

ORDINANCE NO. 2023-11

AN ORDINANCE AMENDING THE ZONE 18.42 MIXED-USE RESIDENTIAL COMMERCIAL ZONE

BE IT ORDAINED by the City Council of Heber City, Utah, Heber City Municipal Code, Chapters 18.42 Mixed-Use Residential Commercial Zone (MURCZ) is hereby Amended and Adopted to read as follows:

18.42 Mixed-Use Residential Commercial Zone (MURCZ)

18.42.010	Purpose and Objectives
18.42.020	General Regulations
18.24.030	Permitted and Conditional Uses
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18.42.065	Rezone Development Agreement Required
18.42.070	Transportation, Circulation, And Parking Design
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18.42.090	Related Provisions

18.42.010 Purpose and Objectives

- A. The objectives in establishing the Mixed-Use Residential Commercial Zone (MURCZ) are:
1. To facilitate the development of attractive entrances into the City;
 2. To reduce the conflict between commercial and residential uses of land along principal highways adjacent to the central commercial districts and to encourage coordinated development of commercial and residential uses of land;
 3. To facilitate the orderly expansion of commercial uses out from the central commercial district;
 - A. To provide for the development of retail businesses of a larger size than those allowed in the City center; and
 5. To allow Heber to continue to be the commercial center for Wasatch County.

18.42.020 General Regulations

The Mixed-Use Residential Commercial Zone shall only apply to contiguous parcels of property containing a total of at least thirty (30) acres. All applications for the MURCZ shall include a

development agreement to assure a commitment to the design concepts presented. The development agreement shall include a development master plan as per section 18.42.065 of this Title.

18.24.030 Permitted and Conditional Uses

In order to accomplish the objectives and purposes of this title and to stabilize and protect the essential zone characteristics, the following uses are allowed the MURCZ zone:

A. Table of Land Use Regulations.

P = PERMITTED USE (P) A site plan application is required with staff processing. Site plan applications are approved, when and if they meet the ordinance standards.
C = PLANNING COMMISSION CONDITIONAL USE REVIEW (C). A site plan application with Planning Commission review is required.

- B. If a use is not specifically designated below, then it is prohibited.
- C. All uses listed in the use table and that require a building permit shall also require a site plan application.

Land Use	MURCZ	Limitations
Department, discount, and food stores	P	
Commercial retail and services	P	No retail commercial transaction nor business may be conducted within a storage unit.
Restaurants including fast food with drive-up windows, private clubs	P	Drive up windows shall not face the street
Offices, clinics, schools, commercial day care facilities and public buildings	P	
Banking or financial institutions	P	Excludes check cashing
Entertainment and recreation uses	P	
Fitness centers, including gymnasiums	P	
Funeral establishments, mortuaries, and wedding chapels/reception centers	P	
Home occupations	P	As regulated by Chapter 18.68
Hotels, inns, which may include a restaurant and conference meeting rooms	C	
Secondhand stores	P	
Signs	P	As regulated by Chapter 18.103
Wholesale establishments with stock on premises but excluding establishments whose principal activity is that of a storage warehouse	P	
The keeping of grazing animals	P	See Chapter 18.68

Land Use	MURCZ	Limitations
Mixed use residential-commercial development, including retirement and residential development, attached, and detached multi-family and detached single family dwellings, condominium and townhouse developments, apartments, and planned unit developments	C	Subject to the residential standards in Section 18.42.080
Hospitals	C	Traffic Study required
Convenience service stations including gas pumps, auto parts sales, service and repair facilities, car wash and detail shops	C	See Section 18.42.085
Automobile sales	C	
Commercial parking lots and/or structures	C	
Commercial complex	C	Master site plan required
Any use with a development parcel larger than 1 acre and/or a building with over 60,000 square feet shall be a conditional use	C	

