



HIGHLAND CITY

HIGHLAND CITY PLANNING COMMISSION AGENDA**Tuesday, October 25, 2022**

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

VIRTUAL PARTICIPATIONYouTube Live: <http://bit.ly/HC-youtube>Email comments prior to meeting: planningcommission@highlandcity.org**7:00 PM REGULAR SESSION**

Call to Order – Audrey Moore, Chair

Invocation – Commissioner Claude Jones

Pledge of Allegiance – Commissioner Christopher Howden

1. UNSCHEDULED PUBLIC APPEARANCES

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

2. CONSENT ITEMS

Items on the consent agenda are of a routine nature or have been previously studied by the Planning Commission. They are intended to be acted upon in one motion. Commissioners may pull items from consent if they would like them considered separately.

a. Approval of Meeting Minutes Administrative

Regular Planning Commission Meeting – September 27, 2022

3. PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT - DAYCARES, PRESCHOOLS, AND IN-HOME INSTRUCTION Development Code Update (Legislative) – Kellie Smith, Planner & GIS Analyst

The Planning Commission will hold a public hearing to consider a request by Highland City Staff to amend several sections of the Development Code to add regulations for daycares, preschools, and in-home instruction. The Planning Commission will take appropriate action.

4. PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT - SEWER LIFT STATIONS Development Code Update (Legislative) – Kellie Smith, Planner & GIS Analyst

The Planning Commission will hold a public hearing to consider a proposal by Highland City Staff to amend Section 5-9-107 Underground Utilities and Sanitary Sewer relating to sewer lift stations. The Planning Commission will take appropriate action.

5. PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT - PARK OR PLANTER STRIPS *Development Code Update (Legislative) - Kellie Smith, Planner & GIS Analyst*

The Planning Commission will hold a public hearing to consider a proposal by Highland City Staff to amend Section 3-621 Park or Planter Strips to clarify that the maintenance is the responsibility of the adjacent property owner. The Planning Commission will take appropriate action.

6. PLANNING COMMISSION AND STAFF COMMUNICATION ITEMS

The Planning Commission may discuss and receive updates on City events, projects, and issues from the Planning Commissioners and city staff. Topics discussed will be informational only. No final action will be taken on communication items.

a. Future Meetings

- November 1, City Council, 7:00 pm, City Hall
- November 15, Planning Commission, 7:00 pm, City Hall
- December 6, City Council, 7:00 pm, City Hall
- December 13, Planning Commission, 7:00 pm, City Hall

Legislative: An action of a legislative body to adopt laws or policies.

Administrative: An action reviewing an application for compliance with adopted laws and policies.

ADJOURNMENT

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

ELECTRONIC PARTICIPATION

Members of the Planning Commission may participate electronically via telephone, Skype, or other electronic means during this meeting.

CERTIFICATE OF POSTING

I, Kellie Smith, the City Planner, certify that the foregoing agenda was posted at the principal office of the public body, on the Utah State website (<http://pmn.utah.gov>), and on Highland City's website (www.highlandcity.org).

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

Posted and dated this agenda 20th day of October, 2022.

Kellie Smith, City Planner

THE PUBLIC IS INVITED TO PARTICIPATE IN ALL PLANNING COMMISSION MEETINGS.
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HIGHLAND CITY

HIGHLAND CITY PLANNING COMMISSION MINUTES

Tuesday, September 27, 2022

Waiting Formal Approval

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

VIRTUAL PARTICIPATION



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



Email comments prior to meeting: planningcommission@highlandcity.org

7:00 PM REGULAR SESSION

Call to Order – Jerry Abbott, Chair

Invocation – Commissioner Jay Roundy

Pledge of Allegiance – Commissioner Audrey Moore

The meeting was called to order by Commissioner Jerry Abbott as a regular session at 7:00 PM. The meeting agenda was posted on the *Utah State Public Meeting Website* at least 24 hours prior to the meeting. The prayer was offered by Commissioner Jay Roundy and those in attendance were led in the Pledge of Allegiance by Commissioner Audrey Moore.

PRESIDING: Commissioner Jerry Abbott

COMMISSIONERS

PRESENT: Jerry Abbott, Chris Dayton, Tracy Hill, Claude Jones, Audrey Moore, and Jay Roundy, Chris Howden (*electronically*)

CITY STAFF PRESENT: City Planner and GIS Specialist Kellie Smith, Planning Commission Secretary Heather White, City Recorder Stephannie Cottle, City Code Compliance Officer Brent Wallace

OTHERS PRESENT: Jon Hart, Marcie Jones, Emma Fetzer

1. SWEARING IN NEW PLANNING COMMISSIONERS

Stephannie Cottle, City Recorder, will issue the Oath of Office to Trent Thayn as a new Commissioner Alternate.

Ms. Cottle issued the Oath of Office to Planning Commissioner Trent Thayn. He was previously appointed as an alternate, but was recently asked to serve full-time on the planning commission.

2. UNSCHEDULED PUBLIC APPEARANCES

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

None was offered.

3. COMMISSIONER LEGAL TRAINING

Marcie Jones, from the Utah State Ombudsman, will give a training on several topics requested by the Planning Commission including the role of Planning Commissioners, drafting ordinances and code, exactions versus regulations, general plans, etc.

