

AN ORDINANCE ADOPTING CHAPTER 18.42 TO ESTABLISH A MIXED-USE RESIDENTIAL COMMERCIAL ZONE (MURCZ)

BE IT ORDAINED by the City Council of Heber City, Utah, that Chapter 18.42 of the Heber City Municipal Code is adopted, as follows:

Chapter 18.42

Mixed-Use Residential Commercial Zone

Sections:

- 18.42.010 Objectives—Characteristics**
- 18.42.020 General Regulations**
- 18.42.030 Permitted Uses**
- 18.42.040 Site Design**
- 18.42.050 Building Design**
- 18.42.060 Furnishings and Common Area**
- 18.42.070 Transportation, Circulation, and Parking Design**
- 18.42.080 Landscaping Design**
- 18.42.090 Signs**
- 18.42.100 Residential Mixed Use Standards**
- 18.42.110 Development Agreements**

Section 18.42.10 Objectives—Characteristics.

- 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;
 - 4. 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.
- B. The Mixed-Use Residential Commercial Zone is characterized by attractive and well-maintained commercial and mixed-use residential buildings surrounded by landscaped yards.

Section 18.42.020 General Regulations.

In order to accomplish the objectives and purposes of this Title and to stabilize and protect the essential characteristics of the Zone, the following regulations shall apply in the Mixed-Use Residential Commercial Zone. The Mixed-Use Residential Commercial Zone shall only apply to contiguous parcels of property containing a total of at least thirty (30) acres.

Section 18.42.030 Permitted Uses.

The following uses shall be permitted in the Mixed-Use Residential Commercial Zone upon compliance with requirements set forth in Title 18:

- A. Department, discount and food stores;
- B. Stores selling general merchandise furniture, electronics, appliances and home furnishings, baby supplies, jewelry, toys, video games, pet supplies, floral, garden and patio products, hair salon, apparel, footwear, sewing supplies, sporting goods, health and beauty products, prescription drugs, books, videos, media, copies, photography, art and office supplies, stationary, hobbies and crafts, auto and equipment parts, hardware lumber and home improvement supplies;
- C. Restaurants, private clubs and eating establishments;
- D. Offices, clinics, schools, day care facilities and public buildings;
- E. Banking or financial institutions;
- F. Entertainment and recreation uses;
- G. Miscellaneous retail sales;
- H. Mixed use residential-commercial development, including retirement and residential development, attached and detached multi-family and single family dwellings, condominium and townhouse developments, apartments, and planned unit developments, all subject to the residential standards in Section 18.42.100;
- I. Engraving and printing establishments;
- J. Fitness centers;
- K. Funeral establishments, mortuaries and wedding chapels;
- L. Automobile sales;
- M. Gymnasium or physiculture establishments;
- N. Home occupations (Board of Adjustment approval not required);
- O. Hospitals;
- P. Hotels, inns, which may include a restaurant and conference meeting rooms, motels, cafes, food drive-ins, and reception centers;
- Q. Office buildings, medical, optical and dental offices and clinics;
- R. Parking lots, commercial;
- S. Retail establishments and service enterprises;
- T. Secondhand stores;
- U. Convenience service stations, auto parts sales and service and repair facilities, car wash and detail shops;
- V. On-premises signs;

W. Wholesale establishments with stock on premises but excluding establishments whose principal activity is that of a storage warehouse; and

X. Other uses similar to the foregoing uses which are ruled by the Board of Adjustment to be in harmony with the intent of this Zone.

Section 18.42.040 Site Design.

A. **Relationship to Street.** The “Streetscape” within the MURCZ shall resemble the “Streetwall” found in the Downtown C-3 Zone and promote a pedestrian anchored shopping experience, but at the same time shall recognize the vehicular presence within the MURCZ.

1. Buildings shall be designed to accommodate both the street pedestrian and the parking lot pedestrian into the facility. Buildings shall be designed with an entrance that is visible from the street. The street front of all buildings shall be designed to visually invite the pedestrian into the facility and shall create an anchor to the streetscape. Large buildings and large expanses of parking lots shall be buffered along public streets with smaller tenant pads, landscaping, sidewalks and other amenities acceptable to the Planning Department.

B. **Building Setbacks.**

1. In the Mixed-Use Residential Commercial Zone, there shall be no area and width requirements. All commercial, service buildings and structures, gasoline pumps, and all buildings and structures shall be setback at least ten feet from any public street property line.