18.42.040 Site Design

- A. Site Design shall follow the C-2/C-4 Design Guidelines, which include a series of required standards and recommendations for a development proposal. The “street wall” suggestions shall not be a requirement for a development in MURCZ. In addition to the standards found in the C-2/C-4 Design Guidelines, standards for developments with buildings over 60,000 gross square feet (footprint) or parcels larger than one acre, are included in section 18.42.060.
- B. Building Setbacks.
 1. In the Mixed-Use Residential Commercial Zone, there shall be no area, other than the minimum rezone area size of 30 acres, and width requirements. All commercial, service buildings and structures, gasoline pumps, and all buildings and structures shall be setback at least fifteen (15) feet from any public street property line.
 2. Residential buildings which have parking areas located to the rear of the building shall have a reduced minimum front yard and corner/side yard adjacent to a public street of at least 15 feet, as measured from any public street right-of-way line. These types of residential units shall include a door, connecting sidewalk, facing the street with a front porch of at least 60 square feet. All other residential buildings shall be located at least 30 feet from any public street property line, unless a larger setback is required elsewhere in this Chapter
 3. Buildings located in Residential Transition areas shall be subject to the setbacks as specified in Section 18.42.110
- C. Building Orientation. See C-2/C-4 Design Standards
- D. Sensitivity to Natural Features. See Sensitive Lands Chapter 18.67 for requirements.
- E. Landscaping. See Landscape Chapter, 18.76 for requirements.

- F. Residential Compatibility. Commercial development which adjoins a residential zone or a residential use, or is across the street from a residential zone or use shall adhere to the following to minimize the impact of the commercial use on the residences:
1. Loading zones, loading docks and utilities which create noise and vibration such as air conditioners, garbage bins, and other nuisance creating objects shall be setback from the residential property lines by at least thirty (30) feet.
 2. Commercial uses under 60,000 square feet, adjoining existing residential uses shall be bounded with a six foot (6') sight-obscuring fence of similar materials incorporated in the exterior design of the building, and a ten (10) foot xeriscape landscaped area planted with dense evergreen trees along the residential lot lines.
 3. Rooftop utilities and antenna equipment shall be screened with parapet walls.
 4. Uses which emit noise, radiation, fumes, smoke, vapors or other deleterious effects shall be separated from existing residences by placing them as far away from the residences as reasonably possible on the lot and preferably separated from the residences by another less intrusive commercial building or use.
 5. No dust, odors, smoke, vibrations or intermittent light, glare or noise shall be emitted which are discernible beyond the premises except for normal traffic movements.

18.42.050 Building Design

- A. Design Vision Statement. A design concept for the development shall be articulated in the development agreement. The design concept shall utilize the C-2/C-4 Design Guidelines in the proposal.
- B. Architectural Unity. All buildings on the same site shall be architecturally unified. This provision shall apply to new construction, additions, and remodeling. Architectural unity means that buildings shall be related in architectural style, color scheme and building materials. All accessory buildings and enclosures shall be designed to be in a similar style with the primary structure and shall be evaluated by the Planning Commission at the time of any zone change recommendation process and which shall be measured in terms of design, form, use of materials and color.
- C. Conditional use is required for any building over 60,000 square feet.
- D. Building Floor Usage. Appropriate building floor usage shall be defined as follows. First floor uses shall be reserved for all retail, business, or professional services as allowed in 18.42.30. Second floor uses shall have the option of all first floor uses or residential uses. If the project includes stand alone commercial use of mixed uses, an exclusive residential section may be incorporated in the site design, including residential uses on the first floor. Residential sections shall not encompass more than 50% of the gross site area.
- E. Building Height. All buildings shall maintain the perception of a two-story building, at least 20'tall as observed from the adjacent sidewalk for a distance of 30' within the building. Commercial buildings shall not exceed 45 feet in height, measured from finished grade to the highest point of the building. Buildings with a residential component shall not exceed 50 feet in height, measured from finished grade to the highest point of the building. Clock towers, cupolas, entry areas and other special architectural features that visually break up the building form may exceed the specified building height by a maximum of 10 feet.

