[A]n ordinance may restrict a residential zone to occupancy by stable families occupying single-family homes, but neither by express provision nor construction may it limit the definition of family to exclude a household 'which in every but a biological sense is a single family.'" (Id. at 306) The Court established a standard that the "... minimal arrangement to meet the test of a zoning provision as this one, is a group headed by a householder caring for a reasonable number of children as one would be likely to find in a biologically unitary family." (Id.)

II. Techniques for Drafting Definitions

1. Some municipalities have attempted to define "family" to comply with court decisions by providing for discretionary review of groups of unrelated persons greater than a specified number to ensure that they are the functional equivalent of a family.

Under this approach, the municipality defines all related persons and a specific number (e.g.- four) of unrelated individuals as constituting a "family." For groups of greater than four (4) unrelated individuals to constitute a "family," the group would have the burden of proving to an administrative official or entity (such as a zoning official or the board of appeals) that they meet the criteria set forth in the zoning regulations to show that are a "functionally equivalent family." Such an approach is consistent with the cases indicating that defining a "family" of unrelated persons is a factual decision.

Many municipalities in New York have adopted this discretionary review technique for defining family. For example, the City of Poughkeepsie zoning ordinance, in its definition of "family," contains a rebuttable presumption that 4 or more unrelated persons living in a single dwelling do not constitute the functional equivalent of a traditional family. The ordinance provides an opportunity for applicants to convince the Zoning Administrator that the group is the functional equivalent of a traditional family. The factors which must be considered by the Zoning Administrator are whether the group:

- 1. shares the entire house*
- 2. lives and cooks together as a single housekeeping unit*
- 3. shares expenses for food, rent, utilities or other household expenses, and*
- 4. is permanent and stable.*

Macomb, Illinois

Section 2. Definitions Family In R-1 and R-2, single family residential zoning districts, a family may consist of a person living alone, or any of the following groups living together as a single housekeeping unit (see also definition of "Single Housekeeping Unit") and sharing common living, sleeping, cooking and eating facilities:

- (1) Any number of people related by blood, marriage, adoption, guardianship or other duly-authorized custodial relationship;*
- (2) Two (2) unrelated people;*
- (3) Two (2) unrelated people and any children related to either of them;*
- (4) An individual or group of two (2) or more persons related by blood, marriage or legal adoption, together with not more than six (6) minor children operating as a foster family home or group home which is licensed by the State of Illinois;*

More cities grapple with definition of 'family'

by Thomas F. Coleman
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Thomas F. Coleman, Executive Director of Unmarried America, is an attorney with 33 years of experience in singles' rights, family diversity, domestic partner benefits, and marital status discrimination. Each week he adds a new commentary to Column One: Eye on Unmarried America. E-mail: coleman@unmarriedamerica.org. Unmarried America is a nonprofit information service for unmarried employees, consumers, taxpayers, and voters.

The California Supreme Court, for example, invalidated a Santa Barbara ordinance prohibiting more than five unrelated adults from living together but allowing an unlimited number of relatives to share a house. The court ruled that the right of privacy protected the freedom of a group of individuals to live together so long as they were functioning as a family, even if they were not related by blood, marriage or adoption.

Over the years, the highest courts in New Jersey, New York, and Michigan have also ruled in favor of nontraditional households and have invalidated restrictive zoning laws which focused solely on the fact that a group of individuals were unrelated in a traditional sense. These courts faulted laws which ignored the fact that a group of nonrelatives may be the "functional equivalent" of a more traditional family unit.

In the 1984 case of Charter Township of Delta v. Dinolfo, the Michigan Supreme Court specifically rejected the Belle Terre decision. In declaring the ordinance unconstitutional under the Michigan Constitution, the court concluded:

"Unrelated persons are artificially limited to as few as two, while related families may expand without limit. Under the instant ordinance, twenty male cousins could live together, motorcycles, noise, and all, while three unrelated clerics could not The ordinance indiscriminately regulates where no regulation is needed and fails to regulate where regulation is most needed."

These state Supreme Court decisions do not leave cities without tools to address problems of noise, pollution, littering, overcrowding, safety, and traffic. Laws regulating such issues can be enforced vigorously against offending households regardless of whether the occupants are related to each in a traditional sense.

But such "liberal" court decisions may not prove helpful before more conservative courts in states such as Utah, Missouri, or Tennessee. If so-called nontraditional families in these places want to win, their best bet is to win in the court of public opinion.

FAIR HOUSING ISSUES IN LAND USE AND ZONING

Kim Savage, September 1998
 Mental Health Advocacy Services, Inc.,
 Los Angeles, California

The following discussion paper has been prepared to assist cities and counties in reviewing their jurisdiction's zoning ordinance for compliance with federal and state fair housing laws that protect people with disabilities. Technical assistance is provided in drafting a definition of "family" that complies with the law and using only nondiscriminatory occupancy standards.

