Ordinance 2019-50

SHORT TITLE:

An ordinance amending Provo City Code to clarify development landscaping requirements and allow for xeriscape. Citywide impact. (PLOTA20190280)

PASSAGE BY MUNICIPAL COUNCIL

ROLL CALL

DISTRICT	NAME	FOR	AGAINST	OTHER
CW 1	DAVID SEWELL	√		
CW 2	GEORGE STEWART	√		
CD 1	GARY WINTERTON	√		
CD 2	GEORGE HANDLEY	√		
CD 3	DAVID KNECHT	√		
CD 4	KAY VAN BUREN	√		
CD 5	DAVID HARDING			Excused
	TOTALS	6	0	

This ordinance was passed by the Municipal Council of Provo City, on the 29th day of October 2019, on a roll call vote as described above. Signed this 13th day of November 2019.

Chair

II

APPROVAL BY MAYOR

This ordinance is approved by me this 13th day of November 2019.

Mayor

Ordinance 2019-50

III

CITY RECORDER'S CERTIFICATE AND ATTEST

This ordinance was signed and recorded in the office of the Provo City Recorder on the 18th day of November 2019, with a short summary being published on the 3rd day of November 2019, in The Daily Herald, a newspaper circulated in Provo, Utah. I hereby certify and attest that the foregoing constitutes a true and accurate record of proceedings with respect to Ordinance Number 2019-50.

SEAL

Amanda Graubrach
City Recorder

ORDINANCE 2019-50.

AN ORDINANCE AMENDING PROVO CITY CODE TO CLARIFY DEVELOPMENT LANDSCAPING REQUIREMENTS AND ALLOW FOR XERISCAPE. CITYWIDE APPLICATION. (PLOTA20190280)

WHEREAS, it is proposed to amend Provo City Code Sections 14.06.030 and 14.10.120 and Provo City Code Chapter 15.20 to clarify development landscaping requirements and allow for xeriscape; and

WHEREAS, the Community Development Department has identified that the additions of "xeric landscaping" and "artificial turf grass" would be positive additions to the Development Landscaping Requirements given Provo City's low average annual rainfall; and

WHEREAS, the proposed amendments to these sections are intended to correct these deficiencies and clarify required design elements; and

WHEREAS, on October 23, 2019, the Planning Commission held a duly noticed public meeting to consider the proposed amendments at which the Planning Commission recommended approval to the Municipal Council by a vote of 7:0; and

WHEREAS, on October 29, 2019, the Municipal Council met to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

WHEREAS, after considering the Planning Commission's recommendation, and facts and comments presented to the Municipal Council, the Council finds (i) Provo City Code should be amended as proposed, and (ii) the proposed amendment reasonably furthers the health, safety, and general welfare of the citizens of Provo City.

NOW THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as follows:

PART I:

Provo City Code Sections 14.06.030 and 14.10.120 and Provo City Code Chapter 15.20 is hereby amended as set forth in Exhibit A.

PART II:

A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance shall prevail.

B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance shall not be affected thereby.

C. The Municipal Council hereby directs that the official copy of the Provo City Code be updated to reflect the provisions enacted by this ordinance.

D. This ordinance shall take effect immediately after it has been posted or published in accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

END OF ORDINANCE.

EXHIBIT A

14.06.030 Illustrations.

For the convenience of users of this Title, certain terms are illustrated below and elsewhere within this Title. If any conflict arises between an illustration and a definition, the definition shall apply.

