



**Project #23-009  
Open Space and Landscaping  
Land Development Code Amendment**

**REPORT SUMMARY...**

<i>Project Name:</i>	Open Space, Landscaping, Useable Outdoor Space
<i>Proponent/Owner:</i>	Community Development Department
<i>Project Address:</i>	Citywide
<i>Request:</i>	Code Amendment
<i>Type of Action:</i>	Legislative
<i>Date of Hearing:</i>	February 9, 2023
<i>Submitted By:</i>	Mike DeSimone, Director

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**RECOMMENDATION**

Staff recommends that the Planning Commission recommend **approval** to the Municipal Council of the proposed amendments to Chapters 17.28 and 17.32 of the Land Development Code.

**REQUEST**

This is a proposal to eliminate the open space language in Chapter 17.28 and consolidate minimum useable outdoor space requirements with the landscaping requirements for new development in Chapter 17.32. The Commission is also considering another pending amendment (PC 23-006) which updates the residential and commercial spec sheets to reflect this change (Landscape & Useable Outdoor Space Requirements versus Open Space & Useable Outdoor Space Requirements).

**SUMMARY OF CHANGES**

17.28 Open Space – eliminate Chapter 17.28, consolidate “open space” into “useable outdoor space” and move minimum land set aside requirements (useable outdoor space) into Chapter 17.32 Landscaping.

The City requires minimum land set asides with most project types, the purpose of which is to protect important resource areas, provide landscaping around parking areas and buildings, break up the monotony of development, provide screening and buffering between uses, add green areas, walking paths, trails, etc., while contributing to an overall betterment of the community. The City has used minimum “Open Space” interchangeably with minimum landscaping and which, over time, has led to some confusion when designing, reviewing, and permitting projects. The current Open Space Chapter (17.28) is written as if the norm of our development experience involves large, greenfield areas with vast amounts of open, natural areas that are going to be set aside and preserved along with the construction of a new project. This is clearly not the norm as most projects we see are designed lot line to lot line with buildings, parking areas, driveway accesses, etc., and are generally located within a developed area, or a partially developed area, with minimal natural features worthy of preservation.

Currently, projects are required to meet minimum set asides for useable outdoor space and open space, as well as provide minimum amounts of landscaped areas. Both open space and useable outdoor space include landscaped areas within their definitions, so by default, when staff and the Commission are reviewing a project for land set asides, the proposed landscaped areas are included in the calculation of set aside percentages.

The purpose of the proposed language changes are to clarify what the City is requiring for land set asides and call it what it is – useable outdoor space and landscaped areas. The removal of this Chapter won't change how we address open space areas as part of a development; rather, the broader definition of open space, e.g., rivers, creeks, trails, natural areas, etc., is still in the useable outdoor space category which is a required minimum set aside for new development, and also regulated under the Critical Lands regulations (Chapter 17.24) for avoidance and setbacks. The recategorization of open space, useable outdoor space, or landscaping does not alter the amount of land set asides required for each type of development.

17.32 Landscaping – incorporate useable outdoor space requirements into this Chapter and made some text changes/updates throughout the document.

17.32.010 & 020 – update Purpose, Intent and Applicability language.

17.32.030 – update Exemption language to clarify that single family residential uses and some types of public/private utility developments are exempt.

17.32.040 – update the general Landscaping Requirements.

17.32.050 – added a new section on Useable Outdoor Space Standards by pulling in the requirements from 17.28; added useable outdoor space requirements in Mixed Use projects; folded into this category natural open space areas that are unbuildable and regulated under Chapter 17.24 (Critical Lands); and included an updated Table that shows the minimum set aside requirements based on useable outdoor space or landscaping.

**Table 17.32.050: Required Useable Outdoor Space and Landscaping according to Development Type**

Development Type	Minimum Area Required for Useable Outdoor Space (gross land area)	Minimum Area Required for Landscaping (gross land area)
Multi-Family Residential	10%	20%
Commercial	10%	10%
Industrial	10%	10%

17.32.060 & 17.32.070 – updated the Minimum Landscaping Requirements and Parking Lot Landscaping language.

17.32.080 – updated the Maintenance of Landscaping and Park Strips section to include tying landscape maintenance to an entity's business license.

**STAFF RECOMMENDATION AND SUMMARY**

The proposed changes to 17.28 and 17.32 clarify the set aside requirements to reflect the reality of development projects we typically see in Logan. The requirement that projects set aside Open Space has been confusing especially when 95% of the time it really means landscaping is the set aside.

## **GENERAL PLAN**

The Land Development Code was prepared and adopted to implement the vision expressed in the General Plan. The proposed amendments continue to implement the vision of, and are consistent with, the General Plan.

## **PUBLIC COMMENTS**

As of the writing of this report, there has not been any public comment. Public comments received prior to the preparation of this report will be included as an attachment. Any other comments will be forwarded to the Planning Commission.

## **PUBLIC NOTIFICATION**

Legal notices were published in the Herald Journal on 12/31/22, posted on the City's website and the Utah Public Meeting website on 1/02/23, and noticed in a quarter page ad on 12/29/23.

## **AGENCY AND CITY DEPARTMENT COMMENTS**

As of the time the staff report was prepared, no comments have been received.

## **RECOMMENDED FINDINGS FOR APPROVAL**

The Planning Commission bases its decisions on the following findings:

1. Utah State Law authorizes local Planning Commission to recommend ordinance changes to the legislative body (Municipal Council).
2. The Code Amendments are done in conformance with the requirements of Title 17.51 of the Logan Municipal Code.
3. The proposed Code Amendments are consistent with the Logan City General Plan.
4. The proposed Code Amendments to Chapters 17.28 and 17.32 clarify set aside requirements, strengthens the landscaping requirements, clarifies useable outdoor space, and eliminates the confusion on when open space is being regulated versus when the City is just requiring landscaped areas.
5. No public comment has been received regarding the proposed amendments.