2. All 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.

C. **Building Orientation.** All primary facades and design elements shall orient to a public street or main drive isles with secondary and subordinate features associated with side streets and alleyways. Placement of building(s) on a site shall be compatible with existing buildings in order to maintain the building setback. Primary building entrances shall be oriented towards a public street or main drive isles with a secondary entrance off of the parking area. Joint angular entrances that service both the parking and public street pedestrian traffic are permitted.

D. **Sensitivity to Natural Features.** All buildings in the MURCZ shall appear harmonious and be compatible with the Heber Valley mountain environment. Natural features shall be preserved and protected and used and preserved as key elements in the site placement of buildings. Sensitivity to these natural features, as well as view corridors, shall be considered during site placement and concept approval. Specific examples include site and building design with sensitivity to view corridors such as the preservation of views of Mount Timpanogos and the Wasatch Mountains, historic markers or buildings, open space, etc., as well as other places of interest as viewed from the street, and adjoining properties, and preservation of large existing trees or other unique cultural or natural features on the property.

E. **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 fifteen feet (15’).

2. Commercial uses adjoining existing residential uses shall be bounded with a six foot (6') sight-obscuring fence of like materials and design of the building façade, and a ten foot (10') landscaped area planted with dense evergreen shrubbery and/or 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.

Section 18.42.050 Building Design.

A. **Design Vision Statement.** The building design of structures in this Zone shall complement the Downtown C-3 Zone, and draw upon the historic architectural heritage of Heber City. This design vision shall draw upon the past materials, techniques, form, mass and details of the Downtown C-3 Zone while allowing the architect to create a current interpretation of the space and its aesthetic and functional needs.

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 compatible with the primary structure. The Planning Commission and City Council shall determine compatibility, which shall be measured in terms of design, form, use of materials and color.

C. **Design Composition.** The design composition of Heber City shall reflect the authentic design elements which come from the surrounding environment and the historic, social and cultural features that carry the spirit of a special place and provide a link between the founders of Heber City, those who live here today, as well as those in the future who will choose to call Heber City home.

D. **Physical Characteristics.** All design elements shall be harmonious to the more dominating Downtown C-3 Zone but shall be subordinate in terms of all physical characteristics. Common threads of color, materials, textures and details shall play an integral part of design in the MURCZ Zone, leading into the C-2, C-3, and C-4 Zones.

E. **Floor Area Limitation.** No building shall exceed 150,000 gross square feet, unless authorized by the City Council.

F. **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 by the Heber City ordinances appropriate for this Zone. Second floor uses shall have the option of all first floor uses or residential mixed uses as reviewed and approved by the Planning Commission. Within the residential portion of the project, residential uses may be placed on the first floor.

G. Building Height. All buildings shall maintain the average perceived scale of two story buildings at the sidewalk. The average height can vary by way of architectural styles but shall maintain the average façade height within established architectural proportions of height to width ratio. 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, upon approval from the Heber City Planning Commission, exceed the specified building height.

H. Building Width. Commercial Buildings within this zone shall maintain a resemblance of the street wall found within the C-3 zone, but allow for interior vehicular penetration from the street accessing side and rear yard parking. Placing the façade of the building back from the front property line allows for the placement of more landscape material as well as pedestrian friendly features to encourage pedestrian activity. The following standards are intended to reduce the massive scale of large buildings which, without application of these standards, would be incompatible with the City's desired character. 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. In order to assure conformance with this requirement, all exterior elevations shall be reviewed and approved as a part of the overall review process.

I. Building Form. One of the most prominent unifying elements of the traditional Main Street is the similarity in building form. Commercial buildings were simple rectangular solids, deeper than they were wide. The pedestrian levels were more decorative in appearance with a vertical extension in height and an expansion of glazing surface area. The upper levels were shorter in floor-to-floor height and displayed a more conservative treatment of architectural elements. This characteristic is important and shall be maintained in new projects.

1. Rectangular forms shall be dominant on Main Street facades and shall be vertically oriented. The facade shall appear predominantly flat, with decorative elements and "articulations" to be subordinate to the prevailing form.

J. Building Mass. A building shall have a mass that is similar to that of traditional buildings in Heber City. A buildings mass is defined in broad form or generalized shapes rather than in specific details. A building shall appear similar in scale to that seen traditionally for similar building types. Reduction of the apparent mass of a building shall be accomplished through use of a combination of the following design methods:

1. Provide variation in the wall plane.
2. Design a façade of smaller buildings into the larger structure.
3. Provide variation in exterior material, color and texture selection.

