

TITLE 10

CHAPTER 11

**SENSITIVE AREA AND OTHER OVERLAY ZONES**

SECTION:

- 10-11-1: Intent
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- 10-11-6: Historic Landmark Overlay Zone at 594 South 400 E (OH)

**10-11-1: INTENT**

The sensitive area overlay zones are established to protect property, preserve natural areas, advance the public good and reduce liability by restricting development in identified sensitive areas. These overlay zones are not typical of other zones, which are characterized by political boundaries. The overlay zones are identified by specific and quantifiable natural characteristics and are therefore not always contiguous. All requests for permits involving a lot, parcel or site located wholly or partially within an area designated on the zoning map as a sensitive overlay zone (flood overlay zone (OF), slope overlay zone (OS), high water table overlay zone (OW) or earthquake fault overlay zone (OE)) shall require approval of the zoning administrator. The zoning administrator may request assistance from the city engineer for the reviewing of plans and setting of conditions prior to issuing a permit. All applications shall comply with the following regulations before any permit shall be issued. (Ord., 1-22-2002)

**10-11-2: FLOOD OVERLAY ZONE (OF)**

A. Findings:

1. The flood hazard areas of the city may be subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of municipal or commercial services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which could adversely affect the public health, safety and general welfare of the citizens of the city. The flood overlay zone (OF) as shown on the zoning map is based upon the 100-year floodplain of Spring Creek and the Logan River, as determined by the federal emergency management agency (FEMA), as well as areas of localized flooding potential within the drainage basin.
2. Flood losses are caused by the cumulative effect of obstructions in areas of potential flooding hazard. These obstructions increase flood heights and velocities, and when inadequately controlled, damage uses in other areas.

Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage may also contribute to flood loss.

B. Methods Of Reducing Flood Losses: In order to decrease flood loss, this section includes methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion, flood heights or velocities;
2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural floodplains, stream channels and other drainageways, all of which help accommodate or channel floodwaters;
4. Controlling filling, grading, dredging and other development which may affect flood damage; and
5. Preventing or regulating the construction of flood barriers which could unnaturally divert floodwaters or which may increase flood hazards in other areas.

C. Regulations For Building In Flood Overlay Zones: No permit shall be issued for any construction or use in any flood overlay zone (OF) until adequate plans and engineering data are delivered to the city showing that:

1. No structure or construction that would alter the topography will be allowed in a flood overlay zone (OF), except as approved by conditional use permit, unless permitted by the City Council. No structure shall be permitted or constructed within thirty feet (30') of the top inside edge of the bank of any natural or manmade waterway that is located in a flood overlay zone (OF); (4-2013, 10-24-13)
2. All new construction and/or substantial improvements made shall be constructed using methods and practices that minimize flood damage; and
3. All new and replacement water supply and sanitary sewage systems shall be designed to eliminate infiltration of floodwaters into the system and discharge from the system into floodwaters.

D. Subdivision Proposals: All subdivisions shall be adequately designed to reduce exposure to flood damage and shall be in conformance with all drainage requirements of the subdivision ordinance.

E. General Provisions:

1. All plans submitted will require approval of the zoning administrator prior to a permit being granted. The zoning administrator may request assistance from the city engineer for the reviewing of plans and setting of conditions prior to issuing a permit.

2. The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based upon scientific and engineering considerations. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes. This section does not imply that land outside the areas designated as sensitive flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of the city, any officer, agent or employee thereof, or the federal emergency management agency for any flood damage that results from reliance on this section, or any administrative decision lawfully made thereunder. (Ord., 1-22-2002)