This staff report is an analysis of the application based on adopted city documents, standard city development practices, and available information. The report is to be used to review and consider the merits of the application prior to and during the course of the Planning Commission meeting. Additional information may be revealed by participants at the Planning Commission meeting which may modify the staff report and become the Certificate of Decision. The Director of Community Development reserves the right to supplement the material in the report with additional information at the Planning Commission meeting.



# APPLICATION FOR PROJECT REVIEW

<b>For Staff Only</b>				
<input type="checkbox"/> <b>Planning Commission</b>		<input type="checkbox"/> <b>Land Use Appeal Board</b>		<input type="checkbox"/> <b>Administrative Review</b>
<b>Date Received</b> 12/1/22	<b>Received By</b>	<b>Scheduled Meeting Date</b> Jan. 12, 2023	<b>Zone</b>	<b>Application Number</b> PC 23-009
<b>Type of Application (Check all that apply):</b>				
<input type="checkbox"/> Design Review <input type="checkbox"/> Conditional Use <input type="checkbox"/> Subdivision <input type="checkbox"/> Administrative Design Review <input checked="" type="checkbox"/> XX Code Amendment <input type="checkbox"/> Appeal <input type="checkbox"/> Zone Change <input type="checkbox"/> Other				
<b>PROJECT NAME</b> Land Development Code Amendments – 17.28, 17.32 (Open Space, Landscaping, Useable Outdoor Space)				
<b>PROJECT ADDRESS</b>			<b>COUNTY PLAT TAX ID #</b>	
<b>AUTHORIZED PROJECT REPRESENTATIVE FOR OWNER</b> Mike DeSimone			<b>PHONE #</b> 435 716 9022	
<b>MAILING ADDRESS</b>		<b>CITY</b>	<b>STATE</b>	<b>ZIP</b>
LOGAN CITY HALL 290 NORTH 100 WEST LOGAN UTAH 84321				
<b>EMAIL ADDRESS</b> MIKE.DESIMONE@LOGANUTAH.ORG				
<b>PROPERTY OWNER OF RECORD</b>			<b>PHONE #</b>	
<b>MAILING ADDRESS</b>			<b>CITY</b>	<b>STATE</b> <b>ZIP</b>
<b>EMAIL ADDRESS</b>				
<b>DESCRIBE THE PROPOSED PROJECT AS IT SHOULD BE NOTICED AND PRESENTED</b> (Include as much detail as possible - attach a separate sheet if needed)			<b>Total Lot Size (acres)</b>	
<b>AMEND CHAPTER 17.28 "OPEN SPACE" TO ELIMINATE OPEN SPACE CODE LANGUAGE AND CONSOLIDATE USEABLE OUTDOOR SPACE REQUIREMENTS INTO LANDSCAPING REQUIREMENTS FOR NEW DEVELOPMENT; AMEND CHAPTER 17.32 "LANDSCAPING" TO INCORPORATE USEABLE OUTDOOR SPACE INTO LANDSCAPING REQUIREMENTS.</b>				
			<b>Size of Proposed New Building (square feet)</b>	
			<b>Number of Proposed New Units/Lots</b>	
I certify that the information contained in this application and all supporting plans are correct and accurate. I also certify that I am authorized to sign all further legal documents and permit on behalf of the property owner.			<b>Signature of Property Owner's Authorized Project Representative</b>	
I certify that I am the property owner on record of the subject property and that I consent to the submittal of this project. I understand that all further legal documents and permits will be sent to my authorized agent listed above.			<b>Signature of Property Owner</b>	

**City Council: Workshop 2/7/23 Hearing 2/21/23**

**Chapter 17.27: Reserved**

## Chapter 17.28 Open Space Reserved

### §17.28.010. Purpose

The purpose of this Chapter is to promote and provide incentives for the setting aside of lands, whether publicly or privately owned, that are accessible to, and designed for, the use and enjoyment of the citizens of Logan. It is generally intended that open space set asides remain in private ownership and maintenance. This Chapter also establishes minimum standards for providing open and outdoor space set asides in all developments and subdivisions. It is intended to ensure that all development, including residential, commercial, and industrial projects, are designed with functional open space to promote the health, safety, enjoyment, and livability of residents, visitors, shoppers, and workers.



### §17.28.020. Applicability

All development or redevelopment required to obtain a Design Review Permit shall provide a required set aside of land as a condition of approval. The following types of set asides are required and further specified in Table 17.28.020:

#### 1. Open Space.

Open space is an area of land or water that may be used for passive or active recreation, agriculture, conservation, landscaped areas, preservation of the natural environment, scenic land, and/or other similar uses. Open space areas shall be of a suitable size, topography, location, and shape to permit the activities for which it is intended as determined by the Planning Commission.

#### 2. Useable Outdoor Space.

Land area within a lot or parcel, that is used in conjunction with a primary use, and designed and intended for the use or enjoyment of the residents and their guests of the development, and which includes improvements as necessary and appropriate for use as useable outdoor space. Useable outdoor space shall generally be landscaped and may include patios, decks, shade structures, play equipment, play courts, walkways, and landscaped plazas. Useable outdoor space may include accessory structures that enhance its use and enjoyment. Useable outdoor space shall not include parking, and/or driveways. Stormwater facilities may qualify as useable outdoor space if the physical characteristics of the stormwater facilities are considered functional as useable areas.