K. Human Scale. A building shall appear to have a "human scale" that relates to the pedestrian patron. In general, this can be accomplished by using familiar forms and elements that can be interpreted in human dimensions. All buildings shall have a human scale that is relative to

the adjacent buildings and relevant to the pedestrian streetscape. Building design shall avoid large panelized products and extensive featureless surfaces. Buildings shall establish and reinforce the area as a pedestrian environment, and utilize the following architectural features:

1. Brick or stone in standard modules or scaled to the appropriate size.
2. Exterior wall treatments that establish rhythm and pattern of windows, columns and other architectural features.
3. Window and door sizes that relate to traditional building scale (Large expanses of glazing, etc., are inappropriate).
4. Design elements that express the position of each floor in the external skin design of a building, such as the use of belt courses or other horizontal trim bands of contrasting color and materials to define floor lines, or the use of articulated structural elements or changing materials.

L. **Building Style.** Building design shall simulate the “add-on” nature of early settlement buildings, with variation in angle and orientation from one building to another, utilizing shed roofs, covered walkways, and smaller boxes attached to larger boxes. A clear visual division shall be maintained between ground level floors and upper floors by slight changes in height, style, form, mass, materials, color, window sizes, overhangs, balconies, etc.

M. **Building Material.** Predominant exterior building materials shall include: brick, natural decay-resistant quality exterior wood siding or wood substitutes, rock, stone or tinted and textured concrete masonry units. Exterior building materials shall not include prefabricated steel panels except for metal awnings and signs. Exterior rear wall building materials may include smooth-faced concrete block or smooth-faced tilt-up concrete panels or other masonry materials.

1. Building materials that convey texture, scale, finish and color similar to those used traditionally are required.
2. A minimum of 30% of the vertical wall surface (not including the glazed store fronts) of the first floor shall include some form of masonry material such as brick or stone with an indigenous look to the area.
3. Cement based siding shall be provided with textures at a scale appropriate to the building size.
4. Material with a matte finish shall be required. Highly reflective materials are prohibited. Large expanses of reflective materials on walls, windows or on rooftops are prohibited.
5. Large panelized products or extensive featureless surfaces such as stucco, aluminum and metal panels are prohibited.
6. All materials and construction methods shall be of the highest quality and integrity indicative of early craftsmanship.
7. EIFS (Exterior Insulated Finish System) shall be allowed on main levels under limited conditions and upon approval from the Planning Commission. Traditional detailing shall be applied to this material selection.
8. Materials and details above first story shall be of a simpler fashion to that of the primary first level façade.

N. **Building Color.** Colors that respect and enhance the natural earth tones of the local area are required.

1. Value: The LRV (Light Reflective Value) of colors and materials used on major walls and roof areas shall be between 7 (darkest value of shaded vegetation) and 38 (approx. value of red sandstone). It is the intent to require that the more visible or massive the structure, the lower shall be its LRV.

2. Chroma: The strength, intensity and brightness of the color selected shall be in the range from very weak (grayish) to medium weak (neutral or earth tone). Strong Chroma colors, such as the red color in the American flag, shall be prohibited

3. Stains and flat paints are required. High gloss paints, factory finished metals or other materials which increase visual impacts; i.e. aluminum, and white or reflective roofs, are prohibited if visible from the street. Matte finishes shall be required. LRV over 38% and strong chroma may be allowed for small accents and trim around windows and doors. Chimneys, flues, vents, gutters, down spout, mechanical and electrical equipment, railings, window shading devices and other exterior devices shall be similar in chroma and LRV to the surrounding surfaces to which they adjoin, unless they are featured in the design. In such cases, a subdued accent color may be acceptable. Bright, glossy, fluorescent and corporate signature color schemes are prohibited. Heber City's adopted color matrix is based upon "Columbia Paint & Coatings; Historic Colors of America" color wheel.

O. **Roof Design.** Low sloped roofs, consistent with the historical, commercial roof forms that appeared flat, sloped or gabled, but had false fronts or relatively tall parapets as seen from the street are required on commercial buildings. At a minimum the slope shall run with the highest point at the front of the building and the lowest in the rear.

1. Roof lines shall be varied with a change in height.

2. Secondary roof forms that accentuate but not dominate the composition such as low pitched gables, hip and shed roofs shall be used as a means to break up the mass of the façade. Roofs shall be designed to meet all applicable building codes. Roof and canopy designs shall prevent snow or ice from shedding directly onto a pedestrian walkway or access. Snow shedding shall be controlled and measures shall be taken to prevent snow and ice damage to property and/or people.

3. False fronts and parapets with horizontal emphasis shall be allowed.

4. Parapet steps shall have an appropriate thickness or depth from the street view to convey solidness to the pedestrian to be sized depending upon building mass and scale. Parapets on side façades shall step down towards the rear of the building unless the structure is located on a corner lot. Corner lots shall maintain continuity for both streetscapes with the primary street wall on Main Street and the secondary on the side street.

