ORDINANCE 2023-18

AN ORDINANCE ADOPTING TITLE 8: PUBLIC WAYS AND PROPERTY, SECTION 8 PRIVATE LANDSCAPING ON PUBLIC PROPERTY ADDRESSING PRIVATE IMPROVEMENTS ON PUBLIC LANDS OWNED BY NORTH OGDEN CITY

WHEREAS; North Ogden City owns and maintains property that is not immediately needed for public purposes; and

WHEREAS; North Ogden City will benefit from private property owners improving and maintaining certain properties; and

WHEREAS; North Ogden City Planning Department reviews and approved land use decisions, and considers future uses of public property within the City; and

WHEREAS; The City Council periodically adopts new standards for the City to consider use and enjoyment of property.

NOW THEREFORE, BE IT ORDAINED by the North Ogden City Council that the North Ogden City adopts a new section within Title 8: Public Ways and Property, Section 8: Private Landscaping on Public Property.

SECTION 1: The text below is hereby adopted for North Ogden City entitled "8-8: Private Landscaping on Public Property".

Title 8: Public Ways and Property

8-8: Private Landscaping on Public Property

8-8-1: Definitions

8-8-2: Permit Required; Basis For Issuance

Any person desiring to extend their landscaping onto city owned parcels must obtain a permit from the city. The decision by the city to issue a permit shall include, among other factors determined by the city, the following:

1. The suitability of the property for the proposed changes.
2. The damage or disruption, if any, of public or private facilities, improvements or landscaping previously existing on the public property;
3. The public interest in the ongoing maintenance of the property.
4. The overall size of the property requested.

8-8-3: Application For Permit

Application for a permit shall be filed with the Planning Department on a form or forms to be furnished by the city. Property owners and/or tenants for whom work is being done shall be responsible for obtaining the permits, provided, however, contractors may obtain the permit in the contractor's name.

A. Eligible Persons: No person shall be eligible to apply for or receive permits to install landscaping on city property except the following:
    1. Contractors licensed by the state as general contractors; Property Owners located immediately adjacent to Public Property.
B. Denial Based On Past Performance: The Planning Director may deny the issuance of permits to individuals who have not followed procedures or have damaged city property.
C. Plans May Be Required: When necessary, in the judgment of the Planning Director, to fully determine the relationship of the work proposed to existing or proposed facilities within the public property, or to determine whether the work proposed complies with the engineering regulations, construction specifications and design standards, the Planning Director may require the filing of engineering plans, specifications and sketches showing the proposed work in sufficient detail to permit determination of such relationship or compliance, or both, and the application shall be deemed suspended until such plans and sketches are filed and approved.
D. Commencement Unlawful Without Approval And Permit: It shall be unlawful for any person to commence work upon any public property until the Planning Director has approved the application and until a permit has been issued for such work, except as specifically approved to the contrary in this chapter.
E. Appeal: The disapproval or denial of an application by the Planning Director may be appealed by the applicant to the Mayor by filing of a written notice of appeal within ten (10) days of the action of the Planning Director. The Mayor shall hear such appeal if written request therefore be timely filed as soon as practicable, and render his/her decision within two (2) weeks following notice of such appeal.
F. Limited Authority Of Planning Director: In approving or disapproving work within any public property, or permits therefor, in the inspection of such work; in reviewing plans, sketches or specifications; and generally in the exercise of the authority conferred upon him/her by this chapter, the Planning Director shall act in such manner as to preserve and protect the public property and the use thereof, but shall have no authority to govern the actions or inaction of permittees and applicants or other persons which have no relationship to the use, preservation or protection of the public property.
G. Routine Maintenance Work by Government Employees: It shall be lawful for city employees to perform routine maintenance work, not involving excavations, without first having obtained a permit.
H. Hand Digging Excavations: A permit is required from the Planning Director for hand digging excavations for installation or repair of landscaping within the nonpaved areas of public property. However, conformance to all city specifications is required.
I. Limitations: Permit holders are not permitted to install on public property the following: permanent structures, fences, underground sprinkler systems, retaining walls, grass clippings, green waste, compacted gravel, concrete, or asphalt, and may not regrade the property. The City encourages water-wise landscaping.
J. Landscaping: Permit holders are permitted to install the following plants: water-wise grasses, shrubs and ground cover, bark and mulch, decorative rock, removable planter beds. Installation of landscaping improvements may be limited within areas determined to have an impact on water quality or storm detention.