14.06.030 Examples of Building Heights

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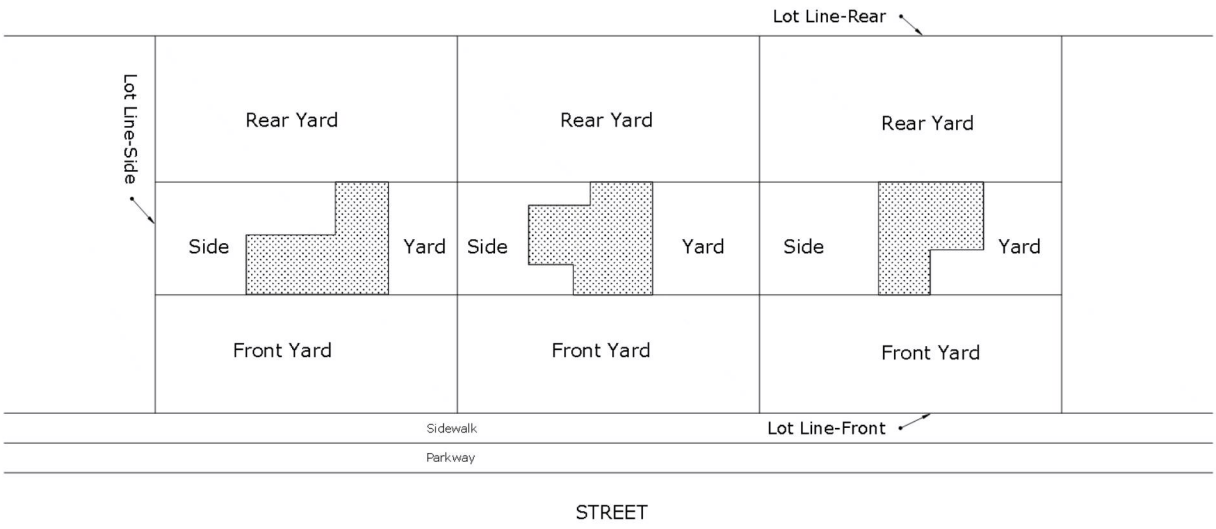
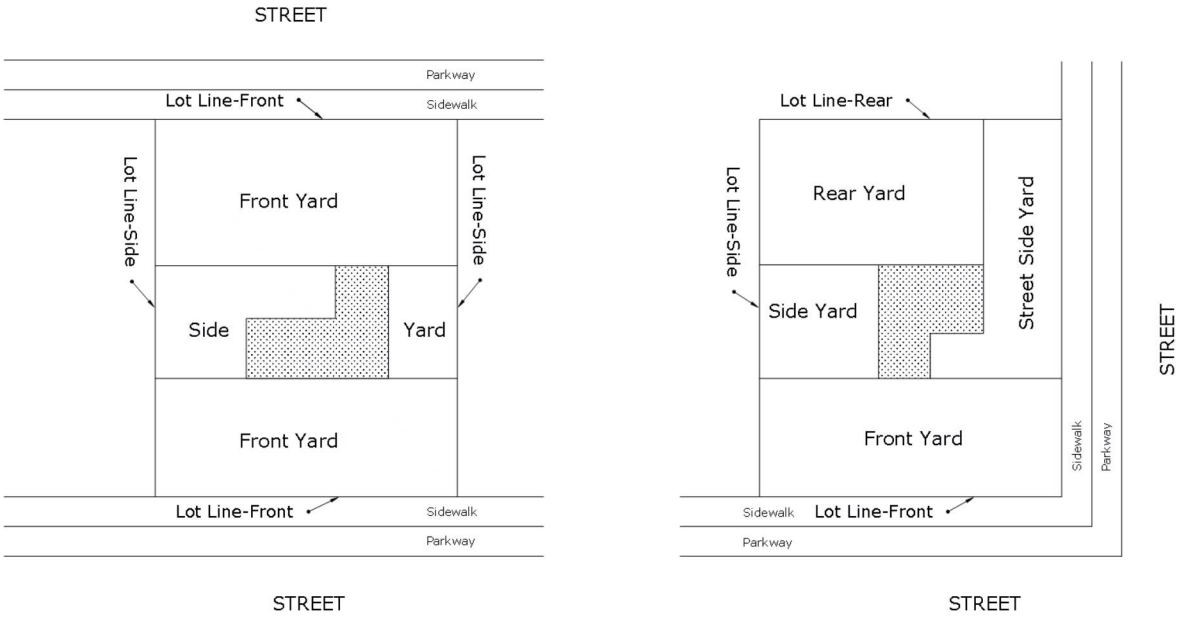
14.06.030 Examples of Types of Yards





14.10.120 Permissible Lot Coverage.

(1) In an R1 zone, all buildings, including accessory buildings and structures, shall not cover more than forty percent (40%) of the area of the lot or parcel of land upon which they are placed.

