

## **12.6.18 Mixed Use Zone (MU)**

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### **12.6.18.1 Intent**

The intent of this Chapter is to provide a land use pattern that provides for a complimentary and compatible mix of uses and a diversity of dwelling unit types. This Chapter allows for the establishment of necessary supporting commercial and other uses consistent with a convenient and pedestrian friendly development layout. It is the intent of this Chapter to allow for flexibility and creativity in the arrangement of uses while promoting efficiencies in the delivery of services.

### **12.6.18.2 Purpose**

This Chapter is provided to achieve the following purposes;

- 1 Provide for the implementation of a City General Plan, and the attainment of the goals as contained within the Plan.
- 2 Provide flexibility in the type and arrangement of uses to anticipate changes in the marketplace.
- 3 Provide an opportunity for a variety and diversity of land uses that may be mixed vertically or horizontally in a unified and complimentary manner.
- 4 Achieve convenience for residents of the area and promote neighborhood vitality in a compact development pattern.
- 5 Encourage a variety of residential uses in conjunction with commercial and other activities in order to

create an active neighborhood.

- 6 Provide opportunities for a variety of businesses, and reduce the need for vehicular traffic in the neighborhood.
- 7 Encourage efficiencies in land utilization.
- 8 Strengthen the city's economic base, and provide employment opportunities.
- 9 Ensure that the appearance and effects of buildings and uses are harmonious with each other, with natural site qualities, and with the character of the area.
- 10 Encourage an attractive and pedestrian friendly streetscape.

### **12.6.18.3 Definitions**

For the purposes of this Chapter, the following terms shall have the meaning described:

- 1 "Floor area ratio" or "FAR" shall mean the numerical value obtained through dividing the gross floor area of a building, or buildings, located on a lot by the total area of such lot. Any area used exclusively for vehicle parking and loading, enclosed vertical shafts, or elevators shall not be included in determining floor area ratio.
- 2 "Building height" or "height" shall mean the vertical distance as measured continuously along a line at existing grade bisecting the width of the lot to the highest point of a building or structure.
- 3 "Lot" shall mean as defined by the Bluffdale City Subdivision Ordinance.
- 4 "Mixed Uses" shall mean Mixed Use Lot or Mixed Use Structure, as defined herein.
- 5 "Mixed Use Lot" shall mean a combination of both residential and nonresidential uses located on a lot of record, as recorded at the Office of the County Recorder.
- 6 "Mixed Use Structure" shall mean a combination of both residential and nonresidential uses located within the same building.
- 7 "Open Space" shall mean land located within the area of the Project Plan and which is not individually owned by residents, or some other form of individual ownership, and which is provided in perpetuity for the protection, preservation, or conservation of environmentally sensitive areas or for the use and enjoyment of owners within the Project Plan area or residents of the City as a whole, and provided as required in this Chapter.
- 8 "Permitted Density" shall mean the allowed residential density, as identified by Table 2, plus any applicable Open Space Incentive Density Benefits (Table 3) and/or any Discretionary Residential Project Design and Amenity Benefits (Section 14).
- 9 "Sensitive Areas" or lands shall mean;
  - a. Wetlands, as identified by the U.S. Army Corps of Engineers, or a wetlands delineation, as provided by a certified wetlands delineator;
  - b. Floodplains and floodways, as identified by the latest FIRM maps, as provided by the Federal Emergency Management Agency;
  - c. Steep slopes, areas of slope at or exceeding a thirty percent (30%) grade or 3:1 run to rise ratio; and

- d. Fault lines, stream corridors and other areas encumbered by geological hazards.

10 "Story" shall mean as defined in the currently adopted Building Code of the City.

#### **12.6.18.4 Zone District Designation**

The Bluffdale City Mixed Use (MU) Zone is a separate zone district classification and provides for a “stand alone” zone designation, with its accompanying standards and requirements.

#### **12.6.18.5 Minimum Acreage**

A Mixed Use zoning district shall only be applied to property consisting of a minimum of ten (10) acres of contiguous land.

#### **12.6.18.6 Approval Process**

The Mixed Use (MU) zone district and its related provisions shall only be applied to lands by following the procedures for a zoning map amendment, as provided at Chapter 12.2 *et. seq.* Bluffdale City Zoning Ordinance.

