

## **FENCING; SCREENING; LANDSCAPING**

### **§ 152.275 PURPOSE.**

The purpose of this subchapter is to establish standards for the installation of fencing, screening and landscaping as may be required by other subchapters of this chapter and to protect the general health, safety and welfare of the city.

(Prior Code, § 11-20-1) (Ord. 258, passed 5-4-2006)

### **§ 152.276 FENCES.**

Fences shall be permitted in all yards subject to the following.

(A) *Permit required.* No person shall construct any fence without first making an application for and securing an administrative permit for fences not exceeding six feet in height and a building permit for fences exceeding six feet in height.

(B) *Locations; boundary line fences.*

(1) A fence that requires periodic maintenance shall be located no closer than two feet from any side or rear yard lot line on the property of the person constructing the fence. An exception to this may be allowed by administrative permit provided that an agreement addressing construction, maintenance and repair responsibilities, as well as trespass rights, is established between the adjoining property owners and the agreement is determined acceptable to the City Attorney and filed with the County Recorder against the titles of the respective properties. The fence agreement shall provide for amendment or cancellation only upon written approval from the Zoning Administrator.

(2) A fence that is maintenance free, such as a chain link of steel, plastic or vinyl and is acceptable as that to the Zoning Administrator, may be constructed up to the side or rear yard property line.

(3) The city may require the owner of the property upon which a fence now exists, or may require any applicant for a fence permit to establish the boundary lines of the property by a survey thereof to be made by any land surveyor.

(4) No fences shall be placed on or extend into public rights-of-way or onto public property.

(C) *Construction and maintenance.*

(1) Every fence shall be constructed in a substantial, workmanlike manner and of substantial material reasonably suited for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private. Any fence which is, or has become dangerous to the public safety, health or welfare is a public nuisance and the Zoning Administrator shall commence proper proceedings for the abatement thereof.

(2) The side of any fence considered to be its "face" (i.e., the finished side having no structural supports) shall face abutting property or street right-of-way.

(D) *Solid walls.* Solid walls up to eight feet in height that are not part of buildings may be constructed and maintained only within the buildable area of a lot.

(E) *Traffic sight visibility triangle.* On corner lots, no fence or screen shall be permitted within the traffic sight visibility triangle specified by § 152.186 of this chapter.

(F) *Residential fencing and screening.*

(1) Except as provided herein, fences shall be at least 5% open for passage of air, light and drainage.

(2) Except as provided herein, fences may not exceed six feet in height.

(3) Fences extending across front yards and side yards abutting a public right-of-way shall not exceed 48 inches in height and shall be at least 50% open space for passage of air and light and shall conform to the traffic visibility triangle requirements of § 152.186 of this chapter.

(G) *Swimming pool protection.*

(1) A permit as described herein shall be required for swimming pools having a depth of 24 inches at any point and a surface area exceeding 150 square feet.

(a) *Administrative permit required.* Prefabricated swimming pools in which the pool walls are entirely above the adjacent grade and the capacity does not exceed 5,000 gallons shall require an administrative permit before installation.

(b) *Building permit required.* All in-ground pools regardless of capacity and all aboveground swimming pools that exceed 5,000 gallons shall require a building permit before installation.

(2) Each application for a permit to construct a swimming pool shall be accompanied by plans of sufficient detail to show:

(a) The proposed location of the pool and its relationship to the principal building on the lot;

(b) The size of the pool;

(c) Fencing and other fixtures existing and proposed on the lot, including utility location and trees;

(d) The location, size and types of equipment to be used in connection with the pool, including, but not limited to, filter unit, pump fencing and the pool itself; and

(e) The requirements contained in this division and division (G)(3) below of this section will be satisfied including submission and approval of a site plan.

(3) All swimming pools for which a permit is required shall be provided with safeguards to prevent children from gaining uncontrolled access. This can be accomplished with fencing, screening or other enclosure, or any combination thereof, of sufficient density as to be impenetrable. If fences are employed, they shall be at least four feet in height. The bottoms of the fences shall not be more than four inches from the ground nor shall any open space in the fence be more than four inches. Fences shall be of a non-corrosive material and shall be constructed as to be not easily climbable. All fence openings or points of entry into the pool enclosure shall be equipped with gates or doors. All gates or doors to swimming pools shall be equipped with self-closing and self-latching devices placed at a sufficient height so as to be inaccessible to all small children. The fencing requirements of this division (G) of this section need only be provided around the means of access on aboveground pools which have four feet high, vertical or outward inclined side walls. Prior to filling the pool, the approved fence and/or screen shall be completely in place and inspected and approved by the City Building Official.

