

ORDINANCE NO: O-2023-20

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING SEVERAL SECTIONS OF THE HIGHLAND CITY DEVELOPMENT CODE AND ADOPTING A NEW CHAPTER 8 OF THE HIGHLAND CITY DEVELOPMENT CODE REGULATING DEVELOPMENT ON SENSITIVE LANDS.

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 July 25, 2023, and

WHEREAS, the City Council held a public hearing on this Ordinance on September 5, 2023.

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

SECTION 1: ADOPTION Those certain sections of the Development Code are hereby amended and adopted 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SECTION 2: REPEALER CLAUSE All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.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 March 7, 2023 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, September 5, 2023
HIGHLAND CITY, UTAH


Kurt Ostler
Highland City Mayor

ATTEST:


Stephannie Cottle
Highland City Recorder



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

EXHIBIT A

2-601 Pre-Application

1. Prior to application for any general plan amendment, rezoning request, conditional use permit, subdivision plat, design review, or any other review or permit process not otherwise provided for in the development code, a pre-application review with City Staff will be required. The purpose of the pre-application review is: ...

e. To identify important features that may require additional mitigation or preservation efforts or are subject to state, federal or other special regulation, including those regulations set forth in Chapter 8, such as natural vegetation, ponds, streams, ditches, flood plains, wetlands, wildlife habitats, view sheds, trees, green spaces, scenic points, historic sites, and areas with geologic hazards or topographical challenges ~~or other City assets~~; and

5-8-101 Subdivision Layout

2. Where trees, groves, waterways, scenic points, historic spots, other City assets and landmarks, flood hazards, environmentally sensitive areas such as wetlands, areas with potential geologic hazards or topographical challenges, or other features or land subject to state, federal, or other special regulation, including those regulations set forth in Chapter 8, as determined by the City, are located within a proposed subdivision, the subdivider shall identify and provide means to study, analyze, preserve, mitigate, eliminate, and/or protect these features as part of the proposed subdivision.

5-8-104 Lots

All subdivisions shall result in the creation of lots which are developable and capable of being built upon. A subdivision shall not create lots ~~(other than dedicated open space or conservation areas)~~ (other than lots or parcels designated as non-buildable or dedicated for open space, conservation, drainage areas, or similar purposes), and no building permit shall be issued for any lots ~~which would make where~~ improvement, construction, or other development otherwise allowed by the applicable zoning regulations is impractical or prohibited due to size, shape, steepness of terrain, location of watercourses, problems of sewerage or driveway grades, or other physical conditions, including those conditions or features addressed by Chapter 8, or due to encumbrances or other legal impediments, such as utility or conservation easements.

SENSITIVE LANDS ORDINANCE

Chapter 8 ~~(Reserved)~~ Sensitive Lands

8-101 Purpose

8-102 Scope

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8-101 Purpose

The purpose of this chapter is to identify and coordinate the protection and mitigation of sensitive lands, protect the health, welfare, and safety of current and future residents of Highland City from geologic and other hazards that pose a threat to the safety of people and property; and minimize the potential degradation or loss of natural and human-made resources.

8-102 Scope

This chapter applies to all property and development within Highland City, and the regulations set forth herein shall be deemed to be added to all zoning regulations and requirements otherwise applicable to the property or development. The regulations, requirements, and provisions of this Chapter shall be in addition to, and shall not repeal or eliminate, any other regulation, requirement, or provision adopted by Highland City. To the extent a regulation, requirement, or provision of this Chapter conflicts with another regulation, requirement, or provision adopted by Highland City, the more restrictive provision shall govern.

8-103 Definitions

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

1. CONSTRUCTION ACTIVITY. All grading, excavation, construction, grubbing, mining, or other development activity which disturbs or changes the natural vegetation, grade, or any existing structure or building, or the act of adding an addition to an existing structure or building, or the erection of a new structure or building.
2. DEVELOPMENT. The act, process, or result of erecting, placing, constructing, remodeling, converting, altering, relocating, or demolishing any structure, building, or improvement to property, including grading, clearing, grubbing, mining, excavating, or filling of such property. Includes all construction activity.
3. ENVIRONMENTALLY SENSITIVE AREA. An area of particular environmental or ecological concern, such as wetlands, stream and river corridors, canals and ditches, water shed and recharge zones, and protected wildlife habitats, wildlife movement

corridors, and areas inhabited by or frequently utilized by any species identified by state or Federal agencies as threatened or endangered.

