

ORDINANCE NO. O-2024-24

AN ORDINANCE AMENDING HIGHLAND CITY DEVELOPMENT CODE TO INCORPORATE CHANGES TO STATE LAW PURSUANT TO HOUSE BILL 476

WHEREAS, Highland City is authorized to enact land use regulations that govern the use and development of property;

WHEREAS, Highland City has previously adopted regulations regarding xeriscape requirements for park strips, subdivision review and approval processes, and subdivision improvement and warranty assurances;

WHEREAS, the Utah State Legislature adopted HB 476 that affects the land use regulations previously adopted by Highland City

WHEREAS, a duly noticed public hearing was held by the Planning Commission regarding the proposed amendments described herein on August 27, 2024, after which hearing the Commission recommended adoption of certain amendments to the regulations;

WHEREAS, the Highland City Council provided notice of and conducted a public hearing regarding the proposed amendments and to review the recommendation of the Planning Commission on September 3, 2024;

WHEREAS, the Highland City Council desires to amend the Highland City Development Code to conform to the provisions and requirements of HB 476;

WHEREAS, the Highland City Council finds that the proposed amendments further the public welfare and are in the interest of the public.

NOW THEREFORE, BE IT ORDAINED by the Highland City Council as follows:

SECTION 1. The Highland Development Code is amended as shown in Exhibit A, attached hereto.

SECTION 2. All ordinances and parts and provisions thereof in conflict with this ordinance are repealed to the extent of such conflict.

SECTION 3. The City Recorder, under the supervision of the City Administrator and City Attorney, may make non-substantive corrections to any portion of this resolution and to the personnel policies referenced herein for grammatical, typographical, numbering, and consistency purposes in accordance with the expressed intent of the City Council.

SECTION 4. This ordinance shall take effect immediately upon its adoption and publication, in accordance with law.

ADOPTED AND PASSED BY THE CITY COUNCIL OF HIGHLAND CITY, UTAH, this 3rd day of September, 2024.


Kurt Ostler
Mayor

ATTESTED:


Stephannie Cottle
City Recorder



| COUNCILMEMBER | YES | NO |
|-------------------|-------------------------------------|----|
| Brittney P. Bills | <input checked="" type="checkbox"/> | |
| Ron Campbell | <input checked="" type="checkbox"/> | |
| Doug Cortney | <input checked="" type="checkbox"/> | |
| Kim Rodela | <input checked="" type="checkbox"/> | |
| Scott L. Smith | <input checked="" type="checkbox"/> | |

Exhibit A

Amendments to Highland Development Code

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 property owner directly adjacent to that sidewalk using Xeriscape or water-wise methods as defined in Chapter 10 Definitions. Lawn shall not be installed in park strips.

1. 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.
2. 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.
3. 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).
4. Only trees from the city approved Class I Trees list may be planted within a park strip. See Section 2.36.160(J) Tree Class Divisions in the Highland City Municipal Code for the permitted Class I trees.
- 4.5. The seller of a newly constructed residence shall inform the first buyer of the residence of the water wise and xeriscaping requirements for park strips.