Marcie Jones, Attorney with the Office of the Property Rights Office Ombudsman, explained what the ombudsman office was. She mentioned that Utah was the only state that had an ombudsman office that did what they did. She spoke about how to use General Plans, the difference in regulations and exactions, and how to draft code that complied with state law.

4. CONSENT ITEMS

Items on the consent agenda are of a routine nature or have been previously studied by the Planning Commission. They are intended to be acted upon in one motion. Commissioners may pull items from consent if they would like them considered separately.

a. Approval of Meeting Minutes *Administrative*

Regular Planning Commission Meeting – August 23, 2022

Commissioner Moore MOVED to approve the minutes from the August 23, 2022 meeting. Commissioner Roundy SECONDED the motion. All present were in favor. None were opposed. The motion carried.

Commissioner Howden joined the meeting electronically at 8:05 PM.

5. PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT – FENCES NEAR GOLF COURSES *Development Code Update (Legislative) – Kellie Smith, Planner & GIS Analyst*

The Planning Commission will hold a public hearing to consider a request by Morian Eberhard to amend Section 3-612 Fences, Retaining Walls, Theme and Screen Walls, relating to fence height for properties adjacent to golf courses. The Planning Commission will take appropriate action.

Ms. Smith explained that a complaint was submitted to the city in August relating to the height of a fence being installed on a neighboring property. Highland's code compliance officer met with the property owner building the fence. The property owner was under the impression that the fence contractor had already received a permit from the city. After speaking with the City Council during unscheduled public appearances, the property owner decided to file a formal application for a development code amendment. Ms. Smith showed pictures of golf balls collected from the yard as well as damage to the applicant's home. She explained that the applicant wanted to install stretch netting behind his house. The applicant had serious concerns with golf balls hitting and penetrating his home. She said the play area in the applicant's backyard was also a concern. Ms. Smith

reviewed the proposed amendments to the code. She said staff recognized that it was a situation that caused safety concerns for residents as well as damage to homes.

Commissioner Abbott opened the public hearing at 8:12 PM and called for public comment.

Applicant Morian Eberhard explained that the fence would blend with large trees in his yard. He said golf balls came into his yard with great speed and that it was not safe. He mentioned that recently someone on the trail was hit in the forehead and had to be rushed off. He said his home was close to the tee box. He had kids and didn't want them to play on the playground in their backyard because of safety concerns. He said he would bear all costs for the proposed fence.

Commissioner Abbott called for additional comment. Hearing none, he closed public hearing at 8:15 PM. He asked for additional discussion.

Commissioner Hill understood the concerns with living next to a golf course and thought it was dangerous.

Commissioner Abbott thought the request was for safety netting instead of a fence. He didn't think it necessarily belonged in the fence code. He thought the applicant should be able to put the netting up to protect his property. He was concerned that the city was changing the code for one exception. Instead of changing code, he thought a paragraph needed to be added regarding houses along a golf course. He wondered what other cities allowed along golf courses.

Ms. Smith explained that the city fence code was very specific and all-inclusive and said the application met the definition of a fence. She mentioned that she researched cities that had multiple golf courses and couldn't find much. She said St. George specified golf course fencing in their code and it was somewhat used as a template for the proposed amendments. She talked about the process for an exception, or a variance, and said Mr. Eberhard could probably get one, however, staff recognized that the safety concern effected more than one property. Because of that, staff thought the issue should be recognized and regulated by putting it in code. She explained that the suggested materials were based on Mr. Eberhard's application.

Commissioner Thayne recognized the safety concerns and said he did not want to regulate materials because new/updated fencing materials could be available in the future. He talked about batting cages currently in residents' yards and wondered if those were permitted. Ms. Smith said she had not encountered anyone who wanted a batting cage. Commissioner Thayne mentioned that there were two near his house. He talked about previously serving on the Board of Adjustments and thought the code needed to be specific to the actual usage or the home/backyard, rather than a blanket statement.

Commissioner Abbott agreed with the need for fencing but thought the reason staff couldn't find it in other cities was because it wasn't regulated.

Mr. Wallace talked about the proposed code and said it was written in a way that was flexible for anyone along a golf course. He said it applied only to five or six homes in Highland. He said the goal was to try to make it invisible to neighbors and that a black or neutral color would blend in.

Commissioner Howden was disconnected from the meeting at 8:25 PM.

Commissioner Roundy MOVED that the Planning Commission accept the findings and recommend approval of the proposed amendment to Section 3-612 of the Development Code.

Commissioner Hill SECONDED the motion.

The vote was recorded as follows:

<i>Commissioner Jerry Abbott</i>	<i>Yes</i>
<i>Commissioner Chris Dayton</i>	<i>Yes</i>
<i>Commissioner Tracy Hill</i>	<i>Yes</i>
<i>Commissioner Christopher Howden</i>	<i>Absent</i>
<i>Commissioner Claude Jones</i>	<i>Absent</i>
<i>Commissioner Audrey Moore</i>	<i>Yes</i>
<i>Commissioner Jay Roundy</i>	<i>Yes</i>
<i>Commissioner Trent Thayn</i>	<i>Yes</i>

Motion carried 6:0

6. PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT - FENCE MATERIALS *Development Code Update (Legislative) - Kellie Smith, Planner & GIS Analyst*

The Planning Commission will hold a public hearing to consider a proposal by Highland City Staff to amend Section 3-612 Fences, Retaining Walls, Theme and Screen Walls, relating to additional fence materials that may or may not be permitted. The Planning Commission will take appropriate action.