Example #1: One or more persons living together as a single housekeeping unit in a dwelling unit. This definition complies with federal and state fair housing laws and court decisions interpreting fair housing land use and zoning restrictions. A city or county that uses this definition must also include a definition of "single housekeeping unit" and "dwelling unit" in its ordinance.

Single housekeeping unit: One person or two or more individuals living together sharing household responsibilities and activities which may include, sharing expenses, chores, eating evening meals together and participating in recreational activities and having close social, economic and psychological commitments to each other.

Example #2: Any group of individuals living together as the functional equivalent of a family where the residents may share living expenses, chores, eat meals together and are a close group with social, economic and psychological commitments to each other. A family includes, for example, the residents of residential care facilities and group homes for people with disabilities. A family does not include larger institutional group living situations such as dormitories, fraternities, sororities, monasteries or nunneries. This definition is in itself a description of a single housekeeping unit and it is unlikely that any other terms within would need further explanation.

Example #3: One or more persons, related or unrelated, living together as a single integrated household in a dwelling unit.

Family legal definition

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n
A group of individuals who share ties of blood, marriage, or adoption; a group residing together and consisting of parents, children, and other relatives by blood or marriage; a group of individuals residing together who have consented to an arrangement similar to ties of blood or marriage.

<http://legal-dictionary.thefreedictionary.com/family>
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family *n.* 1) husband, wife and children. 2) all blood relations. 3) all who live in the same household including servants and relatives, with some person or persons directing this economic and social unit.

Item 8: Chapter 2, Article 2, Planning Commission - Code Amendment ~ Public Hearing and Recommendation

Motion:

That the Planning Commission Recommend the City Council Adopt an Ordinance Amending Chapter 2, Article 2, Planning Commission per the Recommendations of the Planning Commission.

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 to the City Council for adoption as Amended by the Planning Commission for the purpose of updating the Ordinance and to be consistent with existing practices.

Findings:

The Planning Commission may use findings to recommend, or not recommend, the City Council adopt this Code Amendment

Background:

The existing Section in this Ordinance is outdated and was written prior to the current City Staff. The Planning Commission has previously reviewed this ordinance and made amendments from the existing Code. In addition, Commissioner Dixon reviewed this ordinance and made other grammatical amendments consistent with the Planning Commission comments and recommendations. The ordinance attached to this report reflects these changes as proposed by the Planning Commission.

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:

NA

List of Attachments:

- Proposed Ordinance



HIGHLAND CITY DEVELOPMENT CODE

ARTICLE 2

PLANNING COMMISSION

2-201: Establishment of Planning Commission

2-202: Term of Office

2-203: Organization

2-204: Employees - Expenditures

2-205: Duties and Powers

2-201: Establishment of Planning Commission.

- (1) There is hereby created a Planning Commission. The Planning Commission shall consist of seven members appointed from among qualified electors of the City by the Mayor with the advice and consent of the City Council.
- (2) The Mayor may also appoint, with the advice and consent of the City Council, one alternate member who shall sit as a member of the Planning Commission in the temporary absence of a regular member.
- (3) At least 4 members of the Commission must be present to form a quorum.
- (4) Members shall be compensated at a rate established by the City Council.

2-202: Term of Office.

- (1) Each member and alternate member of the Planning Commission shall serve for a term of four years and until his/her successor is appointed; provided, that the first appointments shall be for such terms that the term of at least one member shall expire annually. The term of office for each member and alternate member shall commence on the first day of February in the year in which such member is appointed.
- (2) Any Planning Commission member who violates Title 3, Ethics, may be called before the City Council and asked to resign or be removed for cause by the Council. A Planning Commissioner may also be removed for cause by a majority vote of the Planning Commission. In either case, a public hearing may be held, if requested by the accused member.
- (3) Any Planning Commission vacancy occurring by reason of death, resignation, removal or disqualification shall be filled in the same manner as an original appointment. The newly designated Commissioner shall serve for the remainder of the unexpired term.

2-203: Organization.

- (1) At its first meeting in July of each year, the Planning Commission shall elect one of its members as Chair and a second member as Vice-Chair. The Chair shall serve for a term of one year and until a successor is chosen in the same manner. A person may be elected to serve consecutive terms as Chair.
- (2) A vacancy in the position of Chair shall be filled for the unexpired term by election at the next meeting of the Planning Commission.
- (3) The Chair shall preside at all meetings of the Planning Commission. In the absence of the Chair, the Vice-Chair shall preside. If both the Chair and Vice-Chair are absent, the Commission may select one of its members as Chair Pro-Tem to preside at any meeting.
- (4) The Planning Commission shall adopt rules consistent with this Code for its own organization and for the transaction of business. Meetings of the Planning Commission may be held bi-monthly or more frequently as the Commission deems advisable.
- (5) Any member of the Commission may communicate with the City Council whenever he or she so desires.

2-204: Employees; Expenditures. With the approval of the City Council, the Planning Commission may appoint such other employees and staff as it may deem necessary for its work and may contract with city planners and other consultants, provided its expenditures shall be within the amounts appropriated for that purpose by the City Council.