#### **12.6.18.7 Approval Criteria**

The establishment of a Mixed Use (MU) Zone may be approved only if the City Council, following the receipt of a Planning Commission recommendation, finds that a MU Zone will;

- 1 Better enhance the subject property by integrated planning and design as a whole, pursuant to the provisions of this Chapter.
- 2 Does not conflict with any applicable policy of the General Plan.
- 3 Meets the intent and purpose of this Chapter
- 4 Provide a better land use pattern, site design and increased amenities than would be likely if the property were developed under the existing zone district.
- 5 Meet all other requirements as provided by Chapter 12.2 *et. seq.* Bluffdale City Zoning Ordinance.

#### **12.6.18.8 Mixed Use Project Plan Required**

A Mixed Use Project Plan (“Project Plan”) shall be presented to the City for acceptance and approval as part of the application for a zoning map amendment to establish a Mixed Use (MU) zoning district. The Project Plan must achieve, and must identify techniques to provide, a mixed use development with uniform and compatible site and building standards when the project area is completely built out. The Project Plan must demonstrate compliance with the requirements of this Chapter, as applicable.

Regardless of the size and ownership of lands proposed to be included within a Mixed Use (MU) zone, the required Mixed Use Project Plan shall include amenities and elements to create or compliment a “walkable” mixed use area. The Project Plan shall include all property proposed for a Mixed Use (MU) zone classification and shall show all phases of the development (including any phasing plans). Once approved by the City the Project Plan shall be controlling for all future development approvals that may be required, including but not limited to, submission and approval of concept, preliminary and final plats, site plans, and any additional procedural requirements set forth in this Chapter and the Bluffdale City Zoning Ordinance..

#### **12.6.18.9 Mixed Use Land Use Requirements**

The Table of Uses (Table 1) identifies the uses allowed in the Mixed Use (MU) Zone.

**Table 1**  
**MIXED USE ZONE**

**ALLOWED USES**

<b>USE</b>	<b>APPROVAL REQUIRED</b>	<b>USE</b>	<b>APPROVAL REQUIRED</b>
<b>RESIDENTIAL USES</b>			
Single Family Dwelling Unit	P	Day Care	C
Retirement Center	C	Preschool	C
Residential Facilities for Elderly Persons, subject to §10-9 <i>et. seq.</i> Utah Code Annotated	P	Nursing Home	C
Residential Facilities for Persons with a Disability, subject to §10-9 <i>et. seq.</i> Utah Code Annotated	P	Convalescent Center	C
Multi-Family Unit, including	C	<b>Civic and Institutional Uses</b>	
1. Two Family Dwelling		Public Use	C
2. Apartment Unit		Religious Buildings and Structures	P
3. Condominium Unit		School	C
		Trade and Technical School	C
		Hospital	C
		Parks	P
		Open Space	P
		Recreational Facility	C
		Trails	P
<b>NONRESIDENTIAL USES</b>			
<b>Commercial Uses</b>			
General Retail Stores and Shops	P	<b>Other Uses</b>	
Restaurant	P	Accessory Use	P
Café	P	Home Occupation	P
Convenience Store	C	Drive-Thru Facilities located on Arterial Roads	C
Personal Service Establishments	P	Table Notes:	
Financial, Insurance and Real Estate Services,	C	P = Permitted Use	
Business Services	C	C= Conditional Use	
Professional Services	C	1 No conditional use shall be approved without a finding by the Planning Commission that such use is compatible with the existing and potential uses, and the area in which it is proposed, and all measures have been taken, to the satisfaction of the Planning Commission, to mitigate any and all negative impacts that may be associated with the proposed use.	
Professional Office	P		
Mortuary	P		
Reception center	C		
Motion Picture Theater, but not including sexually oriented business	C		

**12.6.18.10 Prohibited Uses**

The following uses and activities are hereby prohibited in the Mixed Use (MU) Zone.

- a. Drive-Thru Facilities located so as to be accessed directly or indirectly from a road or street other than arterial roads.
- b. Uses not specifically identified in the Table of Allowed Uses (Table 1).

