

## **CHAPTER 688. TREES, PLANTS AND SHRUBS\***

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\***Cross references:** Box elder trees, female, as nuisance - see M.C.L.A. Sec. 124.151; Weeds generally - see M.C.L.A. Secs. 247.51, 247.52, 247.61 et seq., 286.701 et seq.; Cutting or destroying trees - see M.C.L.A. Secs. 247.235, 247.241, 752.701 et seq.; Malicious destruction of trees - see M.C.L.A. Sec. 750.382; Zoning requirements re hedges - see P. & Z. Ch. 1292.

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### **688.01. Removal or destruction; permit required.**

No person shall, without first obtaining a written permit to do so from the City Forester, remove, destroy, break, cut, deface, trim or in any way injure or interfere with any tree, plant or shrub in any highway, park or boulevard of the City. This section does not apply to the Department of Public Service after having notified the City Forester. (Ord. No. 749, 4-13-87)

### **688.02. Attaching animals or objects.**

No person shall fasten a horse or other animal to any tree in a public street, highway or park in the City, or cause a horse or other animal to stand so that such horse or animal can injure such tree. No person shall attach any rope, wire, cable, sign, card, poster or other article to a tree or its guard in a public street, highway or park without first obtaining a written permit to do so from the City Forester. (Ord. No. 749, 4-13-87)

### **688.03. Electric wires.**

No person shall attach any electric wire, insulation or other device for holding electric wire to any tree now or hereafter growing in any street, highway or park under the control of the City without permission to do so from the Director of Parks and Recreation.

Every person maintaining any wire charged with electricity shall securely fasten the same so that such wire shall not come in contact with any tree in any street, highway or park in the City, as far as is practical. (Ord. No. 749, 4-13-87)

### **688.04. Buildings or obstructions in grassplots; destruction of enclosures.**

No person shall place any building or obstruction of any kind in any park or in any grassplot in a public street, avenue or boulevard of the City, and no person shall take down, climb over, interfere with, disturb or displace any rail, post, board, chain or fence enclosing or protecting such park or grassplot. (Ord. No. 749, 4-13-87)

### **688.05. Climbing or defacing.**

No person shall climb, peel, cut, deface, remove, injure or destroy any tree, in any street, highway, park or grassplot of the City. (Ord. No. 749, 4-13-87)

**688.06. Injuring shrubs; removal of dirt; placement of deleterious substances.**

No person shall pluck, break, trample upon or interfere with any flower or shrub in any park or in any grassplot in a public street; dig, remove or carry away any gravel, sand, turf or earth from any such park or grassplot; or place or deposit any dead carcass, manure, filth, dirt, stone or other matter or substance on any such park or grassplot.

(Ord. No. 749, 4-13-87)

**688.07. Animals, vehicles and bicycles on grassplots.**

No person shall bring animals, vehicles or bicycles onto any park or onto any grassplot in any street, or deface the grounds or vegetation therein.

(Ord. No. 749, 4-13-87)

**688.08. Reserved.**

**Editor's note:** Ord. No. 1007, § 1, adopted Sept. 27, 1999, repealed § 688.08, which pertained to female box elder trees and derived from Ord. No. 768, adopted Feb. 15, 1988.

**688.99. Penalty.**

**Editor's note:** See Section 202.99 for general Code penalty if no specific penalty is provided.

**CHAPTER 1290. LANDSCAPING, SCREENING AND BUFFERING\***

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\***Cross references:** Zoning and planning in home rule cities - see M.C.L.A. Sec. 117.4i; Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581; Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582; Regulation of congested areas - see M.C.L.A. Sec. 125.583; Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a; Effect of zoning ordinance or zoning decision in presence of demonstrated need for certain land use - see M.C.L.A. Sec. 125.592.

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**1290.01. Definitions.**

As used in this chapter:

*Adjacent* means contiguous to, abutting or directly across a public street or alley from the subject property. However, if a public right-of-way is 100 feet in width or greater, or the right-of-way is the Grand River, then such property across the right-of-way shall not be considered adjacent.