4. FLOOD HAZARDS. An area adjoining a river, stream, canal, ditch, or other water course, or body of standing water in which a potential flood hazard exists when the area experiences a one-hundred-year storm, including, any area designated as a Flood Plain by the Department of Housing and Urban Development or Federal Emergency Management Agency of the United States Government. Includes floodplain, flood-prone areas, and areas of special flood hazards, as those terms are defined by the Highland Municipal Code.
5. GEOLOGIC HAZARD. A hazard inherent in the crust of the earth, or artificially created, which is dangerous or potentially dangerous to life, property, or improvements, due to the movement, subsidence, or shifting of the earth. The term includes but is not limited to unstable slopes, faulting landslides, rock fall, surface fault rupture, shallow groundwater, liquefaction, landslide, debris flow, unstable soils, and areas where significant excavation or mining has occurred.
6. GRADING. Any earthwork or activity that alters the natural or existing grade, including but not limited to excavating, filling, or embanking.
7. GRUBBING. The removal or destruction of vegetation, including disturbance to the root system or soil surface by mechanical, chemical, or other means.
8. SENSITIVE LAND. Land subject to, containing, or having a record or history of being subject to or containing geologic hazards, environmentally sensitive areas, flood hazards, or steep slopes. Includes land where development thereon would negatively impact or exacerbate geologic hazards, environmentally sensitive areas, flood hazards, and steep slopes on adjacent property.
9. STEEP SLOPES. Slope greater than fifteen percent (15%).
10. WETLANDS. Land designated as wetlands by the United States Army Corps of Engineers or other appropriate agency of the federal government.

8-104 Sensitive Lands Analysis

1. The applicant for any proposed development, new use, or change in use on property containing sensitive land shall provide a sensitive lands analysis, prepared by qualified professionals, that identifies and delineates the following features and conditions, to the extent applicable:
 - a. Environmentally sensitive areas, including wetland and stream corridor delineations and hydrologic reports containing information on groundwater levels, natural and artificial irrigation and drainage channels and systems;
 - b. Flood Hazards: All flood hazards shall be identified in accordance with the procedures set forth in Title 13.52, Highland Municipal Code;

- c. Geologic Hazards, including identification of historic and potential landslide, unstable soils, and other high hazard areas;
 - d. Slopes: A slope and topographic map based on a certified boundary survey depicting contours at an interval of five feet (5') or less, which map must identify and delineate all slopes greater than thirty (30%) on or within fifty feet (50') of the property boundary, and must identify and delineate all slopes within the property in the following categories:
 - i. Greater than fifteen percent (15%), but less than or equal to thirty percent (30%);
 - ii. Greater than thirty percent (30%) but less than or equal to forty percent (40%); and
 - iii. Greater than forty percent (40%).
- 2. The applicant for any proposed development, new use, or change in use on property that contains steep slopes or is within fifty feet (50') of slopes greater than thirty percent (30%) shall also provide the following:
 - a. Soil Investigation Report: A soil investigation report, including but not limited to shrink-swell potential water table elevation, general soil classification and suitability for development, erosion potential, hazardous material analysis, and potential frost action.
 - b. Geotechnical Report. A geotechnical report which must include the location of major geographic and geologic features, the depth of bedrock, structural features, folds, fractures, etc., and potential land slide and other high-hazard areas such as mine shafts and avalanche paths.
 - c. Additional Slope Information. A slope/topographic map depicting contours at an interval of two feet (2').
- 3. The analyses, reports, studies, and information required by this Chapter shall be provided in connection with any site plan or preliminary subdivision plat. For lots and parcels existing prior to the adoption of this ordinance, or in the case of new, modified, or amended subdivision plats, the Zoning Administrator and City Engineer may require a new or updated sensitive lands analysis and related reports, studies, and other information, if a sensitive lands analysis was not previously performed for the land subject to or affected by the proposed development.
- 4. The Zoning Administrator and City Engineer shall review the sensitive lands analysis and other reports, studies, and information provided by the applicant to ensure such analyses, reports, studies, and information adequately address the requirements of this Chapter, and that the proposed development is compatible with the requirements of this Chapter.

