



# HIGHLAND PLANNING COMMISSION AGENDA

## TUESDAY, MAY 28, 2024

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

### VIRTUAL PARTICIPATION

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

Email comments prior to meeting: [planningcommission@highlandcity.org](mailto:planningcommission@highlandcity.org)

### 7:00 PM REGULAR SESSION

Call to Order: Chair Audrey Moore

Invocation: Commissioner Trent Thayn

Pledge of Allegiance: Commissioner Christopher Howden

### 1. UNSCHEDULED PUBLIC APPEARANCES

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

### 2. CONSENT ITEMS

Items on the consent agenda are of a routine nature. They are intended to be acted upon in one motion.

Items on the consent agenda may be pulled for separate consideration.

a. **Approval of Meeting Minutes** *General City Management*

*Stephannie Cottle, City Recorder*

April 23, 2024

### 3. ACTION ITEMS

a. **Amendments to Fence and Retaining Wall Regulations - HDC 3-612 Development Code Update (Legislative)**

*Rob Patterson, City Attorney/Planning & Zoning Administrator*

The Planning Commission will conduct a public hearing and consider potential amendments to the City's fencing and retaining wall regulations.

### 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 during this meeting.

### CERTIFICATE OF POSTING

I, Stephannie Cottle, the duly appointed City Recorder, certify that the foregoing agenda was posted at the

principal office of the public body, on the Utah State website (<http://pmn.utah.gov>), and on Highland City's website ([www.highlandcity.org](http://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 on the 23rd day of May, 2024

Stephannie Cottle, CMC, City Recorder

<b>THE PUBLIC IS INVITED TO PARTICIPATE IN ALL PLANNING COMMISSION MEETINGS.</b>
--



# HIGHLAND PLANNING COMMISSION MINUTES

Tuesday, April 23, 2024

**Waiting Formal Approval**

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

## 7:00 PM REGULAR SESSION

Call to Order: Chair Audrey Moore

Invocation: Commissioner Tracy Hill

Pledge of Allegiance: Chair Audrey Moore

The meeting was called to order by Commissioner Audrey Moore as a regular session at 7:03 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 Tracy Hill and those in attendance were led in the Pledge of Allegiance by Chair Audrey Moore.

**PRESIDING:** Commissioner Audrey Moore

**COMMISSIONERS:**  
Jerry Abbott - absent  
Tracy Hill - present  
Christopher Howden - absent  
Claude Jones - present  
Debra Maughn - present  
Audrey Moore - present  
Trent Thayn - present  
Sherry Kramer (Alt.) - present  
Wesley Warren (Alt.) - present

**CITY COUNCIL:**  
Mayor Kurt Ostler - present  
Council Member Ron Campbell - present  
Council Member Kim Rodela - present

**CITY STAFF PRESENT:** Assistant City Administrator /Community Development Director Jay Baughman, City Attorney Rob Patterson, City Recorder Stephannie Cottle

**OTHERS PRESENT:** Jon Hart, Paul Evans, Aubrey Larsen, Sam Taylor, Josh Gibbons, Ryan Hales

## 1. UNSCHEDULED PUBLIC APPEARANCES

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

There were no public comments.

## 2. CONSENT ITEMS

Items on the consent agenda are of a routine nature. They are intended to be acted upon in one motion. Items on the consent agenda may be pulled for separate consideration.

### a. Approval of Meeting Minutes - January 23, 2024 and February 27, 2024

*Commissioner Maughn asked for a correction on the January 23rd minutes. Claude Jones offered the invocation, not Debra Maughn.*

*Commissioner Trent Thayn MOVED to approve the minutes from January 23, 2024, with the suggested correction.*

*Commissioner Sherry Kramer SECONDED the motion. The*

*vote was recorded as follows:*

Commissioner Jerry Abbott	Absent
Commissioner Tracy Hill	Yes
Commissioner Christopher Howden	Absent
Commissioner Claude Jones	Yes
Commissioner Debra Maughan	Yes
Commissioner Audrey Moore	Yes
Commissioner Trent Thayn	Yes
Commissioner Sherry Kramer (Alt.)	Yes
Commissioner Wesley Warren (Alt.)	Yes

*The motion carried 7:0.*

*Commissioner Debra Maughn MOVED to approve the minutes from February 27, 2024. Commissioner Tracy Hill SECONDED the motion.*