- F. **Building Width.** No uninterrupted length of any wall shall exceed 75 horizontal feet without employing the use of architectural features including, but not limited to doors, windows, pilasters, columns, horizontal and vertical offsets, materials, colors and textural variations, decorative cornices, awnings, arcades, entry areas, canopies, murals, graphics, reveals, projection ribs and offsets. To assure conformance with this requirement, all exterior elevations shall be evaluated for compliance as part of the application review process.
- G. **Building Form, Style, Materials, Colors, Roof lines, Entryways, Pedestrian Circulation, Outdoor Dining, Outdoor Storage, Trash//garbage containers, Transportation, Lighting.** See the C-2/C-4 Design Guidelines for requirements.

18.42.060 Developments with more than sixty thousand (60,000) square feet of floor area within one building

- A. **Community Spaces and Site Furnishings.** Retail developments with more than sixty thousand (60,000) square feet of floor area shall provide outdoor spaces and amenities to link structures to the community. Passenger drop-off/pick-up points shall be integrated with traffic patterns on the site. Special design features shall enhance the building's function as a center of community activity. Each retail development shall provide at least three (3) of the following design features, which shall be constructed of materials that match the principal structure and are linked by sidewalks to the principal structure. The site furnishings shall be proposed and evaluated as part of the application process:
 - 1. Patio/seating area;
 - 2. Pedestrian plaza with benches;
 - 3. Window-shopping walkway;
 - 4. Play areas;
 - 5. Kiosk area;
 - 6. Water feature, clock tower, sculpture (s), outdoor propane fireplaces.The above features shall include seating and shade;
- B. **Buildings with more than sixty thousand (60,000) square feet of floor area shall additionally provide the following landscaping features:**
 - 1. **Peripheral.** A fifteen (15) foot landscaped buffer composed of water-wise plantings of shrubs, trees, and ornamental groundcovers, shall be provided along all property lines abutting roadways, with breaks for approved access points. No parking is permitted within these required landscape areas.
 - 2. Where the building façade faces adjacent residentially zoned property, a school, park, or cemetery, a minimum three (3) feet tall earthen berm shall be provided, which shall be planted with water-wise plantings to include shrubs, ornamental groundcovers, and evergreen trees planted at intervals of not more than thirty-six (36) feet on center, within the 15' landscaped area. Building height adjacent to the landscaped buffer shall not exceed 24' but may increase by 1' of additional height for every additional foot of setback from the 15' landscaped buffer, to the maximum height allowed for residential and commercial buildings.
 - 3. **Parking Lot Landscaping.** See parking chapter but include landscaped islands designed to accept stormwater.

4. Building facades facing a public street shall be varied, as per the C-2/C-4 Design Guidelines Section 307 for requirements.

18.42.065 Rezone Development Agreement Required

All developments which are proposed to contain buildings 60,000 square feet or larger and/or parcel size greater than one acre, shall enter into a development agreement that covers the development concept, Development Master Site Plan, building elevations and materials, as well as addressing future vacancy issues, long term development and maintenance agreements between the property/building owner and Heber City as a part of the rezone process:

