

***ITEM #5** Provo City Development Services request Ordinance Text Amendments to Chapters 14.34, 14.38, 14.14E, and 14.14C, Provo City Code, to clarify standards and update codes. Citywide application. Aaron Ardmore (801) 852-6404 aardmore@provo.org PLOTA20220359

Applicant: Provo City Development Services

Staff Coordinator: Aaron Ardmore

ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is January 14th, at 6:00 P.M.*
2. **Deny** the requested Ordinance Text Amendment. *This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.*

Relevant History: Each year Provo Planning Staff note non-substantive changes to make to the zoning code to help clarify the regulation or correct errors. This application is for the needed changes found over the calendar year 2022.

Summary of Key Issues: The proposed amendments include:

- Update to fence standards to match the building code (Section 14.34.500)
- Clarification of screening standards for dumpsters (Section 14.34.080)
- Cross-reference lighting standards in sign code chapter (Section 14.38.010)
- Correct parking dimension standards for one-family dwellings to be consistent with parking design standards of Chapter 14.37 (Section 14.34.310)
- Move conditional use standards for Educational Facilities into the Standards for Conditional Uses Section (Section 14.34.250)
- Update clear vision standards to be consistent with Public Works standards (Section 14.34.100)
- Clarification of the objectives within the CMU zone (Section 14.14E.010)
- Cleanup of amenity space standards for the CMU zone (Section 14.14E.090)
- Correction of setback standards for the HDR zone (Section 14.14C.050)

Staff Recommendation: Staff would recommend that the Planning Commission forward a recommendation of approval for the proposed ordinance text amendments.

OVERVIEW

Provo City Planning Staff has been compiling a list of needed changes to the zoning code over the last year. The proposed changes are only to make corrections or to better clarify standards. None of these proposed amendments make substantive changes to code regulations or to the spirit of the individual code sections; but are simply correcting errors that staff has found over the course of the previous year.

FINDINGS OF FACT

Sec. 14.020.020(2) establishes criteria for the amendments to the zoning title as follows:
(Staff response in bold type)

Before recommending an amendment to this Title, the Planning Commission shall determine whether such amendment is in the interest of the public, and is consistent with the goals and policies of the Provo City General Plan. The following guidelines shall be used to determine consistency with the General Plan:

(a) Public purpose for the amendment in question.

Staff response: The public purpose is to have a clear and accurate zoning code for the City and those who do business with the City.

(b) Confirmation that the public purpose is best served by the amendment in question.

Staff response: By correcting errors and adding clarifying language to these code sections; the City Staff, Commissioners, and the public will be able to better navigate the City Codes.

(c) Compatibility of the proposed amendment with General Plan policies, goals, and objectives.

Staff response: The General Plan states as the following goal in Chapter One: “ensure adequate enforcement of zoning regulations”. The proposed changes help to meet this goal by having a clear zoning code to regulate development.

(d) Consistency of the proposed amendment with the General Plan’s “timing and sequencing” provisions on changes of use, insofar as they are articulated.

Staff response: There are no timing or sequencing issues related to this request.

(e) Potential of the proposed amendment to hinder or obstruct attainment of the General Plan’s articulated policies.

Staff response: Staff does not believe that the proposed changes will hinder or obstruct the General Plan policies in any way; but help to strengthen them.

(f) Adverse impacts on adjacent land owners.

Staff response: This is a city-wide amendment; this guideline does not apply.

(g) Verification of correctness in the original zoning or General Plan for the area in question.

Staff response: This is a city-wide amendment; this guideline does not apply.

(h) In cases where a conflict arises between the General Plan Map and General Plan Policies, precedence shall be given to the Plan Policies.

Staff response: No such conflict exists.

CONCLUSIONS

Staff take this type of application through on an annual basis and finds no reason not to make these changes at this time. Additionally, these proposed changes have been reviewed by staff from other departments and no concerns were found. Staff recommends that the Planning Commission forwards a recommendation of approval to the City Council on the proposed changes.

ATTACHMENTS

1. Proposed Amendments
2. Public Works Staff Report

ATTACHMENT 1 – PROPOSED AMENDMENTS

14.34.500

Fencing Standards for Residential Zones.

