

## **NOTICE**

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**CHAPTER 1169  
BUFFERYARDS AND LANDSCAPING**

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**SECTION 1169.01 BUFFERYARDS AND LANDSCAPING REQUIRED.**

Every property shall be provided with required bufferyards and landscaping in accordance with this Chapter 1169 at the time that the building is constructed or increased in size or at the time that the land use is extended or changed.

- A. Bufferyard and landscaping requirements, including provisions to control the quantity, type and location of screening and landscaping material, are established in order to achieve the following purposes:
1. To encourage and create an attractive visual environment in which to live or conduct business.
  2. To protect and enhance the physical appearance of the City.
  3. To provide protection of residential and business properties from noise, lighting, and other disturbances from adjacent properties.

- B. In establishing these objectives, the City has determined that:
1. Business, commercial and residential land use can coexist in harmony within the city limits; and
  2. Without adequate bufferyards, screening and landscaping, adjacent business and commercial land uses can constitute a nuisance to neighboring properties; and
  3. Existing bufferyards and landscaping requirements are inadequate to achieve the stated goals of this Zoning Code; and
  4. Adequate standards be developed and implemented, and that all bufferyards should comply with the standards of this Zoning Code in order to meet the above stated intent; and in view of the foregoing, all bufferyards and landscaping not in conformance with the requirements of this section are hereby declared a nuisance. It is further declared that the regulations contained in this Zoning Code are the minimum regulations necessary to abate this nuisance and to achieve the purpose of this Zoning Code.

#### **SECTION 1169.02 LOCATION OF BUFFERYARDS.**

Bufferyards shall be located along the side and rear lot lines of a parcel and shall extend to the entire length of the side and rear lot lines. Bufferyards shall not extend into or be located within any portion of an existing street right-of-way at the front lot line.

#### **SECTION 1169.03 DETERMINATION OF BUFFERYARD REQUIREMENTS.**

- A. To determine the bufferyard required between two adjoining parcels or between a parcel and a street, the following procedure shall be followed:
1. Using the Table of Bufferyard Requirements in Section 1169.04, identify the land use category of the proposed use.
  2. Using the Table of Bufferyard Requirements in Section 1169.04, identify the category of the land use(s) adjoining the proposed use.
  3. Classify any street adjoining the proposed use by referring to the Official Thoroughfare Plan of the City of Kettering.

4. Determine the bufferyard required on each boundary (or segment thereof) of the subject parcel by referring to Section 1169.04, Table of Bufferyard Requirements.
- B. Section 1169.05 contains the specifications (width, plant materials and physical structures) for each of the required bufferyards.
  - C. Sections 1169.07 and 1169.08 contain regulations dealing with the design, installation, use, maintenance and ownership of bufferyards.

#### **SECTION 1169.04 TABLE OF BUFFERYARD REQUIREMENTS.**

The following table contains the bufferyards for various land uses required on each boundary or segment thereof of the subject parcel. These standards are in addition to any other standards that may be established for specific uses as regulated in this Zoning Code. The letters indicated for the required bufferyards are described in Section 1169.13.

TABLE OF BUFFERYARD REQUIREMENTS  
ADJOINING LAND USE\*

	Single Family & 2-Family	Special Residential Uses	Multi-family	Institutional & Recreational Uses	Business and Professional Offices	Retail & Commercial Service Uses	Road Service & Commercial Entertainment	Light Industrial Uses	Heavy Industrial Uses	Street
<u>PROPOSED LAND USE</u>										
Single Family & Two Family	--	--	--	--	--	--	--	--	--	--
Special Residential Uses	A	A	A	A	A	A	A	A	A	F
Multi-Family	B	B	A	A	A	A	A	A	A	F
Institutional & Recreational Uses	C	C	B	A	A	A	A	A	A	F
Business & Professional Offices	D	D	C	B	A	A	A	A	A	F
Retail Commercial and Service Uses	D	D	D	C	B	A	A	A	A	F
Road Service and Commercial Entertainment	D	D	D	D	C	B	A	A	A	F
Light Industrial Uses	D	D	D	D	D	C	B	A	A	F
Heavy Industrial Uses	E	E	E	E	E	D	C	B	A	F

- \*Notes:
1. If adjoining land use is vacant land, see Section 1169.08.
  2. Specific land uses which are included in each of these categories are listed in Section 1173.04.