#### 3. Exclusions to the Open Space and/or Useable Open Space Applicability.

The following types of ownership and/or development are exempt from the requirements of this Chapter:

- A. Development on public lands;
- B. Public or private utility developments involving the installation of utility distribution lines and systems. The construction of office space, parking areas, shops, storage areas or similar developments are not exempt from the provisions of this Chapter;
- D. Development or redevelopment on existing legal lots within legal subdivisions which do not require a Design Review Permit; and
- E. Remodeling, renovation, redevelopment and/or change of use of commercial and industrial uses and which does not enlarge or expand the footprint of the existing building or use.

**Table 17.28.020: ~~Developments requiring Land Set Asides~~**

<del>Type of Development</del>	<del>Minimum Area Required for Open Space (gross land area)</del>	<del>Minimum Area Required for Useable Outdoor Space (gross land area)</del>
<del>Residential</del>	<del>20%</del>	<del>10 %</del>
<del>Commercial</del>	<del>10%</del>	<del>10%</del>
<del>Industrial</del>	<del>10%</del>	<del>10%</del>

**~~§17.28.030 — Open Space Standards~~**

~~A. General Standards:~~

~~The following general standards shall apply to all open space:~~

- ~~1. Open space shall be configured for the purpose or use for which it is specifically proposed (e.g. preserve, active or passive park, playground, walkway/bikeway, agriculture, etc.);~~
- ~~2. Where practical, open space shall be contiguous with existing or future open space. As a rule, the contiguous interconnection shall be a minimum of twenty (20) feet in linear measure. The decision-making body may reduce or waive the contiguous interconnection requirement when a lesser interconnection is deemed functional, such as for pedestrian walkways, or where the open space, though non-contiguous with other open space, is of sufficient size and design to function well and serve as a public asset;~~
- ~~3. A permanent restrictive covenant in the form of a perpetual conservation easement shall be placed upon open space land requiring its maintenance as open space;~~
- ~~4. Lands defined as critical or sensitive lands elsewhere in this Title may be included in the determination of required open space;~~
- ~~5. At the discretion of the decision making body, storm water facilities may be considered as useable outdoor space if the facilities are designed to accommodate a mixture of uses (e.g., stormwater detention areas also functioning as a soccer field);~~
- ~~6. The developer may locate and design open space wherever desirable for the efficient and advantageous use of the property; however, the City may specify the location and configuration of open space on the property as deemed necessary to connect adjacent or future open space;~~
- ~~7. At no time shall any open space be reduced in size, subdivided, used, or modified beyond its original intent unless the project is amended through a design review permit and an amendment to the subdivision (if applicable) is filed per Utah Code;~~
- ~~8. The developer shall declare the specific intended use of open space areas in the permit application. The use of open space shall be limited to the following:
 
  - ~~a. Recreational uses such as parks and trails;~~
  - ~~b. Lakes, ponds, wetlands, and streams;~~
  - ~~c. Natural landscapes;~~
  - ~~d. Agricultural lands;~~
  - ~~e. Conservation easements held by a recognized conservation organization or other type of ownership as permitted by this Chapter; or~~
  - ~~f. Visual amenities or expanded development setbacks.~~~~
- ~~9. The developer shall declare the specific intended use of the usable outdoor space in the permit application. The use of usable outdoor space shall be limited to the following:~~

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- ~~a. Active recreational uses such as play fields, parks, trails, play grounds, and related parking areas;~~
- ~~b. Swimming pools, recreation centers, hot tubs, and spa's;~~
- ~~c. Decks, patios, plazas, and gathering areas, plaza's; or~~
- ~~d. Stormwater Facilities.~~

~~10. The following are not allowed in open space areas;~~

- ~~a. Motorized vehicles, except farm equipment supporting agriculture uses or parking areas accessory to the permitted open space use;~~
- ~~b. Signs other than incidental signs for allowed uses; or~~
- ~~c. Buildings and structures, except those incidental to the use of the open space.~~

~~11. All developments with common areas, common facilities, or open space areas shall be owned and managed by a "homeowner association" as defined in U.C.A. §57-8a;~~

~~12. The following notation shall be recorded on the face of the final plat where open space is included in the overall project design, or within the final design review permit approval if a plat is not required:~~

~~"The City of Logan shall have the right, but not the duty, to require, and if necessary, perform, at the organization's expense, landscaping, maintenance and snow removal, as applicable, within the open space areas if the organization fails adequately to perform such. The City may take this action when asked to take over improvements or maintenance tasks by the home owner's association. The City may also take such action when it determines the need based on a historical pattern of lack of care and maintenance. In the event Logan City exercises this right, the City shall be entitled to recover any associated costs and attorney fees. This notation shall not be amended or deleted without the written approval of Logan City."~~

~~13. Leasing, renting or use by any entity or person other than the homeowners' association of any portion of the open space shall be reviewed and approved by the Director for use compatibility.~~

~~B. Ownership of Open Space.~~

~~Open space shall be protected through a perpetual conservation easement held by the City or by a recognized land trust, conservancy, or homeowners' association. The ownership document shall be reviewed and approved by the City and recorded at the office of the county recorder. Open space within a development shall be owned, administered and maintained by any of the following methods, either individually or in combination, and subject to approval by the City:~~

- ~~1. **Type 1 Offer of Dedication:** The city shall have the first and last offer of dedication of open space in the event said land is to be conveyed. Dedication shall take the form of fee simple ownership. The City may, but shall not be required to, accept open space provided that the City shall consider and make the following findings in its review of public dedication of open space:
 