(4) In all residential districts, swimming pools shall be set back ten feet from all adjoining lots and, except for fences and pump enclosures, shall be located at least ten feet away from any other building or structure on the same lot and shall not be located within a drainage or utility easement. Swimming pools shall not be permitted in a front yard or in the area between the street right-of-way and the minimum required building side yard setback line.

(H) *Business and industrial fencing.*

(1) No fence shall be allowed in the front yard of a business use except by conditional use permit.

(2) Except in a required front yard, business and industrial fences may be erected up to eight feet in height.

(3) Business and industrial fences with barbed wire security arms shall be erected a minimum of six feet in height (measured without the security arm). The security arm shall be angled in a manner that it extends only over the property of the permit holder and does not endanger the public. Security fencing shall be prohibited within a required front yard or when located along a property line abutting a residential use.

(I) *Special purpose fences.* Fences for special purposes and fences differing in construction, height or setback that are not constructed within a required front yard may be permitted in any district as a conditional use permit subject to §§ 152.070 through 152.074 of this chapter.

(Prior Code, § 11-20-2) (Ord. 258, passed 5-4-2006)

**§ 152.277 GENERAL LANDSCAPING AND MAINTENANCE.**

(A) All exposed ground areas, including street boulevards and areas not devoted to off-street parking, drives, sidewalks, patios or other improvements shall be landscaped with grass, shrubs, trees or other ornamental landscape materials within one year following the certificate of occupancy is issued.

(B) All landscaped areas shall be maintained by the property owner and kept neat, clear and uncluttered, and where landscaping is required as part of city approvals, any plant material which is diseased or dies shall be replaced with like kind of the original size.

(C) Fences and/or plantings placed upon utility easements are subject to removal by the city or utility company if required for maintenance or improvement of the utility. In that case, costs for removal and replacement shall be the responsibility of the property owner. Trees on utility easements containing overhead wires shall not exceed 15 feet in height, and the trees shall be the property owner's responsibility to maintain.

(Prior Code, § 11-20-3) (Ord. 258, passed 5-4-2006)

**§ 152.278 REQUIRED LANDSCAPING.**

All new residential subdivisions with three or more lots, residential structures with four or more dwelling units, commercial uses, industrial uses and institutional uses shall be subject to minimum landscaping and planting material specification requirements outlined in this section.

(A) *Landscape plan required.* A landscape plan shall be developed with an emphasis upon the boundary of the subject site, parking lots and foundation of the principal structure, in accordance with the information requirements outlined in § 152.135(D) of this chapter.

(B) *Design standards and criteria.* All landscaping incorporated in the landscape plan shall conform to the following standards and criteria.

(1) *Types of new trees.* Trees suitable for complying with this section shall include those specified below.

| <b>Botanical Name</b> | <b>Common Name</b> |
|-----------------------|--------------------|
|-----------------------|--------------------|

| <b>Botanical Name</b>            | <b>Common Name</b>  |
|----------------------------------|---|
| Acer platanoides (and varieties) | Norway maple (and Schwedler, emerald queen and the like)          |
| Acer saccharum                   | Sugar maple   |
| Betula (varieties)               | Birch   |
| Celtis occidentalis              | Hackberry   |
| Fraxinus Pennsylvania lanceolata | Green ash (and Summit, Marshall's)                                |
| Ginkgo biloba (male tree only)   | Ginkgo  |
| Gleditsia triacanthos            | Honeylocust (imperial, majestic, skyline, sunburst and thornless) |
| Quercus (varieties)              | Oak   |
| Tilia Americana                  | Basswood (American linden)  |
| Tilia cordata (and varieties)    | Little leaf linden and redmond, greenspire and the like           |
| Guymnocladus dioicus             | Kentucky coffee tree  |

(2) *Minimum size.* All plants shall at least equal the following minimum sizes: (Note: Type and mode are dependent upon time of planting season, availability and site conditions (soils, climate, ground water, human-made irrigation, grading and the like).)

