



HIGHLAND CITY

HIGHLAND CITY PLANNING COMMISSION AGENDA

Tuesday, May 25, 2021

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

VIRTUAL PARTICIPATION

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

 Zoom: Call 1-346-248-7799 Meeting ID: 820 3295 1846

 Email comments prior to meeting: planningcommission@highlandcity.org

7:00 PM REGULAR SESSION

Call to Order – Mino Morgese, Vice Chair

Invocation – Commissioner Chris Howden

Pledge of Allegiance – Commissioner Claude Jones

1. COMMISSIONER TRAINING

H.B. 409 requires that each member of the Planning Commission complete 4 hours of annual land use training. Rob Patterson will give a training on the powers and duties of Planning Commissioners.

2. UNSCHEDULED PUBLIC APPEARANCES

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

3. 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 – April 27, 2021

4. [PUBLIC HEARING: TEXT AMENDMENT: NUISANCES](#) *Administrative*

The Planning Commission will hold a public hearing to consider a request by Highland City Staff to amend several sections of the Development Code related to the nuisance of noise in commercial zones. The Planning Commission will take appropriate action.

5. [PUBLIC HEARING: TEXT AMENDMENT: SPORTS AND FITNESS](#) *Administrative*

Planning Commission will hold a public hearing to consider a request by Highland City Staff to amend Chapter 10 Definitions in the Development Code to clarify permissible uses

in C-1 Zone, CR Zone, and Town Center Overlay relating to sports, fitness, and social dances. 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

- June 1, City Council Meeting, 7:00 pm, City Hall
- June 15, City Council Meeting, 7:00 pm, City Hall
- June 22, Planning Commission Meeting, 7:00 pm, City Hall

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

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 Bronson, the Planning Coordinator, certify that the foregoing agenda was posted at the principal office of the public body, at the Lone Peak Fire Station and Lone Peak Police Station, 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 of May, 2021.

Kellie Bronson, Planning Coordinator

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



HIGHLAND CITY

HIGHLAND CITY PLANNING COMMISSION AGENDA
Tuesday, April 27, 2021

Waiting Formal Approval

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

VIRTUAL PARTICIPATION

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

 Zoom: Call 1-346-248-7799 Meeting ID: 875 4033 8203

 Email comments prior to meeting: planningcommission@highlandcity.org

7:05 PM REGULAR SESSION

- Call to Order – Jerry Abbott, Chair
- Invocation – Jerry Abbott, Chair
- Pledge of Allegiance – Commissioner Chris

The meeting was called to order by Planning Commission Chair Jerry Abbott as a regular session at 7:05 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 Jerry Abbott and those in attendance were led in the Pledge of Allegiance by Commissioner Chris Howden.

PRESIDING: Commissioner Jerry Abbott

COMMISSIONERS

PRESENT: Jerry Abbott, Seth Barrus (*electronically*), Chis Howden, Claude Jones, Audrey Moore, Mino Morgese, Tyler Standifird

CITY STAFF PRESENT: City Administrator/Community Development Director Nathan Crane, Planner & GIS Analyst Kellie Bronson, Planning Commission Secretary Heather White

OTHERS PRESENT: Ken Berg, See attached Attendance Sheet

1. UNSCHEDULED PUBLIC APPEARANCES

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

None was offered.

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 – March 23, 2021

Commissioner Moore MOVED to approve the minutes for the March 23, 2021 Planning Commission meeting. Commissioner Howden SECONDED the motion. All present were in favor. None were opposed. The motion carried unanimously.

3. **PUBLIC HEARING: PRELIMINARY PLAT: SUNRISE FARMS** *Administrative*

The Planning Commission will hold a public hearing to consider a request by Patterson Development for a Preliminary Plat approval for Sunrise Farms, a proposed 10-lot single family subdivision located at approximately 11241 N 6000 W. The Planning Commission will take appropriate action.

Ms. Bronson presented details of the application and explained that the property would not change from the current R-1-40 zoning. She said the application was for a 10-lot single family subdivision. Lot sizes ranged from 23,175 sf (square feet) to 40,325 sf. Parcel A was for future development and anything built on it would need separate approvals. Main access was from 6000 West. Because the road was longer than 600 feet it would require a temporary asphalt turn-around for public safety.

Commissioner Abbott opened the public hearing at 7:08 PM and asked for public comment.

Resident Dave Christensen owned a lot that abutted the property and reviewed a letter he sent to the city with a history and comments about the property. He talked about the interest in having a wall for transition and safety. He said there was a lot of natural vegetation and ponds that he and his neighbors wanted to keep undisturbed. He said it was an area that was attractive for kids to explore and a wall would serve as a safety feature. He asked that the ravine to the east be cleaned up by the developer. He mentioned that the 2018 plans showed a mini park in the area. His concern was that it would attract kids who would then see the ponds and come on his property. Mr. Christensen mentioned that there were no streetlights in his development and asked that the developer minimize lighting in the new development. He also voiced concern with the sewer easement and the fact that it established road alignment which would limit what could be done in the future. He said the developer had always been good about talking with existing residents. Mr. Christensen said he did not want to create conflict, but those were issues that would minimize the impact on his development.