HIGHLAND CITY DEVELOPMENT CODE

2-205: Duties and Powers. The Planning Commission shall have the following powers and duties:

- (1) The Planning Commission, as provided by Chapter 2, Article 1, shall prepare and recommend to the City Council, a General Plan and amendments to the General Plan.
- (2) The Planning Commission may make reports and recommendations relating to the planning and development of the City to public officials and agencies, and other organizations and citizens.
- (3) The Planning Commission, its members and employees, in the performance of its functions, may enter upon any land at reasonable times to make examinations and surveys by permission of the land owner/applicant.
- (4) The Planning Commission shall prepare regulations governing the subdivision of land within the City or amendments to such regulations and to submit said regulations or amendments to the City Council for adoption.
- (5) The Planning Commission shall review and recommend approval or denial of all subdivisions of land as provided in Chapter 5.
- (6) **The Planning Commission may, or by order of the City Council shall, make and recommend to the City Council a Land Use Ordinance, including both the full text of the land use ordinances and maps and amendments thereto.**
 - (a) **The Land Use Ordinance, including the maps, may be amended from time to time by the City Council; however, all proposed amendments shall be first submitted to the Planning Commission for its recommendation which shall be returned to the City Council for its consideration.**
 - (b) **The Planning Commission shall properly notify and hold a Public Hearing before making a recommendation to the City Council on all land use ordinances and amendments.**
- (7) The Planning Commission shall hear and decide all applications for conditional use permits except as otherwise provided in this code. (e.g. Commercial Zone)
- (8) The Planning Commission, by order of the City Council, shall make and recommend to the City Council a multi-year improvement program which shall set forth an orderly program for the acquisition of land, buildings and other facilities that are needed for City purposes.
- (9) The Planning Commission may conduct hearings and meetings with interested property owners, officials and citizens in the process of carrying out its functions.
- (10) The Planning Commission shall make recommendations to the City Council for:
 - (a) Land use ordinances, zoning maps, official maps, and amendments;
 - (b) Delegation of power to at least one designated land use authority to hear and act on land use applications;
 - (c) Delegation of power to at least one Appeal Authority to hear and act on appeals from decisions of the Land Use Authority; and
 - (d) An application process that;
 - (i) May include the designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and
 - (ii) Shall protect the right of each:
 - A. Applicant and third party to require formal consideration of any application by a Land Use Authority;
 - B. Applicant, adversely affected party, or municipal officer or employee to appeal a Land Use Authority's decision to a separate Appeal Authority; and
 - C. Participant to be heard in each public hearing on a contested application.



Item 9: Town Center Overlay Ordinance - Code Amendment ~ Recommendation

Motion:

That the Planning Commission Recommend the City Council Adopt an Ordinance Amending the Town Center Overlay Zone per the Recommendations of the Planning Commission, previous Recommendations of the City Council and 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:

Highland City

Staff Presentation:

Lonnie Crowell, Community Development Director to present

Recommendation:

That the Planning Commission Recommend the ordinance as attached, as recommended by the City Council, Planning Commission and Staff

Findings:

The Planning Commission may use findings to recommend, or not recommend, the City Council adopt this Code Amendment

Background:

Staff has prepared a draft of an ordinance with amendments based upon the recommendations of the City Council and Planning Commission during two recent work sessions and based on discussion during the Planning Commission Meeting on April 13, 2010.

On February 2, 2010, the City Council placed a moratorium on the Town Center Overlay Ordinance and requested that the Planning Commission provide a recommendation for amendments to this ordinance per recent dialogue and concern with the existing text. In the weeks following, the Planning Commission requested a work session with the City Council to discuss direction. The City Council and the Planning Commission held two separate work sessions and discussed several concerns with the current ordinance and made several suggestions. It was stated on several occasions that the Town Center moratorium should be lifted as soon as possible and the Planning Commission may consider focusing on the main concerns identified during the March 30, 2010 work session at this time, recommending additional amendments for the remaining at a future date. The following items were listed during the work sessions:

1. More clearly define the approval process
2. Planning Commission to grant Architectural Approval, City Council to grant Final Site Plan Approval
3. Improve communication processes between staff and the Council (operation & policy process)
4. Parking for residential to be amended from 1.5 spaces per unit to 3.0 spaces per unit
5. Residential density to be capped at 7.5 units per acre and 3 stories in height, maximum
6. Building height to be 3 stories, 50' feet in all cases, maximum
7. Consider requiring Conditional Use Approval when residential use is included

The Community Development Administrative Assistant previously created an online copy of the Town Center Overlay Code for the City Council and Planning Commission to edit. The ordinance was downloaded and



printed off/distributed for the Council and Planning Commission on March 30, 2010, for a work session held that evening. The attached draft reflects the comments made by the Council and Planning Commissioners. Staff would recommend the Planning Commission review the additional comments and suggested amendments that were also attached to the staff report for the March 30, 2010 work session.