- a. The Zoning Administrator and City Engineer shall approve or deny a land use application if the proposed development, together with the proposed mitigation and proposed construction activity, is permitted under this Chapter and other applicable Highland City land use regulations, if the Zoning Administrator or City Engineer is the land use authority for the application.
- b. If the Zoning Administrator and City Engineer are not the land use authority for a land use application, the Zoning Administrator and City Engineer shall issue a report and recommendation to the land use authority regarding the compatibility of the proposed development with the requirements of this Chapter, which report and recommendation shall identify those areas suitable for development and any modifications to the proposed development necessary to comply with this Chapter or mitigate the impacts of the development activity on sensitive lands.

8-105 Geologic Hazards and Slope Regulations

1. PROHIBITIONS.

- a. No development is allowed on slopes greater than twenty-five percent (25%).
 - b. No development is allowed in areas subject to land slide activity and other high-hazard areas subject to geologic hazards. The applicant may provide, with the sensitive lands analysis required by this Chapter, information, designs, and proposed construction and developments methods that are prepared, recommended, and approved by qualified professionals to demonstrate that the proposed development will not pose a threat to the health and safety or persons or property or that the geologic hazards identified in the sensitive lands analysis can be mitigated or avoided in perpetuity.
2. SLOPES. No development is allowed on or within the "slope setback": fifty feet (50'), map distance, of slopes greater than forty percent (40%), where the area containing such slopes cover a topographic area at least twenty-five feet (25') vertically, upslope or downslope, and fifty feet (50') horizontally in any direction. The Planning Commission may vary and reduce the slope setback requirement if the Planning Commission can make all of the following findings:
- a. Building areas in the slope setback do not create excessive cut or fill slopes; minimal retaining walls to limit disturbance and meet grade may be required by the Planning Commission subject to the other regulations of this section;
 - b. The applicant designates areas in which all construction activity must be contained as limits of disturbance for each building, site, lot, or parcel. The limits of disturbance around any structure within the slope setback shall be limited to the minimal area necessary to excavate and backfill the foundation. Decks and patios in the area of the slope setback shall not extend more than fifteen feet (15') beyond the foundation walls or the established limit of disturbance, whichever is greater;

- c. No additional erosion, land subsidence, avalanche, or other geologic hazard is created or exacerbated;
- d. The proposed development results in an improved organization of units through vegetation avoidance, minimization of changes to the viewshed from public areas, and reduction of site disturbance;
- e. The applicant proposes appropriate revegetation and other mitigation efforts to reduce the impact on sensitive lands; and
- f. No development or other disturbance is allowed beyond the maximum area available for development, as approved by the City Engineer and Zoning Administrator under Section 8-104(3).

3. GRADED OR FILLED SLOPES.

- a. The applicant must avoid or, to the greatest extent possible, minimize proposed cuts and fills. Cutting and filling to create additional or larger building sites shall be kept to a minimum and shall be avoided to the maximum extent feasible. Graded or filled slopes shall be limited to a 3 to 1 slope or less. All graded slopes shall be recontoured to match or harmonize with the natural, varied contour of surrounding terrain.
- b. Graded, filled, or otherwise disturbed slopes shall provide a plan addressing, identifying, and managing drainage and run-off from the disturbed slopes as required by the City to avoid impacts on adjacent property and other stormwater or drainage facilities or channels.

4. BENCHING OR TERRACING. Benching or terracing to provide additional or larger building sites is prohibited.

5. STREETS AND ROADS.:

- a. Streets and roads shall comply with the maximum and minimum grades specified by the City's adopted design and construction standards.
- b. Streets and roads proposed for steep slopes may not cross slopes of twenty-five percent (25%) or greater. A short run of not more than one hundred feet (100') may be allowed to cross slopes of twenty-five percent (25%) or greater if the Zoning Administrator and the City Engineer conclude that such streets or roads will not have significant adverse visual, environmental, or safety impacts.
- c. Streets and roads proposed to cross slopes greater than ten percent (10%) are allowed, subject to the following:
 - i. Proof that such street and/or road will be built with minimum environmental damage and within acceptable public safety parameters.