Fencing in the One-Family Residential (R1), Residential Conservation (RC), Very Low Density Residential (VLDR), Low Density Residential (LDR), Medium Density Residential (MDR), High Density Residential (HDR), Campus Mixed-Use (CMU), Neighborhood Mixed-Use (NMU), and Mixed-Use (MU) Zones shall comply with the following standards:

(1) Structural fences ~~six (6)~~seven (7) feet or less in height shall not require a building permit. Structural fences over ~~six (6)~~seven (7) feet in height shall require a building permit from the Building Inspection Division. A structural fence or vegetative fence shall not create a sight-distance hazard to vehicular or pedestrian traffic as defined in Section 14.34.100, Provo City Code, and as determined by the Provo City Traffic Engineer. Fencing materials are limited to lumber, vinyl, chain-link, masonry, wrought iron and decorative metal, vegetation or other similar fencing materials. Pallets, scrap metal, tarps or other non-fencing materials are not permitted. Any fence, wall, gate, hedge or structure maintained in such condition of deterioration or disrepair as to constitute a nuisance or a hazard to persons or property shall be repaired or replaced. Standards for barbed wire and similar types of fences are listed in Section 9.14.020, Provo City Code.

(a) *Front Yard.* Solid walls, fences or hedges which are sight obscuring may be built to a maximum of three (3) feet in height in any required front yard perimeter. Such walls, fences, or hedges may slope upward to connect to a higher side yard fence. The length of a sloped fence section shall not exceed one (1) section or a maximum of ten (10) feet. Walls, fences or hedges which are not sight obscuring (at least fifty percent (50%) open) may be built to a maximum of six (6) feet in height in a front yard.

(b) *Side Yard.* Solid sight-obscuring fences or walls and non-sight-obscuring fences (at least fifty percent (50%) open) may be built to a maximum of ~~six (6)~~seven (7) feet.

(c) *Rear Yard.* Walls and fences in a rear yard may exceed ~~six (6)~~seven (7) feet; provided, that a building permit is first obtained from the Building Inspection Division prior to construction.

(d) *Corner Lots.* A fence not more than ~~six (6)~~seven (7) feet in height may be constructed in a side yard adjacent to a public street on a corner lot, provided it does not extend into the clear vision area of a corner lot as defined by Section 14.34.100, Provo City Code.

(e) *Entryways.* Entry treatments to private driveways or subdivision development entrances may not exceed six (6) feet at the highest point, except lamps on pillars, and must comply with the provisions of Section 14.34.100, Provo City Code. Pillars shall be allowed to extend up to eighteen (18) inches above the allowable height of a fence; provided, that the pillars shall have a minimum spacing of no less than six (6) feet, measured face to face.

(f) *Grade Differences.* Where there is a difference in the grade of the properties on either side of a fence, wall or other similar structure, the height of the fence shall be measured from the natural grade of the property upon which it is located.

(g) *Retaining Walls.* Where a retaining wall protects a cut below or a fill above the natural grade and is located on the line separating lots or properties, such retaining wall may be topped by a fence, wall or hedge of the same height that would otherwise be permitted at the location if no retaining wall existed.

(h) *Privacy Walls.* Privacy walls which project into a required front yard may be built to a maximum of three (3) feet.

(i) *Double Frontage Lots.* A fence or wall may be erected in the rear yard of a double frontage lot to a maximum of ~~six (6)~~seven (7) feet if the rear yard fencing is common to the street, subject to staff review.

14.34.080

Trash Storage, Abandoned, Wrecked, or Junked Vehicles; Miscellaneous Materials.

(1) It shall be unlawful to park, store or leave or permit the parking, storing, or leaving of any licensed or unlicensed motor vehicle of any kind or part(s) thereof which is in a wrecked, junked, partially dismantled, inoperative, or abandoned condition, whether attended or not, upon any private property within the City limits of the City of Provo for a period of time in excess of seventy-two (72) hours, except that two (2) or fewer such vehicles or parts thereof

may be stored if within a building, or placed behind an opaque screening fence; and except that said vehicles and parts may be within a junk yard or automobile wrecking yard lawfully established pursuant to the provisions of this Title. For the purposes of this Title, any vehicle that is not currently licensed and insured to the minimum levels established by state law shall be considered inoperable.