On April 13, 2010 the Planning Commission reviewed the attached ordinance and made several suggestions, corrections and recommendations to the first draft of the newly proposed ordinance amendments. Staff has included these amendments in the ordinance. There were many questions and possible scenarios with the ordinance regarding density and multi-family options. The ordinance has been amended significantly from the currently adopted ordinance requiring specific evidence from the applicant for any multi-family residential development. Staff has also had recent discussion with some Council persons and suggested having a "maximum number of units within the Town Center Overlay" rather than defining the specific density which is currently requested at 7.5 units per acre. The limitation of 7.5 units per acre was based on the Coventry "Transitional Housing Overlay" zone and their submitted project. Prior to that development, the density within the Town Center was at a maximum of 2.5 units per acre. The City would be need to request a market study (which is fairly costly and may change from week to week depending upon land and material costs) to determine whether a specific lower density is economically feasible. Determining maximum number of units within the Town Center could alleviate this difficult process and would allow the market to determine how the units should be built. Although this may lead to something similar to Toscana, increased parking requirements, open space, driveway length, setbacks, and retail conversion evidence requirements as currently proposed may mitigate many of the recent concerns. In addition, there was a request to consider a performance based method for additional density. Staff has provided something to consider (as an attachment) which may allow for this suggestion which would simply allow for additional stories or additional density based upon site plan amenities or increased architectural features.

On April 27, 2010 the Planning Commission reviewed a draft the ordinance as previously proposed and an ordinance indicating performance based opportunities. The Planning Commission determined that it was beneficial to keep the existing ordinance with amendments addressing previously discussed concerns. The Planning Commission requested that Staff provide the Planning Commission with photographs and other information regarding development and density. Staff provided the Planning Commission with electronic links to many different projects as well as hard copies illustrating various different densities and development types. The Planning Commission requested a maximum number of residential units for the Town Center to be 342 (including Toscana which has 162 units, leaving 180 units for the rest of the Town Center) and a maximum density of 12 dwelling units per acre for any given project (Toscana has approximately 22 units per acre). The Planning Commission may want to consider using an FAR (floor area ratio) method to regulate mass within the Town Center instead of dwelling units per acre. Staff has provided additional information illustrating this common practice used to limit the amount of ground that a building will incorporate when developing rather than simply the number of units. Staff has amended the attached draft of the ordinance per the Planning Commission's comments.

On May 11, 2010, the Planning Commission held a Public Hearing and heard Public comment. The Planning Commission reviewed a draft of the ordinance during this meeting which was amended per the Planning Commission's and City Council comments from previous meetings. The Planning Commission made several minor amendments and decided to remove the ordinance sections that allowed for additional residential dwelling units within the Town Center Overlay. During this meeting there were concerns that resulted from more than two Council persons being present after the Public Hearing had been closed and that the meeting had not been advertised as such; for this purpose this item has returned and will simply need the Planning Commission to provide a recommendation to the City Council. One question of staff that has only been discussed briefly has to do with farmer's markets. The ordinance currently requires an applicant interested in a farmer's market to first obtain a Conditional Use Permit and only permits that event to take place three (3)

days in a week and limits that market between the months of July through October. The Planning Commission may want to consider this particular use and discuss this portion of the ordinance further.

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 as Amended and Recommended by the Planning Commission
- Land Use Table 3-47A
- Town Center Land Use Map (Design Guidelines)

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.

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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 noticed and 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) **Landscaping, Lighting and Parking Maintenance Governing Board.** 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. 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. (see 3-4725)
- (10) **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).
- (11) **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.
- (12) **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.
- (13) **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.
- (14) **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 **(SR-92)** 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~~ **4.5** 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 Mixed Use Residential (TCMUR). The number of residential units within the TCMUR shall not exceed 22.7 units per acre or 162 units total.**
 - (i) **If significant changes to the existing site plan and/or use are proposed within this district, the maximum density shall revert back to 7.5 units per acre.**
- (e) ~~Town Center Residential.—The number of residential units within the Town Center Flex District area defined by the Town Center Land Use Map located in the Commercial Design Standards shall not exceed three hundred forty-two (342) units for the Town Center Overlay Zone and project density shall not exceed twelve (12) dwelling units per acre (du/ac) for any given development.~~
- (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 in this ordinance and are identified by District. 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.

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 Table 3-47A), 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:

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- (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 three (3) consecutive days for each event; and
 - (c) Temporary outdoor sales events shall be available Monday through 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.
- (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:~~
 - (b) 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
 - (i) 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.
 - (c) Additional pedestrian elements are provided; and
 - (d) Significant landscaping features are provided such as large scale water features or statues; and
 - (e) Exceptional pedestrian links are provided between the parking lot area and the storefront; and
 - (f) On-street parking is provided along the storefront providing access to the front entry door; and

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- (g) Planters, benches, bike racks and garbage cans are all provided along the front of the building; and
- (h) 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 on the Town Center Land Use Map located within the Commercial Design Standards as part of 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.