|  | <b><i>Potted/Bare Root or Balled or Burlapped</i></b> |
|--|---|
|  | <b><i>Potted/Bare Root or Balled or Burlapped</i></b> |
| Evergreen trees  | 6 feet  |
| Low shrubs   |   |
| Deciduous  | 24 to 30 inches                                       |
| Evergreen  | 24 to 30 inches                                       |
| Spreading evergreens   | 18 to 24 inches                                       |
| Ornamental trees (flowering crabs, Russian olive, hawthorn and the like) | 2-inch diameter                                       |
| Shade trees  | 2-1/2 inch diameter                                   |
| Tall shrubs and hedge material (evergreen or deciduous)                  | 3 to 4 feet   |

(3) *Spacing.*

(a) Plant material centers shall not be located closer than three feet from the fence line or property line and shall not be planted to conflict with public plantings, sidewalks, trails, fences, parking areas and driveways based on the judgment of the Zoning Administrator.

(b) Where plant materials are planted in two or more rows, plantings shall be staggered in rows unless otherwise approved by the Zoning Administrator.

(c) Deciduous trees intended for screening shall be planted not more than 40 feet apart. Evergreen trees intended for screening shall be planted not more than 15 feet apart.

(d) Where massing of plants or screening is intended, large deciduous shrubs shall be planted four feet on center or closer and/or evergreen shrubs shall be planted three feet on center or closer.

(4) *Design (except for pond slopes which shall be subject to the review and approval of the City Engineer).*

(a) The landscape plan shall show some form of designed site amenities (i.e., composition of plant materials and/or creative grading, decorative lighting, exterior sculpture and the like) which are largely intended for aesthetic purposes.

(b) All areas within the property lines (or beyond, if site grading extends beyond) shall be treated. All exterior areas not paved or designated as roads, parking or storage shall be planted into ornamental vegetation (lawns, ground covers or shrubs) unless otherwise approved by the Zoning Administrator.

(c) Each single-family lot is to be provided a minimum of two shade trees.

(d) Turf slopes in excess of three to one are prohibited.

(e) All ground areas under the building roof overhang shall be treated with a decorative mulch and/or foundation

planting.

(f) All buildings shall have an exterior water spigot or irrigation system to ensure that landscape maintenance can be accomplished.

(g) Trees and shrubs shall not be planted in the right-of-way except as approved by the City Council.

(h) All plants required as part of an approved landscaping plan shall be maintained and kept alive. Dead plants shall be replaced in accordance with the approved landscape plan.

(C) *Landscape guarantee.* All new plants shall be guaranteed for 12 months from the time planting has been completed. All plants shall be alive, of good quality and disease free at the end of the warranty period or be replaced. Any replacements shall be warranted for 12 months from the time of planting.

(Prior Code, § 11-20-4) (Ord. 258, passed 5-4-2006)

#### **§ 152.279 REQUIRED LANDSCAPE SCREENING.**

(A) *Screening.* All commercial, industrial or institutional uses shall provide screening along the boundary of any abutting residential district or when the side or rear of the use (as determined by the Zoning Administrator) is separated from any residential district by a public right-of-way. All screening required by this section shall be subject to § 152.186 of this chapter (traffic visibility) and is to consist of a green belt strip as provided below.

(1) A green belt planting strip shall consist of evergreen trees and/or deciduous trees and plants and shall be a minimum of 20 feet in width and of a sufficient density to provide a visual screen and reasonable buffer. This planting strip shall be designed to provide visual screening to a minimum height of six feet. The grade for determining height shall be the grade elevation of the building or use for which the screening is providing protection, unless otherwise established by the Zoning Administrator. The planting plan and type of plantings shall require the approval of the Zoning Administrator.

(2) A fence may also be installed, but not in lieu of the green belt planting strip. The fence shall be constructed of masonry, brick or wood, except as otherwise provided herein. The fence shall provide a solid screening effect and shall be a minimum of six feet in height but shall not exceed eight feet in height. The grade for determining height shall be the grade elevation of the building or use for which the screening is providing protection, unless otherwise established by the Zoning Administrator. The design and materials used in constructing a required screening fence shall be subject to the approval of the Zoning Administrator.

(B) *Residential buffer yards.*

(1) *Lot depth requirements.* Except for lots of record and preliminary platted lots having legal standing on the effective date of this subchapter, double frontage residential lots shall have an additional depth of at least 20 feet designated as an additional drainage and utility easement, in order to allow space for buffering/screen planting along the back lot line.