**12.6.18.11 Development Approval Procedures**

Applications for development approvals for property located in a Mixed Use (MU) zone shall be submitted, processed and considered in accordance with the requirements and procedures set forth in the City Zoning Ordinance and/or Subdivision Ordinance, as applicable, including, but not limited to, submission and approval of concept, preliminary and final plats, site plans, and any additional procedural requirements set forth in this Chapter, and consistent with an approved Mixed Use Project Plan.

Any amendments to approved plans, specifications and plats shall be obtained by following the procedure required for original approval.

**12.6.18.12 Development Requirements and Standards**

The Project Plan, as required herein, and all site, plat, and building approvals shall comply with the site and building development standards for the Mixed Use (MU) Zone as provided in the Table of Development Requirements and Standards, (Table 2).

The purpose of this Section is to promote the achievement of the purposes of this Chapter and to ensure all allowed uses are located and conducted so as to not adversely impact adjacent uses, including, but not limited to traffic, noise, and safety impacts. All proposed uses and activities shall only be approved only if such uses and activities comply fully with the following standards, in addition to all other applicable requirements of this chapter.

**Table 2  
MIXED USE ZONE  
DEVELOPMENT REQUIREMENTS AND STANDARDS**

DEVELOPMENT REQUIREMENT	PROPOSED USE		
	COMMERCIAL USES	RESIDENTIAL USES	MIXED USES
Minimum Project Plan Area with single family residential component	5 acres	5 acres	5 acres
Minimum Project Plan Area with multi-family residential component	10 acres	10 acres	10 acres

**DEVELOPMENT  
REQUIREMENT**

**PROPOSED USE**

**COMMERCIAL USES**

**RESIDENTIAL USES**

**MIXED USES**

Floor Area Ratio

For Project Plans including only commercial uses, as identified in the Table of Uses, the minimum floor area ratio (FAR) of all buildings in the Project Plan Area shall not be less than 0.6

For Project Plans including both commercial and residential uses, as identified in the Table of Uses, in a structure or on a separate lot the maximum floor area ratio (FAR) of all buildings shall not exceed 1.5, subject to the following:  
a). The maximum floor area ratio (FAR) for commercial uses shall not exceed 0.7  
b). The minimum floor area ratio (FAR) for commercial use shall not be less than 0.3

Required Residential Diversity

Total Multi-family units shall not exceed twenty percent (20%) of the total residential units within any Mixed Use Project Plan Area, except that residential units provided on a mixed use lot or in a mixed use structure shall not be included, for the purposes of determining the total number of Multi-family residential units allowed in the Project Plan Area.

Residential units provided on a mixed use lot or in a structure shall not be included, for the purposes of determining the total number of Multi-family units allowed in a Project Plan Area.

Required Open Space

A minimum open space area of ten percent (10%) of the commercial Project Plan area shall be provided, except the City Council may allow a payment-in-lieu equal to the open space requirement, as determined by the City, to provide necessary public facilities and amenities that add to the quality, functioning and livability of the area.

A minimum open space area of ten percent (10%) of the residential Project Plan area shall be provided, except the City Council may allow a payment-in-lieu equal to open space requirement, as determined by the City, to provide necessary public facilities and amenities that add to the quality, functioning and livability of the area.

**DEVELOPMENT  
REQUIREMENT**

**PROPOSED USE**

**COMMERCIAL USES**

**RESIDENTIAL USES**

**MIXED USES**

Maximum Allowed  
Density

The maximum allowed density for residential uses shall be one (1) unit per acre.

Incentive for Open  
Space Provision

Project Plans proposing the preservation of open space areas, in addition to the minimum (10%) open space areas required by this Chapter, and such areas determined by the City to further meet the purposes of this Chapter, shall be entitled to a density incentive benefit as provided by Table 3 herein.

Maximum Building  
Size

No separate building containing only commercial uses shall exceed 25,000 square feet.

Building Height

No building containing only commercial uses shall exceed a maximum height of thirty (30) feet or two (2) stories, whichever is greater.

No building containing only residential uses shall exceed a maximum height of thirty (30) feet, or two (2) stories, whichever is greater.

Buildings containing both commercial and residential uses shall not exceed a maximum height of forty-five (45) feet or four (4) stories, whichever is greater.