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- 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)~~ **six (6)** common building design elements (see C(1) through (4) below) and seven (7) common architectural design elements (see ~~C(2)~~ **3-4713(3)(b)** 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.

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- (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 (earthtone 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 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 fifty 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.

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- (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.
 - (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

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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) 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) **All building structures** ~~Residential units~~ above the ground floor shall be set back 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) **For non-residential it is highly recommended and for residential uses it shall be required that** 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 **ten (10)** ~~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.** The building 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. **It is highly recommended that** the area above the ground floor within the setback 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 **ten (10)** ~~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 **only** 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 Mixed Use Residential 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 forty (40) 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 ten (10) feet from an existing/planned right-of-way (not driveway or parking area). A building may be located a maximum of 30 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.
- (g) **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~~ **Town Center Mixed Use Residential** shall be required to provide additional site planning and architectural improvements and/or specifications as follows:
 - (a) **Roofs.** The roofline of all proposed structures that include residential uses shall be varied in height to provide a break in the visual appearance.
 - (b) **Walls.** The vertical wall plane along the upper floors shall be articulated, varied, and architecturally designed to promote numerous opportunities for views from residential units 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 three (3) parking stalls per unit shall be provided. Underground parking or parking structures may be provided for residential units provided they are located on the interior block and not along a designated right-of-way. Underground parking may not be constructed if the result of the parking structure reduces any ground floor retail or commercial footprint to a point where it may be considered non-functional or impractical.
 - (i) Underground parking areas or parking structures shall be a minimum of thirty (30) feet from the nearest right-of-way and be screened from that right-of-way by an attached building.
 - (ii) Parking Structures shall include exterior landscaping features along each level of parking to screen light pollution and create an aesthetic feature that may assist with breaking the visual appearance of a large wall plane.
 - (iii) Parking shall not be allowed on residential alleys.
 - (iv) If parking is provided by an attached/detached garage a driveway shall be provided with a minimum depth of twenty-two feet (22').
 - (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 **or propane** shall not be located closer than fifty (50) feet from a residential zone boundary line and conform to all relevant State and Federal Regulations.

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- (1) 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.
- (2) Gasoline storage will not be permitted above ground.
- (3) **Propane storage shall be allowed above ground however, the tank(s) shall be enclosed within a six foot (6') masonry fence and gate.**

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

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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 Traffic 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.

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- (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 parking 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

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- (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.

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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 one and one-half inches (1 1/2") 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) **Rights-of-way.** Properties along designated rights-of-way 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.

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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.

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- (iv) **Plazas.** It is **encouraged required** 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, 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

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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 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 then 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.

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HIGHLAND CITY PLANNING COMMISSION AGENDA

TABLE 3-47A	ZONE								
	R-1-20	R-1-40	OSO	Ag	RP	C1	CR	PO	TCO
LAND USE									
RESIDENTIAL									
Single Family Dwelling, Typ.	P	P	P	P	C	NP	NP	NP	NP
Single Family Townhome Typ.	NP	NP	NP	NP	NP	NP	NP	NP	*P NP
Accessory Dwelling Unit	*C	*C	*C	*C	NP	NP	NP	NP	NP
Multi-Family Unit	NP	NP	NP	NP	NP	NP	NP	NP	*P NP
Accessory Structure	P	P	P	P	C	C	C	C	NP
Flex-Use Residential Unit	NP	NP	NP	NP	NP	NP	NP	NP	*P NP
Live-Work Unit	NP	NP	NP	NP	NP	NP	NP	NP	*P NP
Senior Housing - Age Restricted	NP	NP	NP	NP	NP	NP	NP	NP	*P NP
Senior Housing - Independent	NP	NP	NP	NP	NP	NP	NP	NP	*P NP
Senior Housing - Continued Care	NP	NP	NP	NP	NP	NP	NP	NP	*P NP
Senior Housing - Assisted Living	NP	NP	NP	NP	*C	NP	NP	NP	NP
Senior Housing - Nursing Facility	NP	NP	NP	NP	*C	NP	NP	NP	NP
Res. Accessory Uses									
Gardens, Orchards, Crops	P	P	P	P	NP	NP	NP	NP	NP
Group Homes for Disabled	P	P	P	P	NP	NP	NP	NP	*NP
Household Pets	P	P	P	P	NP	NP	NP	NP	*P
Large Animals	P	P	P	P	NP	NP	NP	NP	NP
Pigs	NP	NP	NP	NP	NP	NP	NP	NP	NP
Public Utilities	C	C	C	C	C	C	C	C	*C
Religious, Church or church fields	C	C	C	C	NP	NP	NP	NP	NP *P
Swimming Pool	P	P	P	P	NP	NP	NP	NP	NP
Telecommunication Facility									
* Non-Stealth	C	C	C	C	C	C	C	C	C
* Stealth	P	P	P	P	P	P	P	P	P
OFFICE									
1 Story Office	NP	NP	NP	NP	C	C	P	P	*C
2 Story Office					C	C	P	C	*P
3 Story Office					NP	NP	P	NP	*P
Flex Use Office					NP	NP	NP	NP	*P
Architect, Interior Design					C	C	P	P	*P
Accountant, Stock Brokerage					C	C	P	P	*P
Chiropractor, Physical Therapy					C	C	*C	C	*P
Dentistry, Optometry, Audiology					C	C	P	P	*P
Financial: Bank, Credit Union					C	C	C	P	*C P
Insurance (not claim adjustor)					C	C	P	P	*P
Lawyer, Law					C	C	P	P	*P
Licensed Engineer, Surveyor					C	C	P	P	*P
Medical, Hospital					C	C	C	C	*C
Professional Consultant					C	C	*P	P	*P
Realtor, Title, Mortgage					C	C	P	P	*P
Storage Units, facilities					NP	NP	NP	C	NP
Veterinarian					C	C	C	P	*C
Office w/ Retail Clients					C	C	P	P	*P
Office Accessory Building					NP	C	C	C	*C
P = Permitted C = Conditional Use Required * = Special Conditions Apply P/C = Both (see ordinance) NP = Not Permitted TCO = See last page of Table									