5. Roof forms and planes shall vary to add visual interest to the street environment, provided they are aesthetically appropriate to the rugged mountain context and functionally responsive to the harsh climate.

6. Roofs shall be constructed with materials appropriate for Heber City and the environmental constraints of the area. Roof materials shall be fire-retardant and non-reflective.

7. Elements such as expressive brackets, cornices, copings, layered and overlapping fascia and exposed rafters with profiled ends are required.

P. **Exterior Walls (façade elements).** The repetition of similar façade elements, particularly with windows, details, ornaments and cornice moldings shall be required within the Mixed-Use Residential Commercial Zone.

1. Existing features shall be preserved. The combination of architectural details for a building front should be reviewed as an overall composition and shall be considered in its context to other buildings in the area.

2. Ornamentation shall reflect the simple and restrained decorative tradition of the early pioneer lifestyle.

3. Visual interest on the street level of a building shall be provided with the following devices:

a. A display window providing views to activities within the building.
b. A display case with exhibits, where internal functions do not permit windows.

c. A decorative wall surface, such as a mural or sculpture feature.

d. A landscaped foreground.

4. Large and protruding balconies, large out-of-scale canopies, or other modern elements are prohibited.

Q. Exterior Walls (storefront). The street storefront shall display a character that is harmonious to the historical downtown district, providing a vibrant and interactive treatment to the pedestrian streetscape. All storefronts shall have a main access from the public street as well as a secondary access from the parking lot.

R. Exterior Windows and Doors. The use of active glass windows and walls which allow a visual connection between the outside pedestrian streetscape and the interior store function is required. The use of false windows and doors is prohibited.

S. Architectural Features. Exposed structural expression of wood framing members, timbers and steel detailed elements supporting the roofs, sheds and balconies shall be included as a feature of all commercial building designs. New designs that draw upon the past architectural character of the community with a new creative interpretation shall be permitted.

T. Canopies and Awnings. Canopies, flat metal canopies and awnings shall be designed and constructed to be complimentary with the architecture of the building. The color of the awning shall be complimentary to the color scheme of the structure and shall keep with the unique color palettes of Heber Valley. Awnings shall be constructed of a durable material that takes into consideration the local climate and weather conditions. Canopies and awnings shall be required at building entrances.

U. Community Compatibility. Buildings shall provide at least five (5) architectural details identified and approved by the Planning Commission that provide visual interest at the scale of the pedestrian, reduce massive aesthetic effects, and reflect the local authentic historic character.

V. Multiple Entryways. Multiple entryways or architectural features shall be incorporated into the building design to break up the apparent mass and scale of large retail structures. Entrances may be to tenant spaces other than the primary retail tenant. For structures greater than sixty thousand (60,000) gross square feet, there shall be at least two clearly articulated public entrances on the structure. At least two such entrances shall be visible from a public street and connected to that street by a pedestrian sidewalk.

1. Each entry way on buildings greater than 18,000 square feet shall have clearly defined, highly visible customer entrances featuring no less than three (3) of the following:

- a. Canopies or porticos;
- b. Overhangs;
- c. Recesses/projections;
- d. Arcades;
- e. Raised corniced parapets over the door;
- f. Peaked roof forms;
- g. Arches;
- h. Outdoor patios;
- i. Display windows;
- j. Architectural details, such as tile work and moldings which are integrated into the building structure and design;
- k. Integral planters or wing walls that incorporate landscaped areas and/or places for sitting; or
- l. Individual Tenant signs identifying business or use.

Section 18.42.060 Furnishings and Common Area.

A. Community Spaces and Site Furnishings. Large 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 approved by the planning department prior to installation:

- 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;
- 7. Other focal feature approved by the Planning Commission.

B. Pedestrian Circulation: All developments shall provide a pedestrian sidewalk/path from the building(s) to the street and provide a pedestrian connection to parking. A direct link shall be required between the street to the building. Each commercial development shall provide conveniently placed bicycle racks throughout the development for bicycle parking. All developments with a building with more than sixty thousand (60,000) square feet of floor area shall provide the following:

- 1. Sidewalks at least five (5) feet in width along all sides of the lot that abut a public street;
- 2. Sidewalks, no less than six (6) feet in width along the full length of the building along any façade featuring a customer entrance, and along any façade abutting public parking areas;

3. A landscaped and lighted pedestrian walkway connecting from the street to the building(s); and

4. A pedestrian connection to outlying tenant buildings.

C. **Outdoor dining:** Outdoor dining (sidewalk dining) shall be permitted. Outdoor dining shall maintain at least a 4-foot clear path along sidewalks and at least 6 feet of vertical clearance for umbrellas and awnings. The dining area shall be separated from the public sidewalk with a barrier, such as a fence or planter, if the clear path is less than 6 feet in width.