**SECTION 1169.05 BUFFERYARD SPECIFICATIONS.**

The following is a description of each bufferyard as required in Table 1169.04. Plant material specifications for the groups referred to in the following bufferyard definitions can be found in Section 1169.13 and screening structures that meet the bufferyard requirements are described in Section 1169.14. The extent to which existing plant materials, topography or structures on a site may be used to satisfy some or all of the requirements of this section are described in Sections 1169.16 through 1169.18.

- A. Bufferyard A requires a five (5) foot minimum bufferyard width, one (1) tree from “Group A” for each one hundred (100) linear feet of bufferyard and three (3) trees from Group B for each one hundred (100) linear feet of bufferyard.
- B. Bufferyard B requires a fifteen (15) foot minimum bufferyard width, one (1) tree from “Group A” for each one hundred (100) linear feet of bufferyard, three (3) trees from Group B for each one hundred (100) linear feet of bufferyard, three (3) trees from Group C for each one hundred (100) linear feet of bufferyard and one (1) shrub for each twenty (20) linear feet of bufferyard.

As an alternative to the above requirement, the following bufferyard may be provided: a five (5) foot minimum width bufferyard, two (2) trees from Group A for each one hundred (100) linear feet of bufferyard, three (3) trees from Group B for each one hundred (100) linear feet of bufferyard and a continuous four (4) foot high hedge, wall or fence.

- C. Bufferyard C requires a twenty (20) foot minimum width bufferyard, three (3) trees from Group A for each one hundred (100) linear feet of bufferyard, three (3) trees from Group B for each one hundred (100) linear feet of bufferyard, three (3) trees from Group C for each one hundred (100) linear feet of bufferyard and one (1) shrub for ten (10) linear feet of bufferyard.

As an alternative to Bufferyard C, the following bufferyard may be provided; a ten (10) foot minimum width bufferyard, three (3) trees from Group A for each one hundred (100) linear feet of bufferyard, three (3) trees from Group B for each one hundred (100) linear feet of bufferyard, and a continuous five (5) foot high hedge, wall or fence.

- D. Bufferyard D requires a twenty-five (25) foot minimum width bufferyard, three (3) trees from Group A for each one hundred (100) linear feet of bufferyard, three (3) trees from Group B for each one hundred (100) linear feet of bufferyard, five (5) trees from Group C for each one hundred (100)

linear feet of bufferyard and a continuous four (4) foot high hedge, wall, fence or earth mound.

As an alternative to Bufferyard D, the following bufferyard may be provided: a fifteen (15) foot minimum width bufferyard, three (3) trees from Group A for each one hundred (100) linear feet of bufferyard, five (5) trees from Group B for each one hundred (100) linear feet of bufferyard, and a continuous five (5) foot high hedge, wall or fence.

- E. Bufferyard E requires a forty (40) foot minimum width bufferyard, five (5) trees from Group A for each one hundred (100) linear feet of bufferyard, five (5) trees from Group B for each one hundred (100) linear feet of bufferyard, seven (7) trees from Group C for each one hundred (100) linear feet of bufferyard and a continuous six (6) foot high hedge, wall, fence or earth mound.
- F. Bufferyard F is required on lot lines adjacent to an arterial street as designated on the Official Thoroughfare Plan of the City of Kettering. Bufferyard F shall consist of a ten (10) foot minimum width from the dedicated right-of-way line and requires three (3) trees from Group A for each one hundred (100) linear feet of bufferyard.

As an alternative to Bufferyard F, the following bufferyard may be provided: a five (5) foot minimum width from the dedicated right-of-way line may be provided with three (3) trees from Group A for each one hundred (100) linear feet of bufferyard and one (1) trees from Group B for each one hundred (100) linear feet of bufferyard.

G. Number of Trees Defined

Where a number of trees per one hundred (100) linear feet is defined above in 1169.05, A through F, the minimum number of trees for a given bufferyard length shall be calculated by dividing the actual bufferyard length by 100, multiplying by the number of trees required per 100 feet, and rounding off to the next higher integer.

Where the quantity of plant material per one hundred (100) linear feet is specified above in Subsections A through F, the minimum quantity of plant material for a given bufferyard length shall be calculated by dividing the actual bufferyard length by 100, multiplying by the quantity of plant material required per 100 feet and rounding off to the next higher whole number.

Trees required in a bufferyard shall be spaced uniformly and planted within the bufferyard to achieve the functional screening from adjoining property.

**SECTION 1169.06 SUBSTITUTION OF BUFFERYARD STANDARDS.**

The Zoning Administrator may permit a waiver of bufferyard standards in this chapter if the following two conditions are satisfied:

- A. An applicant can show that the standard will cause an undue hardship; and
- B. That an alternative arrangement is available and feasible whereby a comparable level of protection imposed by the original standard or condition can be provided.