SUMMIT - ZONING ATTACHMENT

HIGHLAND CITY PLANNING COMMISSION AGENDA

TABLE 3-47A	ZONE								
	R-1-20	R-1-40	OSO	Ag	RP	C1	CR	PO	TCO
LAND USE									
RETAIL	NP	NP	NP	NP	NP			NP	
1 Story Retail						C	P		*C
2 Story Retail						C	P		P
Flex Use Retail						NP	NP		P
Auto, ATV, Motorcycle sales						C	P		P
Auto Parts (new products)						C	P		P
Automobile Service, Repair						*C	NP		*C
Bakery, catering, delicatessen						C	P		P
Barber shop, Beauty Salon						C	P		P
Book Store						C	C		C
Clothes, Shoes, Accessories						C	P		P
Copy center, Post Office						C	P		P
Computers, Software sales/repair						C	P		P
Dry cleaning, Laundry						C	C		C
Electronics sales/rentals						C	P		P
Food, grocery store						C	P		P
Food, specialty						C	P		P
Floral, indoor Nursery						C	P		P
Gasoline, Convenience						*C	*C		*C
Hobby, Craft Stores						C	P		P
Home Furnishings, appliances						C	P		P
Home Improvement, Hardware						C	*P		C
Jewelry, Watches						C	P		P
Movie rentals, sales, cinema						*C	*P		*P
Nail Salon, Pedicure, Day Spa						C	C		C
Office Supply sales						C	P		P
Pet sales, services, supplies						C	P		P
Pharmacy, Drug Store						C	P		P
Restaurant, full service						C	P		P
Restaurant, drive-thru						C	C		C
Sporting Goods (new products)						C	P		P
Sports & Fitness Center						C	C		C
Stamp, Coin, Collectibles						C	P		P
Travel Agency sales						C	*P		*P
Wireless Phone sales						C	P		P
Upper Story Office Use						NP	NP		*P
Upper Story Residential Use						NP	NP		*P C
Hotel - Min. 2 stories						NP	NP		*C
CIVIC									
Civic Buildings	C	C	C	C	C	C	NP	NP	P
Civic Utility Structures	C	C	C	C	C	C	C	C	C
Public Open Space	P	P	P	P	P	P	P	P	P
Public Parks	C	C	C	C	NP	NP	NP	NP	P
Public Outdoor Amphitheater	C	C	C	C	C	C	C	C	C
Public Trails	P	P	P	P	P	P	P	P	P
P = Permitted									
C = Conditional Use Required									
* = Special Conditions Apply									
P/C = Both (see ordinance)									
NP = Not Permitted									
TCO = See last page of Table									