Ms. Smith explained the city had recently received applications for fence materials not permitted in the code: gabion, hog/horse wire, steel cable, and concrete (not precast). She mentioned that vinyl, wood, wrought iron, and precast concrete were the only fencing materials permitted in the code. Chain link was the only material not permitted. She said staff wondered if pictures should be added to the fencing code to provide clarity.

Commissioner Abbott opened the public hearing at 8:39 PM and called for public comment. Hearing none, he closed the public hearing at 8:39 PM and asked for additional discussion.

Commissioner Moore talked about rock as a natural resource in Highland and wondered why rock wall fences were not included on the list. She thought masoned rock walls should be a material for fencing. Commissioner Abbott agreed.

The Commissioners discussed the difference between animal enclosures and the public view. They reviewed the current code regarding animal enclosures.

Commissioner Thayn said Highland was for people with larger lots, rural areas, and was concerned that fencing options used in the past were going to be taken away for residents with large animals. He said Highland was a farming community. Ms. Smith explained that the proposed amendment permitted hog/horse wire for enclosures for residents with animal rights. She mentioned that any lot with 30,000 square feet could have three horses and said oftentimes there were lots with horses in nice neighborhoods. She explained that other than chain link, the city never regulated the fencing around animal enclosures.

The Commissioners spoke of their concerns with limiting future materials. Ms. Smith talked about chain link fences and explained that they currently were permitted only for athletic fences. She said there were many chain link fences installed throughout Highland before it was prohibited. She mentioned that bushes and other greenery was also considered a fence.

Commissioner Roundy talked about his time serving on the Planning Commission about ten years ago. He said the Commission at that time was asked to review fencing materials. They took pictures and tried to determine what would blend into the landscape. They set up study areas and gathered public opinion. He said he was surprised that galvanized steel subdued into the landscape faster and closer than any other structure. Commissioner Roundy said the public didn't want anything to do with galvanized until they saw the alternatives side by side. He thought at least 80% of vinyl fences today looked like they were hit by golf balls because of kids, sun exposure, etc. He thought chain link should be an approved fencing material in the code as well as gabion. He mentioned that there were miles of gabion fencing in the American Fork Canyon that most people probably did not know was there.

Commissioner Abbott thought chain link was okay only if there was a top rail to give support. He said he was not opposed to masonry walls and a rock face.

The Commissioners talked about different materials and options. They talked about high winds that were common in Highland and how some materials were better than others. They thought brick/masonry fencing should be permitted. They talked about the gauge of hog/horse wire and decided not to regulate it. Most agreed that chain link should have a top pole support if it was permitted, that hog/horse wire fencing needed to have top and side supports, and that the steel cable fence looked nice.

Commissioner Roundy MOVED that the Planning Commission recommend the following materials to be permitted for fences in Section 3-612 of the Development Code.

- Vinyl, wood, wrought iron, precast concrete, concrete, steel cable, hog/horse wire with wooden or metal beams and posts, chain link with horizontal top pole support, gabion, and stone and masonry walls. Hog/horse wire without beams are permitted for animal enclosures required for large animals.*
- All materials not listed above are prohibited*

Commissioner Moore SECONDED the motion.

The vote was recorded as follows:

<i>Commissioner Jerry Abbott</i>	<i>Yes</i>
<i>Commissioner Chris Dayton</i>	<i>Yes</i>
<i>Commissioner Tracy Hill</i>	<i>Yes</i>
<i>Commissioner Christopher Howden</i>	<i>Absent</i>
<i>Commissioner Claude Jones</i>	<i>Absent</i>
<i>Commissioner Audrey Moore</i>	<i>Yes</i>
<i>Commissioner Jay Roundy</i>	<i>Yes</i>
<i>Commissioner Trent Thayn</i>	<i>Yes</i>

Motion carried 6:0

7. ELECTIONS OF CHAIR AND VICE-CHAIR

The Planning Commission will 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.

Commissioner Moore was elected to serve as Chair and Commissioner Howden was elected to serve as Vice Chair.

8. PLANNING COMMISSION AND STAFF COMMUNICATION ITEMS

The Planning Commission may discuss and receive updates on City events, projects, and issues from the Planning Commissioners and city staff. Topics discussed will be informational only. No final action will be taken on communication items.

a. Future Meetings

- October 4, City Council, 7:00 pm, City Hall
- October 18, City Council, 7:00 pm, City Hall
- October 25, Planning Commission, 7:00 pm, City Hall
- November 1, City Council, 7:00 pm, City Hall

Ms. Smith reviewed a recently received letter regarding the Waterwise Rebate from CUWCD (Central Utah Water Conservancy District). She explained that starting January 2023 the rebate would only be offered to residents of cities that implemented specific water efficiency standards. She explained that the City Council looked into specifics of what CUWCD required and decided that certain property rights were being taken away. She recently contacted CUWCD at the Council's request and found that CUWCD allowed a level of leniency in the wording but not to the standards. She reviewed the new standards for the CUWCD rebate and said the City Council thought it regulated too much. The Commissioners' opinions were similar to the City Council. The Commissioners discussed actions that could be taken as a city but thought the CUWCD standards seemed extreme. The Planning Commission agreed with moving forward with a water-wise type ordinance for Highland. Ms. Smith said she would contact Commissioner Howden regarding an amendment to existing city ordinances.