  - ~~a. Such land is accessible to the city and adjacent to a public right-of-way or legal easement.~~
  - ~~b. There is no cost of acquisition other than any cost incidental to the transfer of ownership.~~
  - ~~c. The city agrees to maintain such lands. Where the city accepts dedication of open space that contains improvements, the city may require the posting of financial security to ensure satisfactory functioning and structural integrity of improvements for a term not to exceed one (1) year from the date of acceptance of dedication. The amount of financial security shall not exceed fifteen percent (15%) of the actual cost of installation of said improvements.~~
  - ~~d. There shall be documentation of a clear plan for the conveyance of the open space to the accepting public entity, with a written agreement of acceptance from~~~~



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~~said entity. Copies of all documents related to conveyance shall be filed with the City Attorney.~~

- ~~e. There shall be documentation of an agreement as to the condition of the open space necessary for acceptance and conveyance. This shall include stipulations as to what improvements, if any, are expected, and whether the developer or the City is responsible for installation of said improvements. If the public dedication is part of a request for any bonus under this ordinance, the City may require of the developer a reasonable contribution towards improvement of the open space. The developer may have the option of actually constructing the improvements or making a monetary contribution to the City based on the cost estimate of a certified civil engineer, landscape architect or guaranteed contractor proposal acceptable to the City.~~

~~2. **Type 2 Homeowners' Association (HOA):** The open space and associated facilities may be held in common ownership by a homeowners' association. The HOA shall be formed and operated as prescribed in 17.28.040 with the additional provisions:~~

- ~~a. The developer shall provide covenants, conditions and restrictions (CC&Rs) of the association, including its bylaws, articles of incorporation and methods for maintaining the open space. The CC&Rs shall be reviewed and approved in content and form by the city. Acceptance of the CC&Rs by the city will be contingent upon meeting the intent and conditions required by this code. The CC&Rs will be approved by the City prior to filing the CC&Rs with the final plat.~~
- ~~b. The association shall be organized by the developer and be operated with financial subsidy by the developer prior to the sale of any lots within the development. The association shall be continued to be operated by the developer until transferred to the permanent HOA.~~
- ~~c. A narrative describing ownership, use, and maintenance responsibilities shall be submitted for all common and public improvements, utilities and open space within critical lands and open space. There shall be documentation of legally enforceable mechanisms for responsibility of maintenance of the open space as specified herein~~
- ~~d. Membership in the association is automatic and mandatory for all purchasers of homes or lots therein, and including their successors. The conditions and timing of transferring control of the association from developer to homeowners shall be identified in the CC&Rs.~~
- ~~e. The association shall be responsible for maintenance of insurance and taxes on open space, enforceable by liens placed by the City.~~
- ~~f. The members of the association shall share equitably the costs of maintaining and developing open space. Fees shall be determined by the association and assessed and deposited in an escrow account. Shares shall be defined within the association bylaws.~~
- ~~g. The developer of the subdivision shall endow the newly formed homeowners' association with funds equivalent to ten percent (10%) of the development cost for all common improvements plus an amount equal to one year's operating expenses to maintain and insure the open space. These funds shall be used exclusively by the HOA to operate, maintain and insure the HOA for the first year that the association begins to operate independently of the developer. Remainder funds, if any, shall be used in subsequent years. Funds shall be deposited in a checking account in the name of the HOA within ten (10) days after the day which the HOA begins to operate independently of the developer.~~

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- ~~h. In the event of a proposed transfer, within the methods herein permitted, of open space by the homeowners' association, or of the assumption of maintenance of the open space by the City, notice of such action shall be given to all property owners within the development.~~
- ~~i. All improvements to the open space held in common or intended to be held in common by the HOA shall be installed, completed and accepted prior to the beginning of the second phase of construction, or if the project is not phased, prior to sale of 20% of the total lots in the project. If phasing of the improvements to the open space is required by the developer, all incomplete improvements for the open space shall be secured through a bond (17.56.030) equal to 150% of the estimated value of the improvements, posted by the developer.~~
- ~~j. The association shall have adequate staff to administer common facilities and properly and continually maintain the open space.~~
- ~~k.a. The homeowners' association may lease open space to any other qualified person, or corporation, for operation and maintenance of open space by lease agreement, which shall provide that:~~
- ~~1) The residents of the development shall at all times have access to the open space contained therein, except that agricultural crops may not be accessed unless the grower specifically allows;~~
  - ~~2) The open space to be leased shall be maintained for the purposes set forth in this title;~~
  - ~~3) The operation of facilities within the open space may be for the benefit of the residents only, or may be open to the residents of the City, at the election of the developer and/or homeowners' association, as the case may be; and~~
  - ~~4) The lease shall be subject to the approval of the Director specific to the compatibility of use of open space intended by the lessee.~~
- ~~l.b. A conservation easement shall be established to provide a permanent preservation of the open space. The easement shall be indicated on the recorded plat, shall state the ownership of the easement, and shall reference the maintenance agreement also recorded with the final plat.~~
- ~~3. **Type 3—Transfer Of Easements To Private Conservation Organization:** With the recommendation of the Planning Commission, an owner may transfer easements or ownership to a private nonprofit organization, among whose purposes it is to conserve land, provided, that:~~
- ~~a. The organization is bona fide conservation organization with perpetual existence;~~
  - ~~b. The conveyance contains appropriate provision for proper reversion or retransfer in event that the organization becomes unwilling or unable to continue carrying out its functions; and~~
  - ~~c. A maintenance agreement acceptable to the City is entered into by the developer/owner, the City, and the organization.~~
- ~~C. Maintenance Standards. The following maintenance standards shall be fulfilled for all opens space:~~
- ~~1. The owner of the open space shall be responsible for maintenance and the raising of all monies required for operations, maintenance or physical improvements to the open space through annual dues, special assessments, etc. The maintenance organization shall be authorized, under its bylaws, to place liens on the property of residents who fall delinquent in payment of such dues, assessments, etc.~~
  - ~~2. In the event that the maintenance organization, or any successor organization, shall, at any time after establishment of a development containing open space, fail to maintain the open space in reasonable order and condition, the City may serve~~