**10-11-3: SLOPE OVERLAY ZONE (OS)**

- A. Plans and Engineering Data Requirements: No permit shall be issued for any construction or use in any slope overlay zone (OS) until adequate plans and engineering data are delivered to the city showing that:
  1. No building or structure is to be located on any slope of twenty five degrees (25°) (46%) or greater, nor within thirty feet (30') of any slope falling away at a grade of twenty five degrees (25°) (46%) or greater; and
  2. Adequate provisions have been made by the use of retaining walls, building placement, vegetative cover or other techniques to prevent erosion.
- B. Zoning Administrator Approval: All plans submitted will require approval of the zoning administrator prior to a permit being granted. The zoning administrator may request assistance from the city engineer for the reviewing of plans and setting of conditions prior to issuing a permit. (Ord., 1-22-2002)

**10-11-4: HIGH WATER TABLE OVERLAY ZONE (OW)**

- A. Plans and Engineering Data Requirements: No permit shall be issued for any construction or use in any high water table overlay zone (OW) until adequate plans and engineering data are delivered to the city showing that:
  1. All structures and uses shall be designed and constructed so as not to adversely impact or be impacted by a high water table;
  2. Ground water is not pumped, diverted or allowed to flow into the sanitary sewer system or onto property owned by others;
  3. The proposed use is not of a character to increase quantities of chemicals, fertilizers, pesticides or minerals or in any other way likely to contaminate the ground water.
- B. Zoning Administrator Approval: All plans submitted will require approval of the zoning administrator prior to a permit being granted. The zoning administrator may

request assistance from the city engineer for the reviewing of plans and setting of conditions prior to issuing a permit. (Ord., 1-22-2002)

**10-11-5: EARTHQUAKE FAULT OVERLAY ZONE (OE)**

- A. Plans and Engineering Data Requirements: No construction shall be permitted in any identified earthquake primary fault zone, landslide or motion sensitive soils area (OE) until adequate plans and engineering data are provided showing:
1. Where public facilities, occupancy facilities, large structures and sewer and water systems are to be constructed. Detailed geotechnical investigations may be required so as to accurately and specifically locate faults and/or landslide areas;
  2. Any sewer lines or disposal systems located beneath culinary water facilities; and
  3. Ground response maps identifying the areas most susceptible to ground motion.
- B. Zoning Administrator Approval: All plans submitted will require approval of the zoning administrator prior to a permit being granted. The zoning administrator may request assistance from the city engineer for the reviewing of plans and setting of conditions prior to issuing a permit. (Ord., 1-22-2002)

**10-11-6: HISTORIC LANDMARK OVERLAY ZONE AT 594 SOUTH 400 EAST**

- A. Declaration of Legislative Intent: It is the intent of the City of River Heights, the River Heights Planning Commission, and the River Heights City Council to establish a Historical Landmark Overlay Zone (HL) at 594 South 400 East, River Heights, Utah 84321. This site is not to conflict with the atmosphere of the surrounding residential neighborhood nor bring about noxious or nuisance activities.

This declaration is *not* to replace the current Residential zoning for the building located at 594 South 400 East, River Heights, Utah 84321 but to allow an additional layering of zoning for the enhancement of a historical landmark within City limits.

Residential zoning regulations supersede any additional Historical Landmark Zoning amendments created herein.

- B. Purpose: The Historic Landmark (HL) Overlay Zone is intended to support the revitalization and productive reuse of structures and sites that hold historic, architectural, or cultural value, and which would otherwise be underutilized, dilapidated, or even demolished because the original use has become functionally obsolete. We recognize the importance of these significant landmarks and desire to provide a process to allow restoration

and practical reuse while minimizing impacts to adjacent properties and avoiding the process of demolition and reconstruction.

The Historical Landmark Overlay Zone (HL) designation is further intended for light commercial development that will relate to the residential neighborhood and will be compatible with residential character or historic value in nature.