**DEVELOPMENT  
REQUIREMENT**

**PROPOSED USE**

**COMMERCIAL USES**

**RESIDENTIAL USES**

**MIXED USES**

Required Front  
Setback

A minimum front setback of ten (10) and a maximum front yard setback of twenty (20) feet the full width of the lot shall be provided, except as follows:

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A minimum front setback of ten (10) and a maximum front yard setback of twenty (20) feet the full width of the lot shall be provided, except as follows:

1. Display windows may project three (3) feet into the required front setback.

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2. Unenclosed pedestrian arcades, outdoor dining areas, and similar unenclosed features contributing to a pedestrian-oriented environment may project seven (7) feet into the required setback.

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3. Where a lot is contiguous to a residentially zoned lot fronting on the same street, the required front setback shall be the same as required for the contiguous residential lot.

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Required Rear Yard  
Setback

No rear yard setback shall be required, except as may be required by the City's building codes or where the rear lot line is contiguous to a residential zone, in which case the rear yard setback requirements of the contiguous residential zone shall apply.

No rear yard setback shall be required, except as may be required by the City's building codes or where the rear lot line is contiguous to a residential zone, in which case the rear yard setback requirements of the contiguous residential zone shall apply.

No rear yard setback shall be required, except as may be required by the City's building codes or where the rear lot line is contiguous to a residential zone, in which case the rear yard setback requirements of the contiguous residential zone shall apply.

**DEVELOPMENT  
REQUIREMENT**

**PROPOSED USE**

**COMMERCIAL USES**

**RESIDENTIAL USES**

**MIXED USES**

Off-street Parking Requirements

Total required off-street parking spaces shall be determined by the review and acceptance by the City of a Shared Parking Analysis, conducted using accepted information and analysis methods.

All residential uses shall provide off street parking as required by Chapter 12.4, Bluffdale City Zoning Ordinance.

Total required off-street parking spaces shall be determined by the review and acceptance by the City of a Shared Parking Analysis, conducted using accepted information and analysis methods.

Nuisance

No commercial use shall be designed or operated so as to expose adjoining properties and uses to offensive odors, dust, electrical interference, and/or vibration.

Minimum Lot Size

All individual lots and parcels shall be of sufficient size to provide compliance with building setbacks, landscaping, access, parking, and walkability standards.

General Design Principles

All Project Plans shall be required to include measures of design, layout and other design elements that are generally characterized as traditional neighborhood design (TND) principles which may include residential designs that de-emphasize garages which may be setback from the frontline of the home or provided with side entry, pitched roofs, dwelling and garage gables facing streets, street-side covered front porches, balconies and decks, wrap-around porches, streets designed for low vehicle speeds and which emphasize pedestrian facilities, off-street parking areas hidden from public streets, extensive use of street facing windows, pedestrian facilities and connections.

Parking Area Location Signs

See Section 16.

All Mixed Use Project Plans shall propose a consistent and unified signage scheme. All allowed signage shall be as approved as part of the Project Plan. Ground mounted monument signs, utilizing the same materials and colors as used on the principal buildings and approved as part of a sign theme, are preferred. Pole signs, Window signs and Free-standing and off-premise signs or billboards are prohibited.

Required Landscaping and Landscaping Plan

A Landscaping Plan shall be presented accompanying the proposed Mixed Use Project Plan, such landscaping plan complying with the requirements of Section 12.6.14.15 *et. seq.* Bluffdale City Zoning Ordinance.