Ms. Bronson mentioned that there was a note on the civil plans saying the area would be cleaned up and regraded. She talked about the lighting requirements and said lighting was required at every intersection and every 300 feet on residential roads. She said the development could choose to install down-lighting for the development.

Resident Neal Evans said he was very familiar with the property. In his view, the only way it met R-1-40 zoning was if it included the 4.5 acres designated as future development because there were lots that were less than one acre. He thought it was an attempt for the developer to try to get what they wanted by dividing the area into different parcels. He pointed out that the developer knew Highland was R-1-40 zoning when they first came to the city. He thought the rest of the city should be developed in the same manner. He said Highland didn't have

to offer the same zoning options as other cities around them. Mr. Evans said what happened in the development would affect all of them. Ms. Bronson reviewed the density calculations. She said she removed Parcel A and divided by the acreage which allowed the developer to have 10 lots in the R-1-40 zone. The developer was permitted to have an open lot as long as the residential lots followed R-1-40 standards. Allowing no more than 25% of lots to be between 20,000 sf and 30,000 sf were also part of the R-1-40 zoning regulations. She explained that Parcel A could have only four lots in the future with one lot between 20,000 and 30,000 sf. She mentioned that the developer could request a rezoning of Parcel A in the future, but they would go through the rezoning process with public hearings at the Planning Commission and Council.

Commissioner Seth Barrus joined the meeting at 7:15 PM.

Resident Josh Little mentioned that he owned a home adjacent to the property. He said his home was positioned in a way that his front yard was the back yard of the proposed homes. He said they were generally in favor of the proposed development but had a question regarding the fencing requirement. Ms. Bronson explained that a screen wall was required if the density was 6 units per acre or more. She said there was no fencing requirement for the R-1-40 zone so fencing would be up to the property owners or the developer. Mr. Little was concerned and hoped that the developer would put up fencing.

Commissioner Abbott asked for additional comments. Hearing none, he closed the public hearing at 7:27 PM and asked for additional comments.

Commissioner Moore asked about Parcel A and how it would be maintained. Patterson Development Representative Ken Berg said the intent for Parcel A was to set up fencing. He said it would be included with the acreage that the longhorns were currently on and would continue to be farmed. He said the intent was to have 10 lots bordering adjacent residential and they were working on the next proposal.

Commissioner Howden wondered if there would be curb and gutter on both sides of road connecting to 6000 West. Mr. Berg said they would install a whole road cross section and that the intersection connecting to 6000 West could be complete. He said the improvements along 6000 West were part of this development and would be improved along the whole property line which included a fence and sidewalk.

Commissioner Howden mentioned that he lived in the area. He did not see anyone wanting Parcel A to be higher density.

Commissioner Abbott mentioned that he also lived in the area. He said he had seen other projects work that that were not in R-1-40 zones.

Commissioner Moore mentioned that there was a mandate from the State of Utah that all cities needed to produce more affordable housing. She said the city was supposed to keep in mind how to accommodate and make it happen. Each city was supposed to comply and come up with that within a given timeframe. Commissioner Abbott added that Highland was in the process of making apartment rentals easier as well as axillary dwelling units.

Commissioner Abbott closed the public hearing at 7:35 PM and called for a motion.

Commissioner Howden MOVED that the Planning Commission accept the findings and recommend approval of the Sunrise Farms Preliminary Plat subject to the three (3) stipulations recommended by staff.

- 1. The final plat shall be in substantial conformance with the preliminary plat received April 26, 2021.*
- 2. All public improvements shall be installed as required by the City Engineer.*

3. *The civil construction plans shall meet all requirements as determined by the City Engineer.*

Commissioner Moore SECONDED the motion.

The vote was recorded as follows:

<i>Commissioner Jerry Abbott</i>	<i>Yes</i>
<i>Commissioner Seth Barrus</i>	<i>Yes</i>
<i>Commissioner Chris Howden</i>	<i>Yes</i>
<i>Commissioner Claude Jones</i>	<i>Yes</i>
<i>Commissioner Audrey Moore</i>	<i>Yes</i>
<i>Commissioner Mino Morgese</i>	<i>Yes</i>
<i>Commissioner Tyler Standifird</i>	<i>Non-voting</i>

The motion carried 6:0.

4. PUBLIC HEARING: TEXT AMENDMENT: FENCES, WALLS, AND HEDGES

Administrative

The Planning Commission will hold a public hearing to consider a request by Highland City Staff to amend Section 3-612 Fences, Walls, And Hedges of the Highland City Development Code. The Planning Commission will take appropriate action.

Ms. Bronson explained that there were 46 fence permits issued in 2020 and so far, 16 applications had been received in 2021. She said today alone she had five calls or visits from residents asking for clarification of the code. She said the current code was confusing for both residents and developers and was not easy to read. She reviewed the proposed changes. She mentioned that the code did not expressly prohibit chain link fences; it was only prohibited for theme walls and screen walls. After she spoke with councilmembers, it was understood that chain link was a prohibited material for fences. She talked about the current requirements for retaining wall heights and explained that a maximum height of nine feet was approved by the engineer and public works departments. She said privacy fences on top of retaining walls would have to be set back as least four feet from the back side of the retaining wall.

Commissioner Morgese talked about his neighborhood and did not understand why having a higher fence was a safety issue. He talked about how property owners behind his house would have to give up four feet of their yard in order to install a privacy fence.