(2) Front and corner side yard paving shall be limited to the amount of paving necessary to provide direct access to legal parking. The street curb cut shall not exceed thirty-five (35) feet in width.

(3) Only one (1) interior side yard may have paving of up to one hundred percent (100%). The other interior side yard shall have no paving. Remaining areas of the lot or parcel shall be maintained in landscaping, as set forth in Section 15.20.040, Provo City Code, and as otherwise provided in Section 15.20.080, Provo City Code, but may include pedestrian walkways, patios, a swimming pool, or similar features, with the exception of driveways, commonly incorporated into a landscaped yard.

(4) The total area of all paved parking and access in the front yard, including detached parking structures, shall not exceed more than fifty percent (50%) of the total front yard.

(5) The total area of all paved parking and access in the rear yard, including detached parking structures, shall not exceed more than forty percent (40%) of the total rear yard.

(6) Areas of hardscape to be used for activities other than parking must be designed to prohibit the parking of vehicles. Any structure or device used to prohibit parking must be integrated with the overall design, be permanent, and immovable.

(7) All parking areas or spaces, covered or uncovered, must comply with the Design Standards as set forth in Section 14.37.100, Provo City Code.

(8) The maximum area of yards that may be impervious is set forth in Provo City Code Section 15.20.060(2)(g).

Chapter 15.20 Development Landscaping Requirements

. . .

15.20.030 Saving Existing Vegetation.

(1) Developments shall be designed to incorporate existing large trees, clusters of trees or clusters of large shrubs unless the Provo City Forester finds (or a certified arborist in the absence of a finding from the Provo City Forester) that such preservation is unwise. The Planning Commission or its designee shall review the appropriateness of removal of such vegetation if proposed in a development plan.

(a) The Planning Commission may approve removal of some or all existing vegetation based on a determination of the benefits of such vegetation and the efforts made to save and incorporate the vegetation into the design of a development versus the problems such vegetation may create for the development in terms of general construction techniques, the impact removal may have on the character of the area, the topography of the site and harmful conditions the vegetation may create.

(b) The Planning Commission may disapprove a development plan if it determines trees or other vegetation were removed prior to submittal of the development application. If existing trees, clusters of trees or clusters of large shrubs deemed beneficial to the property are removed without City authorization prior to approval of a development, then a fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council shall be assessed to any person responsible for such removal.

(2) Trees and other vegetation to be saved shall be clearly marked to ensure protection against removal or damage. Snow fencing or other acceptable barriers shall be used to protect existing vegetation designated to be saved. The ~~Community~~ Development Services Department and/or Community and Neighborhood Services Department or City Forestry Division shall approve the location of such barriers.

15.20.040 Definitions.

The following definitions shall apply to the regulation and control of landscaping within this Title (more detailed information can be found in the ANSI Z60.1-2004 revision of the American Standard for Nursery Stock):

"Annual" means a plant which completes its life cycle within one (1) year of germination.

"Artificial turf grass" means a surface of synthetic fibers made to resemble natural grass.

"Botanical name" means the Latin scientific name of a plant.

"Biennial" means a plant which completes its life cycle in two (2) years.

"Buffering" means the use of landscaping (other than mere turf grass on flat terrain), or the use of vegetation along with berms, walls or decorative fences that at least partially and periodically obstruct the view from the street, in a continuous manner, of vehicular use areas, parking lots and their parked cars, and detention ponds.

"Caliper" means a standard trunk diameter measurement for nursery grown trees taken six (6) inches above the ground for trees up to and including four (4) inch caliper size, and twelve (12) inches above the ground for larger size trees.

"Cultivar" means the plant variety originated in cultivation and not in the wild.

"Deciduous" means a plant that loses its leaves at the end of the growing season.

"Design Review Committee" means the committee established by Chapter 14.04A, Provo City Code.