~~17.28: Open Space Reserved~~

~~written notice upon the owner of record, setting forth the manner in which the owner of record has failed to maintain the open space in reasonable condition.~~

~~3. Failure to adequately maintain the open space in reasonable order and condition constitutes a violation of this title. The City is hereby authorized to give notice, by personal delivery or by United States Postal Service, to the owner or occupant, as the case may be, of any violation, directing the owner to remedy the same within thirty (30) days. Further, the City shall be authorized to assume maintenance of the open space in such a manner as it deems appropriate.~~

~~4.2. Should any bill or bills for maintenance of the open space by the City be unpaid by January 1 of each year, a lien shall be filed against the premises in the same manner as other municipal claims. The City shall be entitled to recover any costs and attorney fees incurred in collecting or recovering any such amounts due to the City.~~

~~D. Public Access to Open Space.~~

~~The public shall have access to open space areas, when mutually agreed upon by all parties. Any public access within open space areas shall be clearly defined on the ground and delineated within the approval documentation. Lots designed with rear facing open space shall be accessible at all times and all locations. At no time shall public access be denied unless unsafe conditions exist or unless approved by the City.~~

**~~§17.28.050 — In Lieu Substitutions for Open Space Requirements~~**

~~A. Land in other locations may be substituted for open space requirements where the City finds that it is advantageous to preserve important and critical open space areas while encouraging the development or redevelopment of property within the City.~~

~~B. Applicability.~~

~~“In lieu substitution” or “in lieu of open space substitutions” may be permitted by the decision making body under the following circumstances:~~

~~1. Where agricultural land is being substituted, equally productive or more productive agricultural land must be substituted.~~

~~2. For in lieu substitutions, use of the open space land shall be limited to the uses allowed in open spaces in 17.28.040.~~

~~3. In lieu substitutions of land intended to fulfill the requirements for open space may be allowed when it is factually established, by a qualified land appraiser, that the substituted land is at least equal to or greater than the value of land compared with the development property as if developed fully as proposed. The City must agree to and approve the land area to be appraised both from the original site and the proposed substituted site prior to the appraisal. The appraiser will be selected by and contract with the City. The fees for the appraisals will be reimbursed to the City at cost by the developer.~~

~~4. Any land which has been dedicated, set aside, platted, or otherwise approved as open space may not be substituted or used for any purpose other than those allowed in this Chapter.~~

~~C. Applications for in lieu open space substitutions for property outside of the corporate boundaries of Logan City may be considered if the potential open space area is of a significant cultural, historical, agricultural, or environmental benefit to residents of Logan City.~~

~~D. Types of Open Space Substitutions Available: The following options are available to developers to propose to the City for in lieu substitutions for open space requirements:~~

~~1.3. Cash in lieu: The City may, at its sole discretion, accept cash in lieu of open space requirements where such funds can be more effectively used to acquire land at a more appropriate or significant location consistent with the General Plan, the Parks and Recreation Master Plan, the Annexation Plan and other adopted documents identifying substitute sites for open space. Cash in lieu payments shall not be~~

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~~accepted until a qualified appraisal, authorized by the City and at the cost of the applicant, identifying the value of the original land for which the in lieu substitution is proposed, based on the use that will be permitted if the open space requirement is removed, and for which cash in lieu shall be offered. The City shall be obligated to use in lieu funds for uses identified in this Chapter, and shall diligently pursue purchase of the land for this purpose to prevent erosion of purchasing power.~~

~~2.4. Land in lieu: The City may, at its sole discretion, accept land in lieu of open space requirements under the following conditions:~~

- ~~a. The proposed land to be substituted is consistent with the General Plan, the Parks and Recreation Master Plan, the Annexation Plan and other adopted documents identifying substitute sites for open space;~~
- ~~b. Other land is acceptable to and approved by the City as open space in a location determined by the City to be a substitute site;~~
- ~~c. Acceptable and approved land is dedicated to the City with unencumbered title; and~~
- ~~d. In lieu substitution for open space is retained in use and ownership consistent with other acceptable forms of open space ownership in this Chapter.~~

~~3.5. Purchase of Development Rights:~~

~~The City may, at its sole discretion, accept the purchase of development rights by the developer to meet in lieu of open space requirements under the following conditions:~~

- ~~a. Other land of sufficient size and value is acceptable to, and approved by, the City as open space in a location determined by the City;~~
- ~~b. The proposed land to be substituted is consistent with the General Plan, the Parks and Recreation Master Plan, the Annexation Plan and other adopted documents identifying open space sites;~~
- ~~c. Land where development rights are purchased by the applicant shall be subject to a recorded conservation easement that runs with the land and exists in perpetuity. The conservation easement shall be held by a recognized conservation organization acceptable to the City and is subject to the requirements for such ownership as stated in this Chapter. All documentation shall be reviewed and approved by the City;~~
- ~~d. Cost of the purchase of development rights by the applicant is equivalent to the value of the original land for which the in lieu substitution for open space is proposed, based on the use that will be permitted if the open space requirement is removed, and for which purchase of development rights shall be offered;~~
- ~~e. Uses of the land within the conservation easement are consistent with other acceptable forms of open space ownership and uses in this Chapter; and~~
- ~~f.a. The recordation of the final plat, the recordation of any conservation easements and ownership instruments, shall occur simultaneously with the purchase of all development rights.~~