Commissioner Moore wondered how the proposed amendments would impact existing chain link fences. Ms. Bronson said the existing chain link fences would be grandfathered in until changed. She explained that the amendments would only effect new fences. Ms. Bronson mentioned that athletic court fencing was different.

The Planning Commissioner discussed issues with retaining walls. Mr. Crane explained that retaining walls were approved with civil plans and would have to meet certain regulations. He said they were challenging because there was a low side and a high side. Complaints received to the city were from residents on the low side of a retaining wall who were looking at a 10-, 12-, or 14-foot wall because fencing was put on top of the

wall. Commissioner Moore added that property owners on the high side would want to install fencing to protect kids and animals from a drop-off.

Commissioner Abbott opened the public hearing at 7:55 PM and called for public comment.

Resident Gordon Lonsdale wondered if there was any way to change the maximum height to 10 feet. He thought an additional foot of height could make a big difference between having to have a four-foot setback or not.

Commissioner Abbott closed the public hearing at 7:56 PM and asked for additional comments from the commissioners.

Commissioner Morgese said he was struggling with the 4-foot setback. He thought it was unfair that property owners would lose some of their back yards if they wanted to install fences. He thought having a two-foot setback instead would make a big difference. Ms. Bronson advised against a two-foot setback due to safety reasons; kids or animals climbing/walking on the wall, etc.

Commissioner Abbott thought there should be a maximum height of four feet for retaining walls throughout the community. He thought developers should try harder to build to topography. He talked about issues with weeds. He thought a four-foot wall would allow for a regular fence on top.

Resident Steve Sander thought a two-foot setback was not safe for doing repairs. He talked about lots in his neighborhood that were built with an eventual down hill and said it looked nice.

Commissioner Howden wondered how the suggested changes would apply to areas along public roads. The commissioners agreed that the changes would not apply to public works. It would only apply to residential zones.

Commissioner Howden MOVED that the Planning Commission accept the findings and recommend APPROVAL of the proposed amendment to Section 3-612 Fences, Walls and Hedges based on the findings as discussed with the following changes:

- 1. Residential retaining walls have a maximum height of four (4) ft.*
- 2. On any vertical plane the maximum height of a fence plus a retaining wall should not exceed more than 10 ft.*
- 3. Amendments do not apply to public works or commercial zones.*

Commissioner Jones seconded the motion.

The vote was recorded as follows:

<i>Commissioner Jerry Abbott</i>	<i>Yes</i>
<i>Commissioner Seth Barrus</i>	<i>Yes</i>
<i>Commissioner Chris Howden</i>	<i>Yes</i>
<i>Commissioner Claude Jones</i>	<i>Yes</i>

<i>Commissioner Audrey Moore</i>	<i>Yes</i>
<i>Commissioner Mino Morgese</i>	<i>Yes</i>
<i>Commissioner Tyler Standifird</i>	<i>Non-voting</i>

The motion carried 6:0.

ADJOURNMENT

Commissioner Mino Morgese MOVED to adjourn the regular meeting. Commissioner Moore SECONDED the motion. All present were in favor. The motion carried unanimously.

The meeting adjourned at 8:16 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 April 27, 2021. The document constitutes the official minutes for the Highland City Planning Commission Meeting.

/s/Heather White
Planning Commission Secretary



HIGHLAND CITY

PLANNING COMMISSION AGENDA REPORT ITEM #4

DATE: May 25, 2021
TO: Planning Commission
FROM: Kellie Bronson
Planner and GIS Analyst
SUBJECT: PUBLIC HEARING/ORDINANCE: Text Amendment - Nuisances
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 relating to the nuisance of noise in commercial zones. The Planning Commission will take appropriate action.

BACKGROUND:

Several complaints from residents and business owners have led to the need to update the City codes. On May 4th, the City Council approved a text amendment to Section 8.16.100 Nuisance Of Noise And Light in the Municipal Code to clarify the nuisance of noise. This amendment established specific decibel levels for residential properties, conditional uses in residential zones, and commercial properties. See Attachment 2 for the updated Municipal Code.

A Development Code amendment is needed to be consistent with the Municipal Code.

A development code amendment is a *legislative* process.

SUMMARY OF THE REQUEST:

The proposed deletions and additions are in each nuisance section of every commercial zone article in the Development Code. These amendments remove the existing decibel requirements and add a reference to Section 8.16.100 Nuisance Of Noise And Light in the Municipal Code, where these decibel requirements have been established. See Attachment 1 for the

proposed amendment.

ANALYSIS:

- The Municipal Code establishes decibel levels for residential properties, conditional uses in residential zones, and commercial properties. The proposed amendment is needed to align the Development Code with the Municipal Code.

CITIZEN PARTICIPATION:

Notice of the public hearing associated with this meeting was published in the Daily Herald on May 8, 2021 and posted on the state and city websites May 6, 2021. No comments have been received.

FINDINGS:

The proposed amendment meets the following findings:

- The amendment is needed to update the Development Code.
- The proposed amendment is consistent with the General Plan.

RECOMMENDATION AND PROPOSED MOTION:

Staff recommends that the Planning Commission accept the findings and recommend **APPROVAL** of the proposed amendment.

I move that the Planning Commission accept the findings and recommend **APPROVAL** of the proposed amendment to several sections of the Development Code relating to the nuisance of noise in commercial zones.