"Detention area" means a temporary storage of a determined quantity of water with a release rate that is either fixed or variable.

"Drip irrigation" means a network of narrow tubes or porous tubing which delivers small amounts of water to individual plants in order to reduce the amount of water wasted due to wind, evaporation or spillage.

"Drip line" means a vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

"Evergreen" means a plant which retains its leaves in a living state during the winter.

"Foundation area" means the ground area immediately adjacent to a building on all sides thereof.

"Genus" means a class of plants divided into subordinate species.

"Ground cover" means a prostrate plant less than ~~two (2)~~ one (1) ~~feet~~ foot in height at maturity and used for ornamental purposes.

"Hardscape" means functional, hard-surfaced amenities in landscaped areas ~~landscaping~~ which may include but not limited to ~~interior decorative walkways, play areas, improved pads for barbecues, picnic areas, sports facilities, pools, or other functional recreational amenities.~~ pathways (excluding public sidewalks), patios, decks, pools, sport facilities, courtyards, walls or raised planters that are constructed of materials such as concrete, pavers, crushed limestone, wood or decomposed granite.

"Hardy" means the ability of a plant to withstand minimum cold and maximum hot temperatures in a specific location.

"Impervious" means a surface that does not allow water to percolate.

"Island" means a raised planting area, usually curbed, and placed to guide traffic, separate lanes, limit paving (impervious surface), provide vegetation, reduce heat island effect, and increase aesthetic quality in parking lots and other areas.

"Landscape plan" means the preparation of graphic and written criteria, specifications, and detailed plans to arrange and modify the effects of natural features such as plantings, ground and water forms, circulation, walks and other features to comply with the provisions of this Chapter.

"Landscaped area" means an entire parcel of real property less the building footprint, driveways, non-irrigated portions of parking lots, and other nonporous areas excluding "hardscape". Water features are included in the calculation of the landscaped area.

"Landscape yards" means a yard devoted exclusively to landscaping (except for driveways and sidewalks needed to serve the use and buildings on the lot).

"Landscaping" means any combination of living plants, such as trees, shrubs, vines, ground covers, flowers or grass; natural features such as rock, stone, bark chips or shavings, xeric landscaping; and structural features, including, but not limited to, fountains, reflecting pools, outdoor art work, screen walls, fences, or benches.

"Microclimate" means a specific expression of the wind, temperature, and precipitation patterns of a specific site or property.

"Mulch" means any loose, organic or inorganic, material placed over the soil as a protective covering or for decorative purposes such as ground bark, saw dust, leaves, compost, straw, gravel, stone, or rock.

"Ornamental Grass" means an annual or perennial grass grown as a plant in non-turf landscape area and that is not meant to be mown.

"Parking lot plantings" means a planting area, within or adjacent to a parking area, designed to shade and improve the attractiveness of large areas of pavement.

"Parkway area" means the strip of land next to a road which is between the curb and the sidewalk.

"Perennial" means a plant which will live for three (3) years or more under normal conditions.

"**Permeable**" means material that permits water penetration.

"Planting area" means the area prepared for the purpose of accommodating the planting of trees, shrubs, and ground covers.

"Retention area" means an area designed and used for the temporary or permanent storage of storm water runoff.

"Rootball" means the intact ball of earth or growing medium containing the roots of a nursery plant.

"Shrub" means a small, medium, or large upright plant growing less than five (5) feet to twenty (20) feet in height at maturity that is planted for ornamental or screening purposes.

"Site analysis plan" means a plan drawn with sufficient detail to show existing site conditions including steep slopes, wetlands, watercourses, existing vegetation, scenic views, drainage ways, fences, easements, and other existing features pertaining to the proposed site.

"Softscape" means living or unhardened elements such as flowers, vines, shrubs, trees flowerbeds and others that are incorporated into the landscaped area.

"Species" means a category of plants ranking below genus.

"Street tree" or **"public tree"** is a tree in any public place, located on Provo City property, or street rights-of-way, including, but not limited to, parkway areas.

"Street yard" means a planting area parallel to a public street designed to provide continuity of vegetation along the right-of-way and to soften the impact of development by providing a pleasing view from the street.