~~E.B. In lieu substitution applications shall first be reviewed by the Planning Commission as a part of the initial application for Design Review Permit. Approval of the in lieu substitution shall be obtained from the Municipal Council before recordation of the Final Plat or issuance of a building permit, whichever occurs first.~~

~~F.C. The provisions of Chapter 17.28 shall be effective for all applications for Design Review Permit filed on or after the effective date of this ordinance; however, the Planning Commission and the Mayor shall have the authority to approve an in lieu substitution for open space for an existing subdivision or development containing approved open space, subject to such application first being submitted to the Planning Commission for its consideration and recommendation to the Mayor. If the in lieu substitution application is approved, the applicant shall comply with all applicable land use laws of the City and State.~~

## Chapter 17.32: Landscaping and Useable Outdoor Space

### §17.32.010. Purpose and Intent

The purpose of this Chapter is to enhance the overall attractiveness of the City by implementing minimum landscape and useable outdoor space requirements with new development. ~~ensure that the policies of the General Plan related to increasing the attractiveness of the City and enhancing neighborhood character including appropriate landscaping are met.~~ The intent is to promote the importance of landscaping and useable outdoor space ~~has~~ in the overall site design and development process by providing a visual link between the natural and built environments. ~~The City recognizes the aesthetic, ecological, and economic value of landscaping in:~~

- ~~• Improving the visual quality of the City;~~
- ~~• Reducing the rate and volume of storm water runoff;~~
- ~~• Promoting compatibility between land uses and creating buffer areas to help reduce the visual, noise, and lighting impacts from adjoining properties;~~
- ~~• Unifying development throughout the City;~~
- ~~• Promoting the retention of existing vegetation and the restoration of natural communities by re-establishing native plant communities;~~
- ~~• Reducing the visual and audio impacts of automobile related infrastructure (parking lots, driveways and roads);~~
- ~~• Promoting healthy outdoor recreational activities;~~
- ~~• Reducing greenhouse gases and the negative environmental impacts created from automobiles and development;~~
- ~~• Complimenting the built environment to achieve the principals and goals set forth in the General Plan and Land Development Code;~~
- ~~• Promoting water efficient landscaping that reduces the demand of the City's water resources; and~~
- ~~• Reducing the heat island effect.~~

### §17.32.020. Applicability

All public and private development, new construction, enlargement or changes of use, and exterior remodeling are required to comply with the landscaping and useable outdoor space requirements of this Chapter, unless otherwise specifically stated.

~~These standards apply to all public and private development, new construction, exterior remodeling, enlargement or change of use, unless otherwise specifically stated.~~

### §17.32.030. Exemption

The following are exempt from the ~~requirements~~ standards of this chapter:

- A. Agriculture structures and agricultural uses;
- B. Minor improvements or repairs to existing development or buildings that do not result in an increase in floor area; ~~or~~
- C. Detached single family residential development or redevelopment on existing legal lots which do not require a Design Review Permit;
- D. Public or private utility development involving the installation of utility distribution lines and systems. The construction of office space, parking areas, shops, storage areas or similar developments are not exempt from the provisions of this Chapter; or
- E. Subdivisions.
- ~~C. Detached single family dwellings on individual lots for a period of one (1) year for the front yard area and a period of two (2) years for the rear yard area beginning at the time the final certificate of occupancy is issued.~~

**§17.32.040. Landscaping****A. Required Landscaping.**

Required landscaping shall be installed in all yard areas, along the perimeter of the lot, around buildings, and all other portions of the property not specifically utilized for walkways, driveways, parking, loading, or other functions for which landscaping may not be practical (See Figure 17.32.040.A).

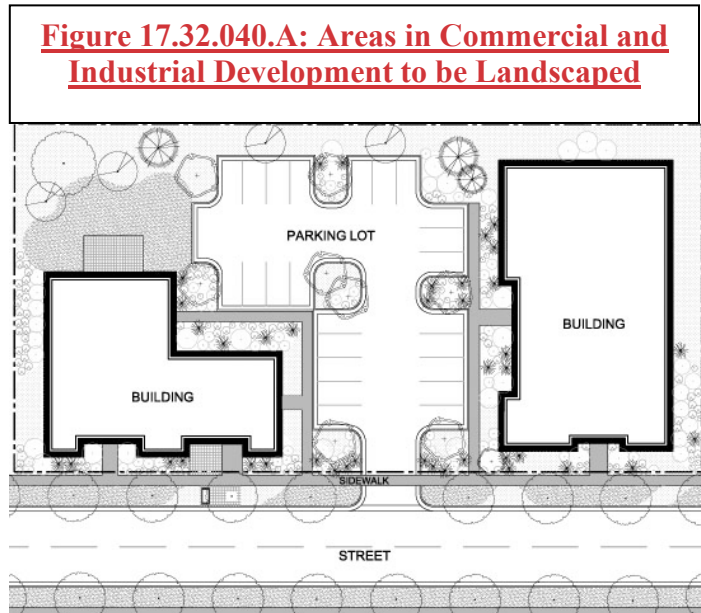
**B. Landscaping for Lots**

Which are Partially Developed.

~~At the discretion of the decision making body,~~

~~Projects with substantial portions of the parcel area left for future development may be exempt from landscaping the undeveloped portion of the property provided a phasing plan is approved with the Design Review Permit.~~ If any portion of the undeveloped area of the lot fronts a public right-of-way, standard improvements such as

curb, gutter, sidewalk and installation of street trees and other appropriate landscaping shall be required at the time of the development.