- A. Dark Store/Vacancy Agreement. Because developments in this Zone tend to be a gateway to the City and have significant impact on the community as well as the accompanying retail, commercial and retail entities and locations within and surrounding such developments, should these developments or buildings be vacated, the impact on the City would be substantial and dramatic. Therefore, owners of such developments and buildings shall specifically, in addition to any other requirements within this Chapter and Title, be subject to and adhere to the following.
 1. A commercial building permit application shall not be approved for the construction of a large retail establishment over 60,000 square feet until a Vacancy Agreement has been approved by the Planning Commission and City Council. The Vacancy Agreement shall be signed by the City and the developer and will apply to all future owners, lessees, and lessors of the site and/or building. The agreement shall contain the following requirements in this Section a, and Section b below:
 2. The property owner shall have the first right of refusal as set forth in a recorded agreement, to redevelop the building and re-market the property after one year of vacancy. However, owner shall only have one year from owner's election of such a right to secure such redevelopment or remarket the building.
 3. No agreement associated with the proposed property, premises and structures shall contain "non-compete" clauses or other such language that would allow a former occupant of a vacated building to prohibit or limit the occupancy and use of the building and site or redevelopment or reuse of the building and site which the former occupant has vacated. However, such language may be used to restrict competition among occupants within a proposed property.
 4. If the facility is vacated, the owner, within twelve months of vacancy shall submit to the Planning Commission and City Council a plan for the reuse of the facility. The time limit may be extended by the City Council. If unable to provide a plan which is acceptable to the City, the City may utilize a Redevelopment Agency or other mechanism to take whatever action is permitted by law or this Chapter to assure appropriate redevelopment, reuse or demolition of the property and facility.
 5. A development agreement provision citing conditions of approval and other reasonable agreements as necessary to minimize the negative impact of a potential dark store.
- B. Maintenance Plan. Any vacant building and the accompanying exterior site shall be maintained and secured as if they were occupied.

1. A commercial building permit application shall not be approved for the construction of a large retail establishment over 60,000 square feet until a plan and agreement, in the form of a development and maintenance agreement, to maintain the upkeep of the exterior building improvements, landscaping, parking lot and site improvements and litter removal has been approved by the Planning Commission and City Council. Failure to comply with the maintenance plan shall be deemed to constitute a public nuisance and may be abated or prosecuted as a nuisance pursuant to Chapter 8.04 of the Heber City Code.
2. Said proposed plan and agreement shall include provisions that require the owner to reimburse the City any costs incurred by the City for fully and completely maintaining a building for any period of vacancy after a 90-day vacancy grace period for a building greater than 60,000 square feet, in the event the Owner does not so maintain.
3. A cash bond shall be posted prior to issuance of a building permit that will cover maintenance or redevelopment of the site in the event of the owner failing to do so. The amount will be determined by the City Council, in a form approved by the City Attorney, but will in no event initially exceed \$5,000.00 monthly, and thereafter any increases shall not exceed the Consumer Price Index guidelines.
4. A building shall not be permitted to be dark for a period longer than 2 years. In the event of a store being dark, the City may, but not be limited to, utilize a Redevelopment Agency or other mechanism to take whatever action is permitted by law, the provisions of this Title, or the provisions of the development and maintenance agreement to assure appropriate redevelopment or reuse of the facility.
5. If a building is vacant for a period longer than three months, the record owner shall re-rent, re-lease or resell the building and the property surrounding said building, using all commercially reasonable measures and efforts available. Owner shall maintain said building pursuant to the requirements of the development and maintenance agreement above referenced as if the building and property were occupied and open for business.
6. If, the owner is unable to re-let, re-lease, or resell the building and property within a two (2) year period from vacancy, then owner shall, at the option of the City, demolish the building and reclaim the property to a safe condition as originally presented before development.

18.42.070 Transportation, Circulation, And Parking Design

- A. General Parking. All off-street parking shall be hard surfaced. The minimum number of parking spaces and design shall meet the requirements set forth in Section 18.72 of the City's Zoning Ordinance, or as determined administratively by the Planning Commission upon analysis of a parking study submitted by the petitioner for shared and/or reduced parking demand for the overall site. Property owners desiring to apply shared parking shall petition Heber City with "time use studies" showing the viability of such an option, if determined to be different from the shared parking table in Chapter 18.72 of this Title.
- B. Location. In the case of a multi-tenant site, smaller tenant pads shall be placed along the public street with parking on the side to break up the monotony of larger expanses of

parking for the larger tenants as viewed from the public street. Parking lots shall also be located on the site in a convenient location for patron access to the building. All circulation drives shall be clearly defined and marked appropriately with arrows and the like to assist public circulation into, on and out of the property and through parking lot areas, pursuant to Heber City Engineering standards.