ATTACHMENT

HIGHLAND CITY PLANNING COMMISSION AGENDA

TABLE 3-47A	TOWN CENTER ZONE, BY DISTRICT			
		Commercial Retail	TC MU Residential	TC Flex Use
LAND USE	TOWN CENTER GROUND FLOOR USES			
1 Story Retail	P	C	C	P
2 Story Retail	P	P	P	P
Flex Use Retail	NP	P	P	NP
Convenience; gasoline or similar	P	NP	NP	NP
Food; bakery	P	P	P	NP
Food; doughnut shop, candy store	P	P	P	NP
Food; grocery store, organic foods	P	P	P	NP
Food; ice cream, yogurt parlor	P	P	P	NP
Food; nut or cheese store	P	P	P	NP
Food; food and beverage retail stores	P	P	P	NP
Food; meat markets	P	P	P	NP
Medical; doctor's office, dentist	*P	P	P	NP
Medical; hearing center and sales	*P	P	P	NP
Medical; optometrist, eye products	*P	P	P	NP
Medical; physical therapy, pharmacy	*P	P	P	NP
Medical; psychologist, psychiatrist	*P	P	P	NP
Office; architect, engineers, surveyors	*P	P	P	NP
Office; attorney	*P	P	P	NP
Office; certified public accountants	*P	P	P	NP
Office; computer software engineer/developer	*P	P	P	NP
Office; certified public accountants	*P	P	P	NP
Office; Insurance (not claims adjustors)	*P	P	P	NP
Office; real estate, mortgage, title, or similar	*P	P	P	NP
Public/private cultural arts center	N	P	P	P
Residential; live work attached	*C NP	*C P	*C NP	NP
Residential; mixed use attached	*C NP	*C P	*C NP	NP
Residential; multi-family attached	*C NP	*C P	*C NP	NP
Residential; senior housing (age restricted)	*C NP	*C P	*C NP	NP
Residential; senior independent living	*C NP	*C P	*C NP	NP
Residential; senior continuing care retirement	*C NP	*C P	*C NP	NP
Restaurant, full service, catering, delicatessen	P	P	P	NP
Restaurant, drive-thru	P	C	C	NP
Retail; art and craft galleries and studios for the teaching of arts and crafts	P	P	P	NP
Retail; auto parts (<i>new, re-manufactured & accessories</i>)	P	P	P	NP
Retail; auto , ATV, motorcycle sales	P	*P	*P	NP
Retail; book store	P	P	P	NP
Retail; clothes, shoes, accessories	P	P	P	NP
Retail; computers, software sales/repair	P	P	P	NP
Retail; electronics sales/rentals of DVD's, CD's, games and videos	P	P	P	NP
Retail; florist, indoor nursery or plant sales	P	P	P	NP
Retail; hobby, craft supplies and stores	P	P	P	NP
Retail; home furnishings, appliances	P	P	P	NP
Retail; home improvement, hardware	P	P	P	NP
Retail; jewelry, watches, or similar	P	P	P	NP
Retail; office supplies and furnishings	P	P	P	NP
P = Permitted				
C = Conditional Use Required				
* = Special Conditions Apply				
NP = Not Permitted, May be Considered				
*NP = Not Permitted				

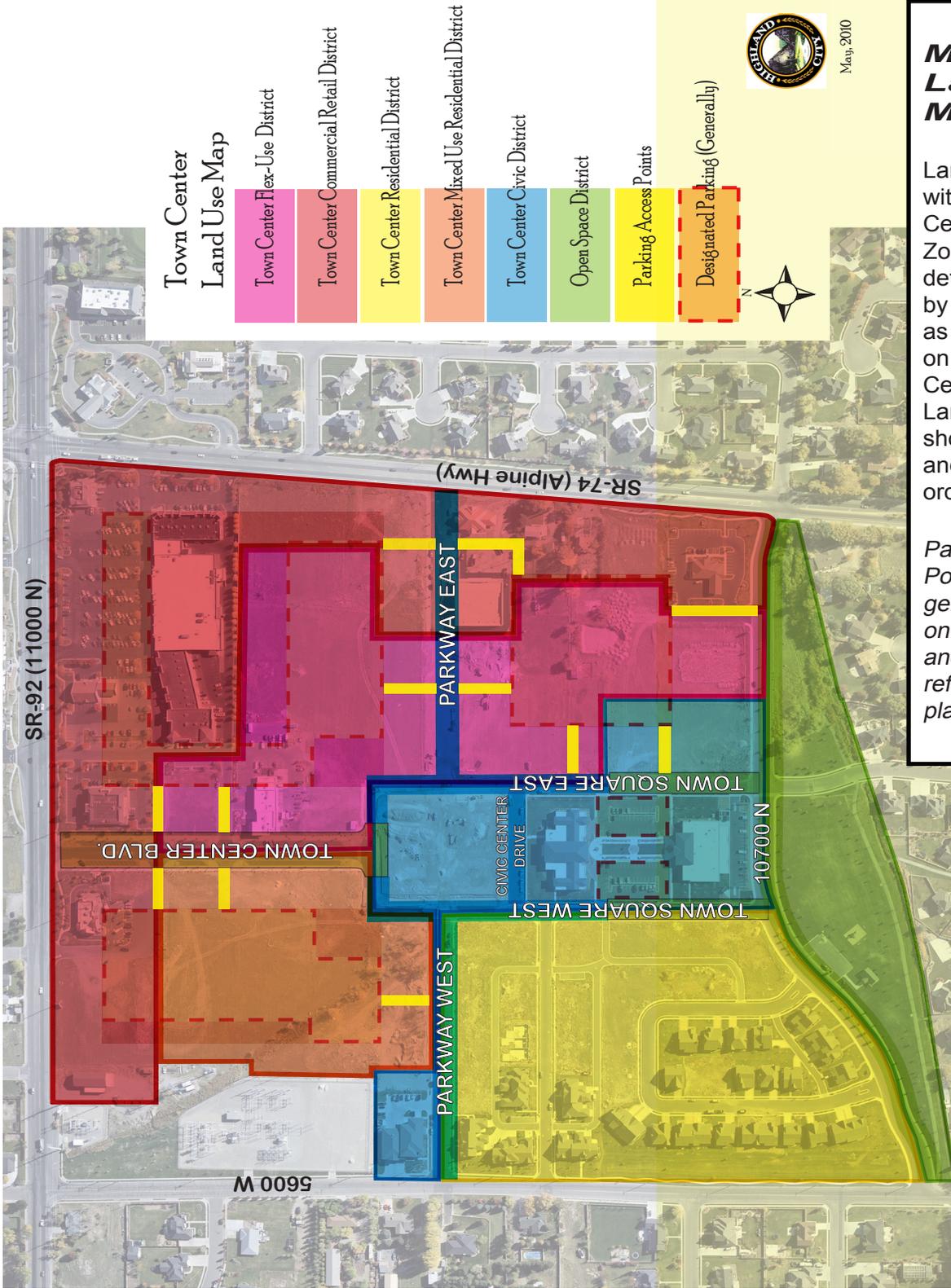
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HIGHLAND CITY PLANNING COMMISSION AGENDA