ALTERNATIVE MOTION:

I move that the Planning Commission recommend **DENIAL** of case TA-21-04 a request to amend several sections of the Development Code relating to the nuisance of noise in commercial zones based on the following findings: (The Commission will need to draft appropriate findings.)

FISCAL IMPACT:

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

ATTACHMENTS:

1. Ordinance
2. Municipal Code Chapter 8.16 Nuisances

ATTACHMENT 1:

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING SEVERAL SECTIONS OF THE HIGHLAND CITY DEVELOPMENT CODE RELATING TO THE NUISANCE OF NOISE IN COMMERCIAL ZONES AS SHOWN IN FILENAME TA-21-04.

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 May 25, 2021 and

WHEREAS, the City Council held a public hearing on this Ordinance on June 1, 2021.

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

SECTION 1: **AMENDMENT** “3-4321 Nuisances” of the Highland City Development Code is hereby *amended* as follows:

C-1

3-4321 Nuisances

1. No portion of the property shall be used in such a manner as to create a nuisance to adjacent sites, such as, but not limited to, vibration, sound, electromechanical disturbance and radiation, electromagnetic disturbance, air or water pollution, dust emission of odorous, toxic, or noxious matter, or placement, dumping or blowing refuse, paper or other garbage.
2. Noise Attenuation: All commercial areas within Highland City shall be subject to the ~~following~~ noise limitations established in Municipal Code Section 8.16.100 Nuisance of Noise and Light. ÷

- ~~1. Noise from external sources may not exceed 65 d.b.a. during daylight operations.~~
- ~~2. Noise from external sources may not exceed 45 d.b.a. during nighttime operations.~~
- ~~3. Commercial developments shall incorporate site planning techniques in order to reduce resident exposure to noise and shall, if needed provided adequate sound attenuation walls in conformance with the standards set forth in these articles.~~

SECTION 2: **AMENDMENT** “3-4367 Nuisances” of the Highland City Development Code is hereby *amended* as follows:

CR

3-4321 Nuisances

1. No portion of the property shall be used in such a manner as to create a nuisance to adjacent sites, such as, but not limited to, vibration, sound, electromechanical disturbance and radiation, electromagnetic disturbance, air or water pollution, dust emission of odorous, toxic, or noxious matter, or placement, dumping or blowing refuse, paper or other garbage.
2. Noise Attenuation: All commercial areas within Highland City shall be subject to the ~~following~~ noise limitations established in Municipal Code Section 8.16.100 Nuisance of Noise and Light.
 - ~~1. Noise from external sources may not exceed 65 d.b.a. during daylight operations.~~
 - ~~2. Noise from external sources may not exceed 45 d.b.a. during nighttime operations.~~
 - ~~3. Commercial developments shall incorporate site planning techniques in order to reduce resident exposure to noise and shall, if needed provided adequate sound attenuation walls in conformance with the standards set forth in these articles.~~

SECTION 3: **AMENDMENT** “3-4521 Nuisances” of the Highland City Development Code is hereby *amended* as follows:

R-P

3-4521 Nuisances

1. Property in a Residential-Professional Zone shall not be used in such a manner as to create a nuisance to adjacent sites, such as, but not limited to, vibration, sound, electromechanical disturbance and radiation, electromagnetic disturbance, air or water pollution, dust emission of odorous, toxic, or noxious matter, or placement, dumping or blowing refuse, paper or other garbage.
2. Noise Attenuation. All Residential-Professional areas within Highland City shall be subject to the ~~following~~ noise limitations established in Municipal Code Section 8.16.100 Nuisance of Noise and Light.
 - ~~1. Noise from external sources may not exceed 65 d.b.a. during daylight operations.~~
 - ~~2. Noise from external sources may not exceed 45 d.b.a. during nighttime operations.~~
 - ~~3. Residential-Professional developments shall incorporate site planning techniques in order to reduce resident exposure to noise and shall, if needed provided adequate sound attenuation walls in conformance with the standards set forth in these articles.~~

SECTION 4: **AMENDMENT** “3-4622 Nuisances” of the Highland City Development Code is hereby *amended* as follows:

Senior Care

3-4622 Nuisances

No portion of the property shall be used in such a manner as to create a nuisance to adjacent sites, such as, but not limited to, vibration, sound, electromechanical disturbance and radiation, electromagnetic disturbance, air or water pollution, dust emission of odorous, toxic, or noxious matter, or placement, dumping or blowing refuse, paper or other garbage.

1. Noise Attenuation. All Senior Care Assisted Living Overlay areas within Highland City shall be subject to the ~~following~~ noise limitations established in Municipal Code Section 8.16.100 Nuisance of Noise and Light.:
 - ~~1. Noise from external sources may not exceed 65 d.b.a. during daylight operations.~~
 - ~~2. Noise from external sources may not exceed 45 d.b.a. during nighttime operations.~~
 - ~~3. Senior Care Assisted Living Overlay developments shall incorporate site planning techniques in order to reduce resident exposure to noise and shall, if needed provide adequate sound attenuation walls in conformance with the standards set forth in these articles.~~
2. Dust Mitigation. All excavations in excess of 1/4 acre shall obtain and file with the City a dust mitigation plan.
 1. Grading, Sedimentation and Erosion Control. All building permits shall be accompanied by a grading, sedimentation, and erosion control plan which shall at a minimum include environmental fencing surrounding the project and best management practices.

