THE CITY OF LOGAN
State of Utah

ORDINANCE NO. 98-41

LANDSCAPING REGULATIONS FOR MULTI-TENANT NON-RESIDENTIAL DEVELOPMENT IN THE CITY OF LOGAN.

The Municipal Council of the City of Logan does ordain as follows:

Section 1:

The Municipal Council finds and declares:

1. The City of Logan landscaping regulations were incorporated in Title 17 of the Logan Municipal Code, Zoning on October 1, 1997, and

2. Landscaping is necessary for the benefit of the public health, safety, and general welfare, and improves the aesthetics and property values of the City of Logan.

3. Landscaping purposes defined in this ordinance shall be utilized for the various identified purposes and are not limited to those purposes.

4. Landscaping maintains neighborhood character of the City through aesthetics as Logan continues to grow.

5. The citizens of Logan expressed a desire for landscaping regulations to be enhanced and enforced during public hearings for the adoption of the General Plan.

6. The proposed landscaping regulations are consistent with the general goals, policies, and implementation programs of the General Plan.

7. Landscaping shall be utilized for such purposes as:
   a. Establishing a visual separation or screen of parking areas from the public right-of-way;
   b. Providing a separation of pedestrian and service areas;
   c. Providing a vertical transition from the grounds to the building;
   d. Maintaining and enhancing natural drainage patterns; and
   e. Maintaining the neighborhood character of Logan through the aesthetics of landscaping as it continues to grow.

8. Landscaping contributes towards energy conservation by providing shade to reduce cooling costs and affording opportunities to use plants that are drought tolerant to reduce water consumption.

9. The landscaping regulations resulted in an inequity for non-residential multi-tenant businesses that created a situation where the enhancement requirements could be imposed multiple times on projects within one year.
Section 2:

Section 17.30.180 hereby added to Title 17 of the Logan Municipal Code:

As written on the attached Exhibit A

Effective date

This ordinance shall become effective upon publication in a newspaper of general circulation in the City of Logan.

PASSED BY THE CITY OF LOGAN MUNICIPAL COUNCIL, STATE OF UTAH, THIS SIXTH DAY OF MAY, 1998.

Karen Borg, Council Chair

Lois Price, City Recorder

PRESENTATION TO MAYOR

The foregoing ordinance was presented by the City of Logan Municipal Council to the Mayor for her approval or disapproval on the _6_ day of _May_ , 1998.

Karen Borg, Council Chair

MAYOR’S APPROVAL OR DISAPPROVAL

The foregoing ordinance is hereby _approved_ , this _23_ day of _July_ , 1998.

Douglas E. Thompson, Mayor
§17.30.180. Compliance for non-residential developments with three or more tenants or suites

A. Multiple tenant non-residential development approved by the Planning Commission after October 1, 1995

If the multiple tenant non-residential development was approved by the Planning Commission after October 1, 1995, the owner shall be required to achieve full compliance with landscaping requirements in effect at the time the building permit was issued or as required by this chapter. The option for using the landscaping regulations in effect at the time the building permit was issued or the provisions of this chapter shall be at the discretion of the property owner.

B. Multiple tenant non-residential development approved by the Planning Commission or constructed with a building permit prior to October 1, 1995

If the multiple tenant non-residential development was approved by the Planning Commission on or before October 1, 1995, or if no Planning Commission approval was required and a building permit was issued on or before October 1, 1995, the owner shall be required to achieve full compliance with landscaping requirements in effect at the time the building permit was issued or as required by this chapter. The property owner shall enhance landscaping according to the following requirements:

1. For multi-tenant developments on lots with 1.5 acres or less: the first business license application within any calendar year for a new business on the subject property shall require compliance with the quartile requirements. Only one landscaping improvement requirement shall be imposed in any calendar year. With the first business li-

Explanation 10: Requirements for multi-tenant non-residential developments of 1.5 acres or less

1. A business license is issued in a multi-tenant non-residential building of three or more businesses on February 15. The site inspection determines that the property has only 20% of the landscaping required. The property owner is required to add to the landscaping in order to achieve a level of 25% of the required landscaping (first quartile). A second business license is issued on June 5 of the same year. No other landscaping requirements are imposed during that calendar year. On January 9 of the following calendar year, another business license is issued. The property owner is required to upgrade the landscaping to the second quartile (50% of required landscaping).