ADJOURNMENT

Commissioner Hill MOVED to adjourn the meeting. Commissioner Roundy SECONDED the motion. All present were in favor.

The meeting was adjourned at 9:53 PM.

I, Heather White, Planning Commission Secretary, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on September 27, 2022. The document constitutes the official minutes for the Highland City Planning Commission Meeting.

/s/Heather White
Planning Commission Secretary



PLANNING COMMISSION AGENDA REPORT ITEM #3

DATE: October 25, 2022
TO: Planning Commission
FROM: Kellie Smith, Planner & GIS Analyst
SUBJECT: **PUBLIC HEARING/ORDINANCE:** Text Amendment – Daycares, Preschools, and In-Home Instruction
TYPE: **DEVELOPMENT CODE UPDATE (LEGISLATIVE)**

PURPOSE:

The Planning Commission will hold a public hearing to consider a request by Highland City Staff to amend several sections of the Development Code to add regulations for daycares, preschools, and in-home instruction. The Planning Commission will take appropriate action.

PRIOR COUNCIL DIRECTION:

On October 4, 2022, a resident spoke during City Council’s unscheduled public appearances sharing their concern of Highland’s need for affordable childcare. They explained that the use can exist with minimal impact on the neighborhoods they are located in.

At the end of the meeting, staff presented to the Council the inconsistencies in approving daycares and preschools under the existing home occupation regulations. Staff briefly reviewed daycare requirements in other cities. The Mayor and Councilmembers were in favor of drafting an ordinance based on Lehi City’s code on daycares and preschools and directed staff to move forward with a text amendment.

BACKGROUND:

In the past, preschools and daycares have been approved by the City through home occupation licenses.

The existing Development Code requires home occupations to meet the following:

- The home occupation shall be conducted entirely within the main dwelling, including an attached garage.
- The physical appearance of the dwelling, amount of traffic and parking, and other activities generated by the home occupation shall not be contrary to the intent of the zone in which the home occupation is located. The home occupation shall not generate pedestrian or vehicular traffic in excess of that customarily associated with the zone in which the use is located.

The Municipal Code requires that only bona fide residents of the premises, as defined by the city zoning ordinance, shall be employed by the licensee.

In August of this year, a home occupation license application was submitted for a daycare with 8-16 children and one caregiver that did not live in the home. Staff reviewed the application, and informed the applicant that the number of requested children exceeded the allowable impact of a home occupation, and that no one can be employed by the home occupation that does not live in the home. The applicant is the same individual who spoke to the City Council on October 4.

While discussing with the applicant what is permitted and what is not, Staff came to the conclusion that it was necessary to update the code to clarify what level of impact is allowed for daycares and preschools.

SUMMARY OF THE REQUEST:

The following is a summary and outline of the code changes staff has drafted for review.

Definitions

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

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

- This definition was updated to be consistent with the existing definition in the Municipal Code

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

Preschool. An early childhood program that provides education and care to pre-elementary school aged children that emphasizes learning and development rather than daycare services.

Daycares – (R-1-40, R-1-30, and R-1-20)

- All home occupation regulations apply except that employed caregivers associated with the daycare are not required to live in the home. The number of caregivers is limited to the minimum required by the State.
- All daycares must receive applicable licensing from the Utah Department of Health and Human Services. A copy of this license must be submitted to the City.
- Daycares have been divided into 3 types based on number of children:
 1. Type 1 – 8 children or less
 2. Type 2 – 9-16 children

- For Type 2 daycares, the following site improvements are required:
 - At least ¼ mile (or a different radius) from another daycare or preschool with 9-16 children.
 - 1 off street parking space per caregiver required.

The Planning Commission should discuss improvements to help mitigate impact in residential zones. More options are provided under the Staff recommendation.
- 3. Commercial – 16+ children
 - A daycare with more than 16 children is considered a commercial use and is only permitted in commercial zones that list daycares as a permitted use.

In-Home Instruction (includes preschools) (R-1-40, R-1-30, and R-1-20)

- All home occupation regulations are required.
- Maximum of 12 students per day.
- Maximum of 2 time blocks (morning, afternoon). Each block must be less than 4 hours.
- A background check is required for teachers or instructors for students younger than 18 years of age.
- The teacher or instructor must live in the home.
- Preschools or instruction with more than 12 students per day is considered a commercial use and is only permitted in commercial zones that list a preschool as a permitted use.

Commercial Zones

- Residential Professional – Preschools and daycares are already permitted conditional uses in this zone.
- Professional Office – The proposed amendment adds “daycares” as a permitted conditional use. Preschools are already listed as a conditional use.

CITIZEN PARTICIPATION:

Notice of the public hearing to be held at the Planning Commission meeting was posted on the state and city websites October 13, 2022. No comments have been received.

STAFF REVIEW:

- The Utah Department of Health and Human Services regulates the following for all daycares:
 - Children to caregiver ratio;
 - Training hours for caregivers;
 - Background checks for caregivers as well as anyone in the home that is over 12 years old;
 - Safety and injuries;
 - Food;
 - Transportation (if provided); and
 - Medical records
- The State conducts annual inspections to ensure compliance with their regulations.
- Childcare for less than 4 hours does not require State licensing. Staff is proposing to require a background check for instructors that have students under the age of 18.

