

ORDINANCE NO: O-2025-09

**AN ORDINANCE AMENDING THE HIGHLAND CITY DEVELOPMENT CODE
RELATED TO CLASSIFICATION OF BUSINESS USES**

WHEREAS, Highland City is authorized to enact land use regulations that govern the use and development of property in accordance with State law;

WHEREAS, SB 179 was adopted and signed into law during the 2025 general legislative session, which bill requires municipalities to adopt procedures for the classification and potential approval of new or unlisted business uses;

WHEREAS, Highland City desires to update its code to conform to the new laws;

WHEREAS, a duly noticed public hearing was held by the Planning Commission regarding the proposed amendments described herein on April 22, 2025, after which hearing the Commission recommended adoption of amendments to the regulations;

WHEREAS, the Highland City Council provided notice of and conducted a public hearing regarding the proposed amendments and to review the recommendation of the Planning Commission on May 6, 2025;

WHEREAS, the Highland City Council finds that the proposed amendments meet the mandate and requirements of SB 179 to create a process for review and potential approval of new or unlisted business uses, and further the public welfare and are in the interest of the public.

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

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

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 All ordinances and parts and provisions thereof in conflict with this ordinance are repealed to the extent of such conflict.

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

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

ADOPTED AND PASSED BY THE CITY COUNCIL OF HIGHLAND CITY, UTAH, this 6th day of May, 2025.



Kurt Ostler
Mayor

ATTESTED:



Stephannie Cottle
City Recorder



Exhibit A

Table 2-704A

[Land Use Application or Matter]	[Review]	[Recommend]	[LUA]	[Appeal]
<u>Use Determination – Classification Request</u>	<u>DRC</u>	<u>--</u>	<u>ZA</u>	<u>AA</u>
<u>Use Determination – Approval of New or Unlisted Business Use</u>	<u>DRC</u>	<u>ZA</u>	<u>CC</u>	<u>AA</u>
Variance	DRC	ZA	AA	DC
Zoning Map Amendment (Rezone)††	DRC	PC	CC	DC

3-101 Uses Prohibited ~~In Zones~~ Unless Expressly Permitted, Classification and Approval of Uses

1. Uses of land which are not expressly permitted within a zone are hereby declared to be expressly prohibited therein, except as may be permitted approved as set forth herein by action of the ~~Planning Commission or City Council, pursuant to express authority given under terms of this Code.~~

2. Any person who may obtain state or federal properties by purchase, lease, or other arrangement must utilize such properties in accordance with the provisions of this Code. ~~Neither the~~ The Planning Commission, City Council, Board of Adjustment Appeal Authority, ~~nor~~ and the Zoning Administrator shall not permit a use within a zone which is not expressly permitted by the terms of this Code.

3. Use Determination – Classification Request.
 - a. An applicant may request the Land Use Authority determine whether a proposed business use aligns with an existing land use specified in a zone.
 - b. The applicant shall submit an application that includes an application form, a fee (if required), and at least the following information:
 - i. A description of the proposed business use;
 - ii. Identification of the zone or zones in which the proposed business use may be located; and

- iii. A narrative explaining how the proposed business use is similar to or aligns with one or more existing, specified land uses and addressing the criteria set forth below.
- c. The Land Use Authority shall determine whether a proposed business use aligns with an existing land use using the following criteria:
 - i. Compatibility of the proposed business use with the plain language of zoning regulations related to existing land uses, including restrictions or limitations on existing uses and relevant definitions;
 - ii. Compatibility of the proposed business use with the intent and purpose of the potential zones;
 - iii. Compatibility of the proposed business use with the General Plan;
 - iv. Compatibility of the proposed business use with the uses of adjacent properties within potential zones;
 - v. The nature, scope, and impact of the proposed business use compared to existing or allowed uses;
 - vi. Whether the proposed business use is expressly permitted in another zone; and
 - vii. Whether the proposed business use or a similar or aligned use is expressly prohibited by applicable land use regulations.
- d. If the Land Use Authority finds that a proposed business use aligns with an existing land use, the applicant may proceed to develop or use property in accordance with the regulations applicable to the existing use.
- e. If the Land Use Authority finds that a proposed business use does not align with an existing land use and is a new or unlisted use, the applicant may file a petition to approve the proposed business use as a new or unlisted use, as set forth herein.
- f. The Zoning Administrator shall notify the applicant, in writing, of the Land Use Authority's decision, the basis for any rejection or disapproval, and the opportunity to appeal the decision.