**SECTION 1169.07 BUFFERYARD DESIGN.**

The placement of required plants and structures shall be the decision of each developer or property owner. The Zoning Administrator shall review all bufferyard plans and verify if they meet the bufferyard requirements contained in this chapter. All bufferyard areas shall be established with grass, ground cover or mulch as provided in Section 1169.13c.

**SECTION 1169.08 BUFFERYARDS: VACANT LAND, USE AND OWNERSHIP.**

- A. Vacant Land

When a use is the first to develop on two adjacent vacant parcels, this first use shall meet the requirements for Bufferyard A unless the adjacent vacant parcel is zoned RE(a), RE(b), R-1 or R-2 in which case the vacant parcel shall be treated as if it were developed for single family use and the parcel to be developed shall provide the bufferyard which Section 1169.04 – Table of Bufferyard Requirements – requires next to single family. If the adjoining vacant property is zoned R-3 or R-4, then the vacant parcel shall be treated as if it were developed for multi-family uses.

- B. Excess Bufferyards

If a property has bufferyards in excess of that which is required, a property owner may do the following:

- 1. The existing use may reduce its excess buffer by transferring part or all of the excess buffer to the adjoining landowner to serve as its buffer or by entering into an agreement with the adjoining landowner for use as same. This agreement shall be recorded as a restrictive covenant enforceable by the City of Kettering.

2. Any excess buffer may be used by the property owner for expansion of the existing use or may be transferred to the adjoining landowner to expand its use.

C. Contractual Reduction of Bufferyard Abutting Vacant Land

When a land use is proposed adjoining vacant land, and the owner of that vacant land enters into a contractual relationship with the owner of the land that is to be developed first, a reduced buffer may be provided by that first use, provided that:

1. The contract contains a statement by the owner of the vacant land of an intent to develop at no greater than a specified use intensity class; and
2. An agreement by that vacant landowner to assume all responsibility for additional buffer, if needed by the subsequent development of a different use than had been agreed upon.
3. This agreement shall be recorded as a restrictive covenant enforceable by the City of Kettering.

D. Use of Bufferyard

A bufferyard may be used for recreational purposes, provided that:

1. no plant material is eliminated.
2. the total width of the bufferyard is maintained; and
3. all other regulations of this ordinance are met.

E. Ownership of Bufferyards

Bufferyards may remain in the ownership of the original developer (and assigns) of a land use, or they may be subjected to deed restrictions and subsequently be freely conveyed, or they may be transferred to any consenting grantees, such as adjoining landowners, a park or forest preserve district, the City of Kettering, or an open space or conservation group, provided that any such conveyance guarantees the protection of the bufferyards for the purposes of this ordinance by means of restrictive covenants enforceable by the City of Kettering.

**SECTION 1169.09 VEHICULAR USE AREA SCREENING AND LANDSCAPING.****A. Vehicular Use Areas to be Screened**

Vehicular use areas to be screened in accordance with this section include, but are not limited to, parking areas, vehicle storage areas, loading docks and service doors – together with the area where vehicles park and queue up to use the dock or service door – car wash areas, and drive-through areas used for banking, fast food and other such services.

**B. Required Specifications**

Specifications for plant materials, walls, fences and earth mounds used to accomplish the required screening prescribed in this section can be found in Section 1169.13, 1169.14 and 1169.15.

**C. Required Screening**

In addition to the bufferyard requirements established in this section, the perimeter of all vehicular use areas, except for a one, two, three or four family building when located on a single lot or parcel shall be screened as follows:

1. On the side of a lot where Bufferyard F is required, the vehicular use area perimeter shall be screened by a continuous hedge, wall, fence, earth mound or combination of these at least two and one-half (2.5) feet in height.
2. On the side of a lot where Bufferyard A, B, or C is required, the vehicular use area perimeter shall be screened by a continuous hedge, wall, fence, earth mound or combination of these at least four (4) feet in height.

**D. Vehicular use area screening shall be located in such a manner so as not to interfere with visibility at driveways and street intersections and shall comply with the requirements of Section 1173.11, Clear View Required at Intersections.****E. Vehicular Use Area Landscaping**

Any open vehicular use area (including loading areas) containing more than six thousand (6,000) square feet of area or fifteen (15) or more parking spaces shall provide the following interior landscaping in addition to the screening required in Section 1169.09(A).

1. Landscape area requirements

An area equal to five percent (5%) of the total size in square feet of the vehicular use area shall be landscaped and permeable.