"Tree" means a woody plant with a distinct central trunk.

"Tree, ornamental" means a small to medium tree, growing fifteen (15) to forty (40) feet in height at maturity, that is planted for aesthetic purposes such as colorful flowers, interesting bark, or foliage.

"Tree protection zone" means the area around a tree corresponding to the drip line or ten (10) feet in all directions from the trunk or as identified by the City Forester or certified arborist.

"Tree, shade" means a large tree planted to provide canopy cover shade.

"Turf Grass" means any of various grasses such as Kentucky bluegrass, tall fescue grass or perennial ryegrass grown to be mown and form turf.

"Variety" means one (1) of possibly many closely related plant species.

"Water wise" describes a water conservative landscape achieved through the use of good planning and design, limited turf areas, soil improvements, efficient irrigation, mulching, low water use/native plants, and appropriate trees, shrubs, and ground cover.

"**Xeric Landscaping"** means the practice of designing landscapes to reduce the need for irrigation beyond what the local natural climate provides.

"**Zeroscaping**" means a sterile area filled primarily with dirt or gravel with no living plants.

15.20.050 Landscape Plan.

(1) A landscape plan shall be required whenever landscaping or alteration of existing landscaping is required by this Title or Title 14, Provo City Code, and shall be submitted with the initial application for approval. Such landscape plan shall conform to the requirements specified in this Chapter. Landscape and irrigation plans shall be prepared by a landscape architect licensed in the State of Utah and be approved by the Planning Commission or its designee prior to the issuance of a building permit. If a building permit is not required, landscape

plans shall be approved as part of a project plan. The construction of detached single-family residences shall be exempt from this landscape plan requirement, except as set forth in Chapter 14.31, Performance Development Overlay Zone, Chapter 15.04, Conventional and Open Space Subdivision Requirements, and Section 15.20.080(2), Provo City Code. In the case of existing single-family residences, the ~~Community~~ Development Services Department and/or Community and Neighborhood Services Department office may require a landscape plan from the property owner and/or contractor to determine compliance with this chapter.

(2) All landscape plans submitted for approval shall be drawn to a standard engineer's or architect's scale on an eleven (11) inch by seventeen (17) inch sheet and submitted electronically, and shall include the following components:

(a) Landscape plan showing the following information:

(i) Location and dimensions of all existing and proposed structures, property lines, easements, parking lots and drives, roadways and rights-of-way, sidewalks, bicycle paths, ground signs, refuse disposal and recycling areas, bicycle parking areas, fences, freestanding electrical equipment, tot lots and other recreational facilities, and other freestanding structural features;

(ii) Location, quantity, size, and botanical and common names of all proposed plants;

(iii) Location, size and common names of all existing plants including trees and other plants in the parkway;

(iv) Indication of plants to be retained or removed and how they will be protected during construction;

(v) Location of existing buildings, structures and plants on adjacent property within twenty (20) feet of the site;

(vi) Existing and proposed grading of the site using two (2) foot contour intervals;

(vii) Proposed berming using one (1) foot contour intervals;

(viii) Elevations and cross-sections of all proposed fences and retaining walls;

(ix) Elevations and cross-sections of other landscape features; and

(x) Summary data indicating the total area of property and percentage of the site devoted to landscape area.

(b) *Irrigation System Plan.* The landscape plan and the irrigation plan shall be provided on separate sheets.

15.20.060 Design Standards.

(1) Landscape plans shall incorporate the design standards set forth in this Section and shall be evaluated and approved based on compliance therewith.

(2) The scale and nature of landscaping materials shall be appropriate to the size of the structures on the premises and character of the location.

(a) Plants shall be selected for form, texture, color, pattern of growth and adaptability to local conditions. Plants shall be of good quality, and capable of withstanding the extremes of individual site microclimates. The mature height and spread of plants shall be taken into account during selection.

(b) Evergreens should be incorporated into the landscape treatment of a site, particularly in those areas where screening and buffering are required.