**DEVELOPMENT  
REQUIREMENT**

**PROPOSED USE**

	<b>COMMERCIAL USES</b>	<b>RESIDENTIAL USES</b>	<b>MIXED USES</b>
Building and Site Lighting	1. All outdoor lighting shall be designed so as not to adversely impact or trespass to adjoining properties while providing a sufficient level of illumination for access and security purposes. Such lighting shall not blink, flash, oscillate, or be of unusually high intensity of brightness. Exterior wall mounted floodlights are prohibited. Indirect lighting, bollard lighting, and landscape lighting is encouraged.		
		2. The design specifications and location of all lighting fixtures shall be identified on the site development drawings. Intensities shall be controlled so that 'safety' lighting is provided while neighboring areas are protected from glare or excessive direct light. All lighting shall comply with the City's Night Sky Protection Ordinance.	
Security		1. All residential units shall be designed to insure the security of residents, including, but not limited to, the provision of separate entrances and exits.	
		2. Commercial and residential uses located on the same floor shall not have common entrances or exits.	
Solid Waste Facilities		1. All residential units shall maintain a separate solid waste storage container from that used by any commercial uses. It shall be clearly marked for residential use only and use by commercial uses shall be prohibited.	
		2. All solid waste storage areas and containers shall be located within a four (4) sided screening structure, and which shall include a roof, using the same materials and colors as used on the principal buildings.	
Noise		1. All commercial and other nonresidential uses shall be designed and operated, and hours of operation limited where appropriate, so that neighboring residents are not exposed to noise levels so as to create a nuisance. No amplified music shall be audible to neighboring residents.	
Screening of Mechanical Equipment		2. All Mechanical equipment and other appurtenances, including electrical boxes, gas meters, and other utility facilities shall be located or screened so as not to be visible from streets, pedestrian areas, and adjacent developments. Screens shall be aesthetically incorporated into the design of the building whether located on the ground or on the roof.	
		3. Rooftop mechanical equipment and other appurtenances shall be installed so as not to be visible from any point at or below the roof level of the subject building. All mechanical equipments and utilities shall in all cases be either enclosed by outer building walls or parapets, or grouped and screened in a manner architecturally compatible with the building	

**Section 12.6.18.13 Building and Siting Requirements**

1. Building Setbacks

All Building facades shall comply with the yard setback requirements for the proposed use, as required and provided by Table 2, Mixed Use Development Requirements and Standards.

2. Architectural Design and Materials Requirements.

- a) The City encourages the appropriate use of materials, colors, and other features indicative of the

agricultural history of the City and the rural nature of the area. All buildings shall possess a similar architectural theme and have common architectural elements creating a unifying development and neighborhood design theme.

- b) All sides of buildings shall receive equal design consideration, particularly where exposed to pedestrian and/or vehicular traffic and adjacent properties.

### 3. Building Orientation.

- a) All buildings shall address the street and provide architectural and other design elements to create a presence and attractive and inviting building-street relationship.
- b) The entrances of all retail, civic, residential, and office buildings shall front onto streets, with the exception of any center block residences must front onto a connected pedestrian facilities system. All buildings must meet the requirements of the City's building codes for access.
- c) To promote land use compatibility and avoid the creation of nuisances similar land uses should face on another across streets or public use areas.
- d) Loading docks and service areas must be screened from streets and adjacent properties by the use of architectural elements, screening treatments and landscaping.
- e) The entrances to commercial buildings shall face the adjoining street or be directly connected to the street by a publicly accessible walkway.
- f) All buildings shall provide windows, balconies, terraces, or other design features which are oriented to the street. Window shape and size shall be compatible from building to building. Tinted windows or windows with reflective film or glass are not permitted at street level.
- g) Unless otherwise approved by the City with Project Plan approval, rear yards and the rear of buildings shall not directly abut streets. If the rear of building is approved adjacent to a street, pedestrian access and street oriented building treatment must be addressed.

#### **12.6.18.14 Discretionary Residential Project Design and Amenity Benefits**

Residential Use areas, proposing design and amenities found by the City Council, acting in their legislative authority, and following the receipt of a Planning Commission recommendation, to further advance the purposes of this Chapter, and not in conflict in any way with its purposes, may be eligible for a density benefit of up to a maximum of twenty five percent (25%) of the Permitted Density (allowed density plus any density incentive benefits as identified in Table 3).

#### **12.6.18.15 Street and Pedestrian Facilities Design**

##### **Streets.**

All accesses within a Mixed Use (MU) zone or Mixed Use Project Plan area shall provide appropriate linkages and connections necessary to provide convenient vehicular and pedestrian access and amenities.

1. **Street Layout.** Building on the advantages for street connections and the with a strong historical basis in Utah, a grid street pattern or modified grid pattern is required to create a "block system" which shall be the basic street layout in all Mixed Use areas. To provide for a pedestrian friendly circulation system within Mixed Use areas gated communities are prohibited.
2. **Block Size.** The block layout created by a grid pattern of connected streets may create blocks of a variety of sizes but block faces should generally not exceed 600 feet.
3. **Street Width.** Appropriate street widths shall be determined during Project Plan review and approval by the City Council, following the receipt of a Planning Commission recommendation. All streets shall be designed and constructed to provide for traffic calming and pedestrian compatibility and connections.