D. **Outdoor Storage, Trash, and Loading Zones.** The following standards shall be required to reduce the impacts of outdoor storage, and loading and operation areas on adjacent land uses:

1. Outdoor storage, trash, loading and operation areas shall be attractively screened from adjacent parcels and streets. All outdoor storage areas shall be bounded by a six-foot (6') sight-obscuring fence similar in quality and design to the trash enclosure area. Evergreen shrubbery shall be placed in front of this fence to provide a softening effect.

2. No temporary storage, structure, container, or semi-trailer shall be allowed on the site for storage. Parked delivery trucks which idle or create fumes or noise between 10:00 p.m. and 6:00 a.m. shall be deemed a public nuisance.

3. Areas for the storage and sale of merchandise shall be permanently defined and screened with walls and/or fences that conform to the materials, colors and design of the principal structure. Seasonal sales shall be allowed on sidewalks and in parking areas with the prior approval of the City Planning Department.

4. Outdoor display and storage shall not encroach on any portion of a walkway, drive aisles or required parking spaces. No areas for outdoor storage, trash collection or compaction, loading, or other such uses shall be located within 30 feet of any internal pedestrian way.

5. Areas for truck parking and loading shall be screened by a combination of structures and evergreen landscaping to minimize visibility from adjacent streets and residential district lines.

6. Outdoor storage, loading and operation areas shall be attractively screened from adjacent parcels and streets.

7. Outdoor storage, trash collection and/or compaction, loading or other such uses shall be located in the rear of the lot. If, because of lot configuration, the City Engineer determines that such placement is not feasible, then the side yard may be used.

8. Outdoor storage, HVAC equipment, trash collection, trash compaction and other service functions shall be incorporated into the overall site design. Views of these areas shall be visually screened from all property lines and separated from sidewalks and on-site pedestrian ways. Screening structures shall be made of the same materials as the principal structure.

9. There shall be adequate trash containers in and around doors.

10. Storage of all merchandise, material and products shall be carried on within a building or within an area enclosed with a sight-obscuring fence or wall except for vehicles in running order.

11. All trash areas shall be screened on all four sides by 6' high walls and be hidden from public view. The walls shall be constructed of a similar material and style to compliment the main building architecture and details. Screened "gates" shall provide access to trash removal services. Trash enclosures shall be located for convenient accessibility by trash removal services.

E. **Lighting.** All buildings shall provide lighting throughout all pedestrian areas utilizing decorative light poles/fixtures. Light output shall not exceed zero (0) foot candles at residential property lines. Pedestrian light fixtures shall be less than fourteen (14) feet tall and shall be cut off. All parking lot lighting shall be thirty (30) feet or less in height. All other light fixtures shall be full cut off. All pedestrian lighting shall be black fluted poles similar to the Heber City downtown lighting fixtures. Lighting shall be directed to avoid intrusion on adjacent residential properties and away from adjacent thoroughfares.

Section 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 shall meet the requirements set forth in Section 18.72 of the City's Zoning Ordinance, or as determined by the Planning Commission upon analysis of a parking study submitted by the petitioner for shared parking for the overall site. Property owners desiring to apply time alternating shared parking shall petition Heber City with "time use studies" showing the viability of such an option. Heber City shall be open to viable options.

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 Section 18.72.140 of Heber City Code.

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.

F. **Separation Required.** Parking lots shall be bounded with high back curb unless otherwise approved by the Planning Commission. Paved areas and parking lots shall be separated from buildings with a minimum four foot (4') wide landscape area 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. **Street and Parking Lot Lighting.** Parking lots with less than 3 aisles may alternatively light the parking lot with lighting fixtures compatible with the style of the black fluted poles but attached to the building. Lighting shall be directed to avoid intrusion on adjacent residential properties and away from adjacent thoroughfares, and shall be full cutoff.

H. **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 may satisfy this requirement on the exterior boundaries of properties covered under the agreement.

I. **Storm Drainage.** All storm water runoff from impervious area and buildings shall be retained or detained onsite to Heber City engineering standards and specifications.

J. **Emergency Access and Fire Protection.** Design of the site, driveways, and buildings shall meet all accessibility requirements for fire trucks and fire personnel.