(c) Plants shall be placed intermittently against long expanses of building walls, fences, and other barriers to create a softening effect.

(d) Detention/retention basins and ponds shall be landscaped where possible. Such landscaping may include shade and ornamental trees, evergreens, shrubbery, hedges, turf and ground cover.

(e) Plant placement shall be designed to reduce the energy consumption needs of the development.

(i) Deciduous trees shall be placed on the south and west sides of buildings to provide shade from the summer sun, but may be placed elsewhere in the landscape.

(ii) Where possible, evergreens should be concentrated on the north side of buildings to dissipate the effect of winter winds.

(f) Whenever practical earthen berms and existing topographic features shall be incorporated into the landscape treatment of a site, particularly when combined with plant material to facilitate buffering.

(g) No more than fifty (50%) percent of each Front, Rear and combined Side yards may be impervious. This is to allow for adequate permeability and assist in storm water management upon each parcel.

(3) Landscape design shall recognize the climatic and geologic limitations of the Provo City area and the need for water conservation. While irrigation systems are required for certain landscape areas, and may be desirable for other applications, all irrigation systems shall be designed to minimize the use and runoff of water.

(a) All areas to be landscaped with sod, seed, and/or hydroseed shall have an automatic irrigation system.

(b) To promote water conservation every effort should be made to use drought-tolerant species that can withstand dry conditions once established. The use of drought-tolerant vegetation is encouraged in required landscape areas, especially in hillside areas. The City Forester shall maintain a current list of drought-tolerant trees and shrubs that are locally available. Water wise landscaping may include a combination of drought-resistant trees, shrubs, ground covers, organic mulches, decorative stone, and native plants.

(4) Annuals, biennials and perennials, decorative stone or similar materials may be used in planting beds and may be used as an alternative to turf grasses. Ground covers may be used together with mulch to provide complete coverage of bare ground. Where ground cover is not used, planting beds shall be mulched with bark chips, decorative stone, or similar materials. Mulch shall not be used by itself as a substitute for required landscaping.

(5) Minimum plant sizes at time of installation shall be as follows:

(a) All deciduous and/or ornamental trees shall have a minimum two (2) inch caliper size. Multi-stem varieties shall have a minimum height of six (6) feet.

(b) All evergreen trees shall have a minimum height of five (5) feet measured from finished grade to the top of the plant.

(c) All shrubs shall be a minimum five (5) gallon size stock depending on the plant's natural growth habit.

(6) Xeric Landscaping and water wise landscaping is encouraged in all yards if the landscaping plan for yards adjacent to a street meets the following criteria:

(a) Living vegetation including turf grass, shrubs, perennials, ornamental grasses or artificial turf grass shall cover a minimum of thirty-five percent (35%) of the unbuilt surface area within three years of planting. Tree canopy and weeds may not count toward this percentage;

(b) The remaining unbuilt area not covered by living vegetation or artificial turf grass shall be covered by bark or wood mulch, decorative rock, hardscape or any combination of these materials. Living plants should be dispersed aesthetically throughout the yard.

(c) Living plants in the parkway area shall not be included in the minimum coverage requirement. Landscaping requirements for Parkways shall be followed as defined in 15.20.120.

(d) Artificial turf grass may be used in landscaping so long as it meets the following requirements:

(i) Artificial turf grass in yards adjacent to a street must have a blade length between two (2) inches and three (3) inches, have a natural green color, and be water permeable;

(ii) Artificial turf grass must be installed on top of a minimum of three (3) inches of sand, rocks, gravel, or similar product for drainage. Rocks, gravel or similar products shall range in size from three-eighths of an inch (3/8") to three-fourths of an inch (3/4");

(iii) Artificial turf grass used for landscaping may not include rubber infill in a yard adjacent to a public street;

(iv) Outdoor green carpet shall not be used in landscaping;

(v) Upon request, specifications for installed artificial turf grass shall be provided to the Development Services Department and/or Community and Neighborhood Services Department.