(2) The accumulation and storage of more than two (2) such vehicles or part(s) thereof, as defined above, on private property except as set forth above shall constitute a nuisance, detrimental to the health, safety, and welfare of the inhabitants of the City of Provo. It shall be the duty of the owner of such vehicle or part(s) thereof or lessee or other person in possession of private property upon which such vehicle or part(s) thereof is located, to remove the same from such property or take other remedial action as directed by the City.

(3) No trash, used materials, junk, household furniture, appliances, scrap material, equipment or parts thereof shall be stored in an open area. The accumulation of more than one (1) such item constitutes a junk yard as defined in Chapter 14.06, Provo City Code, and must be removed from the property, stored within an enclosed building, or be properly located in an M2 zone.

(4) Storage of commercial goods or materials is prohibited unless permitted by the underlying zone. Trash storage containers shall be maintained in a location approved by the Planning Commission in conjunction with approval of a project plan or as required by Section 11.03.090 Solid Waste Containers. Trash storage container locations approved in conjunction with a project plan shall meet the following requirements:

(a) Trash storage containers shall be screened with durable materials architecturally compatible with the principal structure or perimeter fence/wall treatment located on the lot served. Such containers shall ~~not be visible~~ be screened from any abutting lot or public street.

(b) Trash storage container enclosures shall not project into a required yard unless authorized by conditional use permit issued pursuant to Chapter 14.02, Provo City Code.

(c) Trash storage containers located on a lot used for nonresidential purposes and which abuts a residential zone shall meet the setback requirements of Section 14.34.300, Provo City Code.

(d) The foregoing standards shall be applied according to the following considerations, listed in order of importance:

(i) Ease of access by trash removal vehicles.

(ii) Setback and screening of trash storage containers to minimize any potential odor nuisance, and to obscure the view from any abutting lot or public street.

(iii) Ease of access by users of trash storage containers.

(e) The provisions of this Subsection shall apply to trash storage containers of two (2) cubic yard capacity and larger. These provisions shall not apply to ninety (90) gallon trash storage containers provided by Provo City.

(5) It shall be a class B misdemeanor to maintain or store on any property within Provo City; injurious or noxious weeds, garbage, refuse, or unsightly or deleterious objects or structures when such may constitute either a health hazard, a present danger to the citizens of the city, a potential source of contagious disease, a harborage for rats or other rodents, or other carriers of disease, a fire hazard, or an attractive nuisance likely to cause injury to small children.

14.38.010

General Requirements.

The following general requirements shall apply to all signs and outdoor advertising structures which may be erected or maintained within the City of Provo.

(1) *Sign Approval.* Except as otherwise provided, it shall be unlawful and a class C misdemeanor to erect or maintain any sign or outdoor advertising structure in the City of Provo without first obtaining the approval of the Planning Commission for said sign or advertising structure, the giving of which shall be based upon the provisions of this Title.

(2) *Permits.* The approval of the Planning Commission shall be evidenced by a permit issued by the Building Inspection Division. All signs shall be constructed and all permits shall be issued in accordance with the provisions of the International Building Code. Permits for off-premises nonconforming signs shall be renewed on an annual basis. Applications for permits, or for the renewal of permits, shall require the applicant to disclose the owner of the sign and the owner

of the property on which the sign is or will be located, all relevant dates in regard to expiration of any lease or lease option, the date and cost of construction of the sign, the date and cost of any modification of the sign, the fair market value as appraised for property tax purposes, the date the sign will be depreciated for federal income tax purposes, the cost of operating the sign, and any other information reasonably required by the Planning Commission. A permit may be revoked and a sign removed pursuant to Subsection ~~(7)~~8 of this Section if the applicant for a permit makes a false or misleading statement in the permit application or renewal.