*Berm* means an earthen mound containing plant materials or fencing designed to separate one area from another in an aesthetically pleasing manner.

*Buffer* means a physical area that separates one land use from another. Such area could be landscaped with plants and could also contain a berm, fence or other screening material.

*Contiguous* means having a common border; adjacent.

*Fence* means any wall (except a retaining wall), screen, partition or similar structure existing on a yard or parcel of land, which structure encloses land, divides land into distinct portions, separates contiguous properties, obstructs the passage of light or air into adjacent land or obstructs the vision of motorists on or near public roads. Barbed wire shall not be considered part of a fence for purposes of determining the height thereof.

*Intensity of land use* means the amount of activity associated with a specific land use. Intensity of land use shall be determined by the Department of Planning and Municipal Development based on the following criteria:

- (1) Amount of vehicular traffic generated;
- (2) Amount of pedestrian traffic generated;
- (3) Noise, odor and air pollution generated;
- (4) Potential for litter;
- (5) Type and storage of materials connected with the operation;
- (6) Total residential units and density, where applicable; and
- (7) Total building coverage on the parcel.

However, intensity of land use shall not be considered except when a building permit is required.

*Landscaping* means an arrangement of elements, such as plants, paving materials, earth, land areas and fencing or screening, on the exterior edges of property for aesthetic and functional purposes.

*Nonresidential use* means any use not a residential use.

*Residential use* means any land use which is primarily utilized by a person for living quarters. "Residential use" includes, but is not limited to, single-family dwellings, multifamily dwellings, dormitories, rooming houses or foster care facilities.

*Screen* means fence, landscaping, berm or combination thereof that obscures the view from one site to another to a reasonable extent.

*Use* means the carrying on of activities in a building or on a parcel of land. "Use" includes, but is not limited to, a business, office, industry, residence or parking or storage area.

(Ord. No. 809, 12-11-89)

### **1290.02. Purpose.**

The purposes of this chapter are to:

- (a) Provide a better living environment by visually enhancing the physical impact of buildings and their parking areas and reduce negative impacts on adjacent land uses through the use of various buffering, landscaping and fencing techniques; and
- (b) Ensure that physical barriers are established between residential uses, nonresidential uses or any combination thereof. The function of such barriers is to:
  - (1) Protect property values of both residential and nonresidential land uses;
  - (2) Minimize apparent or potential conflicts between residential and nonresidential land uses; and
  - (3) Create a better living and business environment through the maintenance of privacy by the provision of adequate landscape, screening and buffering treatment between the adjacent land uses.

(Ord. No. 809, 12-11-89)

### **1290.03. Responsibilities of owners; plans required.**

- (a) *Rezoning Requests.* Where a rezoning request is approved and a landscape, screening and buffering plan is required under this section, the owner of the rezoned

parcel will be required to submit a landscape, screening and buffering plan for the rezoned parcel prior to the issuance of a building permit or prior to the use of such land.

(b) *Nonresidential Uses Next to Existing Residential Uses.* Landscaping, screening and buffering shall be provided at the sole expense of the owner of a nonresidential property when a nonresidential use is established adjacent or contiguous to an already existing residential use and a building permit is required. However, if an industrial use that is zoned H Light Industrial District or I Heavy Industrial District is established next to a residential use, landscaping, screening and buffering shall not be required.

(c) *Nonowner-Occupied Residential Uses Next to Existing Nonresidential Uses.* Landscaping, screening and buffering shall be provided at the sole expense of the developer or owner of a residential property when a nonowner-occupied residential use is established abutting an existing nonresidential use and a building permit is required.

(d) *Expansion of Nonresidential Uses Adjacent to Residential Uses.* If the owner of an existing nonresidential use that is adjacent to an existing residential use desires to expand or to increase the intensity of such nonresidential use, and where a building permit is required, a condition for issuance of the building permit shall be the provision of a landscape, screening and buffering plan between the nonresidential use and the existing residential use.

(e) *Expansion of Nonowner-Occupied Residential Uses Adjacent to Nonresidential Uses.* If the owner of a nonowner-occupied residential use adjacent to an already existing nonresidential use desires to expand or to increase the intensity of the use, a condition for the issuance of a building permit shall be the provision of a landscape, screening and buffering plan.