**C. Landscaping When Expansion or Additional Development Occurs.**

~~Any building or development expansion that results in a 10% or greater increase in gross square footage of a building or developed area shall trigger an evaluation of the entire site for compliance with the requirements of this Chapter by the decision makers. If a parcel with existing development is proposed for additional development, and the expansion results in more than a 10% increase in gross square footage, the decision makers has the discretion to review the landscaping installed on the entire property and may require conformance to the requirements of §17.32.050. If the expansion or redevelopment results in less than a 10% gross increase in square footage, the Director will determine if the property will be required to conform to the landscape requirements of §17.32.050.~~

**D. Landscaping Required for Interior Remodeling That Results in a Change of Use.**

Full compliance with this Chapter shall be required when a change of use ~~occurs that~~ results in any modifications to the site and exterior of the structures. Compliance is not required when a change of use does not modify the exterior of a building nor requires a Design Review Permit. ~~the use within a structure is changed, there is no change in exterior appearance, and a Design Review permit is not required.~~

**E. Detached single family dwellings on individual lots. The front yard area of a detached single family dwelling shall be landscaped within one (1) year of the issuance of the Certificate of Occupancy and the rear yard shall be landscaped within two (2) years of the issuance of the Certificate of Occupancy. No more than 50% of the front yard area of a detached single family dwelling may be covered with an impervious surface (pavement, concrete, hardscaped, etc.).**

17.32: Landscaping and Useable Outdoor Space

**§17.32.050. Useable Outdoor Space Standards**

- A. The proponent shall identify the intended uses of the usable outdoor space in the permit application. Useable outdoor space includes the following:
  - 1. Patios, decks, shade structures, play equipment, play courts, walkways, landscaped plazas, and accessory structures that enhance the use and enjoyment of the outdoor space and project site;
  - 2. Active recreational uses such as parks, trails, playgrounds, and play fields;
  - 3. Public gathering areas such as plazas, parks, public squares, sidewalks in front of small businesses, courtyards with seating, or any other area that provides outdoor seating (chairs or benches), that are visually prominent and are easily accessible;
  - 4. Natural open space areas that are unbuildable and regulated under Chapter 17.24.
- B. Useable outdoor space in a Mixed Use project are also defined as shared public spaces where people can comfortably congregate and socialize. Within a mixed use project, public gathering areas generally include plazas, parks, public squares, sidewalks in front of small businesses, courtyards with seating, or any other area that provides outdoor seating (chairs or benches), are visually prominent, and are easily accessible.
- C. Useable outdoor spaces shall be interconnected with other outdoor spaces either adjacent to the project site, or within the project site, through the use of pedestrian walkways or corridors.
- D. Useable outdoor space does not include driveways or parking areas.
- E. At the discretion of the decision making body, storm water facilities may be considered as useable outdoor space if the facilities are designed to accommodate a mixture of uses (e.g., stormwater detention areas also functioning as a soccer field) and integrated into the project site’s overall landscaping.
- F. Minimum Required Useable Outdoor Space Area.  
All development shall provide the minimum amount of useable outdoor space as specified in Table 17.32.050.

**Table 17.32.050.A: Required Useable Outdoor Space and Landscaping according to Development Type**

<u>Development Type</u>	<u>Minimum Area Required for Useable Outdoor Space (gross land area)</u>	<u>Minimum Area Required for Landscaping (gross land area)</u>
<u>Multi-Family Residential</u>	<u>10%</u>	<u>20%</u>
<u>Commercial</u>	<u>10%</u>	<u>10%</u>
<u>Industrial</u>	<u>10%</u>	<u>10%</u>

**§17.32.050. Minimum Landscaping Requirements**

~~Landscaping requirements establish a minimum standard which a property owner may use to design a set of landscape drawings that can be approved and constructed through the City’s development process.~~

- A. Commercial, industrial, mixed-use, and multi-family projects shall comply with the following:
  - 1. Minimum Landscaped Areas Required.
    - a. All development types shall provide the minimum amount of landscaped area as shown in Table 17.32.050.A.

17.32: Landscaping and Useable Outdoor Space

b. Exceptions. Development in the TC-1 and Mixed Use zones have different requirements for landscaping and useable outdoor space, are exempt from the minimum useable outdoor space and landscaped requirements in Table 17.32.050.A, and shall default to the specified requirements in each zoning district.

~~At least 50% of the required usable open space of the project shall be planted landscape area.~~

2. Twenty (20) trees shall be required per one (1) acre of gross land.
3. Fifty (50) shrubs shall be required per one (1) acre of gross land.
4. Plant material shall be placed around the perimeter of the building footprint in a three (3) foot minimum planting strip except for entrances, utilities and where setbacks are less than three feet.

a. As part of the design review permit, the decision makers may permit a deviation of this building perimeter landscaping requirements in the industrial zone if warranted by unique site or building conditions.

B. Projects shall include a diverse mix of native and ornamental plant and tree species suited for Logan’s climate and the site’s unique soil, water and slope conditions (See Table 17.32.050.B). Plants selected for landscape areas shall be well suited for Logan’s climate and soil conditions. Plants with similar water needs shall be grouped together as much as possible. On slopes greater than 30%, plant material shall be selected to reduce the risk of soil erosion. Native and drought tolerant plant material are encouraged and should be used whenever possible. Projects should have a diverse mix of plant and tree species for disease resistance and visual interest (See Table 17.32.050.D).

C. Mulch and weed barriers are required~~is encouraged~~ in non-turf areas to retain water, discourage weed growth and moderate soil temperatures. ~~Weed barrier fabrics shall be a porous material to allow water and air to infiltrate the soils below.~~

D. Use of Evergreen Trees and Shrubs.  
A minimum of 25% percent of the plant material used for the project shall be evergreen trees and shrubs to provide year-round visual interest and dense landscape screening.