- The average impact of a daycare or preschool exceeds the allowable impact outlined for home occupations in Highland City. According to the Utah Travel Study (updated January 2013), the State-wide average trips per household is 11.26. For a daycare, for example, one child would produce at least 4 additional trips for pick-up and drop-off. Some daycares provide transportation to and from school, which is an additional 4 trips. For a preschool with 12 students, this creates 48 trips. If there are two (2) time blocks available, this could create 96 trips per day. This is well over the expected average of 11.26 trips per day for a household.
- The three (3) types of daycares, and the maximum number of students for a preschool, are from the Lehi City Code. The purpose of adding possible mitigation measures for Type 2 (9-16 children) is to enforce a consistent requirement for this level of impact in a residential zone rather than going through the conditional use process.

FINDINGS:

The proposed amendment appears to meet the following findings:

- The proposed update to the Professional Office zone is consistent with existing uses in the zone.
- Clarifications are included to require appropriate State licensing for the care of children.
- The proposed amendment allows for a needed use while appropriately mitigating impact in residential zones.

FISCAL IMPACT:

This action will not have a financial impact on this fiscal year's budget expenditures.

STAFF RECOMMENDATION:

Staff recommends the Planning Commission hold a public hearing, accept the findings, and recommend **APPROVAL** of the proposed amendment to the City Council. The following may also be considered as options to mitigate impact:

Possible site requirements for daycares with 9-16 children (Type 2):

- Only permitted on properties adjacent to either a collector or an arterial street.
- Shall be configured so that no vehicle will back out on to a dedicated street. Parking and turn-around areas shall be located in the side or rear yard unless the site includes a circular driveway.
- At least ¼ mile (or a different radius) from another daycare or preschool with 9-16 children.
- 1 off street parking space per caregiver required.

The maximum number of children permitted for preschools and in-home instruction:

- Maximum of 12 students per day (approximately 48 trips).
Or
- Maximum of 12 students per time block with a maximum of 2 time blocks per day (approximately 96 trips).
Or
- Maximum of more than 12 students (recommend a number of students).

Or

- d. Maximum of less than 12 students (recommend a number of students).

The maximum number of children permitted for daycares:

- Should the number of children in each type be adjusted?
- Should a daycare in a residential zone be allowed to have 16 children? Should the maximum be less?
- Should the site improvements be required for all daycares no matter how many children attend?
- Should caregivers that do not live in the home be permitted?

The ordinance will be updated for Council based on the motion recommended by the Planning Commission.

MOTION TO APPROVE:

I move that the Planning Commission recommend **APPROVAL** of the text amendment *as proposed by staff* to amend several sections of the Development Code to add regulations for daycares, preschools, and in-home instruction.

ALTERNATIVE MOTION:

The Planning Commission may also make any changes it feels necessary to the staff proposed code amendments. If so, the following motion can be used:

I move that the Planning Commission recommend **APPROVAL** of the proposed amendment to amend several sections of the Development Code to add regulations for daycares, preschools, and in-home instruction with the following changes: (the Planning Commission will need to outline the changes to the proposal they would like to see).

ATTACHMENTS:

1. Ordinance

ATTACHMENT 1:

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING SEVERAL SECTIONS OF THE HIGHLAND CITY DEVELOPMENT CODE RELATING TO DAYCARES, PRESCHOOLS, AND IN-HOME INSTRUCTION AS SHOWN IN FILENAME TA-22-15.

WHEREAS, all due and proper notices of public hearings and public meetings on this Ordinance held before the Highland City Planning Commission (the “Commission”) and the Highland City Council (the “City Council”) were given in the time, form, substance and manner provided by Utah Code Section 10-9a-205; and

WHEREAS, the Planning Commission held a public hearing on this Ordinance on October 25, 2022 and

WHEREAS, the City Council held a public hearing on this Ordinance on November 1, 2022.

NOW, THEREFORE, BE IT ORDAINED BY THE Highland City Council as follows:

SECTION 1: **ADOPTION** Several sections of the Development Code are hereby amended as shown on “Exhibit A” attached hereto and incorporated herein.

SECTION 2: **ADOPTION** Section 5.08.050 in the Municipal Code is hereby amended as shown on “Exhibit B” attached hereto and incorporated herein.

SECTION 3: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 4: **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 5: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from November 1, 2022 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, November 1, 2022

HIGHLAND CITY, UTAH

Kurt Ostler
Highland City Mayor

ATTEST:

Stephannie Cottle
Highland City Recorder

COUNCIL MEMBER	YES	NO
Timothy A. Ball	☐	☐
Brittney P. Bills	☐	☐
Sarah D. Petersen	☐	☐
Kim Rodela	☐	☐
Scott L. Smith	☐	☐

EXHIBIT A
Development Code

R-1-40

3-4102 Permitted Uses

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16. Home Occupations please refer to Article 6, Section 3-614, Supplementary Regulations.

17. Daycares accessory to a single-family dwelling.

- a. All Home Occupation regulations found in Article 6 Supplementary Regulations are required, except that employed caregivers associated with the Daycare are not required to be bona fide residents of the home provided that the total number of allowable caregivers shall not exceed the minimum number under state regulations required to serve the number of children being cared for.
- b. All daycares must receive applicable licensing from the Utah Department of Health and Human Services. A copy of this license must be submitted to the City.
 - i. Type 1 – 8 children or less
 - ii. Type 2 – 9-16 children

For Type 2 daycares, the following site improvements are required:

 - a) At least ½ mile (or a different radius) from another daycare or preschool with 9-16 children.
 - b) 1 off street parking space per caregiver required.