5-4-102 Review Cycle Process For Plat Applications

1. For each complete subdivision application, the City shall review the subdivision plat, subdivision improvement plans, and other application materials through the review cycle process forth in this Section and Utah Code section 10-9a-604.2 to ensure compliance with all requirements of this Chapter and all other governing laws, land use regulations, applicable land use decisions, ordinances, and standards.
2. A review cycle begins with the City's receipt of either a complete application for a new application or a complete review response submitted as part of a prior review cycle.
3. The City may issue review comments with each review cycle to correct any deficiencies with the plat, subdivision improvement plans, and related information, documents, and materials.
 - a. The City shall complete its review and shall issue review comments within the following timeframes:
 - i. For preliminary plats, final plats, and related application materials ~~preliminary subdivision improvement plans~~ for single-family, two-family, and townhome subdivisions that do not involve property within identified geological hazard areas, the City shall have fifteen (15) business days after receipt of the complete application or complete review response to complete its review and to issue review comments.
 - ii. For final plats and final subdivision improvement plans for single-family, two-family, and townhome subdivisions that do not involve property within identified geological hazard areas, the City shall have twenty (20) business days after receipt to complete its review and to issue review comments.
 - iii. For all other plats and subdivision improvement plans for all other subdivisions, the City shall have a reasonable timeframe to complete its review and to issue review comments.
 - b. Review comments issued by the City shall be specific, include citations to the law, ordinance, regulation, decision, standard, or specification justifying the review comment, and shall be compiled and logged into a single index of requested modifications for the application.
 - c. The City's failure to issue a review comment regarding a specific deficiency or defect of the preliminary plat, subdivision improvement plans, ~~or related information, documents, and materials submitted by~~

~~the applicant~~ shall waive the City's right to require that the deficiency or defect be corrected, unless:

- i. The modification or correction required by the review comment is necessary to protect public health and safety or to enforce state or federal law;
 - ii. The modification or correction required by the review comment is necessitated by the applicant's review response or other adjustment to the ~~proposed subdivision plat, subdivision improvement plans, or related materials;~~
 - iii. The modification or correction required by the review comment is necessitated by the applicant's update to the proposed phasing of the development that adjusts the needed infrastructure; or
 - iv. The applicant does not submit ~~a~~-revised subdivision improvement plans in response to the City's review comments within twenty (20) business days after the City issued its review comments.
4. The applicant shall provide a complete review response in response to the City's review comments, consisting of revised plats, plans, information, documents, or materials together with a written explanation identifying and explaining the applicant's revisions and reasons for declining to make revisions, if any.
- a. The applicant's written explanation shall be comprehensive and specific, including citations to the relevant law, ordinance, regulation, decision, standard, or specification and including an index of requested revisions or additions for each required correction.
 - b. The applicant's failure to address a review comment shall render their review response incomplete. The review cycle is not complete, and the subsequent review cycle or action shall not begin until all review comments are addressed and the applicant submits a complete review response.
5. The City may not require more than four review cycles for the review of subdivision improvement plans, provided that the City may restart the review cycle process at the first review cycle, if the applicant makes a material change to a subdivision improvement plan set. Such restarted review cycle process shall apply only to the portion of the subdivision improvement plan set that the material change substantively affects.

5-4-303 Preliminary Plat - Application

1. After completing pre-application review, if applicable, the subdivider of a major subdivision shall file an application for preliminary plat approval with the Zoning Administrator on a form prescribed by the City and submit all information, documents, materials required by this Code and the City's application form and required to ensure the subdivision complies with this Chapter and all other governing laws, land use regulations, applicable land use decisions, ordinances, and standards.
2. The application form shall specify the requirements, information, documents, and materials required to be submitted in order for the preliminary plat application to be complete. At least the following information, documents, and materials shall be required as part of the application to be submitted by the subdivider:
 - a. A complete application form;
 - b. Owner's affidavit;
 - c. Project narrative;
 - d. Project data information;
 - e. Legal description of the property being subdivided;
 - f. ALTA survey;
 - g. Title report for the property being subdivided;
 - h. Sensitive lands submittals, in accordance with Chapter 8;
 - i. Preliminary plat, in accordance with Section 5-4-304;
 - j. Preliminary ~~subdivision improvement phasing, utility, and connectivity~~ plans, in accordance with Section 5-4-305;
 - k. Vicinity map indicating the exact location of the property and each other property within 1/2 mile of the property being subdivided;
 - l. Property ownership map and list of names and addresses of each owner of record of each other property within 500 feet of any portion of the property being subdivided, and pre-addressed and pre-stamped envelopes for each such owner;
 - m. All applicable fees.