4. Pedestrian Access and Facilities Plan. A Pedestrian Access and Facilities Plan shall be provided as part of the Project Plan identifying pedestrian facilities, including sidewalks and connections to trail systems. The design and location of all pedestrian facilities shall recognize the type and scale of surrounding land uses as well as desired pedestrian connections. All streets within a mixed use area shall provide sidewalks and streetscape treatments that include street trees and coordinated and consistent street lighting and street furniture. The Pedestrian Access and Facilities Plan shall incorporate traffic calming and pedestrian features to create a pedestrian friendly mixed use area.

#### **12.6.18.16 Off-Street Parking Areas**

1. Parking areas shall be considered as structures since they present a three-dimensional appearance when occupied. Unless otherwise approved by the City as part of Project Plan approval areas of off-street parking are prohibited immediately adjacent to any street or located within any required setback area.
2. In considering Project Plan approval the location of all parking areas will be considered understanding the visual and pedestrian amenity impacts of surface off-street parking areas. The relationships and placement of buildings, open spaces, vehicle and pedestrian facilities and off-street parking areas is a critical design element in mixed use areas and shall be considered by the City prior to Project Plan approval. A Project Plan shall be accompanied by an analysis of the influence off-street parking areas may have on the attractiveness and amenities of the mixed use area. Shared parking arrangements may be required in order to reduce unnecessary parking areas and to encourage pedestrian activity.
3. Off-street parking shall be provided adjacent to all developments, and a share of such on-street parking may be used to satisfy parking requirements. Parallel or angle parking may be approved based upon the overall design and width of the street, as part of Project Plan approval.

#### **12.6.18.17 Open Space Areas**

1. Usable open space areas shall be provided for residential areas located within a Mixed Use Project Plan area, depending upon size, scale, and nature of the proposed Mixed Use development as determined by the Planning Commission and City Council in considering the Project Plan. Open space may include but is not limited to parks, natural preserves, greenbelts, and trail connections. The design of any improvements and facilities within the open space area shall encourage safe pedestrian use, including landscaping, seating areas, and lighting as appropriate
2. Areas of environmental sensitivity or interest may be required to be preserved, such as drainages, steep slopes, connections to trail systems, and water features.
3. As required by the Table of Development Standards and Requirements (Table 2) a minimum open space area of ten percent (10%) shall be provided for residential and commercial use areas located within a Mixed Use Project Plan except an Open Space Incentive Density Benefit may be provided as identified in Table 3, Open Space Incentive Density Benefit.

**Table 3**  
**MIXED USE ZONE**  
**OPEN SPACE INCENTIVE DENSITY BENEFITS**

<b>OPEN SPACE PROVIDED</b> (As Percentage of Total Residential Area)	<b>INCENTIVE DENSITY BENEFIT</b> (Allowed Units Per Acre)	<b>OPEN SPACE PROVIDED</b> (As Percentage of Total Residential Area)	<b>INCENTIVE DENSITY BENEFIT</b> (Allowed Units Per Acre)	<b>OPEN SPACE PROVIDED</b> (As Percentage of Total Residential Area)	<b>INCENTIVE DENSITY BENEFIT</b> (Allowed Units Per Acre)
10	1.0	17	4.5	24	8.0
11	1.5	18	5.0	25	8.5
12	2.0	19	5.5	26	9.0
13	2.5	20	6.0	27	9.5
14	3.5	21	6.5	28 and greater	10.0
15	3.5	22	7.0		
16	4.0	23	7.5		

**12.6.18.18 Open Space Use Regulations**

1. Permitted Uses. The following uses are permitted in open space areas if approved as part of a Mixed Use Project Plan approval, subdivision approval or site plan approval, as applicable:

- a. Conservation of open land in its natural state.
- b. Neighborhood open space uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles, rifle ranges, and other similar uses.
- c. Active non-commercial recreation areas, such as playing fields, playgrounds, and trails.
- d. Storm water detention areas designed, landscaped, and available for use as an integral part of open space land.
- e. Underground utility easements, facilities and rights-of-way for drainage, access, sewer or waterlines, or other public purposes.
- f. Above-ground utility and street rights-of-way may traverse open space land if permitted under City Ordinances; provided, areas encumbered by such facilities and/or rights-of-way shall not be counted towards the minimum required open space land for the Mixed Use Project Plan.
- g. Fencing, when deemed necessary and appropriate for the particular use, condition, purpose and/or location of the open space land.