(3) *Electronic Display and Animated Signs.* Except as otherwise provided in this Chapter, all animated signs are prohibited. On-premises electronic display signs are prohibited in all Project Redevelopment Option (PRO) zones, the Special Development Plan (SDP) Overlay zone, the Downtown Historic district, and the A, RA, RC, R1, R2, VLDR, LDR, MDR, and HDR zones, but are permitted elsewhere. Businesses using electronic display signs are subject to the business licensing regulations contained in Chapter 6.06, Provo City Code. On-premises short hold time electronic display signs are prohibited in all zones, except as otherwise provided in Section 14.38.025, Provo City Code.

(4) *Sound or Emissions.* No sign shall be designed for the purpose of emitting sound, smoke, or steam.

(5) *Movable Signs, Banners, and A-Frame Signs.* Except as otherwise provided in this Chapter, all movable signs, banners and A-frame signs are prohibited. This prohibition shall include signs mounted or painted upon vehicles or trailers which are parked in any location for the purpose of calling attention to or advertising a person, place, or thing.

(6) *Canopy Signs.* Signs painted on or affixed to canopies which are part of the building shall be considered part of the total allowed area of wall signs for the walls from which the canopy projects. Signs painted on or affixed to canopies which are freestanding shall be considered part of the total allowable area of freestanding signs for that use. Signs suspended under canopies (marquees) which project over public rights-of-way shall be limited to six (6) square feet. Signs with changeable copy (reader boards) located on marquees of theaters or similar public assembly uses may combine the total allowable area for all building faces as permitted by Section 14.38.140, Provo City Code, so long as there are no wall signs placed upon building faces other than the face to which the marquee is attached.

(7) *Lighting. See Chapter 15.21, Provo City Code.*

~~(7)~~(8) *Violations.*

(a) It is unlawful to erect or maintain a sign contrary to the provisions of this Chapter. If a sign is erected or maintained in violation of this Chapter the Planning Commission may do the following:

(i) Order the defect corrected within a fixed period of time, not exceeding thirty (30) days, if correction of the defect will bring the subject sign into compliance with the provisions of this Chapter; but

(ii) If correction of the defect will result in a violation of the provisions of this Chapter, order that the subject sign be removed by, and at the expense of, the owner of the sign, within a fixed period of time not exceeding thirty (30) days.

(b) If the owner of the sign contests the order of the Planning Commission, the remedy shall be an appeal to the zoning Board of Adjustment, which appeal shall be taken in the time and manner otherwise provided in this Title for appeals to the zoning Board of Adjustment.

(c) If the owner of the sign fails or refuses to remove the subject sign at the order of the Planning Commission, the City may remove the sign at any time after the owner thereof exhausts the owner's administrative remedies in relation thereto, unless otherwise ordered by a court of law. Removal by the City shall be at the expense of the owner, and the City may obtain judgment against the owner in an amount equal thereto, together with reasonable attorneys' fees and costs.

14.34.310

One-family Detached Dwellings.

Any detached one-family dwelling located on an individual lot must meet the off-street parking requirements in Chapter 14.37, Provo City Code and the following standards in addition to any others required by law except as provided in Subsection 14.34.310(1), Provo City Code.

Exemption: All one-family dwellings for which building permits were issued prior to August 21, 1990, are exempt from the requirements of this Section. Neither shall compliance with these

regulations be required of units existing prior to the adoption of this Section if such units are later remodeled except as otherwise provided in this Title.

(1) The dwelling must meet the requirements of the Provo City Building Code or, if it is a manufactured home, must meet the requirements of the HUD Code and must not have been altered in violation of such codes. A used manufactured dwelling must be inspected by the Chief Building Official or the Chief Building Official's designee prior to placement on a lot to insure it has not been altered in violation of such codes. Any violations must be corrected as directed by the Chief Building Official. Manufactured homes shall be multiple transportable sections.

(2) The dwelling must be taxed as real property. If the dwelling is a manufactured home, an affidavit must be filed with the State Tax Commission pursuant to Utah Code Annotated 59-2-602.

(3) The dwelling must be approved for and permanently connected to all required utilities.