- C. Accessible Parking. All parking shall incorporate ADA standards as outlined in ANSI A117.1 latest edition.
- D. Loading Areas. Commercial developments shall provide off-street loading zones consistent with Chapter 18.72 of this Title.
- E. Parking Lot Landscaping. For every sixth parking aisle, one (1) raised four (4) foot wide landscaped parking island with trees and bounded with high back curb shall be provided. Raised or curved circulation islands shall also be constructed at the ends of rows of parking spaces and at other locations where circulation drives intersect. All parking lots with back-to-back parking areas shall provide a landscaped parking diamond with a tree for every ten (10) parking spaces. Such landscaped islands shall be designed to accept stormwater runoff from the parking lot.
- F. Separation Required. Parking lots shall be bounded with high back curb with openings/slots to accept stormwater. Paved areas and parking lots shall be separated from buildings with a minimum four foot (4') wide landscape area, stormwater accessible, bounded with a high back curb or a five foot (5') raised sidewalk, except where pedestrian or ADA access is needed for shopping carts or buggies.
- G. Parking Lot Snow Storage and Removal. All parking lots shall be bounded along property lines and along street sidewalks with at least a ten-foot landscaped area, bounded by curb, and shall contain a combination of shrubbery, trees, landscaping, and attractive boulders. This landscaped area shall serve as a snow storage area and ensure that parked vehicles do not overhang onto the sidewalk or over property lines. Properties that are governed under cross easement agreements, having a duration of ten or more years, may satisfy this requirement on the exterior boundaries of properties covered under the agreement. The agreement shall be provided and evaluated by the City Attorney.
- H. Storm Drainage. Storm water runoff from impervious areas and buildings shall be retained or detained onsite, using Low Impact Development techniques, as per adopted Heber City Engineering Standards and Specifications.
- I. Emergency Access and Fire Protection. Design of the site, driveways, and buildings shall meet all accessibility requirements for fire trucks and fire personnel.
- J. Driveway Access. Driveways shall be at least twenty-four (24) feet wide for two-way traffic. Vehicle backup areas shall be provided at the end of parking aisles. Driveway access throat depth shall be thirty feet (30') for front State Highway access and twenty feet (20') for side road access, unless a traffic study shows that a larger throat is necessary. Accesses to a State Highway shall include in, out, and a right turn lane. Driveway access to highways shall be minimized through driveway entrance sharing with adjoining developments and buildings, and through driveway establishment upon alternative, lesser traveled streets.
- K. Transportation and Circulation. A traffic demand and circulation study shall be required for new commercial developments over 60,000 square feet inclusive of all buildings on the site and all levels. Traffic circulation shall be designed to minimize traffic impact on public streets. Driveways shall be designed to adequately accommodate queuing of

vehicles without blocking traffic in the public street. Parking lots shall be designed so that vehicles need not back into the street from parking spaces.

- L. Integration into the Street Network. Internal and new streets shall connect to existing streets or be designed to facilitate future connections as deemed necessary by the traffic study and/or the site plan.
- M. Streetscape. Where four or more aisles of parking adjoin a public street, landscaped berms, pedestrian facilities (benches, pergolas, propane fireplaces, etc), a small building (coffee shack, ice cream stand), sculpture, plaza including seating and shade, or other features that add height and interest to break up the monotony of the parking expanse.