(f) *Establishment or Expansion of Public or Private Land Uses.* If a public or private land use locates or expands in an area, creating a more intense relationship with adjacent land uses, a landscape, screening and buffering plan shall be required and shall be the responsibility of the owner of the public or private land use that is locating or expanding in the area. However, this subsection shall not apply to industrially zoned property (H and I Districts) which is surrounded by other industrially zoned property. Due to the special nature of public parks and public schools, this subsection shall only apply to the parking and service areas of such uses.

(Ord. No. 809, 12-11-89)

#### **1290.04. Review of plans.**

When required by Section 1290.03, a landscape, screening and buffering plan shall be submitted to and approved by the Department of Planning and Municipal Development prior to the use of the land or the issuance of a building permit. The Department shall have a maximum of 14 days to review the plan and approve the building permit. In a case where revisions must be made to the submitted plan, the Department, after conferring with the applicant, shall expeditiously work out an acceptable schedule to resolve the identified concerns before the building permit is issued.

(Ord. No. 809, 12-11-89)

#### **1290.05. Waivers.**

(a) If the Department of Planning and Municipal Development, upon inspection, determines that suitable landscaping, screening and buffering on a site already exists or that such landscaping, screening and buffering should not be required, then the provisions requiring landscaping, screening and buffering may be waived in whole or in part. However, such waiver shall not apply to the maintenance portion of this chapter.

(b) In all cases if, in the opinion of the Department, the weather makes it impossible or impractical to implement or maintain the landscape, screening and buffering plan within the time schedule stipulated, it shall be considered just cause for the granting of a written waiver from the Department upon the verbal or written request of the applicant or upon the initiative of the Department. The written weather waiver shall stipulate a new time schedule for implementation of such plan.

(Ord. No. 809, 12-11-89)

#### **1290.06. Contents of plans.**

Landscape, screening and buffering plans shall be prepared in the following manner:

(a) A legend and title block, specifying the scale used, identifying north, specifying the name and address of the site, indicating the date drawn, specifying the name and address of the property owner and the person who prepared the plan, shall be shown. It is suggested that the scale of the plan should be one inch equals 20 feet. If the site is larger than 20 acres, the suggested scale should be one inch equals 50 feet.

(b) Accurate locations and dimensions of all buildings, lot lines, easements and right-of-ways on the subject lot and adjacent residential or nonresidential lots shall be shown.

(c) Accurate locations and dimensions of all driveways, maneuvering aisles, parking spaces and loading facilities on the subject lot shall be shown.

(d) Accurate locations and dimensions shall be given for any nonplant landscaping, screening and/or buffering material to be utilized.

(e) Accurate locations and planting size of each plant to be utilized, including common and/or Latin names of such plants, shall be given on the plan.

(f) Four copies of the plan shall be submitted.

(g) Topographic contours may be required to be given at two-foot intervals if a drainage problem is anticipated.

(h) The location and type of all lighting materials shall be shown on the plan.

(Ord. No. 809, 12-11-89)

#### **1290.07. Time schedule for implementation.**

A landscape, screening and buffering plan shall be implemented not later than 90 days after the issuance of an occupancy permit. An inspector from the Department of Planning and Municipal Development shall inspect the subject property at the end of the 90-day period and determine if the approved landscape, screening and buffering plan has been properly implemented.

(Ord. No. 809, 12-11-89)

#### **1290.08. Design regulations.**

Landscape, screening and buffering plans shall be governed by the following regulations:

(a) *Fencing.*

(1) *Obstructing motorist and pedestrian vision.* No fence shall be erected or maintained which materially obstructs the vision of motorists or pedestrians on adjacent streets or entering into adjacent streets. Fences subject to this chapter may be erected at any mechanically or electronically controlled intersection only with the written approval of both the Department of Planning and Municipal Development and the Department of Public Service.