C. Applicability: This overlay zone may be applied in any zoning district if each of the following criteria is met:

1. The structure is at least fifty (50) years old.
2. The site or structure has been designated as a local or national historic landmark, or the structure is found by the River Heights City Council ("City Council") to have retained its integrity by the following characteristics:
  - a. Excellent example of type or style;
  - b. Unaltered or only minor alterations or additions;
  - c. Individually eligible for the National Register of Historic Places, or
  - d. Known for its historical significance.
3. The building site, or structure would no longer be permitted under its current zoning designation with its present configuration including lot area, dimensional requirements, or off-street parking requirements, and the building, site, or structure could not easily be retrofitted to comply with existing criteria without variances, vacating right-of-way, purchasing adjacent property, or removing portions of the existing building.

D. Restrictions of Zone Overlay: Because the retention of a historic building is a substantial benefit to the community, the approval of this overlay zone shall be bound to the existing historic site or structure being adaptively reused. If the site or structure is removed or destroyed, the zoning of the property shall immediately revert to the surrounding zoning district which is currently Residential.

This Historical Landmark Zone is to be maintained in harmony with amenities of adjacent residential development and to protect the surrounding residences from noise, lights, fumes, pests, overcrowding, heavy traffic, and other problems which may arise from an inharmonious mix of commercial and residential uses.

E. Permitted Uses: There are no permitted uses for the Historic Landmark (HL) Overlay Zone.

F. Conditional Uses: All uses will be conditional uses and must be compatible with the general characteristics of the Historical Land (HL) Overlay Zone. These Conditional Uses will run with the land and will be extinguished upon abandonment of the use of the Historical Landmark Overlay (HL) zoning, or, upon the property reverting to the surrounding zoning district. A conditional use permit will not be granted until site improvements and exterior building improvements (see R below) are completed.

G. Allowed Uses:

1. Antique store and sales
2. Art Gallery and sales
3. Bicycle Repair
4. Book, stationary, office supply store, copy store
5. Candy Making Shop
6. Computer goods, services, and repair
7. Electrical appliance repair (light)
8. Florist shop/ Garden Shop
9. Gift store, and/or Handicraft store
10. Jewelry design, fabrication, and sales
11. Locksmith Shop
12. Museum
13. Music Store (Instructional/Sales)
14. Personal Custom Services, Tailor, Milliner, etc.
15. Photography studio/Film processing/ Camera Shop
16. Professional/business offices. (A building for administrative, executive, professional, or similar organizations having only limited contact with the public, provided that no merchandise or merchandising services are sold on the premises, except such as are incidental or accessory to the principal use.)
17. Seasonal sales (Christmas Trees) and services, when permitted by the property owner, not to exceed three (3) months in any calendar year and the obtaining of a River Heights City Business License. All stands, booths and structures associated with the seasonal sales and services use shall be temporary and removable, not for public occupancy, and must be removed from the property at the completion of each year's seasonal use.
18. Shoe Repair Shop
19. Wedding Consultant
20. Yoga, Aerobic and Dance Studio (2-2019, 5-28-19)

Uses will be strictly prohibited next to a residential zone that involve open storage of merchandise or equipment, trade or industry that is offensive or a nuisance by reason of the emission of odor, smoke, gas, vibration or noise, obstructive lighting or uses.

H. Uses Not Permitted:

1. Agricultural Manufacturing
2. Animal Shelter, Kennel, Veterinary services, animal husbandry
3. Barber Shop, Beauty Shop, or Manicure/Pedicure Shop