18.42.080 Residential Standards

- A. Subdivision. All proposed units which involve the sale of property, such as a building lot, single-family home, townhouse, or condominium, shall be approved through the subdivision process in Title 18, and the applicable documents such as plats, condominium declarations, etc., shall be approved and recorded prior to sale.
- B. Density. The density of residential units within the MURCZ shall not exceed 20 residential units per acre for the section identified for residential uses.
- C. Open Space. At least 20% of the residential component of the MURCZ shall be open space, landscaped with lawn and trees, boulders, and sculptures, and provide recreational opportunities for residences of the development, such as tennis courts, swimming pools, playground equipment, walking trails, etc., and other active and passive features, adjusted proportionally to the expected residential population, as per Chapter 18.21. Such features shall be detailed on the site plan.
- D. Affordable Housing. Each development that includes residential uses, shall comply with Chapter 18.102 "Affordable Housing".
- E. Parking. See Chapter 18.72 for requirements.
- F. Architecture. Residential buildings shall have a master planned architectural style following the C-2/C-4 Design Guidelines. All public street building façades shall be constructed with a combination of stucco, hardy board, brick and/or stone as outlined in the design criteria. The use of vinyl, aluminum, and steel siding along any public street facing building façade shall be prohibited, except on soffits and fascia.
- G. Residential Transition Area. It is intended that land within the MURCZ that is adjacent to existing or proposed single family home subdivisions that are located within a residential zoning district be developed in a manner that takes into consideration the existing single family home development.
 - 1. Land in the MURCZ located directly across the street, where such street is 66' wide or smaller from existing single-family homes within a residential zone shall be developed with single family homes at similar densities and heights to that existing development.
 - 2. Land in the MURCZ sharing a property line with existing single-family homes located within a residential zone shall be developed as follows:
 - a. The uses on the property shall primarily be constrained to a residential use.
 - b. When such areas include multi-family uses and/or commercial uses:

- (1) Provide a landscape strip of at least 10 feet in width along the residential property line, planted with a mixture of evergreen and deciduous trees and shrubs, spaced for screening purposes using xeriscape design principles.
- (2) Provide a sight obscuring fence; and
- (3) Buildings be limited to 35 (thirty-five) feet in height, measured from finished grade to the highest point of the building, excluding chimneys and antenna.

18.42.085 Gasoline Pump Islands and Lighting

Gasoline pump islands shall be set back from any right-of-way line to accommodate the landscape setback and proper circulation/stacking for the pumps. Each pump shall provide stacking for a minimum of two (2) standard sized vehicles (one at the pump and one behind) defined as 20' for each. A circulation aisle beyond the stacking area is required that allows for a circular traffic movement. Pump islands shall be so located that automobiles stopped for service will not extend over the property line. In no case shall pumps be set closer than twelve feet from any street lines, nor closer than ten feet from any side or rear property line. Lots from which gasoline is dispensed to customers at retail shall be not less than seventy-five by one hundred feet in size. Canopies over pump islands may extend to the closest edge of any required landscaping. See Chapter 18.78 Lighting, for requirements.

18.42.090 Related Provisions

Chapter 18.12 Administration
Chapter 18.08 Definitions
Chapter 18.108 Conditional Use Permits
Chapter 18.72 Off Street Parking and Loading
Chapter 18.76 Landscaping
Chapter 18.103 Sign Regulations
Chapter 18.78 Lighting
Chapter 18.174 Enforcement
Chapter 17 Subdivisions
Chapter 18.102 Affordable Housing
Heber City C-2/C-4 Zone Design Standards and guidelines

This Ordinance shall take effect immediately upon approval.

PASSED, APPROVED and ORDERED TO BE PUBLISHED BY THE HEBER CITY COUNCIL this 7th day of March 2023.

	AYE	NAY	ABSENT	ABSTAIN
Michael Johnston	<u>X</u>	_____	_____	_____
Rachel Kahler	<u>X</u>	_____	_____	_____
Ryan Stack	<u>X</u>	_____	_____	_____
D. Scott Phillips	<u>X</u>	_____	_____	_____
Yvonne Barney	<u>X</u>	_____	_____	_____

APPROVED:

Heidi Franco
Mayor Heidi Franco



ATTEST:

Trina M. Cook Date: 3/7/2023
RECORDER