*The vote was recorded as follows:*

Commissioner Jerry Abbott	Absent
Commissioner Tracy Hill	Yes
Commissioner Christopher Howden	Absent
Commissioner Claude Jones	Yes
Commissioner Debra Maughan	Yes
Commissioner Audrey Moore	Yes
Commissioner Trent Thayn	Yes
Commissioner Sherry Kramer (Alt.)	Yes
Commissioner Wesley Warren (Alt.)	Yes

*The motion carried 7:0.*

## 3. ACTION ITEMS

a. **ACTION: Public Hearing: CU-24-01 Church Pavilion Conditional Use Permit Land Use (Administrative)**

*Rob Patterson, City Attorney/Planning & Zoning Administrator*

The Planning Commission will hold a public hearing to consider and make a recommendation to the City Council on a request from the Church of Jesus Christ of Latter-day Saints for a conditional use permit to construct a pavilion.

Rob Patterson stated that the Church of Jesus Christ of Latter-day Saints is applying for a conditional use permit to build a pavilion on the northwest corner of the property located east of North County Blvd off Ole Bish Lane. He gave a brief educational overview of conditional use permits, highlighting their purpose in allowing cities to impose conditions on certain land uses to mitigate potential negative impacts. Regarding the pavilion conditional use permit, he stated that the applicant has withdrawn their request for a drinking fountain associated with the pavilion. With that change, staff is only recommending one stipulation: that a building permit be obtained and building codes complied with during construction.

Commissioner Maughn asked about the height of the pavilion, to which Mr. Patterson responded that the maximum height for an accessory structure is 25 feet. This pavilion will be 13 feet 3 inches in height.

Chair Audrey Moore opened the public hearing at 7:11 pm

Paul Evans, representative for the applicant, stated he had no further information, but would be happy to answer any questions.

Chair Audrey Moore closed the public hearing at 7:12 pm.

*Commissioner Debra Maughn MOVED that the Planning Commission accept the findings and recommend APPROVAL of the conditional use permit subject to the one stipulation recommended by staff.*

1. *Approval is for conditional use permit only. Separate building permit is required, and actual construction to comply with all applicable building code requirements.*

*Commissioner Audrey Moore SECONDED the motion.*

*The vote was recorded as follows:*

<i>Commissioner Jerry Abbott</i>	<i>Absent</i>
<i>Commissioner Tracy Hill</i>	<i>Yes</i>
<i>Commissioner Christopher Howden</i>	<i>Absent</i>
<i>Commissioner Claude Jones</i>	<i>Yes</i>
<i>Commissioner Debra Maughan</i>	<i>Yes</i>
<i>Commissioner Audrey Moore</i>	<i>Yes</i>
<i>Commissioner Trent Thayn</i>	<i>Yes</i>
<i>Commissioner Sherry Kramer (Alt.)</i>	<i>Yes</i>
<i>Commissioner Wesley Warren (Alt.)</i>	<i>Yes</i>

*The motion carried 7:0*

#### **4. DISCUSSION ITEMS**

Items in this section are for discussion and direction to staff only. No final action will be taken.

a. **DISCUSSION: Introduction of General Plan Consultant and Plan Workshop with Council**

Council Member Kim Rodela arrived at 7:14 pm.

Rob Patterson, City Attorney/Planning & Zoning Administrator opened the discussion by stating that the General Plan update is underway. A selection committee has been working through the bid and interview process and Landmark Design has been selected to perform the General Plan update. He stated that the Planning Commission's role is to make a recommendation on the plan.

Sam Taylor, principal owner of Landmark Design introduced himself, as well as Aubrey Larsen. He said they will also be working with Ryan Hales and Josh Gibbons from Hales Engineering to complete the transportation element, and Fred Philpot from LRB Finance will be working on the economic development and housing analysis.

Mr. Taylor addressed the importance of reopening the general plan process with community involvement. He emphasized the role of the Planning Commission in shaping the general plan and stated that the Commission's recommendation would proceed to the City Council for approval. The discussion outlined the public outreach strategy, which includes forming an advisory committee involving both Commission and Council members, hosting three public meetings to gather community input on needs and plan alternatives, and offering an online feedback platform called "Social Pinpoint" for those unable to attend in person. The engagement process aims to capture the vision of both the Commission and the wider community. Additionally, periodic updates will be provided to the Commission throughout the process to ensure alignment with their objectives.

There was a high-level discussion regarding the transportation element of the General Plan with the Planning Commission requesting new traffic data be collected and presented with the draft plan.