SECTION 5: **AMENDMENT** “3-4735 Nuisances” of the Highland City Development Code is hereby *amended* as follows:

Town Center Overlay

3-4735 Nuisances

1. No portion of the property shall be used in such a manner as to create a nuisance to adjacent sites, such as, but not limited to, vibration, sound, electromechanical disturbance and radiation, electromagnetic disturbance, air or water pollution, dust emission of odorous, toxic, or noxious matter, or placement, dumping or blowing refuse, paper or other garbage.
2. Noise Attenuation. All commercial areas within Highland City shall be subject to the ~~following~~ noise limitations ~~measured at the source:~~ established in Municipal Code Section 8.16.100 Nuisance of Noise and Light.
 - ~~1. Noise from external sources may not exceed 65 d.b.a. during daylight operations.~~
 - ~~2. Noise from external sources may not exceed 45 d.b.a. during nighttime operations.~~

- ~~3.—Commercial developments shall incorporate site planning techniques in order to reduce resident exposure to noise and shall, if needed provided adequate sound attenuation walls in conformance with the standards set forth in these articles.—~~

SECTION 5: **AMENDMENT** “3-4920 Nuisances” of the Highland City Development Code is hereby *amended* as follows:

PO

3-4920 Nuisances

1. No portion of the property shall be used in such a manner as to create a nuisance to adjacent sites, such as, but not limited to, vibration, sound, electromechanical disturbance and radiation, electromagnetic disturbance, air or water pollution, dust emission of odorous, toxic, or noxious matter, or placement, dumping or blowing refuse, paper or other garbage.
2. Noise Attenuation. All professional office areas within Highland City shall be subject to the ~~following~~ noise limitations established in Municipal Code Section 8.16.100 Nuisance of Noise and Light.:
 - ~~1.— Noise from external sources may not exceed 65 d.b.a. during daylight operations.~~
 - ~~2.— Noise from external sources may not exceed 45 d.b.a. during nighttime operations.~~
 - ~~3.— Professional office developments shall incorporate site planning techniques in order to reduce resident exposure to noise and shall, if needed provide adequate sound attenuation walls in conformance with the standards set forth in these articles.—~~
3. Dust Mitigation. All excavations in excess of 1/4 acre shall obtain and file with the City a dust mitigation plan.
4. Grading, Sedimentation and Erosion Control. All building permits shall be accompanied by a grading, sedimentation, and erosion control plan which shall at a minimum include environmental fencing surrounding the project and best management practices.

SECTION 6: **AMENDMENT** “3-4959 Nuisances” of the Highland City Development Code is hereby *amended* as follows:

PI

3-4959 Nuisances

1. Property in a Public Institution Zone shall not be used in such a manner as to create a nuisance to adjacent sites, such as, but not limited to, vibration, sound, electromechanical disturbance and radiation, electromagnetic disturbance, air or water pollution, dust emission of odorous, toxic, or noxious matter, or placement, dumping or blowing refuse, paper or other garbage, or outside storage.
2. Noise Attenuation. All Public Institution areas within Highland City shall be subject to the ~~following~~ noise limitations established in Municipal Code Section 8.16.100 Nuisance of Noise and Light.:

- ~~1. Public Institution developments shall incorporate site planning techniques in order to reduce resident exposure to noise~~
3. The storage or manufacturing of hazardous materials or hazardous waste, combustibles and explosive materials, or petroleum products exceeding state or federal limits shall be prohibited. These materials and products shall be regulated and enforced by state and federal laws and regulations.
 1. "Hazardous materials" shall mean hazardous waste as defined in the Utah Hazardous Waste Management Regulations, PCBs, dioxin, asbestos, or a substance regulated under 42 U.S.C., Section 6991(2), and including petroleum products or any explosive materials as determined by state or federal regulations shall be prohibited. Federal limits for hazardous materials are defined by the Code of Federal Regulations: Title 40 — Protection of Environment, Volume 18, 40CFR261.3.
 2. "Hazardous waste" means a solid waste or combination of solid wastes other than household waste which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
 3. "Combustibles and Explosives" shall be defined by Section 10-8-56 Utah Law. The storage or manufacturing of gunpowder, tar, pitch, resin, coal, oil, gas, gasoline, benzine, turpentine, nitroglycerine, petroleum or any of the products thereof, and other combustible or explosive substances or materials shall be prohibited.
 4. "Petroleum" includes crude oil or any fraction of crude oil that is liquid at 60 degrees Fahrenheit and at a pressure of 14.7 pounds per square inch absolute. "Petroleum storage tank" means a tank that:
 1. Is underground;
 2. Is regulated under subtitle i of the resource conservation and recovery act, 42 u.s.c. section 6991c, et seq.; and
 3. Contains petroleum.