3. The application form may be amended, added to, and updated by the City Administrator or designee as necessary to ensure that applicants are informed as to the requirements for an application to be complete and to ensure that the City can successfully evaluate each application for compliance with this Chapter and all other governing laws, land use regulations, applicable land use decisions, ordinances, and standards.
4. The applicant shall submit electronic and/or paper copies of the preliminary plat application and related materials in the form, method, size, and standard specified by the City.
5. The subdivider shall pay all application fee(s) as published in the Consolidated Fee Schedule for the preliminary plat application. These fees shall not be refunded or waived in the event the subdivider does not obtain approval of the preliminary plat or does not proceed with a final plat application.

5-4-305 Preliminary Plat – Preliminary Phasing, Utility, and Connectivity Improvement Plans

1. The purpose of the preliminary phasing, utility, and connectivity plans are to assist the subdivider and the City plan for the utility and connectivity requirements of the subdivision, the impacts on City utility and circulation systems, and how such connections and impacts will be managed through various phases of development. Preliminary phasing, utility, and connectivity plans are not required to be prepared as civil engineering plans or otherwise meet the standard for subdivision improvement plans.

1.2. The preliminary ~~subdivision improvement phasing, utility, and connectivity~~ plans shall contain the plans, maps, details, designs, and information required by this Code, the City's application form, and as may be required to ensure the subdivision complies with this Chapter and all other governing laws, land use regulations, applicable land use decisions, ordinances, and standards, including the following:

a. Proposed construction and development phasing plan, including how the items described herein will be managed and connected through phases;

b. Locations of proposed ~~F~~fences and walls;

~~c. Freestanding signage;~~

~~d.c.~~ Preliminary Utility, service, and public infrastructure facilities and improvements plans, including proposed connections to or extensions of existing facilities and improvements including fire hydrants, backflow prevention, water, sewer, stormwater, natural gas, telephone, energy, and telecommunication lines and extensions;

~~e.d.~~ Preliminary drainage plan, including descriptions of how the subdivision will manage drainage and stormwater, including impacts to existing storm drain facilities, and storm drain calculations, including existing and proposed drainage channels, ditches, water conveyance facilities, and retention/detention areas;

~~f. Landscaping plan;~~

~~g.e.~~ Preliminary ~~G~~grading plan with topographic contours;

~~h.f.~~ Preliminary ~~C~~irculation plan showing streets, trails, sidewalks, and other vehicular and pedestrian circulation elements, with proposed cross-sections and other design considerations.

6-110 Assurances for Public Sidewalks

1. The regulations and procedures set forth in this chapter applicable to all performance guarantees and warranty assurances shall apply to performance guarantees and warranty assurances posted for public sidewalks, except as otherwise provided herein.
2. Performance guarantees for public sidewalks required to be constructed and installed in connection with a subdivision or other development may be posted separately from any other assurance required by this chapter.
3. The amount of such guarantees shall not be less than 120% of the estimated cost of the public sidewalks, for the following purposes:
 - a. 100% of the construction costs to cover the construction and installation of required improvements;
 - b. 10% to cover administrative costs incurred by the City to complete the public sidewalks; and
 - c. 10% to serve as the warranty assurance for the public sidewalks.
4. The City shall not declare a performance guarantee for a public sidewalk to be in default or redeem such a performance guarantee sooner than 18 months after the date the performance guarantee is posted.
5. The City shall not withhold a building permit for or prohibit the construction of a single-family or two-family residence or town home, withhold recording a plat, or withhold acceptance of a public landscaping improvement or an infrastructure improvement based on the lack of installation of a public sidewalk if a performance guarantee has been posted for the public sidewalk in accordance with this section.
6. The City shall not issue a certificate of occupancy for a single-family or two-family residence or town home until the portion of the public sidewalk to be constructed within a public right-of-way and located immediately adjacent to the single-family or two family residence or town home is completed and accepted by the City.