4. Bed and Breakfast Inn
5. Body Art
6. Brew Pub/Liquor Sales
7. Car Wash
8. Clothing or Apparel Store
9. Correctional Facility
10. Department Store or Discount Store
11. Drama Studio, Theater
12. Drug Stores/ Pharmaceuticals
13. Dry Cleaner or Laundromat
14. Entertainment, Dancehall, or Night Club
15. Furniture or Appliance Store
16. Garage
17. Gas Station, functional
18. General Manufacturing (Assembly, production, sales)
19. General Vehicle/ OHV/ Trailer/ Watercraft Repair or services
20. Grocery Store, Convenience Store
21. Gun or Archery Sales, Service, or repair
22. Massage, Reducing Service (2-2019, 5-28-19)
23. Hotel/Motel, Lodging, Shelter
24. Human Care Services (Foster Home, Elderly Care, Daycare for Children, Preschool)
25. Machine Shop or Welding Shop
26. Medical Services/Facilities/ Hospital
27. Mortuary
28. Parking Facilities
29. Pawn Shop
30. Plumbing Sales or Service
31. Produce Stand
32. Radio or TV Transmission Station or Amateur Radio Facility
33. Recreational Facility (Sports and Leisure time activities)
34. Religious Meeting Facility
35. Restaurant, Cafeteria, Fast Food, Mobile Food Truck
36. School
37. Self Service Storage Facility
38. Sexually Orientated Business
39. Storage and Warehousing
40. Tobacco Sales
41. Transportation Services
42. Vehicle Sales, Vehicle Parts Sales, Vehicle Repair Service, Tire Sales
43. Wholesale Sales or Service
44. Wrecking/Salvage Yard

The Planning Commission reserves the right to deny any Conditional Use permit, not listed herein, which is deemed detrimental to the safety and health of the citizens of River Heights, Utah. The Planning Commission may impose conditions that may mitigate concerns of adjacent residents.

- I. Classification of New and Unlisted Uses; Procedure (Title 10, Chapter 12, B): Should the Zoning Administrator and the Building Inspector determine that a type or form of land use which an applicant is seeking to locate in the city

does not appear as a permitted or conditional use, he or she shall refer the request to the Planning Commission which shall determine the appropriate classification as follows:

1. Should the Planning Commission determine that the new or unlisted use for all intents and purposes, is listed under another name or category, they shall so inform the Zoning Administrator and/or Building Inspector to proceed accordingly; or
  2. The Planning Commission shall gather facts concerning the nature of the use, types of activities, impacts, etc., and shall transmit its findings and recommendations to the Mayor and City Council, who shall amend the land use chart. (Ord., 1-22-2002)
- J. Hours of Operation: Use of the building *open to the public* shall be limited to: Seven (7) o'clock a.m. until ten (10) o'clock p.m., Monday through Sunday.
- K. Additions and Site Development Requirements: Any site development, including proposed additions to the existing historic site, building or structure shall be reviewed by the City Council as part of their design review process and shall comply with the following requirements:
1. Any addition shall not exceed 25% of the existing structure's building footprint.
  2. Owner/Applicant to follow Site Plan Review procedures as outlined in City Code 10-8-2, (Ord., 1-22-2002)
  3. The structure in the Historic Overlay Zone must adhere to:
    - a. Existing Residential **Setback, Height, and Fencing** regulations (City Code 10-12-2, A, Table 2)
    - b. Existing Outdoor **Lighting** regulations, (City Code 9-3)
    - c. Existing **Signs** ordinances, (City Code 10-16)
- L. Design Review and Approval: Proposals for this overlay zone shall be submitted as both a zone change and design review to be heard by the Planning Commission and Municipal Council. It is the responsibility of the City Council to approve or disapprove such zone change and design review.
- M. Residential Uses: The business owner/tenant/manager is allowed to reside in the structure if the structure meets the definition of a single-family residential dwelling unit and is located on a lot at least 8,000 square feet in size.

The building may be occupied as a single-family dwelling in the event the Historical Landmark Overlay (HL) zone is terminated.



N. Other Requirements

1. Uses Within Building: All uses established in the Historic Landmark (HL) Overlay Zone, including storage, shall be conducted entirely within a fully enclosed building
2. Landscaping: The following landscaping provisions shall apply in the Historical Landmark (HL) Overlay Zone:
  - a. Yards: The front and side yard areas adjacent to a public street shall be maintained with suitable landscaping of plants, shrubs, trees, grass, and similar landscaping materials. The landscaping plan shall be approved by the City Council as to type, size and amount of landscaping.
  - b. Plantings: Plantings in front setbacks may not impede the vision of traffic.
  - c. Parking Areas: Parking areas shall be landscaped around the periphery and at the end of parking rows in accordance with the landscaping plan approved as part of the project plan approval procedure.
3. The yards around the building shall be kept free of junk, debris, refuse, weeds, and other flammable material.