SECTION 7: **AMENDMENT** "3-41020 Nuisances" of the Highland City Development Code is hereby *amended* as follows:

PU

3-41020 Nuisances

1. Property in a Public Utility Zone shall not be used in such a manner as to create a nuisance to adjacent sites, such as, but not limited to, vibration, sound, electromechanical disturbance and radiation, electromagnetic disturbance, air or water pollution, dust emission of odorous, toxic, or noxious matter, or placement, dumping or blowing refuse, paper or other garbage, or outside storage.
2. Noise Attenuation. All Public Utility areas within Highland City shall be subject to the ~~following~~ noise limitations established in Municipal Code Section 8.16.100 Nuisance of

Noise and Light.:

- ~~1. Noise from external sources may not exceed 65 d.b.a. during daylight operations.~~
- ~~2. Noise from external sources may not exceed 45 d.b.a. during nighttime operations.~~
- ~~3. Public Utility developments shall incorporate site planning techniques in order to reduce resident exposure to noise and shall, if needed provided adequate sound attenuation walls in conformance with the standards set forth in these articles.~~
3. The storage or manufacturing of hazardous materials or hazardous waste, combustibles and explosive materials, or petroleum products exceeding state or federal limits shall be prohibited. These materials and products shall be regulated and enforced by state and federal laws and regulations.
 1. "Hazardous materials" shall mean hazardous waste as defined in the Utah Hazardous Waste Management Regulations, PCBs, dioxin, asbestos, or a substance regulated under 42 U.S.C., Section 6991(2), and including petroleum products or any explosive materials as determined by state or federal regulations shall be prohibited. Federal limits for hazardous materials are defined by the Code of Federal Regulations: Title 40 -- Protection of Environment, Volume 18, 40CFR261.3.
 2. "Hazardous waste" means a solid waste or combination of solid wastes other than household waste which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
 3. "Combustibles and Explosives" shall be defined by Section 10-8-56 Utah Law. The storage or manufacturing of gunpowder, tar, pitch, resin, coal, oil, gas, gasoline, benzine, turpentine, nitroglycerine, petroleum or any of the products thereof, and other combustible or explosive substances or materials shall be prohibited.
 4. "Petroleum" includes crude oil or any fraction of crude oil that is liquid at 60 degrees Fahrenheit and at a pressure of 14.7 pounds per square inch absolute. "Petroleum storage tank" means a tank that:
 1. Is underground;
 2. Is regulated under subtitle i of the resource conservation and recovery act, 42 u.s.c. section 6991c, et seq.; and
 3. Contains petroleum.

SECTION 8: REPEALER CLAUSE All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 9: **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 10: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from June 1, 2021 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, June 1, 2021
HIGHLAND CITY, UTAH

Rodney W. Mann
Highland City Mayor

ATTEST:

Stephannie Cottle
Highland City Recorder

COUNCILMEMBER	YES	NO
Timothy A. Ball	<input type="checkbox"/>	<input type="checkbox"/>
Brittney P. Bills	<input type="checkbox"/>	<input type="checkbox"/>
Kurt Ostler	<input type="checkbox"/>	<input type="checkbox"/>
Kim Rodela	<input type="checkbox"/>	<input type="checkbox"/>
Scott L. Smith	<input type="checkbox"/>	<input type="checkbox"/>

8.16.100 Nuisance of Noise and Light

This section is separated from the definitions and abatement proceedings of the other nuisances defined in this chapter because the procedure for abatement does not logically coincide with that of the other defined nuisances.

1. The following definitions shall apply to this Section:

- a. "Ambient Sound" means the sound pressure level which represents the summation of the sound from all the discrete sources affecting a given site at a given time, exclusive of the source under investigation.
- b. "Daytime" means the hours between 7:00 AM and 10:00 PM.
- c. "Nighttime" means the hours between 10:00 PM and 7:00 AM.
- d. "Noise" means sound that may be harmful to health.
- e. "Owner" means any person who alone or jointly and severally with others has legal title to any premise, dwelling, or dwelling unit or has charge, care, or control of any premises, dwelling, or dwelling unit, as legal or equitable owner, agent of the owner, or is an executor, administrator, representative, trustee, or guardian of the estate of the owner.
- f. "Person" means any individual, public or private corporation and its officers, partnership, association, firm, trustee, executor of an estate, the State or its departments, institutions, bureau, or agency thereof, municipal corporation, county, city, or any legal entity recognized by the law.
- g. "Receiving property" means any property, including an individual unit of a multi-dwelling or multi-use property, that is adversely affected by noise transmitted by another property or from another unit within the same multi-dwelling or multi-use property.
- h. "Type A Property" means a property used for single family residential uses.
- i. "Type B Property" means a property used for any other conditional or permitted use allowed for residential zones.
- j. "Type C Property" means a property used for any other use allowed in Highland City, including but not limited to, retail, offices, repair, sports and fitness centers, restaurants, gasoline stations, and more.