(2) *Lot width requirements.* Except for lots of record and preliminary platted lots having legal standing established on the effective date of this subchapter, lots which border major collector or arterial streets on a side yard shall have an additional width of at least ten feet designated as an additional drainage and utility easement in order to allow space for buffering and screening plantings along the lot line bordering the streets.

(3) *Screening plan required.* For applicable subdivisions, a comprehensive screening plan shall be submitted. The plan shall identify all proposed buffer screening in both plan and sectional view.

(4) *Timing/responsibility of installation.* Weather permitting, all buffer, bermings and/or plantings shall be constructed or planted prior to the issuance of a final certificate of occupancy.

(5) *Design standards.*

(a) *Plantings.* All designated buffer yards shall be seeded or sodded except in areas of steep slopes where natural vegetation is acceptable as approved by the Zoning Administrator. All plantings within designated buffer yards shall adhere to the following.

1. Plant material centers shall not be located closer than three feet from the fence line or property line, and shall not conflict with public plantings, sidewalks, trails and the like.

2. Landscape screen plant material shall be planted in two or more rows. Plantings shall be staggered in rows unless otherwise approved by the Zoning Administrator.

3. Deciduous shrubs shall not be planted more than four feet on center and/or evergreen shrubs shall not be planted more than three feet on center.

4. Deciduous trees intended for screening shall be planted not more than 40 feet apart. Evergreen trees intended for screening shall be planted not more than 15 feet apart.

(b) *Walls and fences.* All walls and fences erected within designated buffer yards shall adhere to the following.

1. Only walls and fences formally approved as part of the subdivision and site plan process shall be permitted within the buffer yard.

2. At least 50% of the street side of a screening fence shall be landscaped with plant materials. Plant materials shall

be at least equal to the fence height.

3. Fences and landscaping shall not be located within the traffic visibility triangle defined by §152.186 of this chapter.

(c) *Earth berms.*

1. Except in areas of steep slopes or where other topographic features will not permit, as determined by the City Engineer, an earth berm at least four feet in height shall be installed in all designated buffer yards;

2. Shall not exceed a three to one slope unless approved by the City Engineer; and

3. Shall contain no less than four inches of topsoil.

(6) *Maintenance.*

(a) Maintenance of the buffer strip planting and/or fence shall be the responsibility of the individual property owners or, if applicable, the homeowners' association.

(b) All repairs to the fence or wall shall be consistent with the original fence design in regard to location and appearance.

(c) Replacement of landscape materials or plantings in a buffer yard area shall be consistent with the original screen design.

(d) All repair or plant replacement shall be done within 45 days of written notification from the Zoning Administrator or if applicable, the homeowners' association.

(Prior Code, § 11-20-5) (Ord. 258, passed 5-4-2006)

**§ 152.280 TREE PRESERVATION.**

Prior to the issuance of building permits for all new and/or expanded multiple-family residential, commercial, industrial and institutional uses, a tree preservation plan shall be submitted. The plan and its implementation shall be in accordance with the requirements as outlined in the subdivision regulations and shall be subject to the review and approval of the City Engineer and Zoning Administrator. The city may exempt an applicant from the submission of a tree preservation plan upon demonstration by the applicant that a plan is not considered relevant to the site in question.

(Prior Code, § 11-20-6) (Ord. 258, passed 5-4-2006)

**§ 152.281 SCREENING OF MECHANICAL EQUIPMENT.**

All rooftop and ground-mounted mechanical equipment for residential buildings having five units or more and for nonresidential buildings shall comply with the following standards.

(A) All rooftop and ground-mounted mechanical equipment shall be screened so as to mitigate noise in compliance with § 152.191 of this chapter.

(B) All rooftop and ground-mounted mechanical equipment shall be designed (including exterior color) and located so as to be aesthetically harmonious and compatible with the building. Screening of and landscaping around the equipment may be required where the design, color and location of the equipment are found to not effectively buffer noise or provide aesthetic harmony and compatibility. Screening shall be constructed of durable materials which are aesthetically compatible with the structure and which may be an integral part of the structure.

(C) Rooftop mechanical equipment less than three feet in height may be exempt from screening requirements by the Zoning Administrator.

(Prior Code, § 11-20-7) (Ord. 258, passed 5-4-2006)