- ii. Such street and road design generally follows contour lines to preserve the natural character of the land and are screened with trees or vegetation.
 - iii. Cutting and filling is minimized, and all cut and fill and all other grading and grubbing work is appropriately re-vegetated.
- 6. RETAINING WALLS. The use, design, and construction of all retaining walls shall conform to Section 3-612.
- 7. LANDSCAPING AND REVEGETATION. An applicant shall landscape or re-vegetate exposed slopes and land that was grubbed or graded. Topsoil from any disturbed portion of a steep slope must be preserved and utilized in re-vegetation. Fill soil must be of a quality to support plant growth, and vegetation shall be native to the area and of a similar type and species as those in the area.

8-106 Environmentally Sensitive Areas

- 1. PROHIBITED ACTIVITIES. No person shall disturb, remove, fill, dredge, clear, destroy or alter any environmentally sensitive area, including vegetation, surface disturbance within wetlands and stream corridors and their respective Setbacks, except as may be expressly allowed herein or as may be authorized by applicable federal or state law.
- 2. BOUNDARY DELINEATIONS. The applicant must provide a wetlands delineation by a qualified professional in accordance with federal regulations. The applicant shall also show all stream and river corridors and all water conveyance facilities, including ditches and canals, and shall delineate any recorded easements related thereto. The boundary of stream and river corridors and wetlands shall be delineated at the ordinary high-water mark.
- 3. SETBACKS. The following setbacks are required:
 - a. Setbacks from wetlands shall extend a minimum of fifteen feet (15') outward from the delineated wetland ordinary high-water mark.
 - b. Setbacks from stream and river corridors shall extend a minimum of fifty feet (50') outward from the ordinary high-water mark.
 - c. Setbacks from irrigation ditches and canals that meet the Army Corps of Engineers definition for waters of the United States shall extend a minimum of ten feet (10') from the ordinary high-water mark.
 - d. Setbacks for primary or accessory buildings and structures from other irrigation ditches and canals shall extend a minimum of ten feet (10') from the edge of the ditch or canal or to the edge of the recorded easement or other ownership interest of the owner of the ditch or canal, if any.
- 4. RUNOFF CONTROL.

- a. All projects adjacent to wetlands, stream and river corridors, or irrigation ditches or canals that meet the Army Corps of Engineers definition for waters of the United States, must apply best management practices for both temporary and permanent runoff control to minimize sediment and other contaminants.
- b. All development activity that increases the runoff or drainage to private irrigation ditches or canals, that proposes the use of private irrigation ditches or canals as stormwater management facilities, or that proposes any other modification to any private irrigation ditch or canal, shall obtain the written approval of owner of such ditch or canal, pursuant to state law.

5. PROTECTION OF WILDLIFE AND PERSONS.

- a. Construction shall be organized and timed to minimize disturbance of protected wildlife habitats and areas inhabited by or frequently utilized by any species identified by state or Federal agencies as threatened or endangered.
- b. If the proposed development is on land that contains a protected wildlife habitat, areas inhabited or frequently utilized by any species identified by state or Federal agencies as threatened or endangered, or wildlife corridor, the development plans shall include provisions to ensure that any habitat and corridor contained in shall not be disturbed or diminished.
- c. If wildlife that may create conflicts for future occupants of the development are known to exist in areas adjacent to or on the proposed development area, then the development plans must include provisions to minimize these conflicts to the extent reasonably feasible.

6. FLOOD HAZARDS, STORMWATER, AND DRAINAGE. All development shall conform to City regulations regarding flood damage prevention, stormwater management, and drainage requirements. Development that requires special stormwater containment or drainage facilities shall provide adequate private means of maintaining the same in perpetuity.

8-107 Construction Activity and Filling

1. Fills for construction shall be limited to a maximum depth of eight feet (8'). No street, building, structure, municipal utility facility, or other infrastructure shall be located on or within an area with greater than eight feet (8') of fill. This shall not restrict landscaping, vegetation, grading, or fencing of such filled areas.
2. All filled areas shall be identified in a plan addressing, identifying, and managing drainage and run-off from the filled area, as required by the City, to avoid impacts on adjacent property and other stormwater or drainage facilities or channels.

8-108 Appeals

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