A daycare with more than 16 children is considered a commercial use and is only permitted in commercial zones that list a daycare as a permitted use.

18. In-home instruction (includes preschools) accessory to a single-family dwelling.

- a. All Home Occupation regulations in Article 6 Supplementary Regulations are required.
- b. Maximum of 12 students per day.
- c. There shall be a maximum of 2 time blocks (morning, afternoon). Each block must be less than 4 hours.
- d. A background check is required for teachers or instructors for students younger than 18 years of age.
- e. The teacher or instructor must be a bona fide resident of the home.

Preschools or instruction with more than 12 students per day is considered a commercial use and is only permitted in commercial zones that list a preschool as a permitted use.

R-1-20

3-4202 Permitted Uses

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14. Home Occupations please refer to Article 6, Section 3-614, Supplementary Regulations.

15. Daycares, preschools, or in-home instruction; please refer to Section 3-4102(17) and Section 3-4102(18) in this Code.

R-1-30

3-4252 Permitted Uses

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15. Daycares, preschools, or in-home instruction; please refer to Section 3-4102(17) and Section 3-4102(18) in this Code.

R-P Zone (Residential Professional)

Preschools and Daycares are already permitted conditional uses in this zone

Professional Office ("P.O.")

3-4902 Conditional Uses

...

4. Other types of Professional Services including but not limited to: information technology services, marketing, travel and employment agencies, journalists, collection agencies, educational services, daycares, music studios, photography studios, churches, colleges & schools (academic, pre-schools, special education, indoor instruction only).

Supplementary Regulations

3-614 Home Occupations

Any person desiring a home-occupation permit, as provided in this Section, shall file an application with the City Treasurer. For preschools, daycares, or in-home instruction requirements, refer to permitted uses and associated regulations in the applicable residential zone.

Definitions

10-102 Definitions

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

...

34. Home Occupation. ~~Any occupation conducted within a dwelling and carried on by persons residing in the dwelling.~~ Any use conducted entirely within a building and carried on by persons residing in the

dwelling unit, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. A business license does not automatically grant the privilege of conducting a business in a residential dwelling unit.

...

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

...

55. Preschool. An early childhood program that provides education and care to pre-elementary school aged children that emphasizes learning and development rather than daycare services.

*Numbering in 10-102 Definitions will be adjusted accordingly.

EXHIBIT B

Municipal Code

Chapter 5.08 Home Occupation Licenses

5.08.050 Conditions

As a prerequisite to the issuance of a home occupation license, conditions must be observed at all times by the licensee and the licensee shall comply with the following:

1. Only bona fide residents of the premises, as defined by the city zoning ordinance, shall be employed by the licensee.
2. The home occupation shall not physically change the dwelling to the extent that it would alter the residential character or appearance of the dwelling or neighborhood.
3. The home occupation shall be conducted wholly within a structure on the premises and shall not exceed twenty-five percent of the total main floor area of the residential structure; nor in the alternative, more than fifty percent of the total floor area of any attached garage wherein the license activity is conducted. The home occupation shall not involve the use of any accessory building or yard space for storage, nor shall any activities be conducted outside the building.
4. The home occupation shall not display nor create outside the building any external evidence of the operation of the home occupation.
5. No display of any kind shall be visible from the exterior of the premises.
6. All maintenance or service vehicles and equipment, or any vehicle bearing any advertising related to the home occupation or any other similar vehicle shall be garaged or stored entirely within a building or structure, or entirely behind the dwelling, out of view of the street.
7. The home occupation shall not generate pedestrian or vehicular traffic in excess of that customarily associated with the zone in which the use is located.
8. There shall be complete conformity with fire, building, plumbing, electrical and health codes and to all state and city laws and ordinances.
9. The home occupation shall not cause a demand for municipal or utility services or community facilities in excess of those usually and customarily provided for residential uses.
10. The home occupation shall not be associated with, or produce odor, fumes, light, glare, color, design, materials, construction, lighting, sounds, noises, or vibrations or other nuisances including radio and television reception that may be discernable beyond the premises or unreasonably disturb the peace and quiet of the neighborhood.
11. Any special condition established by the city council and made of record in the home occupation license, as they deem necessary to carry out the intent of this section shall be met.
12. All home occupation licenses shall expire annually on June 30th, and may be renewed annually provided there have been no reported violations, complaints, or detrimental characteristics which may, in the opinion of the city council or city zoning administrator, require termination of such occupation.
- 12-13. Daycares, preschools, and in-home instruction are subject to additional regulations under the Highland City Development Code.



PLANNING COMMISSION AGENDA REPORT ITEM #4

DATE: October 25, 2022
TO: Planning Commission
FROM: Kellie Smith, Planner & GIS Analyst
SUBJECT: **PUBLIC HEARING/ORDINANCE:** Text Amendment – Sewer Lift Stations
TYPE: **DEVELOPMENT CODE UPDATE (LEGISLATIVE)**

PURPOSE:

The Planning Commission will hold a public hearing to consider a proposal by Highland City Staff to amend Section 5-9-107 Underground Utilities and Sanitary Sewer relating to sewer lift stations. The Planning Commission will take appropriate action.