Mr. Taylor continued that the initial analysis would include examining various aspects such as existing land use, available land, demographic trends, projected trends, traffic conditions, economic footprint, and sales tax revenue. The purpose of this analysis, often referred to as a market analysis, is to gain a thorough understanding of the community's current situation and to identify key factors that will inform the development of the general plan. We will also couple this study with public feedback. There will be a series of 3 public meetings: first, looking at general impressions of what residents want; second, present concepts; third, present a draft plan. After the public meetings, final adjustments will be made, with adoption of the new General Plan around the end of 2024 or early 2025.

Mayor Kurt Ostler engaged Mr. Taylor in a discussion regarding surveys and various ways to receive public input stressing that different demographic groups respond differently to surveys via paper and electronic means. Commissioner Sherry Kramer requested that we don't discount passionate residents. Mayor Ostler also spoke about the Patterson Property, known as the Longhorn property, and the need for a plan for that property, as well as creating senior housing options.

Commissioner Claude Jones asked if Landmark Design worked with government programs for funding. Mr. Taylor said they can make recommendations; however, they don't facilitate outreach to those programs.

Discussion continued regarding active transportation, park strips and landscape architecture. Mr. Taylor said he would be using the newly adopted Active Transportation Plan as part of the analysis for the General Plan. They will not be updating the municipal or development code but may make suggestions if a trend shows the need for a change.

Council Member Ron Campbell requested that the final General Plan be very clear. He suggested high resolution maps, with colors and terminology that are easy for residents to understand.

Council Member Kim Rodela asked if the General Plan will consider the state perspective regarding home

shortages, transportation, and water. She stated that every city needs to do their part. Mr. Taylor stated they will meet state mandates, but ultimately, it is City Council who will adopt the new plan.

Continued discussion focused on the importance of aligning the general plan with the city's vision and community needs. Planning Commission and Council Members emphasized the need for sensitivity regarding housing options for various demographics, such as children and seniors. Mr. Taylor addressed potential zoning changes to accommodate the community's vision and again, highlighted the significance of public feedback in shaping the plan. Considerations were made regarding the timing of addressing affordable housing requirements and the potential for redevelopment in the future. Mr. Taylor emphasized the need for a long-term perspective, particularly in areas like parks, while also acknowledging the need to address current needs within a ten to fifteen-year timeframe.

Commissioner Debra Maughn suggested that this plan be in force until Highland has reached its build-out.

Commissioner Wesley Warren mentioned the need for a strong emphasis on capturing the unique character of Highland within the general plan. He highlighted the pivotal role of the library as a central hub of community engagement and suggested incorporating its perspective into the planning process to better reflect the city's essence. Additionally, discussions revolved around potential enhancements for the existing library and community center, and the utilization of trails for both recreational and commuting purposes. Council Member Ron Campbell agreed that the library would be a good resource to pull into this process and would be in favor of a library expansion or new building.

Chair Audrey Moore reviewed the calendar of upcoming events and meetings.

## **ADJOURNMENT**

*Commissioner Trent Thayn MOVED to adjourn the meeting. Commissioner Debra Maughn SECONDED the motion. All were in favor. The motion carried.*

*The meeting ended at 8:08 pm.*

I, Stephannie Cottle, City Recorder of Highland City, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on April 23, 2024. This document constitutes the official minutes for the Highland City Planning Commission Meeting.

Stephannie Cottle, CMC  
City Recorder



# PLANNING COMMISSION AGENDA REPORT ITEM #3a

---

**DATE:** May 28, 2024  
**TO:** Planning Commission  
**FROM:** Rob Patterson, City Attorney/Planning & Zoning Administrator  
**SUBJECT:** Amendments to Fence and Retaining Wall Regulations - HDC 3-612  
**TYPE:** Development Code Update (Legislative)

---

## **PURPOSE:**

The Planning Commission will conduct a public hearing and consider potential amendments to the City's fencing and retaining wall regulations.

## **STAFF RECOMMENDATION:**

Staff recommends that the Planning Commission conduct a public hearing and recommend APPROVAL of the proposed amendments to Section 3-612 of the Development Code.

## **PRIOR REVIEW:**

The Planning Commission last considered fencing regulations on April 25, 2023. As part of that process, the City revised many of its fencing regulations to clarify height requirements, clarify who is responsible for theme wall repairs and maintenance, retaining wall location requirements, and municipal fencing regulations. Those regulations were adopted by the City Council.