2. The subject property has landscaping that meets 20% of the code’s requirements. On December 20 of the current year, a business license is issued. The property owner is required to enhance landscaping to the 25% quartile. Because it is winter, the landscaping need not be installed until suitable weather. On January 5 of the next calendar year (just 16 days later) another business license is issued. The property owner is required to enhance landscaping to the 50% quartile. No other requirements will be imposed during the second calendar year. Landscaping to the 50% quartile will be required when the weather permits.
C. Exemptions for accessory businesses

A dependent accessory business located within a primary business which is fully dependent on the primary business shall be exempt from the landscaping requirements of this section.

1. A dependent accessory business is an independent business or separate division of a company that is located within a primary business or retailer. A dependent accessory business will generally meet all of the following standards:

2. For non-residential developments on lots with more than 1.5 acres of net land area: the first business license issued within any calendar year for a new business within a suite shall require compliance with the purposes of §1717.3017.30.05B. Landscaping, however, need only be upgraded to the next 12.5 percent of landscaping requirements. Only one landscaping improvement requirement shall be imposed in any calendar year. With the first business license issued, the Director of Community Development shall require submittal of a master landscaping plan that will be used for each subsequent year until compliance with the requirements of this chapter is achieved.

Explanation 11: Examples for multi-tenant non-residential developments of more than 1.5 acres

1. A business license is issued in a multi-tenant non-residential building of three or more businesses on February 15. The site inspection determines that the property has only 10% of the landscaping required. The property owner is required to add to the landscaping in order to achieve a level of 12.5% of the required landscaping. A second business license is issued on June 5 of the same year. No other landscaping requirements are imposed during that calendar year. On January 9 of the following calendar year, another business license is issued. The property owner is required to upgrade the landscaping to the first quartile (25% of landscaping requirements).

2. The subject property has landscaping that meets 60% of the code’s requirements. On December 20 of the current year, the first business license of the year is issued. The property owner is required to enhance landscaping to the third quartile (67.5% of requirements). Because it is winter, the landscaping need not be installed until suitable weather, but a landscape plan is required and improvement security to bond the installation of landscaping is also required. On January 5 of the next calendar year (just 16 days later) another business license is issued. The property owner is required to enhance landscaping by another 12.5% of required landscaping. No other landscaping requirements will be imposed during the second calendar year. Landscaping will be required to be installed when the weather permits. Improvement security will be required for the business license to be issued.
a. The accessory business has no exterior customer entrances from the building and its hours of operation are dictated by the primary business or primary retailer so that it is generally open the same hours as the primary business, but in no event is open more hours than the primary business.

b. The accessory business does not have a brand name or business identification sign located on the exterior of the primary business or primary retailer and so it is identified only by its generic service or product.

c. Customer traffic to the business must enter through the primary business or primary retailer in order to access the accessory business.

d. Customers of the accessory business may generally pay for the products or services with purchases from the primary business or primary retailer, although separate transactions at the accessory business may also be permitted. However the transactions at the accessory business may also include purchases of products or services from the primary business or retailer.

2. Businesses functioning within another business as an accommodation address or on an incubator basis

Explanation 12: Examples of dependent businesses and non-exempt businesses

1 A bakery is located within a food retailer. The bakery is owned independently from the food retailer and leases the space. There are no exterior doors, the bakery has the same name as the primary retailer. The only exterior signage is the word “bakery” without any bakery name being displayed. Customers must enter the primary retailer in order to access the bakery. The bakery is open during the same hours as the primary retailer. This is a dependent accessory business and a change in business license does not require landscaping compliance.