(4) Each dwelling shall have a site-built concrete, masonry, steel or treated wood foundation capable of transferring design dead loads and live loads and other design loads unique to local home sites, due to wind, seismic and water conditions, that are imposed by or upon the structure into the underlying soil or bedrock, without failure. All foundations shall be designed in accordance with Provo City adopted building codes, the manufacturer's recommendations, NCSBCS Standards, or an approved engineered design. All perimeter footings must be a minimum of thirty (30) inches below grade for frost protection. All tie-down devices must meet Provo City adopted building codes, the manufacturer's recommendations, NCSBCS Standards, or an approved engineered design. The space beneath the structure must be enclosed at the perimeter of the dwelling in accordance with the manufacturer's recommendations or NCSBCS Standards and constructed of materials that are weather resistant and aesthetically consistent with concrete or masonry type foundation materials. All manufactured home running gear, tongues, axles, and wheels must be removed at the time of installation.

(5) Dwellings shall have a roof surface of wood shakes, asphalt shingles, composition shingles, wood shingles, concrete tiles, fiberglass tiles, slate tiles, or built-up gravel materials. Unfinished galvanized steel or unfinished aluminum roofing shall not be permitted. There shall be a roof overhang at the eaves and gable ends of not less than six (6) inches, excluding rain gutters,

measured from the vertical side of the dwelling. The roof overhang requirement shall not apply to areas above porches, alcoves and other appendages which together do not exceed twenty-five percent of the length of the dwelling.

(6) Dwellings shall have exterior siding material consisting of wood (excluding plywood, particle board or other wood products not intended as an architectural finish product), hardwood, brick, concrete, stucco, glass, metal or vinyl lap, tile, or stone, or an aesthetically pleasing combination of these materials.

(7) The width of the dwelling shall be at least twenty (20) feet at the narrowest point of its first story, exclusive of any garage area, as viewed from the front lot-line, to create a front entry to the home as viewed from the street; this portion of the dwelling shall have a depth (front to rear) of at least twenty (20) feet.

(8) One-family detached dwellings in the R1.10 zone shall be provided with an attached or detached garage or carport, designed with the same architectural style and materials as the main dwelling and constructed concurrently with the dwelling and having a minimum interior width and length of twenty (20) feet. See Section 14.37.100, Provo City Code.

(9) One-family detached dwellings in all other zones shall be provided with an attached or detached garage or carport, designed with the same architectural style and materials as the main dwelling and constructed concurrently with the dwelling and **having a minimum interior width of twenty (20) feet and interior length of twenty (20) feet for two (2) parking spaces, a minimum interior width of ten (1) feet six (6) inches and a minimum interior length of twenty (20) feet for one (1) parking space; such space shall be free of stairs or other build obstructions.** ~~having a minimum interior width of twelve (12) feet and length of twenty (20) feet, except that garages for multiple-level one-family dwellings shall have a minimum interior width and length of twenty (20) feet.~~ See Section 14.37.100, Provo City Code.

14.34.520

~~Educational Services as a Conditional Use.~~

~~Private educational services, when allowed as a conditional use, may be approved only in compliance with the applicable zoning district regulations, Section 14.02.040, Provo City Code, and the following:~~

~~(1) Parking requirements must follow the provisions enumerated in Section 14.37.060, Provo City Code, relating to schools.~~

~~(2) The applicant must submit a detailed parking and circulation plan prepared by an engineer, architect, planner, or other similar professional. The conditional use may only be approved if the plan empirically concludes to the satisfaction of Planning Commission, or its designee, that the existing or proposed facility will not negatively affect area traffic, surrounding land uses, or properties. The parking and circulation plan shall include:~~

~~(a) A designated drop-off and pick-up zone sufficient for the student population; and~~

~~(b) Sufficient queuing space on the property to prevent vehicle back-ups on city streets during drop-off and pick-up times.~~

~~(3) Such use must conform to all applicable health, safety, and building codes.~~

~~(4) No exterior lighting may shine directly into adjoining properties.~~

14.34.250

Standards for Conditional Uses.

A conditional use permit is required for the following conditional uses when permitted in the zone and shall only be approved in compliance with Section 14.02.040, Provo City Code. The uses shall comply with the requirements of this Section and shall also comply with any additional conditions resulting from a Planning Commission hearing.