4. Use Determination – Petition for Approval of New or Unlisted Use.

- a. An applicant may petition the Land Use Authority to approve a new or unlisted proposed business use, which means a use that is not an existing land use and does not align with an existing land use specified in a zone.
- b. The applicant shall submit a petition that includes an application form, a fee (if required), and at least the following information:
 - i. A description of the proposed business use;
 - ii. Identification of the zone or zones in which the proposed business use are desired to be located, if any;
 - iii. A narrative explaining how the proposed business use is compatible with the desired zone or zones and addressing the criteria set forth below
- c. The Land Use Authority shall approve, approve with conditions, or deny a petition using the following criteria:
 - i. Compatibility of the proposed business use with the plain language of zoning regulations related to existing land uses, including restrictions or limitations on existing uses and relevant definitions;
 - ii. Compatibility of the proposed business use with the intent and purpose of the potential zones;
 - iii. Compatibility of the proposed business use with the General Plan;
 - iv. Compatibility of the proposed business use with the uses of adjacent properties within potential zones;
 - v. The nature, scope, and impact of the proposed business use compared to existing or allowed uses;
 - vi. Whether the proposed business use is expressly permitted in another zone; and
 - vii. Whether the proposed business use or a similar or aligned use is expressly prohibited by applicable land use regulations.
- d. The Land Use Authority shall review and make a decision on a petition according to the following process:

- i. The Land Use Authority shall conduct a public hearing within forty-five (45) days after a complete petition application is submitted.
 - ii. The Land Use Authority may continue the petition to another meeting within forty-five (45) days of the public hearing to request the applicant provide additional information.
 - iii. The Land Use Authority shall make a decision approving, approving with conditions, or denying the petition within the later of fourteen (14) days after the public hearing or the public meeting to which the petition was continued.
 - iv. The timelines set forth herein do not apply if the applicant fails to timely provide requested information or appear at the public hearing.
 - v. The Land Use Authority and applicant may mutually agree to adjust the timelines set forth herein.
- e. If the Land Use Authority approves a new or unlisted use, the Land Use Authority shall designate the appropriate zone or zones for the approved use.
- a.f. The Zoning Administrator shall notify the applicant, in writing, of the Land Use Authority's decision, any conditions or limitations of approval, the basis for any rejection or disapproval, and the opportunity to appeal the decision.

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. Fitness center
- 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.

2. Conditional Uses.

- a. Gas station and convenience stores
- b. Drive thru restaurants
- c. Minor auto repair including lubrication, tires, engine tune-up, washing and polishing, brakes, muffler and maintenance of other similar accessories. This use does not include major engine repair, radiator repair, automotive painting and body repair, or transmission repair.

All repair areas must be within an enclosed building. Service bays shall be screened from view from public streets.

3. If a proposed business use has not been expressly identified as a permitted, conditional, or prohibited use, a request to classify the proposed business use as an existing use or a petition to approve the proposed business use may be made in accordance with Chapter 3, Article 1 of this Code.

3-4351 Permitted Uses

1. -As noted in the following sections, the only uses allowed within the C-R Zone are as follows:
 - a. Retail food stores, grocery and meat markets, bakeries, organic food stores, and other similar food and beverage sales facilities.
 - b. Sports and Fitness Centers, day spa, dry cleaner and laundry, copy center, barber shop, beauty parlor.
 - c. Florist, doughnut shop, candy store, nut or cheese store, stamp and coin store, ice cream/yogurt parlor.
 - d. Convenience store, gas stations, freestanding fuel centers.
 - e. Banks or credit unions (not to exceed 10% of the total area of a contiguous zone or master planned commercial center).
 - f. Doctor's office, dentist's office, pharmacy, physical therapy, optical shop or eye products, hearing center and sales.
 - g. Restaurants, catering, delicatessen.
 - h. Department stores, variety stores, jewelry and watch stores, home furnishings and appliances, book stores, retail sale of clothing, shoes and accessories, sporting goods stores, office supplies and furnishing, hardware and home improvement, nursery or plant sales, craft and hobby supplies, new and re-manufactured auto-parts and accessories, electronics, rental and sale of DVDs, CDs, games and videos, wireless phone and related products, computer services/sales, pet products and grooming.
 - i. Gasoline islands, canopies, as an accessory use to a permitted use defined above. A gasoline island, canopy or any gasoline use that is not attached to the structure of the primary use shall be subject to specific additional requirements as outlined in 3-4370.
 - j. Car washes subject to specific additional requirements as outlined in 3-4377.
 - k. Shipping, mailing, pickup, and return centers not exceeding 2,500 square feet in area.
 - l. General retail not otherwise prohibited.

m. General office use, including, but not limited to, architects, engineers, contractors, real estate offices, property managers, mortgage and title offices; insurance offices, law offices, stock brokerages and investment advisors, advertising and sales offices, accounting and tax preparation offices.