2 A financial institution has a branch office within a primary retailer. There is a separate business name identification sign on the exterior of the primary business’ building. The financial institution has a suite within the business separated from the primary retailer’s operations and the institution maintains its own hours of operation. Customers of the institution can access the branch only from within the primary retailer. This is an independent suite, even though its access is dependent on the primary retailer, and landscaping enhancement is required with the change in business license.

3. The Director of Community Development shall review the operations of the business giving consideration to the standards established for accessory businesses dependent upon a primary business or primary retailer. The Director shall make a determination as to whether the business is exempt from landscaping requirements or whether landscaping compliance is required. The decision of the Director shall be put into writing and may be appealed to the Board of Adjustment.
D. Landscaping compliance when it is found not to be physically possible to achieve compliance with the objectives of this chapter

1. If the Director of Community Development finds that site development, location of existing landscaping, or other physical factors make it physically impossible to achieve compliance with the provisions of this section, the Director may require alternative compliance with the purpose of this chapter.

2. Such alternative compliance may include any or a combination of the following and is not limited to the alternatives specified in this subsection:
   a. Planting of street trees and public right-of-way landscaping in the general vicinity of the subject property,
   b. Financial contributions related to the approximate value of onsite landscaping materials and labor into a trust fund to be established for public landscaping in the neighborhood in which the subject property is located,
   c. City-approved purchase and installation of other landscape or streetscape amenities, such as and not to limited benches, lighting, public art, access paths or sidewalks.
PROOF OF PUBLICATION

STATE OF UTAH
COUNTY OF CACHE, "

On this 15th day of June ........................................ A.D. 1998

personally appeared before me .......... Felicia Tepedino .......... who being first duly sworn,

deposes and says that she is the chief clerk of the Cache Valley Publishing Co., publishers of The Herald Journal

da daily newspaper published in Logan, City, Cache County Utah, and that the advertisement

a copy of which is hereto attached, was published in said

newspaper for...One (1) Issue

commencing...June 14, 1998... and

ending...June 14, 1998

Signed...Felicia Tepedino

Subscribed and sworn to before me, the day and year

above written. ....................................................

Signed .....................................................

Notary Public.

My Commission expires...September 7, 1999

LEGAL NOTICE

SUMMARIES of ordinances amending the Logan Municipal Code, 1989, are as follows:

1. ORD. 88-39. An ordinance adopted and approved June 3, 1998 amended Title 6, "Animals" which includes four chapters relating to the Division of Animal Control, Animals Generally, Dogs, and Traps and Trapping. Among other things, the ordinance requires fees for licensing to be set by resolution of the Logan Municipal Council. (No fee changes were made at this time.) All dogs four months of age or over are required to obtain a rabies vaccination and be licensed to a person 18 years of age or older. The ordinance requires that no person or persons at any one residence shall at any time own or license more than four dogs or four cats, with no combination exceeding six, except as otherwise provided in the title. It exempts from the ordinance approved foster care providers for dogs or animals, places where dogs are prohibited are listed, and an exemption is made for trained guide dogs, etc. The ordinance requires a license for any person operating either a dog or cat kennel, which is defined as boarding or housing four or more cats or dogs at least four months old for commercial purposes.

2. ORD. 88-41. An ordinance adopted and approved May 6, 1998 added Section 17.30.180 to Title 17, "Compliance for non-residential developments with three or more tenants or suites."

The ordinance was adopted because current landscaping regulations resulted in an inequity for non-residential multi-tenant businesses that created a situation where the enhancement requirements could be imposed multiple times on projects within one year. It sets multi-tenant businesses, and for compliance when it is found not to be physically possible to achieve compliance with the objectives of the law.

This ordinance is effective upon publication.

Full texts of these ordinances may be reviewed at the offices of the Logan City Recorder, City Hall, 255 North Main, Lola Price, Recorder, Publication Date: June 14, 1998.