(12) *Educational Services.*

(a) Parking requirements must follow the provision enumerated in Section 14.37.060, Provo City Code, relating to schools.

(b) The applicant must submit a detailed parking and circulation plan prepared by an engineer, architect, planner, or other similar professional. The conditional use may only be approved if the plan empirically concludes to the satisfaction of Planning Commission, or its designee, that the existing or proposed facility will not negatively affect area traffic, surrounding land uses, or properties. The parking and circulation plan shall include:

- (i) A designated drop-off and pick-up zone sufficient for the student population;
and
 - (ii) Sufficient queuing space on the property to prevent vehicle back-ups on city streets during drop-off and pick-up times.
- (c) Such use must conform to all applicable health, safety, and building codes.
- (d) No exterior lighting may shine directly into adjoining properties.

14.34.100

Clear Vision Area - Corner Lots.

In all zones which require a front yard, no structure in excess of three (3) feet in height shall be placed on any corner lot within a triangular area formed by the street property lines and the line connecting them at points twenty-five (25) feet from the intersection of the street lines, with the following exceptions:

- (a) Street trees and other landscaping are permitted which are pruned and trimmed so as to not obstruct a clear view by motor vehicle drivers, as determined by the City Engineer.
- (b) City wayfinding and traffic control signs.

14.14E.010

Purpose and Objectives.

The Campus Mixed-Use (CMU) zone is established to ~~provide~~encourage high density housing and to give the option for a mix of residential and commercial uses near Brigham Young University. The densities permitted by the zone are intended to encourage redevelopment of land for residential uses where property values are high and demolition is necessary. The uses typically permitted in this zone are apartments, batching apartments, and condominiums. ~~and~~The zone also allows for ground-floor neighborhood commercial services for the convenience of those living in the area (~~neighborhood commercial~~).

14.14E.090

Other Requirements.

- (1) Signs (see Chapter 14.38, Provo City Code).
- (2) Landscaping (see Chapter 15.20, Provo City Code).
- (3) Trash storage (see Section 14.34.080, Provo City Code).
- (4) Fencing (see Section 14.34.500, Provo City Code).
- (5) *Parking, Loading and Access.* Each land use in the CMU zone shall have automobile parking sufficient to comply with the requirements of Chapter 14.37, Provo City Code.
- (6) In any new project consisting of twenty (20) or more residential units, an area equivalent to ten percent (10%) of the residential gross floor area shall be developed in residential amenities, such as a common clubhouse, gym, pool, rooftop garden, or other amenity. **This space must be massed or accumulated to be functional as a recreational or gathering space.**

Landscaping within the required setbacks shall not be calculated towards meeting this provision.

~~(7) In any new project consisting of twenty (20) or more residential units, the open space must be massed or accumulated to be functional as a recreational amenity or gathering space.~~

~~(8)~~(7) Each first floor commercial frontage situated along a public street shall provide an entry door and a minimum of thirty percent (30%) completely transparent glass on street-facing facades.

14.14C.050

Yard Requirements.

Yards shall be provided according to the requirements listed below: (Note: All setbacks are measured from the property line.)

- (1) Front yard: ten (10) feet **minimum, twenty (20) feet maximum**~~(maximum)~~.
- (2) Side yard, street: ten (10) feet **minimum, twenty (20) feet maximum**~~(maximum)~~.

ATTACHMENT 2 – PUBLIC WORKS STAFF REPORT



PUBLIC WORKS
TEL 801 852 6780
1377 S 350 E
PROVO, UT 84606

Public Works Staff Report

Hearing Date: 12/7/2022

Ordinance Text Amendments to Chapters 14.34, 14.38, 14.14E, and 14.14C.

Item #5 Summary:

Provo City Development Services request Ordinance Text Amendments to Chapters 14.34, 14.38, 14.14E, and 14.14C, Provo City Code, to clarify standards and update codes. Citywide application. Aaron Ardmore (801) 852-6404 aardmore@provo.org PLOTA20220359

Staff Recommendation:

Public Works staff has no concerns with the requested action.

Dave Decker, Public Works Director
David Day, Development Engineering Coordinator