2. Prohibited Uses. The following uses shall be considered prohibited in open space areas:

- a. Any residential or nonresidential activity.
- b. Any development, construction or location of any man-made modification or improvements such as buildings, structures, roads, parking lots, or other improvements, except as approved by the City in conjunction with a permitted use;
- c. Any filling, dredging, excavating, mining, drilling, or exploration for and extraction of oil, gas,

- minerals or other resources from the property;
- d. Any dumping or storing of trash, garbage or junk;
  - e. Burning of any materials, except as necessary for drainage and fire protection purposes;
  - f. The use of motor vehicles, including snowmobiles, all-terrain vehicles, motorcycles and other recreational vehicles, except as may be necessary to maintain and operate the property and/or utility facilities within the property or to conduct permitted uses on the property;
  - g. Hunting or trapping for any purpose other than predatory or problem animal control;
  - h. Advertising of any kind or nature and any billboards or signs; provided, directory and information signs may be displayed describing the easement and prohibited or authorized use of the same or trail information;
  - i. Any cutting of trees or vegetation, except as necessary for fire protection, thinning, elimination of diseased growth, control of non-native plant species, restoration of native species, maintenance of landscaped areas, and similar protective measures or those activities relating to permitted agricultural uses;
  - j. The change, disturbance, alteration, or impairment of significant natural ecological features and values of the property or destruction of other significant conservation interests on the property;
  - k. The division, subdivision or de facto subdivision of the property;
  - l. Changing the topography of the property by placing on it any soil, dredging spoils, land fill, or other materials, except as necessary to conduct specific permitted purposes; and
  - m. All other uses and practices inconsistent with and detrimental to the stated objectives and purpose of the easement.

#### **12.6.18.19 Open Space Design Standards**

Open space lands within a Mixed Use Project Plan area shall meet the following standards:

- a. **Significant Areas and Features.** Open space land should include the most unique and sensitive resources and locally significant features of the property within the Project Plan area such as meadows, grasslands, tree stands, streams, stream corridors, watercourses, wildlife corridors and/or habitat, historic buildings and/or sites, archeological sites, cultural features, green space, scenic views, etc.
- b. **Contiguous Land.** Open space lands within a Mixed Use area shall be contiguous to provide for large and integrated open space areas. Non-contiguous parcels of open space lands may be approved by the City during Project Plan approval process upon a finding that such exception is necessary and/or desirable based upon consideration of the size of the project, the size of the open space parcels, the types of features and resources included within the open space lands, and other relevant considerations. Long thin strips of open space (less than 100 feet wide) are prohibited, unless approved by the City during Project Plan approval upon a finding that such configuration of the open space is necessary and/or desirable to connect other significant areas, to protect linear resources such as streams or trails, or to provide a buffer.
- c. **Open Space Network Connection.** Open space within a Mixed Use area shall be designed and laid out as part of a larger continuous and integrated open space system to ensure that an interconnected network of open space will be provided throughout the City.
- d. **Visibility.** Open space land shall be located and designed within a Mixed Use Project Plan area to add

to the visual amenities of neighborhoods and to the surrounding area by maximizing the visibility of internal open space.

- e. Pedestrian Access. The developer of a Mixed Use Project Plan area shall provide adequate pedestrian access to open space land which is open to public or resident use.
- f. Maintenance Access. The developer shall provide sufficient maintenance access to all open space land within the Mixed Use Project Plan area.
- g. Landscaping. All open space land that is not wooded, farmed, or maintained as open space meadows, grassland, or other approved open space, shall be landscaped at developer's sole cost and expense in accordance with landscaping requirements for Project Plan approval.