8-8-4: Fee For Permit

A. Required: The city shall charge and the permittee shall pay upon issuance of the permit, fees for costs associated with the work performed under the permit as required by a Land Use Permit. Such costs could include costs for reviewing the project and issuing the

permit, inspections of the project, deterioration of the public property or diminution of the useful life of the public property, and other costs to the city associated with the work to be done under the permit. All costs shall be assessed in a nondiscriminatory manner.

B. Waiver: The Planning Department may waive permit fees or penalties, or portion thereof, provided for in this chapter, when he/she determines that such permit fee or penalty:
    1. Pertains to construction or rehabilitation of housing for persons whose income is below the median income level for the city; or
    2. Pertains to an encroachment on the public property involving a beautification project which furthers specific goals and objectives set forth in the city strategic plan, master plans or other official documents, including decorative street lighting, building facade lighting, flower and planter boxes, and landscaping.

C. Additional Charges: Additional charges to cover the reasonable cost and expenses of any required engineering review, inspection and work site restoration associated with each undertaking may be charged by the city to each permittee, in addition to the permit fee.

8-8-5: Contents of Permit; Extension; Revocation

1. Length of Permit: Permits for the installation of landscaping on public property shall be valid until revoked by the city. The Planning Director may determine it is in the best interest of the city to set a length or term for any permit. Permits in good standing may be renewed upon written notice.
2. Revocation: Permits may be revoked for non-compliance with this chapter and other regulations controlling the use of public property. Permits may be revoked in order to install or improve public property as required by a Capital Facilities Project, or completion of a project in a long-range plan or strategic planning document. Permits may be revoked with 90 days notice at any time for any reason if the Mayor determines it is in the best interest of the city.
3. The City shall send a letter to permit holders annually reminding them of their obligations or limitations in the use of public property, and potential for revocation if the City needs to use the property.

8-8-6: Transfer, Assignment Prohibited

Permits shall not be transferable or assignable, and work shall not be performed under a permit in any place other than that specified in the permit. Nothing herein contained shall prevent a permittee from subcontracting the work to be performed under a permit; provided, however, that the holder of the permit shall be and remain responsible for the performance of the work under the permit, and for all bonding, insurance and other requirements of this chapter and under said permit. Permit Holder shall disclose the permit to any successor in interest of their adjacent property to keep ownership boundaries clear, and identify the need for successor in interest to obtain a permit to continue to utilize the property.

8-8-7: Restoration of Public Property

1. Required: The permittee shall, at the permittee's own expense, restore the city property to its original condition if a violation of the permit occurs. If the city determines to revoke the permit for any other reason the city will not require the permittee to restore the property.
2. Property owners will not be reimbursed for the cost of private improvements made on public property after the expiration or revocation of a permit.

8-8-8: Work Without Permit

1. Stop Work Order: A stop work order may be issued by the Planning Director to any person or persons doing or causing any work to be done on public property without a permit or in violation of a permit. Individuals who violate a permit or work without a permit must restore the property to the prior condition.

SECTION 2: This ordinance shall take immediate effect, and shall apply to any property which has not submitted a complete application as of the date of this ordinance, or allowed any approvals to lapse after the adoption of this ordinance.

PASSED and ADOPTED this 26th day of September 2023.

North Ogden City:



S. Neal Berube
North Ogden City Mayor

CITY COUNCIL VOTE AS RECORDED:

	Aye	Nay	
Council Member Barker:	___	___	excused
Council Member Cevering:	___	__X_	
Council Member Dalpias:	__X_	___	
Council Member Swanson:	___	__X_	
Council Member Ekstrom:	__X_	___	
(In event of a tie vote of the Council):			
Mayor Berube	__X_	___	

ATTEST:

Rian Santoro
City Recorder