2. Noise. It is unlawful for any person or group as designated in this chapter to create or permit any noise (regardless of its origin or definition) that is so loud as to be objectionable and bothersome between the hours of ten p.m. and seven a.m. For the purpose of this chapter, the definition of noise shall also include music, band and/or

singing practice. The making and creation of unreasonable noise is hereby declared to be a public nuisance and may be abated, regulated, and controlled as such.

a. No person shall emit, nor shall any person cause, allow, permit, or fail to control the emission of any noise source so as to exceed the maximum allowable sound pressure levels for the type of property from which the noise emits, when measured at the receiving property.

b. Type A Property:

i. Daytime: 10 dBA above ambient sound not to exceed 60 dBA.

ii. Nighttime: 5 dBA above ambient sound not to exceed 50 dBA.

c. Type B Property:

i. Daytime: 10 dBA above ambient sound not to exceed 65 dBA.

ii. Nighttime: 5 dBA above ambient sound not to exceed 55 dBA.

d. Type C Property:

i. Daytime: 10 dBA above ambient sound not to exceed 70 dBA.

ii. Nighttime: 5 dBA above ambient sound not to exceed 65 dBA.

e. The following shall be exempt from these regulations:

i. Emergency events, equipment, and vehicles.

ii. Commercial or personal emergency power generators operating during power failure or outage.

iii. Fireworks and explosives in accordance with state and local regulations.

iv. Heating, Ventilation, and Air Conditioning (HVAC) systems for residential use, if the system is in good repair and operating within manufacturer's specifications.

v. City, school, or other governmental approved events.

vi. Snow removal equipment.

vii. Temporary or short-term use of equipment or machinery for construction, maintenance, or cleaning.

viii. Other temporary exceptions may be granted with the approval of the City.

3. Lighting. For the purpose of this chapter, lighting shall be defined to be the artificial illumination of school athletic fields and commercial parking lots, but shall not include residential or municipal street lights. It is unlawful for any person, organization, association, or group to create or permit any outdoor, artificially created light to reflect on any adjacent residential property located within one thousand feet of the source of light, between the hours of ten p.m. and seven a.m.
4. Abatement. Abatement of nuisances created by noise or light shall be enforced by local law enforcement, or other means as may be at the city's option at the time of occurrence of the nuisance.
5. Permit. In order to accommodate special occasions, celebrations, competitions, performances, etc., exceptions to these conditions may be granted by special permit issued by the city council.
6. Farms and Farming. Whereas the agricultural enterprises of this area have existed, do exist, and are contributors to the rural nature of the community, it is not the intent of this chapter to create any undue economic hardship or community pressure that may cause or intend to cause the moving, closing or abandoning of the farming endeavor. The normal activities of the farming endeavor shall not be considered nuisances of noise or light.



HIGHLAND CITY

PLANNING COMMISSION AGENDA REPORT ITEM #5

DATE: May 25, 2021
TO: Planning Commission
FROM: Kellie Bronson
Planner and GIS Analyst
SUBJECT: PUBLIC HEARING/ORDINANCE: Text Amendment - Sports and Fitness *Legislative*

PURPOSE:

Planning Commission will hold a public hearing to consider a request by Highland City Staff to amend Chapter 10 Definitions in the Development Code to clarify permissible uses in the C-1 Zone, CR Zone, and Town Center Overlay relating to sports, fitness, and social dances. The Planning Commission will take appropriate action.

BACKGROUND:

Several complaints from residents and business owners have led to the need to update the Development Code to clarify the definition of sports and fitness centers in commercial zones.

A development code amendment is a *legislative* process.

SUMMARY OF THE REQUEST:

1. The proposed amendment adjusts the permitted use in the C-1 Zone of “Fitness centers” to “Sports and fitness centers” to be consistent with the definitions section of the proposed amendment.
2. Social dance facilities are proposed to be listed as a prohibited use in the C-1 Zone, the CR Zone, and the Town Center Overlay.
3. The definition for ‘social dance facilities’ has been added as follows:

Buildings or portions thereof kept or used for social or recreational dancing not part of an organized instruction or training program. Does not include dance studios, nor does it include schools or churches if the use of the school or

church as a social dance facility is occasional and incidental to the primary use of the building.

4. The definition for 'sports and fitness centers' has been added as follows:

Facilities used for physical instruction, training, conditioning, exercising, and sport activities.

ANALYSIS:

- Sports and fitness centers are permitted uses in the CR Zone and the Town Center Overlay. Fitness centers are permitted uses in the C-1 Zone.
- Resident complaints have created the need to address what is permitted in a sports and fitness center.
- Staff has concluded that social dances that are not part of an organized instruction or training program are not permitted and cannot be considered an accessory use for sports and fitness centers.

CITIZEN PARTICIPATION:

Notice of the public hearing associated with this meeting was published in the Daily Herald on May 8, 2021 and posted on the state and city websites May 6, 2021. No comments have been received.

FINDINGS:

The proposed amendment appears to meet the following findings:

- The amendment is needed to update the Development Code.
- The proposed amendment is consistent with the General Plan.

RECOMMENDATION AND PROPOSED MOTION:

Staff recommends that the Planning Commission accept the findings and recommend **APPROVAL** of the proposed amendment.

I move that the Planning Commission accept the findings and recommend **APPROVAL** of the proposed amendment to Chapter 10 Definitions in the Development Code to clarify the permitted use of sports and fitness centers in the C-1 Zone, CR Zone, and Town Center Overlay.

ALTERNATIVE MOTION:

I move that the Planning Commission recommend **DENIAL** of case TA-21-05 a

request to amend Chapter 10 Definitions in the Development Code to clarify permissible uses in the C-1 Zone, CR Zone, and Town Center Overlay relating to sports, fitness, and social dances: (The Commission will need to draft appropriate findings.)