PRIOR COUNCIL DIRECTION:

On October 18, 2022, the City Engineer presented to the City Council the substantial costs of maintaining and replacing sewer lift stations throughout the City. The City Engineer expressed the desire to update the Development Code to prohibit new development from being served by publicly owned sewer lift stations. The Council directed to staff to draft the amendment.

BACKGROUND:

Highland City currently maintains three (3) sewer lift stations: Pheasant Hollow, Greens at the Highlands, and Dry Creek. The Victor View lift station was eliminated during the summer of 2022.

SUMMARY OF THE REQUEST:

The proposed amendment is to add the following to Section 5-9-107 Underground Utilities and Sanitary Sewer:

“4. Sanitary sewer pipelines and facilities that are or will be owned and maintained by the City for all new subdivisions shall operate by gravity flow means without introducing, or causing to be created, additional lift or pumping systems.”

CITIZEN PARTICIPATION:

Notice of the public hearing to be held at the Planning Commission meeting was posted on the state and city websites October 13, 2022. No comments have been received.

STAFF REVIEW:

- The following is a cost summary of the projects the City has had to complete regarding the maintenance of sewer lift stations during FY21-22 and FY22-FY23 so far:
 - Victor View lift station elimination: \$625,000
 - Pheasant Hollow lift station replacement: \$1,550,000
 - Greens at the Highlands lift station pump replacement: \$105,000

- The proposed amendment prohibits publicly owned and maintained sewer lift stations. A developer can still choose to use a sewer lift station, but it would need to be privately owned and maintained.

FINDINGS:

The proposed amendment appears to meet the following findings:

- The amendment is consistent with the purpose outlined in Chapter 5 Subdivisions: to avoid “an excessive expenditure of public funds for the supply of such services and facilities.”

FISCAL IMPACT:

This action will not have a financial impact on this fiscal year’s budget expenditures.

STAFF RECOMMENDATION:

Staff recommends the Planning Commission hold a public hearing, accept the findings, and recommend **APPROVAL** of the proposed amendment to the City Council.

MOTION TO APPROVE:

I move that the Planning Commission recommend **APPROVAL** of the proposed amendment to Section 5-9-107 Underground Utilities and Sanitary Sewer relating to sewer lift stations.

ATTACHMENTS:

1. Ordinance

ATTACHMENT 1:

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING SECTION 5-9-107 UNDERGROUND UTILITIES AND SANITARY SEWER OF THE HIGHLAND CITY DEVELOPMENT CODE RELATING TO SEWER LIFT STATIONS AS SHOWN IN FILENAME TA-22-16.

WHEREAS, all due and proper notices of public hearings and public meetings on this Ordinance held before the Highland City Planning Commission (the “Commission”) and the Highland City Council (the “City Council”) were given in the time, form, substance and manner provided by Utah Code Section 10-9a-205; and

WHEREAS, the Planning Commission held a public hearing on this Ordinance on October 25, 2022 and

WHEREAS, the City Council held a public hearing on this Ordinance on November 1, 2022.

NOW, THEREFORE, BE IT ORDAINED BY THE Highland City Council as follows:

SECTION 1: **ADOPTION** Several sections of the Development Code are hereby amended as shown on “Exhibit A” attached hereto and incorporated herein.

SECTION 2: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 3: **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 4: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from November 1, 2022 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, November 1, 2022

HIGHLAND CITY, UTAH

Kurt Ostler
Highland City Mayor

ATTEST:

Stephannie Cottle
Highland City Recorder

COUNCIL MEMBER	YES	NO
Timothy A. Ball	☐	☐
Brittney P. Bills	☐	☐
Sarah D. Petersen	☐	☐
Kim Rodela	☐	☐
Scott L. Smith	☐	☐

EXHIBIT A

5-9-107 Underground Utilities And Sanitary Sewer

1. All underground utilities, sanitary sewers and storm drains installed in streets or alleys should be constructed prior to the surfacing of such streets or alleys. Connections for all underground utilities, water lines and sanitary sewers for each lot should be laid to a point which will eliminate the necessity for disturbing the street or alley improvements, when service connections thereto are made.
2. All telephone, electric power, cable television or other wires or cables shall be placed underground. Equipment appurtenant to the underground facilities, such as surface-mounted transformers, pedestal-mounted terminal boxes and meter cabinets and concealed ducts may be above ground. The subdivider shall make necessary arrangements with the utilities involved for the installation of the underground facilities.
3. Water mains and fire hydrants connecting to the water system serving the City shall be installed as shown on the plans signed by the City Engineer. Mains and individual lot services shall be sufficient size to furnish an adequate water supply for each lot or parcel in the subdivision and to provide adequate fire protection.
- ~~3.4.~~ Sanitary sewer pipelines and facilities that are or will be owned and maintained by the City for all new subdivisions shall operate by gravity flow means without introducing, or causing to be created, additional lift or pumping systems.



PLANNING COMMISSION AGENDA REPORT ITEM #5

DATE: October 25, 2022
TO: Planning Commission
FROM: Kellie Smith, Planner & GIS Analyst
SUBJECT: **PUBLIC HEARING/ORDINANCE:** Text Amendment – Park or Planter Strips
TYPE: **DEVELOPMENT CODE UPDATE (LEGISLATIVE)**

PURPOSE:

The Planning Commission will hold a public hearing to consider a proposal by Highland City Staff to amend Section 3-621 Park or Planter Strips to clarify that the maintenance is the responsibility of the adjacent property owner. The Planning Commission will take appropriate action.