K. **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. 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.

L. **Transportation and Circulation.** A circulation study shall be required for new commercial developments. 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.

M. **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 master plan. The Petitioner shall submit a traffic study when deemed necessary by the Planning Commission.

N. **Street Compatibility.** Where four or more aisles of parking adjoin a public street, landscaped berms, pedestrian facilities (benches, pergolas, etc), a small building (coffee shack, ice cream stand), or other features approved by the Planning Commission shall be placed between the parking and the street to break up the monotony of the parking expanse.

Section 18.42.080 Landscaping Design.

A. **Private Landscaping.** All areas not covered with buildings, parking, or sidewalks shall be landscaped. Landscaping shall incorporate a combination of trees, flowers beds, shrubbery, lawn, boulders, planted berms and mounds. Landscaping shall be designed to avoid conflict with utilities and other elements. Plantings shall include species native to the area and shall incorporate drought tolerant design. Three Dimensional landscaping shall be incorporated primarily around the perimeter of buildings with pockets of this landscaping scattered throughout the project. All landscape designs shall be reviewed by the Planning Department for compliance

to the Code. For suggested native plantings on private property, see “Landscape Plants in Utah: A Guide for High Mountain Valleys”. This document is available from the Heber City Planning Department upon request.

1. A strip of land at least ten (10) feet in width, measured from the property line, adjacent to all public street property lines, shall be landscaped except for permitted driveways.

B. **Right of Way Landscaping.** Planter strips shall be planted in grass and contain one street tree per 30 feet of street frontage and spaced according to Chapter 12.20 of Heber City Code. Choice of species for street trees must avoid evergreens, thorn and fruit bearing trees, and trees that grow large or have shallow roots pursuant to Chapter 12.20. The trees may be clustered as appropriate but must be planted within the planter strip. Planter strips adjoining the streetscape may be broken up by periodic sections of pavers.

C. **Plant Size.** Required trees shall be at least two inch (2”) caliper or larger. Required shrubbery shall be at least 1 gallon per plant.

D. **Existing Trees.** Existing street trees and existing large trees on the property shall be to the extent possible preserved into the design of the site unless the trees threaten the integrity of the sidewalk, curb, or utilities. Approval from the Planning Commission or an appointed committee shall be required prior to the removal of any existing trees.

E. **Irrigation.** All landscaped areas shall be maintained and irrigated with an automatic pressurized irrigation system.

F. **Large Scale Developments.** All 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 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 lawn, and evergreen trees planted at intervals of not more than thirty-six (36) feet on center.

3. **Parking Lot Landscaping.** The parking lot shall contain landscaping in an amount equal to at least five percent (5%) of the total parking lot area.

Section 18.42.090 Signs.

All signage shall comply with the Heber City’s adopted Sign Ordinance in Chapter 18.103 and shall be reviewed by the Heber City Planning Commission for approval. All signs shall utilize the color scheme as outlined in Section 18.42.050 N. This color strategy shall utilize a “toned down” version of corporate colors. All proposed sign applications shall include a color mock to the Planning Department as part of the sign application. Each development shall provide pedestrian and traffic directional signs as appropriate to direct traffic in an efficient and safe manner. Signage for the site shall be developed and integrated into the overall site during site design stages rather than as an afterthought, giving consideration to placement of landscaping areas and wall treatments to accommodate future signs.

Section 18.42.100 Residential Standards.

A. **Vision Statement.** The MURCZ is intended to include a mixture of compatible commercial and residential development inclusive of retirement and residential development, attached and detached multi-family and single-family dwellings, condominium and townhouse developments, apartments, and planned unit developments. Residential development within the MURCZ is intended to be compatible with existing surrounding residential development where applicable. The residential portion shall be walkable and pedestrian friendly, with well maintained, high quality buildings and ample landscaped and open areas, include well designed parking and recreation facilities, and seamlessly integrate into the commercial portion of the MURCZ. The City shall require a development and maintenance agreement for the residential component of the MURCZ to assure implementation of this vision statement and the purposes of the MURCZ.

B. **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 large scale subdivision process in Title 17, and the applicable documents such as plats, condominium declarations, etc., shall be approved and recorded prior to sale.

C. **Density.** The density of residential units within the MURCZ shall not exceed 20 residential units per acre.

D. **Open Space.** At least 30% 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 features as approved by the City.

E. **Affordable Housing.** Each development shall comply with Chapter 18.102 "Affordable Housing".

F. **Parking.** Each residential unit shall be provided with 2 (two) off-street parking stalls. All required off-street parking stalls shall be located within a parking garage, except where it can be demonstrated that uncovered parking will not have a detrimental effect on public street traffic flows. No parking shall be located within any required setback area except for permitted driveways leading to the required parking areas.