(2) *Height limits.* No fence shall be constructed under this subsection, which fence is less than five feet nor more than ten feet in height, except as specified in this subsection, as follows:

A. *Corner lots.* No fence shall be erected or maintained at any height above three feet within the triangular area bounded by the property lines of the corner lot nearest the intersection of the adjacent streets and a line joining points on the property lines 25 feet from the point of intersection of the property lines. (See Sketch 1, Appendix IV, following the text of this Zoning Code.) The height limit for this subsection shall be measured from the lowest centerline elevation within 50 feet of the intersection of the centerline of the street. (See Sketch 2, Appendix IV, following the text of this Zoning Code.) This height requirement can be waived in part or in whole at any mechanically or electronically controlled intersection only upon the written approval of both the Department of Planning and Municipal Development and the Department of Public Service. Any decision to waive such requirement by the Department of Planning and Municipal Development and the Department of Public Service shall be based on safety and reasonableness.

B. *Driveways.* No fence shall be erected or maintained at any height above three feet within either of the triangular areas bounded by the property line closest to and running parallel to the streets, and a straight line joining a point on the property line ten feet from the driveway side line and a point on the driveway side line six feet from the edge of a sidewalk which parallels the street, if any, or 15 feet from the curb line, whichever is a greater distance from the street. (See Sketch 3, Appendix IV, following the text of this Zoning Code.)

C. *Exceptions.* Any fence within any of the triangular areas established herein may be erected or maintained at a height above three feet only if the fence meets the following requirements:

1. The fence within the triangular area consists of at least 75 percent open space uniformly distributed along its surface above a height of three feet.
2. Vision through the fence is not obstructed from any angle so as to obstruct the view of traffic on adjacent roads, or that of pedestrian traffic on adjacent sidewalks.

(3) *Materials.*

A. Fences constructed under this chapter shall be constructed of one or more of the following materials: Chain link, wood, brick, poured concrete or any other material that is approved by the Department of Planning and Municipal Development.

B. For all fences under eight feet in height and for all fences, regardless of height, which are less than 30 feet from a neighboring parcel of land which is being used residentially, barbed wire on fences may be utilized only upon the written request of the applicant and written approval by the Department. Approval of such request shall be based on demonstrated need, safety and reasonableness. For all fences eight feet in height and 30 feet or more away from a neighboring parcel of land which is being used residentially, barbed wire on fences shall be allowed without prior approval of the Department. Under no circumstances will any fence six feet in height or less be permitted to use barbed wire. Barbed wire shall not extend more than three vertical feet above the top of the fence.

(b) *Berms.* If earth berms are to be constructed, they shall have a maximum slope of 3:1 and shall be sodded or seeded or utilize other ground cover. Berm height, width, location and materials must be approved by the Department.

(c) *Landscaping Materials Utilized for Screening Purposes.*

(1) Plants shall be planted on the site in such a manner that the potential adverse impact of the specified use is minimized.

(2) All plants shall be approved by the Department as to their type, size at original planting and final size, which approval shall not be unreasonably withheld.

(3) When a use is established under Section 1290.03, the required landscape, screening and buffering plan shall include provisions for the landscaping and screening of off-street parking areas. The intent of the landscaping and screening of off-street parking areas is to screen such areas from adjacent residential uses, except when a residential use is zoned industrial, and to partially screen the off-street parking from any public right-of-way.

(4) Nonplant landscaping materials may be utilized in conjunction with plants to create positive impacts. However, any use of nonplant landscape materials shall be first approved by the Department.

(d) *Buffering.* As a general rule, buffering shall be a minimum width of eight feet from all lot lines adjacent to the public right-of-way, excluding approved driveways, and any residentially zoned property, but in no case shall it be required to exceed 20 feet in width. The determination of the actual width of the buffering necessary at a specific site shall be made by the Department. In no case shall such buffering preclude the reasonable use of any property. If a developer is not in agreement with the decision of the Department concerning buffering, he or she may request an appeal from the Board of Zoning Appeals.

(e) *Screening of Trash Receptacles.* Trash receptacles may be required to be screened from view by a fence, landscaping materials or some other method approved by the Department. However, this provision shall apply only if a building permit is required for the development of the property.

