

Code Amendment Review				
Prepared by: S Bankhead	Date: 02/12/2024	Land Use	Yes: X	No: X
Code Title: 10 Zoning Regulations	Title Chapter: 8 Area Regulations	Chapter Section: 3 Setbacks		
Applicant: Providence City				
Abbreviations & Authority: <ol style="list-style-type: none"> 1. Utah Code Annotated: UCA 2. The UCA references are summarized in this analysis. For a complete details and code requirements, please review the online Utah Code at: https://le.utah.gov/xcode/code.html 3. Providence City Code: PCC 4. The PCC references are summarized in this analysis. For a complete details and code requirements, please review our online city code at: https://providence.municipalcodeonline.com/book?type=ordinances#name=Preface 5. Recommendation: Planning Commission (PCC: 10-4-4:B.1) 6. Legislative body: City Council 				
Background Information: <ol style="list-style-type: none"> 1. The Applicant is requesting a change to PCC 10-8-3.A.7 by adding a graphic and a reference to the retaining wall section in Chapter 5-4. 2. The city staff has received numerous questions and complaints regarding retaining walls throughout the city, but particularly in the bench areas. This proposed amendment seeks to provide clarification to the retaining wall requirements. 3. The planning commission reviewed the proposed amendments during their January 24, 2024 meeting. Their comments have been incorporated into this draft. 				

FINDINGS OF FACT:

1. UCA 10-3-701. Legislative power exercised by ordinance. Except as otherwise specifically provided, the governing body of each municipality shall exercise its legislative powers through ordinances.
2. UCA 10-3-702. The governing body may pass any ordinance to regulate, require, prohibit, govern control or supervise any activity, business, conduct of condition authorized by this act or any other provision of law.
3. UCA 10-9a-102 Purposes – General land use authority.
A municipality may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that the municipality considers necessary or appropriate for the use and development of land within the municipality, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing: (a) uses; (b) density; (c) open spaces; (d) structures; (e) buildings; (f) energy efficiency; (g) light and air; (h) air quality; (i) transportation and public or alternative transportation; (j) infrastructure; (k) street and building orientation; (l) width requirements; (m) public facilities; (n) fundamental fairness in land use regulation; and (o) considerations of surrounding land uses to balance the foregoing purposes with a landowner's private property interests and associated statutory and constitutional protections.
4. UCA 10-9a-201(1) Only a legislative body, as the body authorized to weigh policy considerations, may enact a land use regulation.
5. UCA 10-9a-302(1) The planning commission shall review and make a recommendation to the legislative body for (b) land use regulations, including: (i) ordinances regarding the subdivision of land within the municipality; and (ii) amendments to existing land use regulations.
6. UCA 10-9a-502(1) The planning commission shall provide notice, hold a public hearing, and review and recommend a proposed land use regulation to the legislative body.

CONCLUSIONS OF LAW:

1. The city council exercises its legislating power through ordinances.
2. The city council may enact any ordinance to regulate any activity.

3. The city council may enact or amend land use regulations.
4. The Providence City Council is the legislative body for the city.
5. The Providence Planning Commissions reviews and makes recommendations to the city council for land use regulations.
6. The applicant filed a complete application, including reasons for the proposed amendment.

CONDITIONS:

1. Before making a recommendation to a legislative body on an amendment to an existing land use regulation, the planning commission shall hold a public hearing in accordance with UCA 10-9a-404
2. The applicant shall meet all applicable City, state and federal laws, codes, rules.

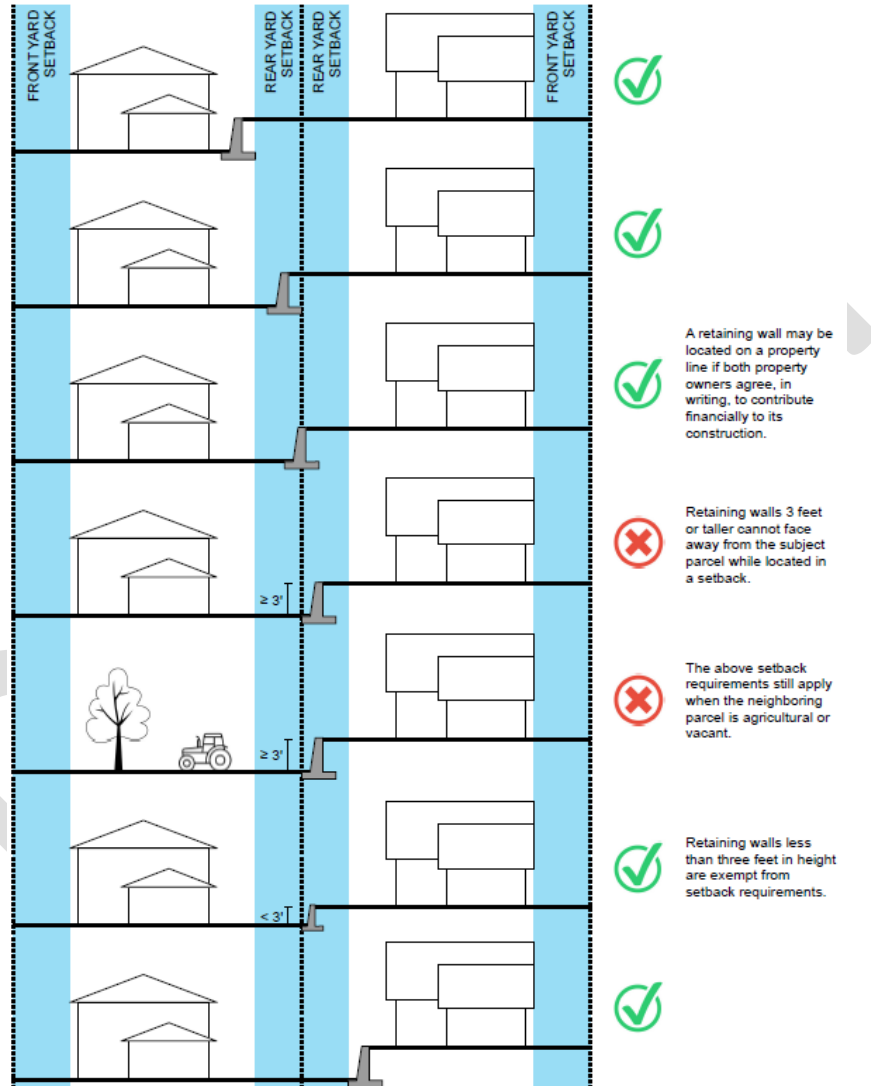
Current Code

PCC 10-8-3.

A. General Setback Requirements

7. Retaining Walls.

- a. Less than three feet (3') in height. Retaining walls less than three feet (3') in height are exempt from setback requirements.
- b. Three feet (3') to six feet (6') in height. Retaining walls from three feet (3') to six feet (6') in height may be located within a required non-street side or rear setback area in residential zones and any setback area in nonresidential zones provided the exposed side of the wall faces into the subject parcel. **Proposed graphic**



- c. Greater than six feet (6') in height. Rear and non-street side setbacks for retaining walls greater that six feet (6') in height, or where the exposed side of the wall faces out from the subject parcel ~~without regard to height~~, **is three feet in height or greater**, shall be subject to the same requirements as the main structure in the applicable zoning district.
- d. **See Chapter 5-4 Fence Regulations of this code for additional retaining wall regulations.**