On May 7, 2024, the City Council discussed whether to make additional changes to fencing and retaining wall regulations, based on issues that have arisen with enforcing fencing regulations and directed staff to prepare a proposed code amendment for consideration.

## **BACKGROUND & SUMMARY OF REQUEST:**

The proposed code amendment proposes several changes to the City's fencing regulations, found at [HDC 3-612](#). Many of the changes are clarifications to existing regulations, rather than substantive changes. These clarifications include the following:

- Consolidating definitions
- Removing redundant regulations
- Clarifying the approval process and the ability of the City to approve fence permits with conditions
- Clarifying that theme walls and screen walls remain subject to all standard fence regulations and are generally privacy fences except along trails and open space.
- Using more consistent language for privacy fencing and open-style fencing
- Clarifies that fences and walls are to be located on the applicant's property unless they have the neighbor's written permission. This also applies to construction near City property.
- Clarifies that the distance requirement between retaining walls is measured from back of the lower wall to the front of the higher.

- Clarifies fence height for fences on retaining walls:
  - Privacy fences are limited to a combined wall/fence height of 8 feet from the lower property, with the fence portion still limited to 6 feet from the higher property
  - Open style fences have no combined wall/fence height restriction, but are still limited to 6 feet from the higher property.

Substantive changes:

1. Allows fence posts and monuments to exceed normal fence height by six inches.
2. Modifies the definition of finished grade to exclude improvements that raise the grade only immediately next to a fence/wall (e.g., planters, garden areas)
3. Adds a definition for retaining walls that require the retaining wall to be designed in accordance with engineering practices, building code requirements, or manufacturer specifications, and that portions of a retaining wall not used to retain material are subject to fence regulations (e.g., height). This would address situations where a two-foot retaining wall was constructed with a six-foot fence on top, but there was only one foot of difference in grade.
4. Allows a full 6-feet of privacy fencing along trail and open space corridors if the corridor is short, meaning no longer than 200 feet long or 1 residential lot deep (whichever is shorter), or if the corridor is adjacent to public property that is either not fenced or has open fencing. For example, there is a trail near Freedom Elementary that is approximately 20' wide. This change would allow the residents to install privacy fencing, because the school property is fenced with chain link.
5. Revises when building permits are required for retaining walls to align with current building code.
6. Allows public entities and public utilities to also use chain link fencing and have some greater flexibility in fencing requirements, as with Highland. However, there is a new proposed requirement that public entities and utilities may be required to use open style fencing adjacent to trail corridors that are less than 30 feet wide.

## **STAFF REVIEW & PROPOSED FINDINGS:**

Staff is proposing these amendments in order to address gray areas and loopholes within the city's current fence regulations. Staff therefore recommends that the Planning Commission consider the proposed amendments, suggest any additional or different changes, and recommend the approval of the amendments with any changes from the Planning Commission to the City Council. Staff believes that the proposed amendment meets the following findings:

1. The amendments clarify fencing regulations.
2. The amendments bring building permit requirements for retaining walls into line with the IBC.
3. The amendments allow greater privacy for residents along certain trail and open space areas.

## **MOTION:**

I move that the Planning Commission recommend the APPROVAL of the proposed amendments to Section 3-612 of the Development Code. [Planning Commission may also recommend different or additional amendments as specified by the Commission].

## **ATTACHMENTS:**

1. Proposed TA - PC Version 2024.05.23



### **3-612 Fences, Theme Walls, Screen Walls, And Retaining Walls**

#### **1. Permit Required.**

- a. All fences, theme walls, screen walls, and retaining walls shall be subject to review and approval by the Zoning Administrator and shall not be constructed without first obtaining the approval of the Zoning Administrator.**
- b. All fences, theme walls, screen walls, and retaining walls shall comply with the conditions set forth herein, unless a more specific standard applies.** An application shall contain an application form, any information specifically required by this ordinance, such additional information specified by the Zoning administrator, **and when required, a fee established by the City Council. See Section 3-4112(4) for fencing around athletic courts.**
- a. The Zoning Administrator shall approve, approve with conditions, or deny an application within a reasonable time after a complete application is received. The applicant shall comply with all conditions of approval of the application. Appeals of the Zoning Administrator's final decision may be brought to the Appeal Authority per the requirements of Chapter 2, Article 3 of this Code.**