**Table 17.32.050.DB: Species Diversity Requirements**

Required Number of Trees	Minimum Number of Species
11-20	2
21-30	3
31-40	4
41+	5

**§17.32.070. Parking Lot Landscaping.**

This section establishes minimum landscaping requirements for the perimeter and interior of off-street parking areas. The general purpose of such landscaping is to reduce the visual impact of parking and pavement. Parking lot landscaping may count towards meeting the minimum landscaping requirements.

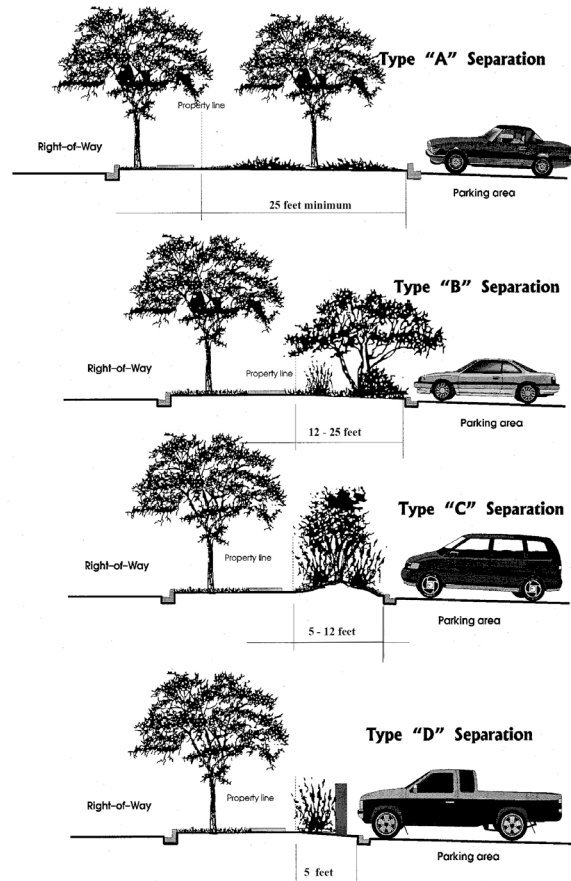
- A. All off-street parking lot landscaping shall be approved through the Design Review process ~~and shall not be less than the minimum standards of this chapter.~~
- B. Parking Lot Perimeter Landscaping.



## 17.32: Landscaping and Useable Outdoor Space

The parking lot perimeter landscaping requirements apply to all off-street parking lots ~~that are not fully screened from view of adjacent public rights-of-way. Landscape borders shall be used for open space and landscaping.~~ No structures or paving shall be located within the border area, with the exception of walls, walkways or other features incorporated into the landscaping. If adjoining properties share or abut parking lots, the perimeter landscape requirements are waived for the two adjoining sides of each parking lot and the two adjoining parking lots will be calculated as one. All off-street parking areas shall meet the following standards:

1. If the front setback of the parking lot is twenty-five (25) feet or more, the border landscape shall conform to the Type "A" separation in Figure 17.32.070.B. Border trees shall be planted at an average of thirty (30) feet on center.
2. If the front setback of the parking lot is twelve (12) to twenty-five (25) feet, the border landscape shall conform to the Type "B" separation in Figure 17.32.070.B. ~~For Type "B" and "C" separation, s~~ Shrubs must be planted at an average of three (3) feet on center and small trees shall be planted at fifteen (15) feet on center along the entire border.
3. If the front setback of the parking lot is five (5) to twelve (12) feet, the border landscape shall conform to the Type "C" separation in Figure 17.32.070.B. ~~For Type "C" separations, S~~ Shrubs must be planted at an average of three (3) feet on center and small trees shall be planted at fifteen (15) feet on center along the entire border. The earth berm shall be a minimum of three (3) feet in height as measured from the nearest street's top back of curb, and in combination with plant material, shall achieve a minimum four (4) foot tall solid screen at installation.
4. If the front setback of the parking lot is five (5) feet, the border landscape shall conform to the Type "D" separation in Figure 17.32.070.B. For Type "D" separations, ~~a the masonry wall shall be~~ four (4) feet in height shall be ~~and~~ used in combination with plant material placed at ~~four (4) six (6)~~ feet on center.
5. ~~For parking lots containing twenty five (25) stalls or fewer, five (5) feet shall be the minimum perimeter border width for the rear and side borders of the parking lot.~~



17.32: Landscaping ~~and Useable Outdoor Space~~

6. ~~For parking lots containing more than twenty-five (25) stalls, eight (8) feet shall be the minimum perimeter border width for the rear and side borders of the parking lot.~~
7. Side and rear parking lot perimeter borders shall be landscaped with plant material covering a minimum of 50% of the total border surface area measured at the plant's maturity.

**§17.32.11080. Maintenance of Landscaping and Park Strips**

- A. Landscaping to be Maintained in a Vigorous and Healthy Condition.
  1. Regular maintenance of all landscaping to present a healthy, neat and orderly appearance shall be required.
  2. Landscaping shall be maintained free from disease, pests, weeds and litter.
  3. Maintenance shall include weeding, watering, fertilizing, pruning, mowing, edging, mulching and other maintenance as needed and in accordance with acceptable horticultural practices. Regular and routine maintenance also includes replacing dead, dying and/or diseased trees, shrubs, plants or turf.
- B. Repair and Replacement of Landscaping.
  1. Required landscape structures (examples include and are not limited to walls, fences, curbs, planters) shall be maintained in a structurally sound and aesthetically pleasing condition.
  2. Required landscape irrigation systems shall be maintained in a sound and working condition.
  3. Continuous maintenance of the site as a whole is required.
  4. Failure to maintain the landscaped as approved may result in a suspension of an entity's Business License until remediation of the deficient landscaping is resolved.