- a. Landscaped areas in vehicular use areas shall be dispersed throughout in peninsulas or islands. In order to encourage the required landscape areas to be properly dispersed, maximum landscape island or peninsula size shall be no larger than three hundred sixty (360) square feet, with the exception of vehicular use areas over thirty thousand (30,000) square feet where the maximum landscape area shall not exceed one thousand eighty (1,080) square feet.
- b. A landscaped area at least five (5) feet in width planted with shrubs or trees and ground cover shall be located in such a manner as to separate the principal structure from any paved areas.
- c. A sidewalk at least five (5) feet in width shall be required to separate any side of a building with a public entrance from vehicular use areas. Such sidewalk shall be installed as to extend the full length of the parking area on the side of the building where the customer entrance is located.
- d. Minimum island or peninsula size shall be one hundred (100) square feet with a two foot six inch (2'6") minimum distance between all trees or shrubs and the edge of pavement where vehicles overhand.
- e. The Zoning Administrator may vary the requirements for minimum and maximum size of parking islands and peninsulas if the following conditions exist:
  - i. the need to concentrate landscape areas for the purpose of storm water detention;
  - ii. the need to locate required landscaping on the perimeter of a vehicular use area in the case of a small or unusually shaped lot or where additional screening is desired.

2. Required plant materials.
  - a. One tree from Group A or two trees from Group B shall be required for every three thousand (3,000) square feet of vehicular use area.
  - b. Trees shall have a clear trunk of at least five (5) feet above the ground, and the remaining required landscape areas shall be planted with shrubs or ground cover not to exceed two (2) feet in height.

#### **SECTION 1169.10 SCREENING OF SERVICE AND STORAGE AREAS.**

The following service and outdoor storage areas on any site shall be screened as described in this section, except that single and two-family uses shall be exempt from this requirement: loading docks; dumpsters and trash containers; mechanical equipment, including air conditioning units; storage areas for materials and equipment not for sale; storage areas for damaged vehicles; and storage areas for construction equipment.

- A. A continuous planting, hedge, fence, wall or earth mound shall be provided to enclose the service or storage area on all sides, unless such area must be entered by vehicles, in which case one side may remain open. This requirement may be waived by the Zoning Administrator if said service or storage area is located in such a manner so as not to be visible from a street or adjoining property.
- B. The average height of the screen shall be one (1) foot higher than the equipment, material or vehicles to be screened. If more than one type of equipment, material or vehicle are grouped together in a screened area, the height of the required screening shall be based on the tallest item to be screened.
- C. Whenever a service or storage area is located in such a way that one or more sides can be adequately screened by a building wall or other screening or landscaping required by this ordinance, no additional screening shall be required on such side or sides to meet the provisions of this section.
- D. Whenever screening material is placed around any trash disposal unit or waste collection unit a curb shall be provided at least one (1) foot from the screening material and shall be designed to prevent possible damage to the screening when the container is moved or emptied.

**SECTION 1169.11 LANDSCAPING AROUND FREESTANDING SIGNS**

Landscaping around freestanding signs shall be in accordance with the provisions of Subsection 1171.05G of this Zoning Code.

**SECTION 1169.12 MATERIALS SPECIFICATIONS FOR BUFFERYARDS, LANDSCAPING AND SCREENING.**

The following sections include specifications for plant materials, fences and walls and other screening material considered acceptable to meet the requirements of this Chapter. Alternatives to these materials which can be demonstrated to meet both the intent and requirements of this ordinance may be approved by the Zoning Administrator. A list of specific approved species of plant materials and their characteristics is available on file with the Zoning Administrator.

**SECTION 1169.13 PLANT MATERIALS.****A. Trees**

1. Group A trees referred to in Section 1169.05 shall be deciduous trees that must be a minimum of ten (10) feet overall height or a minimum caliper of at least two (2) inches at the time of planting. These include trees that have an average mature crown spread and height of greater than twenty-five (25) feet and have trunks which can be maintained with over five (5) feet of clear wood in areas which have visibility requirements, except at driveways and intersections where an eight (8) foot clear wood height is required.
  - a. As an alternative to planting individual trees with an average mature crown spread or height of greater than twenty-five (25) feet, a grouping of the trees may be substituted so as to create the equivalent of a greater than twenty-five (25) foot crown spread and height.
  - b. In the case of special conditions which would not allow sufficient room for the mature crown spread required (i.e., building wall adjoining a bufferyard), an accepted cultivar of upright species may be substituted.
2. Group B trees referred to in Section 1169.05 shall be deciduous trees that must be a minimum of eight (8) feet overall height or a minimum caliper of at least one and one-half (1-1/2) inches at the time of planting. These include trees that have an average mature crown

spread and height of less than twenty-five (25) feet and have trunks which can be maintained with over five (5) feet of clear wood in areas which have visibility requirements, except at driveways and intersections where such trees shall not be allowed.