#### **c.**

#### **2. General.**

- a. Definitions:** As used in this section, the listed terms are defined as follows:
  - i. Athletic Court Fencing.** Fencing surrounding or enclosing an athletic court, which is a solid playing surface constructed for recreational purposes such as a basketball, tennis, or pickleball court. Athletic court fencing is subject to the fence regulations of this Section and applicable zoning regulations (See Section 3-4112(4), Section 3-4212(4), and Section 3-4262(4)).
  - ii. Fence.** Fences, walls, hedges, and any other combination of plants, shrubs, trees, barriers, structures, or objects that act as a visual or physical screen or barrier. A fence does not include a retaining wall.
  - iii. Fence Height.** The highest point of the finished grade to the highest point of the main fence structure. Fence posts and monuments may exceed the otherwise required fence height limit by no more than six (6) inches.
  - iv. Finished Grade.** The final surface elevation of a property after completion of grading and other surface improvements. Surface improvements that do not extend more than five (5) feet perpendicularly from the fence or wall line, including planter boxes and raised garden or patio areas, are not considered surface improvements that establish the finished grade.

v. **Open or Open Style.** A fence that is constructed so a majority of the vertical surface is open, with no bars, supports, lines, or other fence structures. Where no more specific requirement is established, an open-style fence shall be a minimum of 55% open.

vi. **Privacy Fencing.** A fence that is constructed to be fully opaque throughout the vertical surface area of the fence.

vii. **Retaining Wall.**

(1) Any structure designed to resist the lateral displacement of soil or other materials to a slope that would not naturally be sustained (typically a steep, near vertical, or vertical slope) in accordance with accepted engineering practices, building code requirements, and/or manufacturer specifications. Examples include block walls, rock walls, concrete walls, and segmented walls.

(2) Walls that are parts of buildings or underground structures, such as foundation walls, basement walls, vault walls, tunnels, and swimming pool structures are not considered retaining walls. Walls that are not foundation or basement walls, but provide access to basement or below-grade entrances (e.g., daylight basements and window wells) are considered retaining walls and shall be subject to all applicable retaining wall regulations.

(3) Retaining walls are not considered fences, provided that any portion of a retaining wall that extends above the retained material and is not required to resist the lateral forces or lateral displacement of the retained material is considered a fence and shall be subject to all applicable fence regulations, including height regulations.

viii. **Screen Wall.** A fence that is installed by a developer or subdivider of a non-residential development between different land uses or to screen trash enclosures, loading docks, utility connections and equipment, outdoor storage areas, or other similar features as determined during the development review process.

ix. **Theme Wall.** A fence installed by a developer or subdivider of a residential subdivision or a planned development with residential uses along state highways, arterial and collector streets, and trails and open space areas as determined during the development review process.

2.b. All fences, retaining walls, screen walls, and theme walls shall comply with the following general regulations and all other specific regulations set forth in this Section, unless a more specific standard applies:

- i. ~~Fences shall be set back not less than the front setback approved for the subdivision.~~ Fences, screen walls, and theme walls shall not exceed six (6) feet in height.
- ii. Fence height shall be measured from the highest point of the finished grade to the highest point of the fence. Where there is a difference in finished grade within five (5) feet of either side of a fence, the fence height shall instead be measured from "Finished grade" means the average finished grade of the property within five (5) feet of either side provided that the fence shall not exceed eight (8) feet in total height as measured from the lowest point within five (5) feet of either side of the fence.
- iii. Fences subject to the parkway detail shall follow location height, and setback requirements as specified therein. All other fences shall follow the requirements set forth in this Chapter.
- iv. Fences on or adjacent to retaining walls are subject to Subsection 6 Retaining Walls.
- iv.v. Fences, retaining walls, screen walls, and theme walls, including all posts, footings, and other support structures, shall be located entirely on the applicant's property, unless the applicant obtains the written approval of the adjacent property owner.

3. Residential Fences. ~~For the purposes of this section, fences shall include walls and hedges, and any other combination of plants, shrubs, trees, barriers, structures, or objects that act as a visual or physical screen or barrier within or on any residential lot or parcel.~~ All ~~such~~ fences shall comply with the following regulations in addition to all other applicable regulations set forth in this Chapter:

- a. Location
  - i. Fences may be installed on the side and rear lot lines behind the front setback ~~of the applicable zone. The fence shall not exceed six (6) feet in height.~~ A fence along the side lot lines may extend into the front set back up to fourteen (14) feet from the back of curb ~~if the fence is with~~ a maximum height of three (3) feet.
  - ii. A fence shall be set back a minimum of fourteen (14) feet from the back of curb on all sides that abut a street. ~~This side~~ setback may be reduced to be on the property line if the fence is 66% open and is at least six (6) feet from the back of the curb.
  - iii. All fences shall not exceed three (3) feet in height in the clear vision area and shall comply with the clear view area requirements as defined in Section 3-610 Clear View of Intersecting Streets.