O. Trash and Storage

1. No trash, used materials, or wrecked or abandoned vehicles or equipment shall be stored upon the property. Outside storage of commercial goods or materials is expressly prohibited.
2. Daily trash materials must be stored within an enclosed building or within an enclosure surrounded by a fence not less than four feet (4') in height within the required setbacks and not visible from any public right of way.

P. Walls, Fences and Screening

1. All mechanical equipment (i.e. air conditioners, fans, pumps, etc.) shall be located within, or on the side of the building, or on the roof with parapet walls. Any mechanical equipment located on the outside of the building must have a visual/noise barrier (masonry wall or landscaping) that completely surrounds the equipment and extends at least one foot (1'foot) above the equipment.
2. All merchandise, equipment and other materials (except for seasonal items sold on a temporary basis such as nursery stock, Christmas trees) shall be stored within an enclosed building or shall be stored within an opaque or sight obscuring fence.

Q. Parking

1. No more than six (6) vehicles may be on the premises at one time.
2. All parking spaces shall be paved with asphaltic cement or concrete and shall have paved access from a public street.

R. Site Plan Review Required

1. Concurrent with any request to rezone property to the Historic Landmark (HL) Overlay Zone, a preliminary project plan shall be submitted for review and recommendation by the City Council. Said preliminary project plan shall be drawn to scale and shall contain the following information:
  - a. Location of all existing and proposed buildings and structures on the site, including an indication of the proposed uses;
  - b. The location of all parking spaces, driveways, and points of vehicular ingress and egress;
  - c. A conceptual signing plan showing the location and size of typical signs;
  - d. A conceptual landscaping plan showing planting materials to be used together with the location of fences, walls, hedges, and decorative materials;
  - e. Preliminary elevations of the building showing the general appearance and types of exterior materials to be used.
2. All final plans must be approved by the City Council after a formal recommendation from the River Heights Planning Commission ("Commission"). It is the intent that the structure in the Historical Landmark Zone have a residential/historical appearance in nature.
3. Upon approval of a final site plan by the City Council, no building or uses of land other than those depicted on such plan shall be permitted.
4. Any failure to submit a final project plan within one (1) year from date of submission of the preliminary project plan shall terminate all proceedings and render the preliminary plan null and void.
5. All remodeling of the historical building must be completed within one (1) year from the date the final approval plan is signed by the City Council.

S. Building and Architectural Standards: The building shall have an architectural style and exterior finish similar to that of the original Sinclair Gas Station built in the 1950's.

In keeping with the "Sinclair Gas Station" theme, exterior finishes shall be stucco, masonry, stone, or architectural grade metal siding. No building

shall be finished with vinyl or metal siding only. Vinyl or metal siding may be used as an appropriate supplementary finish material in combination with masonry or stone. The base color shall be light/white tones. Accent colors shall be green and red. Murals or super graphics shall be specifically approved. The City Council shall be the approval agency in determining architectural style.

- T. Restrictions of Zoning: Because of the retention and integrity of this building and being a substantial benefit to the community, the approval of this zone shall be bound to the existing site or structure being adaptively reused. If the site or structure is removed or totally destroyed by fire, flood, winds, or an act of God, the zoning of the property shall immediately revert to the surrounding zoning district.
- U. Reversionary Clause: Should the property become vacant nor used in compliance with the Historic Landmark (HL) Overlay Zone for a period of two (2) years or more, then the property shall automatically revert to the existing surrounding zoning without further notice.
- V. Supplementary Regulations: Uses within this zone shall also comply with the applicable requirements set forth in the provisions of the land use ordinance.

(5-2016, 9-27-16)