FISCAL IMPACT:

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

ATTACHMENTS:

1. Ordinance

ATTACHMENT 1:

**AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING
CHAPTER 10 DEFINITIONS IN HIGHLAND CITY DEVELOPMENT CODE
TO CLARIFY PERMITTED USES IN THE TOWN CENTER OVERLAY AND
THE CR ZONE RELATING TO SPORTS, FITNESS, AND SOCIAL DANCES
SHOWN IN FILENAME TA-21-05.**

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 May 25, 2021 and

WHEREAS, the City Council held a public hearing on this Ordinance on June 1, 2021.

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

SECTION 1: **AMENDMENT** “3-4302 Uses” of the Highland City Development Code is hereby *amended* as follows:

4.3 C-1 Zone

3-4302 Uses

1. Permitted Uses.
 - a. Accessory uses which are customary and incidental to the principal use of the property.
 - b. Apparel, new and used
 - c. Antiques, crafts, and collectible sales
 - d. Art galleries and art studios
 - e. Bakeries, retail only
 - f. Education learning centers (i.e. Sullivan Learning Center)

- g. Financial institutions, excluding non-chartered financial institutions
- h. Sports and Fitness centers
- i. Indoor recreational facilities
- j. Laundry, cleaning, and dry cleaning establishments
- k. Personal services such as barber, beauty shops, copy shops, mail shops, tanning salons, shoe repair, and tailor shops
- l. Professional, administrative, business, and medical offices
- m. Restaurants, excluding drive thru
- n. Retail sales of new merchandise
- o. Repair services for small appliances, bicycles, watches, musical instruments, and similar items.
- p. Sporting goods equipment rental, sales, and service.

SECTION 2: **AMENDMENT** “3-4303 Prohibited Uses” of the Highland City Development Code is hereby *amended* as follows:

4.3 C-1 Zone

3-4303 Prohibited Uses

The following uses shall be prohibited in the C-1 Zoning District:

1. Thrift stores
2. Pawn shops
3. Sexually oriented businesses
- 3.4. Social dance facilities
- 4.5. Any use not expressly permitted in Section 3-4302.

SECTION 3: **AMENDMENT** “3-4352 Prohibited Uses” of the Highland City Development Code is hereby *amended* as follows:

4.35 CR Zone

3-4352 Prohibited Uses

In the C-R Zone, any use not expressly listed as a permitted use shall be deemed specifically prohibited including but not limited to the following:

1. Slaughtering of animals or live animal processing
2. Sexually Oriented Businesses
3. Call centers
4. Alcohol sales
5. Thrift Stores or Pawn Shops
- ~~6.~~ 6. Tattoo parlors, non-medically prescribed body massages, or body piercing shops, parlors or facilities

~~6.7.~~ 6.7. Social dance facilities

~~7.8.~~ 7.8. The following Ground Floor Uses shall not be located on a corner lot within the CR Zone:

- a. Office buildings for Professional Services which may include but not limited to:
 - i. Financial Lending Institutions; such as banks, credit unions, cash lending institutions, or similar; or
 - ii. Insurance institutions such as Insurance agencies, insurance brokers, or similar; or
 - iii. Professional services; such as Architects, Engineers, Law offices, Medical Offices or Medical Uses, or similar; or
 - iv. Real Estate Institutions; such as Mortgage Companies, Title Companies, Real Estate Brokers or agents, or similar; or
- b. Service oriented businesses; such as dry cleaners, hair or nail salons, gasoline islands, tax preparation services, or similar.

SECTION 4: **AMENDMENT** “3-4707 Prohibited Uses” of the Highland City Development Code is hereby *amended* as follows:

4.7 Town Center Overlay

3-4707 Prohibited Uses

In the Town Center Zone, any use not expressly listed as a permitted use or a conditional use shall be deemed specifically prohibited including but not limited to the following:

1. Slaughtering of animals or live animal processing
2. Sexually Oriented Businesses
3. Call centers
4. Alcohol sales
5. Thrift Stores or Pawn Shops
6. Tattoos or body piercing shops, parlors or facilities.
- ~~6.7.~~ Social dance facilities

SECTION 5: **AMENDMENT** “10-102 Definitions” of the Highland City Development Code is hereby *amended* as follows:

10-102 Definitions

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

72. Social Dance Facilities. Buildings or portions thereof kept or used for social or recreational dancing not part of an organized instruction or training program. Does not include dance studios, nor does it include schools or churches if the use of the school or church as a social dance facility is occasional and incidental to the primary use of the building.

73. Sports and Fitness Centers. Facilities used for physical instruction, training, conditioning, exercising, and sport activities.

[all following sections renumbered accordingly, so prior 72 (“Start of Construction”) becomes 74]

SECTION 6: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 7: **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 8: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from June 1, 2021 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, June 1, 2021
HIGHLAND CITY, UTAH

Rodney W. Mann
Highland City Mayor

ATTEST:

Stephannie Cottle
Highland City Recorder

COUNCILMEMBER	YES	NO
Timothy A. Ball	<input type="checkbox"/>	<input type="checkbox"/>
Brittney P. Bills	<input type="checkbox"/>	<input type="checkbox"/>
Kurt Ostler	<input type="checkbox"/>	<input type="checkbox"/>
Kim Rodela	<input type="checkbox"/>	<input type="checkbox"/>
Scott L. Smith	<input type="checkbox"/>	<input type="checkbox"/>