G. **Architecture.** Residential buildings shall have a master planned architectural style. The design criteria of the MURCZ shall apply to all residential buildings. 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.

H. **Access.** Driveway access to public streets shall be minimized through driveway sharing onto private driveway access lanes. All private driveway accesses and roads shall be constructed to meet at least the fire apparatus road standard. All public streets shall meet the adopted street standards of the City.

I. **Residential Transition.** Residential buildings within the MURCZ which are located directly across the street from, or which directly abut existing residential development, shall have a housing product that is designed to appear like a single family dwelling. This residential transition area shall be confined to residential uses only.

1. Residential buildings within the residential transition area shall not exceed 35 (thirty-five) feet in height, measured from grade to the highest point of the building, excluding chimneys and antenna. In lieu of this height limitation, any building constructed taller than 35 feet shall be setback its distance in height from the public street property line or existing residential-development property line.

2. Residential buildings within the residential transition area shall be setback 30 feet from a public street property line and 20 feet from any side or rear property lines which abut existing residential development, and shall include a four (4) foot tall berm, landscaped with lawn and evergreen and deciduous trees and shrubs. The berm shall contain at least one tree and/or shrub per 10 feet of public street frontage or property line length, placed as deemed appropriate by a landscape architect.

Section 18.42.110 Development Agreements.

Vacant buildings encompassing a substantial square footage require more intensive municipal services, including, but not limited to fire/police protection, community development, and code enforcement. All developments which contain buildings 60,000 square feet or larger shall enter into a vacancy, development and maintenance agreement between the property/building owner and Heber City.

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 a whole 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 18, 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:

a. 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.

b. 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.

c. In the event that 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.

d. 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 Planning Commission and City Council, 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. In the event that 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, in the event that 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.

C. Enforcement and Remedies. In the event that a building is vacant for a period longer than three months, the City shall, in addition to all other remedies available or permitted by ordinance, statute, or the requirements of any development and maintenance agreement associated with said building or property, have the option of the following remedies:

1. If the Zoning Administrator, or his or her designee, determines that any provision of this Chapter is being violated and immediate enforcement action is not necessary under the circumstances, the Zoning Administrator shall provide a written notice of violation to the property owner or any other person determined to be responsible for the violation. Such written notice of violation shall indicate the nature of the violation, the action necessary to correct the violation, the warning period established before further enforcement action or penalties, and the potential enforcement action and/or penalties to be imposed for failure to cure the violation within the established warning period. Such notice of violation shall serve to start the warning period.

2. Unless otherwise determined by the Zoning Administrator, the warning period for correction of violations set forth in the notice of violation shall be ten (10) days from the receipt of the notice of violation. If the violation remains uncured after expiration of the warning period, the Zoning Administrator shall pursue further enforcement action as deemed appropriate in accordance with the provisions provided herein. The Zoning Administrator is authorized, in his or her discretion, to extend the warning period, not to exceed thirty (30) days, if the Zoning Administrator determines good cause exists for such extended warning period and the extension will not create or perpetuate a situation imminently dangerous to life or property. Any such extension shall require written agreement by the property owner or person responsible for the violation to remedy the violations within a set time frame and to comply with any and all conditions of extension as required by the Zoning Administrator. A request for extension shall be filed in writing by the property owner or person responsible for the violation prior to the expiration of the ten (10) day response period. In the case of a violation involving either continuing construction or development, or an emergency situation, as reasonably determined by the Zoning Administrator, the City may use the enforcement powers and remedies available to it under this Chapter, or the remedies contained in Chapter 18. of the Heber City Code, without prior notice or notice of violation, in such case, the Zoning Administrator shall send the notice to the same parties simultaneously with the beginning of enforcement action.

3. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved, or maintained; or any land, building, or premises used contrary to the provisions of this Chapter is hereby declared to be unlawful and a public nuisance. The City Attorney, Prosecutor or other authorized legal counsel may commence action or proceedings for the abatement, removal, and enjoinder thereof in the manner provided by law. The City Attorney, Prosecutor or other authorized legal counsel may also take such other steps and may apply to such court as may have jurisdiction to grant such relief as will abate and remove such building or structure, and restrain and enjoin any person, firm, or corporation from setting up, erecting, building, maintaining, or using any building, structure, or property contrary to the provisions of this Chapter.