2. If a proposed business use has not been expressly identified as a permitted, conditional, or prohibited use, a request to classify the proposed business use as an existing use or a petition to approve the proposed business use may be made in accordance with Chapter 3, Article 1 of this Code.

3-4502 Permitted Conditional Uses

The only uses allowed within the R-P Zone shall be Conditional Uses which satisfy the primary intent or purpose for the Zone. All such conditional uses are subject to additional conditions considered appropriate and necessary by the conditional use Land Use Authority. Those uses which are incompatible with the desired land use for the R-P Zone are prohibited. Following is a list of conditional uses for the R-P Zone, subject to the standards and procedures established in this Code.

1. Community Uses
2. Financial Institutions
3. Medicare Care Facilities
4. Professional Offices, including, but not limited to, the following:
 - a. Architect
 - b. Certified Public Accountant
 - c. Doctor, Dentist, Psychologist, Psychiatrist, or Nurse
 - d. Insurance (not claims adjustment)
 - e. Lawyer
 - f. Engineer or Surveyor
 - g. Physical Therapist
5. Single-family Residence compatible with R-1-40 Zoning Regulations
6. Other types of stores or services which the Planning Commission and City Council determine to be compatible with the intent of the Zone.
7. Accessory structures and uses necessarily and customarily incidental to the above uses and specifically provided for in the Conditional Use Permit. Uses must be compatible with the Zone.
8. Private Educational Institutions, Preschools, Day Care. A private educational institution is defined as such: if it is under the financial and managerial control of a private body, firm, association, organization, or corporation, or charitable trust rather than by a public agency; it accepts mostly fee-paying pupils; it has one or more teachers to give instruction; it has an assigned administrator; it has enrolled or prospectively enrolled students; and its educational program meets all of the following criteria:

- a. The primary purpose of the program is to provide private or religious based education, provides educational services to a minor child and aims to improve the lives of their students by providing services tailored to very specific needs of individual students; and
 - b. The program provides at least 850 hours of individual class instruction by subject each school year; and
 - c. The program provides a sequentially progressive curriculum of fundamental instruction in any/or all of the following subjects: reading, language arts, mathematics, social studies, science and health, the visual arts, or performing arts. This subsection does not require the program to include in its curriculum any concept, topic or practice in conflict with the program's religious doctrines or to exclude from its curriculum any concept, topic or practice consistent with the program's religious doctrines.
 - d. The program is not operated or instituted for the purpose of avoiding or circumventing any compulsory school attendance requirement.
 - e. The pupils in the institution's educational program, in the ordinary course of events, return daily to the homes of their parents or guardians and the institution is not licensed as a child welfare agency.
9. ~~Whenever~~ If a proposed business use has not been expressly specifically been identified in the foregoing classification as a permitted, conditional, or prohibited use, a request to classify the proposed business use as an existing use or a petition to approve the proposed business use may be made in accordance with Chapter 3, Article 1 of this Code. ~~the conditional use Land Use Authority shall determine if said use~~
- ~~a. Is consistent with the intended use of the R-P Zone; and~~
 - ~~b. Is compatible with other listed uses; and~~
 - ~~e. Is compatible with the uses of adjacent properties.~~

3-4705 Permitted Uses

1. The only permitted uses allowed within the Town Center Overlay which satisfy the primary intent or purpose for the Zone are subject to conditions as defined the Land Use Table 3-47A in this ordinance and are identified by District. Permitted uses may be subject to additional conditions as described within this Code. Locations of specifically permitted uses are defined in the Commercial Design Standards in the Town Center Master Land Use Map and shall be applied at site plan and architectural approval if applicable. Applicants seeking building permits for structures within the Town Center Overlay shall first obtain site plan design and architectural design approval as defined in this ordinance prior to application for a building permit.
- 1.2. If a proposed business use has not been expressly identified as a permitted, conditional, or prohibited use, a request to classify the proposed business use as an existing use or a petition to approve the proposed business use may be made in accordance with Chapter 3, Article 1 of this Code.

3-4903 Prohibited Uses

1. If a proposed business use has not been expressly identified as a permitted, conditional, or prohibited use, a request to classify the proposed business use as an existing use or a petition to approve the proposed business use may be made in accordance with Chapter 3, Article 1 of this Code.~~In the P.O. Zone, any use not expressly listed as a conditional use shall be evaluated by the conditional use Land Use Authority to determine if said use~~
 - a. ~~Is consistent with the intended use of the zone; and~~
 - b. ~~Is compatible with other listed uses; and~~
~~is compatible with the uses of adjacent properties.~~
2. Residential occupancy is not allowed in the professional offices or storage sheds themselves, but living quarters for full-time employees having onsite responsibilities for this storage facility may be permitted as part of the conditional use process.