TABLE 3-47A	TOWN CENTER ZONE, BY DISTRICT			
		Commercial Retail	TC MU Residential	TC Flex Use
LAND USE				
TOWN CENTER GROUND FLOOR USES CONTINUED				
Retail; pet products, grooming and care	P	P	P	NP
Retail; sporting goods and recreation	P	P	P	NP
Retail; variety, stamp, coin and collectibles	P	P	P	NP
Retail; wireless phone sales and similar	P	P	P	NP
Service; automobile Service, repair	P	*C	*C	NP
Service; barber shop, beauty salon	P	P	P	NP
Service; copy center	P	P	P	NP
Service; sports & fitness center	*P	*P	*P	NP
Service; dry cleaning, Laundry	P	P	P	NP
Service; financial institutions (no drive thru)	P	P	P	NP
Service; hotel (min. 2 stories)	C	C	C	NP
Service; movie rentals, sales, cinema	P	P	P	NP
Service; nail salon, pedicure, day spa	*C	*C	*C	NP
Service; travel agency sales	P	P	P	NP
Temporary outdoor sales events	*P	*P	*P	NP
Temporary outdoor farmer's market	C	C	C	C
TOWN CENTER UPPER FLOOR USES				
Office; architect, engineers, surveyors	*P	P	P	NP
Office; attorney, law firm	*P	P	P	NP
Office; certified public accountants	*P	P	P	NP
Office; computer software engineer/developer	*P	P	P	NP
Office; certified public accountants	*P	P	P	NP
Office; Insurance (not claims adjustors)	*P	P	P	NP
Office; real estate, mortgage, title, or similar	*P	P	P	NP
Medical; doctor's office, physical therapy	*P	P	P	NP
Medical; dentist office, optometrist, audiologist	*P	P	P	NP
Medical; psychologist, psychiatrist	*P	P	P	NP
Residential; mixed use attached	*G NP	*G P	*G NP	NP
Residential; live work attached	*G NP	*G P	*G NP	NP
Residential; exclusively attached residential	*G NP	*G P	*G NP	NP
Retail; all uses permitted for "Ground Floor"	P	P	P	NP
Service; all uses permitted for "Ground Floor"	P	P	P	NP
TOWN CENTER CIVIC BUILDINGS				
Ancillary structures for municipal/safety bldgs.	P	P	P	P
Ancillary structures for parks and open space	P	P	P	P
Civic/municipal buildings	P	P	P	P
Civic utility structures	*C	*C	*C	*C
Public open space	P	P	P	P
Public parks and public trails	P	P	P	P
Public safety buildings and uses	P	P	P	P
Public outdoor amphitheater	P	P	P	P
P = Permitted C = Conditional Use Required * = Special Conditions Apply NP = Not Permitted, May be Considered *NP = Not Permitted				

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Town Center Land Use Map



Master Land Use Map

Land uses within the Town Center Overlay Zone shall be determined by Districts as illustrated on the Town Center Master Land Use Map shown below and defined by ordinance.

Parking Access Points are generally located on this map and may not reflect the actual placement.

Item 10: 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:

FUTURE ITEMS OF BUSINESS TO CONSIDER	CONTINUED/ONGOING ITEMS OF BUSINESS
<ol style="list-style-type: none"> 1. Fence Ordinance 2. Master Plan State Training School property south of Lone Peak High School <i>(will be considered after road alignment is determined)</i> 3. Open Space Density Bonus Article 4.8 and Open Space Subdivision Option 5-4-400 Code Amendments <i>(will be considered following the Open Space Committee results)</i> 	<ol style="list-style-type: none"> 1. Discussions/Reports on the General Plan 2. Amendment to Permanent Wall Sign and Window Ordinance Sections in the Development Code per the request of the Highland City Merchants Committee 3. Buhler property subdivision revisited

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.