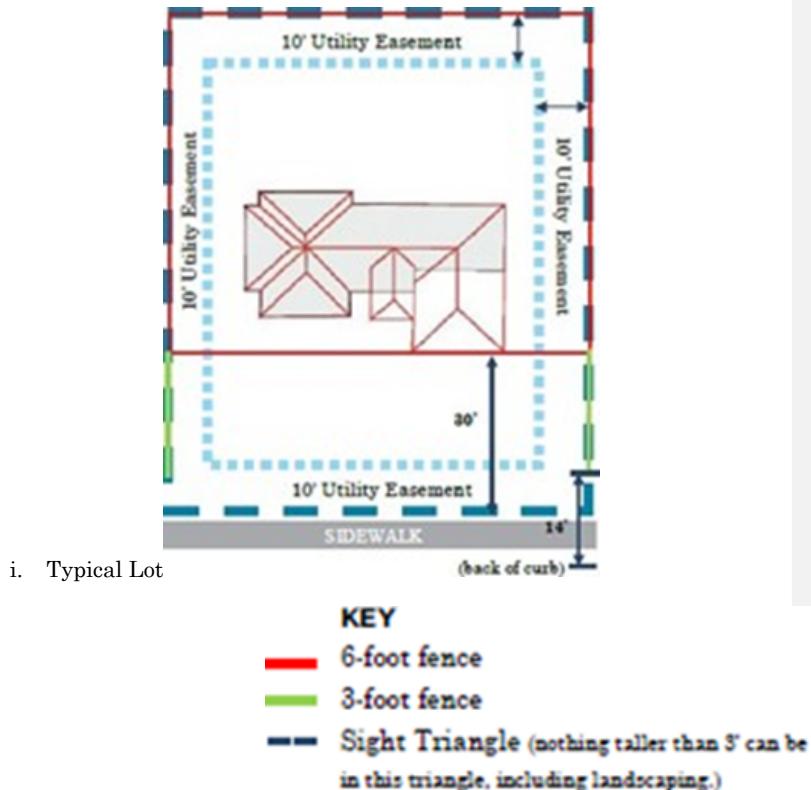
**Commented [RP1]:** Privacy fencing along collector/arterial streets? Privacy fencing height along collector/arterial streets?

iv. In no event shall a fence be installed within the front setback of the applicable zone parallel to a street.

b. Materials

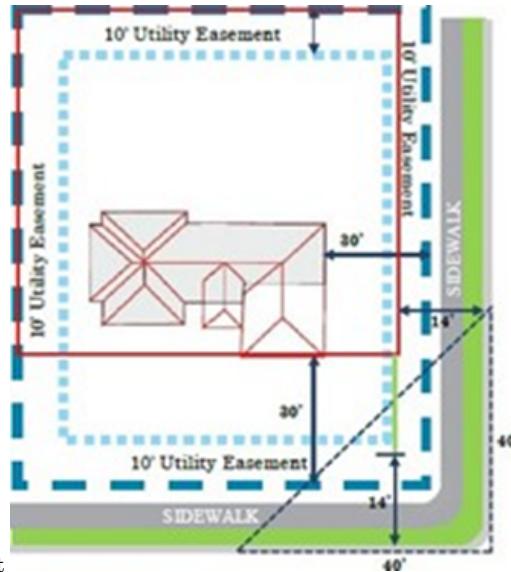
- i. Permitted: Vinyl, wood, open style metal fencing with the appearance of wrought iron, precast concrete, concrete, steel cable, gabion, stone, masonry, and hog/horse wire within wooden or metal beams and posts. Hog/horse wire without beams are permitted for animal enclosures required for large animals.
- ii. Prohibited: Chain link and all other materials not listed above are prohibited.