15.20.070 Installation and Maintenance of Plant Materials.

(1) All landscaping shall be installed in accordance with planting procedures established by the American Nursery and Landscape Association and ANSI Z60.1-2004. The installation of all plants required by this Chapter may be delayed until the next optimal planting season, as determined by the ~~Community~~ Development Services Department and/or Community and

Neighborhood Services Department, subject to the posting of a bond to guarantee installation. Such bond shall conform to the requirements of Section 15.03.280, Provo City Code.

(2) All landscaping materials, fences and walls, and irrigation systems shall be maintained by the owner of the premises, the registered agent, the manager, or other responsible party ~~in good condition so as to present a healthy, neat and orderly appearance, and shall be replaced when necessary~~ as follows: ~~The owner of the premises shall be responsible for the maintenance, repair and replacement of all landscaping materials, fences and walls.~~

(a) In a live and thriving condition, with consideration for normal growth and water needs;

(b) Fertilized, mowed, trimmed, edged, mulched and free from weeds, dead plants, litter, refuse, or debris and in compliance with regionally accepted horticultural practice;

(c) Where a public sidewalk is present, landscaping shall not be allowed to encroach upon the sidewalk. Tree or shrub canopy that extends over the sidewalk shall not extend lower than seven (7) feet;

(d) Zeroscaping shall not be permitted. Xeric Landscaping is permitted per 15.20.060(6);

(e) Fences, walls, or structures that contain bricks, posts, chain link fence slats, railings or rocks that are out of place, missing, excessively worn, or contain materials that are torn, ripped or out of place shall be replaced, repaired and maintained.

~~(3) The owner of the premises shall be responsible for the maintenance, repair and replacement of all landscaping materials, fences and, walls.~~

15.20.080 Supplemental Landscaping Requirements by Zone.

(1) The requirements of this Section shall apply in addition to other requirements of this Chapter.

(2) Within the following zones, all open areas except driveways, parking areas, walkways, utility areas, decks, patios, porches, etc., shall be landscaped by the following standards:

(a) Within all A1, RA, and R1 zones and one-family or two-family dwellings in the RC zone, landscaping shall comply with Section 15.20.060, Provo City Code. The design layout

and details may be determined by the property owner so long as the standards set forth in Section 15.20.060, Provo City Code, are met.

(i) Existing one-family or two-family dwellings replacing front yard landscaping must submit a plan to the ~~Community~~ Development Services Department for approval.

(ii) Areas on the property that are within the buildable area but not taken up by the structure, driveways, sidewalks and other impervious areas shall be landscaped.

(b) Within all LDR, MDR, HDR, and CMU zones, landscaping shall meet the following requirements:

(i) Each property shall have a minimum of one (1) tree per two thousand (2,000) square feet of landscape space (parkway and interior parking lot trees shall not be counted towards this requirement).

(ii) Foundation area plantings (including fences) shall have a minimum four (4) foot planting bed, a minimum three (3) foot average plant height, and have minimum fifty percent (50%) coverage at maturity; layered planting is encouraged (additional width may be required to accommodate mature spread of selected plant materials).

(c) Within all PO, PF, PFS, SC1, SC2, SC3, CG, CM, MP, M1, M2, PIC, FC1, FC2, HCF, and TF zones, landscaping shall have a minimum of fifteen (15) trees per acre.

(i) The Airport Director and ~~Community~~ Development Services Director may jointly approve any modifications to a requirement of this Chapter as applied to City-owned property located on or adjacent to the Provo City Airport.

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15.20.150

Enforcement.

(1) All landscaping shall be installed and maintained in conformance with an approved landscape plan. Any modification to an approved plan shall require approval of the Planning Commission or its designee.

(a) Bonding for all landscape improvements shall be held until required landscaping is inspected and shown to conform to the approved landscape plan.

(b) Unauthorized changes to a landscape plan shall be corrected by the person responsible for deviating therefrom. Unauthorized changes which remain uncorrected shall be a violation of this Chapter and subject to the fines and penalties established in Chapter 14.42, Provo City Code.

(2) The ~~Community~~ Development Services Department and/or Community and Neighborhood Services Department and the City Forester are hereby authorized to bring actions against property owners for violations of this Chapter.

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