#### **12.6.18.20 Permanent Protection of Open Space**

1. Conservation Easement. All open space land shall be permanently restricted from future development by a conservation easement or other method of protection and preservation acceptable to the City. Under no circumstances shall any development be permitted in the open space land at any time, except for those permitted uses listed herein and approved in conjunction with the Project Plan. All conservation easements, or other acceptable method of protection and preservation of the open space land within a Mixed Use Project Plan area, shall be approved by the City and recorded prior to or concurrent with the recording of any final plats or approval of any site plans within the Mixed Use area.

2. Terms and Conditions. All conservation easements, or other acceptable method of protection and preservation of the open space land within a Mixed Use Project Plan shall comply with the Utah Conservation Easement Act as set forth in *Utah Code Ann. §§ 57-18-1, et seq.*, and shall be in substantially the same form as the standard conservation easement form provided by the City, including, at a minimum, the following terms and/or conditions:

- a. Legal description of the easement;
- b. Description of the current use and condition of the property;
- c. Permanent duration of easement;
- d. Permitted uses;
- e. Prohibited development and/or uses;
- f. Maintenance responsibilities and duties; and
- g. Enforcement rights and procedures.

3. Grantee. Unless otherwise approved by the City, the grantee of a conservation easement shall consist of one of the following acceptable entities which entity shall be qualified to maintain and enforce such conservation easement: land trust, conservation organization or governmental entity. The City may, but shall not be required to, accept, as grantee, a Conservation Easement encumbering open space lands within a Mixed Use area, provided there is no cost of acquisition to the City for the easement and sufficient access to and maintenance responsibilities regarding the open space land are provided.

#### **12.6.18.21 Ownership of Open Space**

1. Undivided Ownership. Unless otherwise approved by the City and subject to the provisions set forth in this Chapter, the underlying fee ownership of the open space land shall remain in single ownership and may be owned and maintained by one of the following entities: homeowners' association, land trust, conservation organization, governmental entity, or private individual. Property subject to a conservation easement, or other acceptable method of protection and preservation, shall not be subdivided.

### **12.6.18.22 Maintenance of Open Space**

1. Costs. Unless otherwise agreed to by the City, the cost and responsibility of maintaining open space land shall be borne by the owner of the underlying fee of the open space land.

2. Plan. The developer shall submit a Maintenance Plan providing for and addressing the means for permanent maintenance of the open space land within the proposed Mixed Use Project Plan area with any necessary preliminary plat or site plan applications. The Maintenance Plan shall provide the following:

- a. The Plan shall define ownership.
- b. The Plan shall establish necessary regular and periodic operation and maintenance responsibilities for the various kinds of open space.
- c. The Plan shall estimate staffing needs, insurance requirements, and associated costs, and define the means for funding the maintenance of the open space land and operation of any common facilities on an on-going basis. Such funding plan shall include the means for funding long-term capital improvements as well as regular yearly operating and maintenance costs.
- d. At the City's discretion, the applicant may be required to escrow sufficient funds for the maintenance and operation costs of common facilities.

3. Approval. The Maintenance Plan must be approved by the City prior to or concurrent with any final plat approval or site plan approval. The Maintenance Plan shall be recorded against the property and shall include provisions for the City's corrective action rights as set forth herein. Any changes or amendments to the Maintenance Plan shall be approved by the City.

4. Failure to Maintain. In the event that the organization established to maintain the open space land and the common facilities, or any successor organization thereto, fails to maintain all or any portion thereof in reasonable order and condition, the City may assume responsibility, as a right but not an obligation, for maintenance, in which case any escrow funds may be forfeited and any permits may be revoked or suspended.

5. Corrective Action. The City may enter the premises and take corrective action, including extended maintenance. The costs of such corrective action may be charged to the property owner and may include administrative costs and penalties. Such costs shall become a lien on said properties. Notice of such lien shall be filed by the City in the County Recorder's Office. The Maintenance Plan and all other documents creating or establishing any association or conservation organization for the property shall reference the City's corrective action authority set forth herein and shall be recorded against the property.

### **APPENDIX**

Include:

1. Necessary Graphics and Illustrative Materials.
2. Drawings and Site Design Renderings.
3. Typical Street Design and Block Layout drawing(s).
4. Architectural Design Elements.
5. Building Materials list.
6. Landscape Materials list.
7. Lighting Specifications and Standards.