c. Specific lot considerations

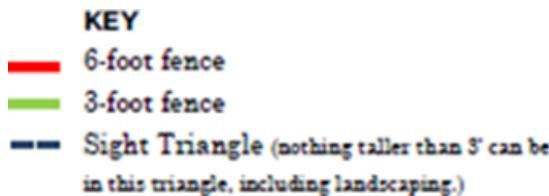


**Commented [RP2]:** Privacy fencing for corners/front yards on collector/arterial streets? 40' for sight setbacks?

(1) The side setback along the street may be reduced to be on the property line if the fence is 66% open and is at least six (6) feet from the back of the curb.



ii. Corner Lot



(1) The side setback along the street may be reduced to be on the property line if the fence is 66% open and is at least six (6) feet from the back of the curb.

iii. Lots adjacent to trails or open space

(1) Open style fences and privacy fences less than four (4) feet in height along the side or rear lot lines that are adjacent to a trail or open space are permitted. Solid or closed style fences

~~(1)(2) Privacy fences higher than four (4) feet in height along the side or rear lot lines that are adjacent to a trail or open space are permitted, except that privacy fencing~~ along the side or rear lot lines adjacent to a trail or open space ~~must be~~ ~~is limited to~~ a maximum of four (4) feet ~~solid of privacy fencing~~, with at least the top two (2) remaining feet ~~at least 55%~~ open in either of the following circumstances:

- (A) The trail or open space area is less than thirty (30) feet in width, ~~and~~ is not immediately adjacent to a public street ~~or to property owned by a public entity or utility with open style or no fencing, and is longer than the lesser of 200 feet or one residential lot in depth before connecting to a public area such as a street or park.~~
- (B) The trail or open space ~~corridor area~~ is wider than thirty (30) feet but cannot be seen from two public areas such as a street or park.

~~(2)(3) The Zoning Administrator may approve an alternative fence design for fencing adjacent to trails or open space for either circumstance described above based on the following factors:~~

- (A) The proposed alternative meets the intent of this section; and,
- (B) There are special circumstances attached to the property that do not generally apply to other properties in the same subdivision; and,
- (C) The natural visibility or observation of the trail or open space is not diminished if the proposed alternative is constructed on all the lots adjacent to the trail or open space.

iv. Highways/arterial lot

- (1) On all state highways or arterial streets, fences shall be set back a minimum of thirty (30) feet from the back of curb or as required by the parkway detail. This 30-foot restriction is applicable to fences along the front, side, and rear property lines that abut the highway or arterial street, no matter the height.

v. Lots with side or rear property lines adjacent to a golf course facility

- (1) The fence may be a maximum of fifteen (15) feet in height. The materials of this fence are limited to open style netting with black support posts or beams no closer than five (5) feet apart.

4. Theme Walls. Theme walls shall comply with all regulations applicable to fences, except to the extent such regulations conflict with the requirements of this Subsection, in which case the requirements of this Subsection shall control. A theme wall is a wall that is installed along state highways, arterial, and collector streets, and open space areas as determined during the development review process.

a. Any developer of a residential subdivision shall provide a six (6) foot theme wall adjacent to all arterial and collector streets, open space areas, and trails except as provided herein.

b. Gates connecting to open space areas may be allowed in theme walls if approved as part of the development review process.

c. All theme walls shall be located on private property and owned by the owner of such private property or by a homeowners' association, unless the City agrees otherwise by way of a condition of approval during the development review process or recorded agreement.

b.d. Materials and Design

i. Permitted Materials: Precast concrete, concrete, masonry block, brick, stone, or a similar solid, durable material of equal or better quality. Accent landscaping and design elements such as stone veneer, brick, planters, marble, rock, decorative pilasters, decorative caps, stone or tile insets, or other significant design features are also permitted.

ii. Prohibited: Vinyl, wood, chain link.

iii. All theme walls between different uses shall provide columns every fifty (50) feet to provide variety and visual interest. Said columns shall extend a minimum of six (6) inches from the face of the theme wall and be architecturally enhanced as required above.

iv. Theme walls and gates shall be privacy fencing, provided that theme walls and gates adjacent to open space and trails shall meet the requirements of Subsection 3(c)(iii).

e.e. Maintenance and Reconstruction

i. The Owner of the theme wall shall maintain the theme wall in reasonably good and safe condition.

ii. Any reconstruction of the theme wall shall conform to the theme wall design approved as part of the development review process, unless a different design is approved by the City Council.