PRIOR COUNCIL DIRECTION:

On October 18, 2022, staff made the City Council aware that the section of the Development Code that details what is permitted for landscaping in park strips, does not specify that it is the adjacent property owner's responsibility to landscape and maintain it. The City Council discussed that it was consistent with current policy and to proceed with the amendment.

BACKGROUND:

Section 3-621 of the Development Code details which types of landscaping is allowed in park strips in City right-of-way. While reviewing the Code, Staff noticed that it does not specify that it is the adjacent property owner's responsibility to maintain the landscaping installed in the park strip.

SUMMARY OF THE REQUEST:

The proposed amendment adds the following wording to Section 3-612 Park or Planter Strips:

“All park strip areas, the area between the sidewalk and the curb, shall be landscaped and maintained by the adjacent property owner using traditional and /or Xeriscape methods...”

CITIZEN PARTICIPATION:

Notice of the public hearing to be held at the Planning Commission meeting was posted on the state and city websites October 13, 2022. No comments have been received.

STAFF REVIEW:

- An amendment is needed to clarify that the private property owners adjacent to the right-of-way are responsible for the installation and maintenance of landscaping in the park strip.

FINDINGS:

The proposed amendment appears to meet the following findings:

- It is consistent with current City policy.

FISCAL IMPACT:

This action will not have a financial impact on this fiscal year's budget expenditures.

STAFF RECOMMENDATION:

Staff recommends the Planning Commission hold a public hearing, accept the findings, and recommend **APPROVAL** of the proposed amendment to the City Council.

MOTION TO APPROVE:

I move that the Planning Commission recommend **APPROVAL** of the proposed amendment to Section 3-621 Park or Planter Strips to clarify that the maintenance of park strips is the responsibility of the adjacent property owner.

ATTACHMENTS:

1. Ordinance

ATTACHMENT 1:

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING SECTION 3-621 PARK OR PLANTER STRIPS OF THE HIGHLAND CITY DEVELOPMENT AS SHOWN IN FILENAME TA-22-17.

WHEREAS, all due and proper notices of public hearings and public meetings on this Ordinance held before the Highland City Planning Commission (the “Commission”) and the Highland City Council (the “City Council”) were given in the time, form, substance and manner provided by Utah Code Section 10-9a-205; and

WHEREAS, the Planning Commission held a public hearing on this Ordinance on October 25, 2022 and

WHEREAS, the City Council held a public hearing on this Ordinance on November 1, 2022.

NOW, THEREFORE, BE IT ORDAINED BY THE Highland City Council as follows:

SECTION 1: **ADOPTION** Several sections of the Development Code are hereby amended as shown on “Exhibit A” attached hereto and incorporated herein.

SECTION 2: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 3: **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 4: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from November 1, 2022 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, November 1, 2022

HIGHLAND CITY, UTAH

Kurt Ostler
Highland City Mayor

ATTEST:

Stephannie Cottle

Highland City Recorder

COUNCIL MEMBER	YES	NO
Timothy A. Ball	☐	☐
Brittney P. Bills	☐	☐
Sarah D. Petersen	☐	☐
Kim Rodela	☐	☐
Scott L. Smith	☐	☐

EXHIBIT A

3-621 Park Or Planter Strips

All park strip areas, the area between the sidewalk and the curb, shall be landscaped and maintained by the adjacent property owner using traditional and /or Xeriscape methods. Vegetation such as grasses, flowers, ground covers and shrubs shall not exceed 22-inches in height. Vegetation shall not include weeds identified on the State of Utah Department of Agriculture and Food Designated Noxious Weed List for Colorado (CO), Idaho (ID), Kansas (KS), Montana (MT), Nebraska (NE), North Dakota (ND), South Dakota (SD), Utah (UT), Wyoming (WY) but may include approved drought tolerant plants.

1. The park strip may be covered with non-living material such as wood chips or decorative landscaping rocks (rock diameter of one inch minimum and six inches maximum) if commonly practiced xeriscape landscaping procedures are followed.
2. Trees planted in the park strip may be separated by non-living materials only if a water source is available at each tree (not from a hose, or above ground sprinkler).
3. Only trees from the city approved Class I Trees list may be planted within a park strip as follows:
 1. acer campestre; Hedge Maple
 2. acer ginnala; Amur Maple
 3. acer grandidentatum; Big Tooth Maple
 4. acer tataricum; Tatarian Maple
 5. koelreuteria paniculata; Goldenrain Tree
 6. prunus serrulata; Flowering Cherry
 7. prunus blireiana; Flowering Plum
 8. Pyrus fauriei, (syn. C. calleryana var. Fauriei) Korean Flowering pear
 9. Pyrus calleryana, 'Callery X Chanticleer Cultivar', Chanticleer (Callery) flowering pear
 10. Pyrus calleryana, 'Cleveland Select', Cleveland Select flowering pear
 11. Pyrus salicifolia, '>Pendula' (syn. Silver Frost') Weeping Willowleaf pear
 12. syringe reticulata; Japanese Tree Lilac