(f) *Minimum Standards for Buffering.* All required buffer areas shall contain at least five shrubs for each 20 linear feet, or fraction of buffer area. Shrubs shall be a minimum of 24 inches height and spread at the time of planting. If a screen wall or fence is used for all or part of the buffer area, a minimum of one shrub for each ten linear feet or fraction of wall or fence shall be placed on the exterior side of the wall or fence. The placement of shrubs in informal groupings is permitted. In addition, at least one tree for each 30 linear feet, or fraction of buffer area shall be provided. Trees shall be a minimum of two caliper inches at the time of planting.

(Ord. No. 809, 12-11-89; Ord. No. 1042, § 1, 10-22-01)

### **1290.09. Maintenance requirements.**

Requirements of an approved landscape, screening and buffering plan shall remain in force, unless written revision is approved by the Department of Planning and Municipal Development. No owner, occupant, agent in charge or developer shall keep or maintain any landscaping, screening and buffering in any manner which is unsafe or dangerous or which is not maintained as provided in this section.

(a) *Fencing.* Fencing shall be considered unsafe or dangerous or not maintained:

(1) Whenever more than 33 percent of the area of a painted fence is in need of paint or 33 percent of any fence is in need of nonstructural repair;

(2) Whenever any portion of the fence area has been damaged by wind, flood, fire or other cause in such a manner that structural strength or stability is appreciably less than it was previous to such event;

(3) Whenever any portion or structural member of the fence is likely to fall or to become detached or dislodged, or to collapse and thereby injure persons or damage property; or

(4) Whenever more than ten percent of the fence area is in need of structural repair.

(b) *Landscaping.* The landscaping shown on the approved landscape, screening and buffering plan shall be maintained in the following manner:

(1) Any plants in the approved plan that die shall be replaced within a reasonable time, but in no case shall such time exceed four months. The replacement plants shall meet

the purpose of the original specifications of an approved landscape, screening and buffering plan.

(2) Plants shall be kept pruned and maintained so as to promote proper growth and development.

(3) Weeds shall be kept under control.

(c) *Buffer Strips*. Buffer strips shall be properly maintained according to the types of materials utilized. Cover materials shall be maintained in a manner as specified at the time of the plan's approval.

No buildings or parking or storage of materials or vehicles shall be allowed in any designated buffer strips, unless approved by the Department of Planning and Municipal Development.

(Ord. No. 809, 12-11-89)

#### **1290.10. Improper maintenance; remedies.**

Upon determining that a landscaping, screening or buffering area is a health or safety hazard, is improperly maintained or has not been installed as required, the Department of Planning and Municipal Development shall proceed in the following manner:

(a) The Department shall notify the property owner, in writing, of the problem by certified mail, return receipt requested, or, if possible, by delivering it in person. The property owner shall be given 14 days to correct the identified problem.

(b) If the problem still exists after 14 days, the Department shall post the property as being in violation of this chapter. A certified letter, return receipt requested, shall also be sent to the property owner notifying the owner of the problem and of the actions necessary to correct the hazard and what the City will do if it is not corrected by a certain date. The owner shall be given 30 days from receipt of the letter either to correct the identified problems or to submit a time schedule for approval by the Department.

(c) The Department shall reinspect the property after 30 days or at the end of an approved time schedule. If the identified problem still exists, the Department shall have the landscaping, screening or buffering repaired, restored or installed as appropriate, with the costs, including administrative costs as stipulated by Council resolution, of such repair or removal, being attached to the tax rolls for the property.

(Ord. No. 809, 12-11-89)

#### **1290.11. Appeals.**

Any appeal from a ruling by the Department of Planning and Municipal Development or a request for a variance based on hardship or practical difficulties shall be made to the Board of Zoning Appeals.

(Ord. No. 809, 12-11-89)

#### **1290.12. Expiration date.**

This chapter shall expire and be null and void ten years after the date of adoption (Ordinance 809, passed December 11, 1989), unless, two months before its time of expiration, Council acts to re-enact this chapter.

(Ord. No. 809, 12-11-89)