4. If any violation of this Chapter remains uncured after issuance of a notice of violation and expiration of the warning period, a citation of civil penalties may, in addition to any other applicable remedies associated with this Chapter or those available pursuant to the City Code, be issued to the property owner or other person determined to be responsible for the violation in accordance with the notice of violation.

5. The civil penalty to be imposed for any given violation shall be imposed in accordance with the civil penalties fee schedule adopted by the City. Penalties shall be provided on a graduated scale providing for the first and recurring violations. If a violation is corrected but reoccurs on the same property within one year from the imposition of any civil penalty, any subsequent violation within such one year period shall subject the person to the recurring violation penalty. Civil penalties may not be imposed for a civil violation that occurs in conjunction with another criminal violation as part of a single criminal episode that will be prosecuted in a criminal proceeding.

6. Any person having received a citation of civil penalties may request a hearing before a hearing officer by filing a written application for hearing. Such request for hearing shall be filed prior to the due date for the civil penalties. The hearing shall be held in accordance with the hearing procedures set forth in Title 18 of the Heber City Code.

7. All civil penalty hearings shall be held as a public meeting with business transacted during regularly scheduled hours. All civil penalty hearings shall provide for due process for the parties and shall be recorded or otherwise documented so that a true and correct transcript may be made of the proceedings.

8. Any person aggrieved of the hearing officer's determination regarding the imposition of civil penalties or a Zoning Ordinance violation may appeal such final administrative determination to the Board of Adjustment in accordance with the appeal procedures set forth in Title 18 of the Heber City Code.

9. The City may use any lawful means available to collect any unpaid penalty and fees imposed under this Chapter, including costs and reasonable attorney's fees.

10. The procedures set forth herein regarding notice and imposition of civil penalties is one of many enforcement options available to the Zoning Administrator and is not intended to be an exclusive or required remedy.

11. If any violation of this Chapter remains uncured after issuance of a notice of violation and expiration of the warning period, a criminal citation may be issued to the property owner or other person determined to be responsible for the violation in accordance with the notice of violation. All criminal citations for Zoning Ordinance violations shall be issued by the City Police Department in accordance with applicable criminal procedures for issuance of a criminal citation.

12. The criminal penalty for violations of this Chapter is a class C misdemeanor subject to such fines and incarceration as set forth by Utah law.

13. The Zoning Administrator, or his or her authorized designee, is authorized to inspect buildings and structures in the course of construction, modification, or repair and to inspect land uses to determine compliance with the provisions of this Chapter.

14. The Zoning Administrator, or his or her authorized designee, shall have the right to enter any building or property for the purpose of determining compliance with the provisions of this Title. Such right of entry shall be exercised only at a reasonable hour. In no case shall entry be made to any building in the absence of the owner or tenant thereof without consent of the owner or tenant, or a written order of a court of competent jurisdiction.

15. It shall be unlawful for any person to interfere with lawful enforcement activities of authorized City personnel.

16. In addition to the enforcement powers specified in this Chapter, the City may exercise any and all enforcement powers granted to it by Utah law, as may be amended from time to time.

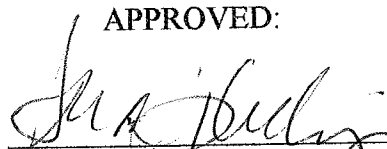
17. Nothing in this Chapter shall prohibit the continuation of previous enforcement actions, undertaken by the City pursuant to previous and valid resolutions, agreements, ordinances, and laws.

18. Except as otherwise provided herein for criminal or civil proceedings regarding zoning enforcement actions, any person adversely affected by a final decision of the Zoning Administrator regarding the provisions of this Chapter may appeal that decision to the Board of Adjustment as provided in Title 18 of this Municipal Code.

This Ordinance shall take effect and be in force from and after (a) its adoption, (b) a copy has been deposited in the office of the City Recorder, and (c) a short summary of it has been published in the Wasatch Wave or a complete copy has been published in the Wasatch Wave or a complete copy has been posted in three public places within Heber City but not prior to the 15 day of February, 2007.

ADOPTED and PASSED by the City Council of Heber City, Utah, this 15 day of February, 2007, by the following vote:

	AYE	NAY
Councilman Terry Wm. Lange	<u>X</u>	_____
Councilman Vaun Shelton	<u>X</u>	_____
Councilwoman Shari K. Lazenby	<u>X</u>	_____
Councilman Jeffery R. Bradshaw	<u>X</u>	_____
Councilwoman Elizabeth Hokanson	<u>X</u>	_____

APPROVED:


Mayor David R. Phillips

ATTEST:



RECORDER

(Seal)

Date of First Publishing: February 22, 2007