5. Screen Walls. Screen walls shall comply with all regulations applicable to fences, except to the extent such regulations conflict with the requirements of this Subsection, in which case the requirements of this Subsection shall control. A screen wall is a wall that is installed between different land uses as required in this section or used to

~~screen trash enclosures, loading docks, outdoor storage areas, etc., or as determined during the development review process.~~

- a. The developer of any residential development with a density greater than six (6) units per acre which abut any R-1-40, R-1-30, R-1-20, or A-1 district must provide a screen wall with a ~~minimum~~ height of six (6) feet along the abutting property line.
- b. The developer of any nonresidential use that abuts any residential district must provide a screen wall with a ~~minimum~~ height of six (6) feet along the abutting property line. Any loading docks within one hundred (100) feet of a residential district must have a separate eight (8) foot high screen wall of similar materials compatible with the building design to screen the dock areas.
- c. All outdoor storage areas shall have a six (6) foot screen wall as required in this section.
- d. Materials and Design
  - i. Permitted: Precast concrete, concrete, masonry block, brick, stone, or a similar solid, durable material of equal or better-quality. Accent landscaping and design elements such as stone veneer, brick, planters, marble, rock, decorative pilasters, decorative caps, stone or tile insets, or other significant design features.
  - ii. Prohibited: Vinyl, wood, chain link.
- iii. If a screen wall is erected as an enclosure, a gate of equal height shall be required in order to secure the enclosure. The gate shall be ~~opaque privacy fencing~~ and shall be compatible with the design of the building(s).
- iii.iv. ~~Screen walls and gates shall be privacy fencing, provided that theme walls adjacent to open space and trails shall meet the requirements of Subsection 3(c)(iii).~~

## 6. Retaining Walls

- a. A retaining wall within the front setback shall be a minimum of ten (10) feet from the front property line and shall not exceed four (4) feet in exposed height. The maximum height of a retaining wall in any other location is six (6) feet exposed height. A retaining wall shall be set back a minimum of fourteen (14) feet from the back of curb on all sides that abut a street.
- b. Retaining walls for daylight basements or window wells have a maximum exposed height of eleven (11) feet.
- c. Retaining walls shall not be placed any closer to another retaining wall than at a ratio of one foot horizontal to one foot vertical height of the wall, ~~measured from the back side of the lower wall to the front side of the higher wall.~~

d. Fences and Retaining Walls: Fences on or adjacent to retaining walls are subject to the following regulations:

- i. Privacy fences are permitted to be on the same plane as a retaining wall, provided that the Under no condition shall height of the combined a privacy fence and retaining wall may not exceed eight (8) feet in height on the same vertical plane measured from the finished grade of the lower property. If a privacy fence and retaining wall or other opaque, non-open style fencing that is on top of a retaining wall would exceed eight (8) feet in height, measured from the finished grade of the lower property, the privacy fence shall be set back at least four (4) feet from the back side of the retaining wall. Under no event may the height of a privacy fence exceed six (6) feet measured from the finished grade of the higher property.
- ii. Open style fences are permitted to be on the same plane as a retaining wall. The height of an open style fence may not exceed six (6) feet measured from the finished grade of the higher property.

d.\_\_\_\_\_

- e. Retaining walls shall not be permitted within public utility easements without city approval, and no approval will be granted where a storm drain, culinary water line, pressurized irrigation line, or sewer line is installed or may be installed in the near future.
- f. Retaining walls require a building permit if there is a four (4) foot difference between the grades on either side of the retaining wall or the retaining wall supports a surcharge, per building code, it exceeds four (4) feet in height measured from the bottom of the footing to the top of the retaining wall.

f.g. The application submittal for the a building permit for a retaining wall must include:

- i. a stamped engineered plan from a licensed engineer.
- ii. a drainage plan which provides for containment of run-off water on site or discharged to a City approved location.
- iii. plans for a conduit as required by the City Engineer if the retaining wall is to be constructed within the public utility easement where utilities do not exist. The property owner shall be financially responsible for the removal or reconstruction of a retaining wall in a public utility easement if the easement is needed per Utah State Law (UCA 54-3-27).

7. Municipal Public and Utility

- a. Fencing and Retaining Walls. Fences for Highland City, other public entities, and public utilities may be chain link.

b. Fences and retaining walls for Highland City, other public entities, and public utilities may deviate from the standards set forth in this Chapter for the benefit of the public and public resources with the approval of the Zoning Administrator.

c. Fences for non-Highland City public entities and utilities are required to be open style fencing along trail corridors that are less than thirty (30) feet wide.

7.d. Nothing herein shall exempt non-Highland City entities from applying for and obtaining City approval of fences and retaining walls prior to construction.