3. Group C trees referred to in Section 1169.05 shall be evergreen trees that must be a minimum of five (5) feet high with a minimum caliper of one and one-fourth (1-1/4) inches and a minimum spread of three (3) feet at the time of planting.

B. Shrubs

Shrubs shall be at least twenty-four (24) inches average height and spread at the time of planting and shall be measured from the top of the root ball to the top of the plant. Where required for screening, shrubs shall form a continuous, year-round solid visual screen within five (5) years after planting.

C. Ground Cover, Grass and Mulch

1. Ground cover.

Ground cover shall be planted in such a manner so as to present a finished appearance and seventy-five percent (75%) coverage after one (1) complete growing season. Ground cover may also consist of rocks, pebbles, sand, wood chips or other similar material established to provide a permeable and consistent coverage.

2. Grass

Lawn areas may be sodded or seeded, except in swales or other areas subject to erosion, where solid sod, erosion-reducing net or suitable mulch shall be used to establish a permanent lawn. Nurse-grass seed shall be sown for immediate protection until complete coverage is otherwise achieved. Sod grass shall be clean and free of weeds and noxious pests and diseases.

3. Mulch

Any organic material used as a mulch shall be free of weeds and noxious pests and diseases.

**SECTION 1169.14 SCREENING WALLS AND FENCES.**

- A. The standards for walls and fences permitted to be used to meet the buffering and screening requirements of this Chapter are contained in the Environmental Standards Manual. Walls and fences may be approved by the Zoning Administrator who shall make the determination that the walls and fences to be used for screening meet the purposes of this Zoning Code.
- B. For business uses, the screening standards contained in Chapters 1167 (Business, Commercial and Industrial Standards and Conditions) shall be in addition to the standards provided in this Chapter (1169).

**SECTION 1169.15 MOUNDS.**

Earth mounds shall be physical barriers which block or screen a view similar to a hedge, fence or wall. Mounds shall be covered with plant material to prevent erosion. A difference in elevation between areas requiring screening does not constitute an existing earth mound, except as permitted in Section 1169.18, Existing Topography. The standards for mounds required by this Chapter are contained in the Environmental Standards Manual.

**SECTION 1169.16 EXISTING BUILDING WALLS.**

Walls of existing structures within a required bufferyard area may contribute to meeting the total screening requirements for bufferyards as long as the building wall contains no windows or other appurtenances, is finished in a similar manner as the remainder of the building, with no exposed or unfinished materials and meets all requirements for a freestanding wall as specified in Section 1169.14. Within new development, building walls which meet the above requirements located on the edge of bufferyards may be used to substitute for fences or walls upon approval of the Zoning Administrator, however, this shall not be construed to allow new buildings to encroach into bufferyards.

**SECTION 1169.17 EXISTING VEGETATION.**

Existing vegetation may contribute to the total landscape requirements for vehicular use areas, vehicular use area perimeters, building perimeters, and bufferyards as long as the total amount of plant material and the required degree of quality can be achieved.

**SECTION 1169.18 EXISTING TOPOGRAPHY.**

Existing topography adjoining a lot line may be used to meet some or all of the requirement for a physical barrier, however, all plant material required for a bufferyard must still be provided.

**SECTION 1169.19 INSTALLATION AND MAINTENANCE.****A. Landscape Plan Required**

No zoning permit shall be issued until the Zoning Administrator has approved a landscaping and screening plan which has been submitted for the lot on which the structure is located.

**B. Installation**

1. All required screening shall be installed and inspected prior to issuance of a use certificate.
2. All plant material shall be installed prior to issuance of a use permit, or if weather does not permit, at the beginning of the next planting season. Plant materials shall be installed as indicated in the document "Planting Details for Shrubs and Trees", available from the Zoning Administrator, and shall be mulched within two (2) weeks after planting with suitable mulching material.

**C. Maintenance**

The property owner shall maintain all screening and landscaping materials in good condition and keep them neat and orderly in appearance and free from refuse and debris. If the Zoning Administrator finds that the condition of the required landscaping and screening is so deteriorated that they fail to fulfill the requirements for screening as set forth in this Chapter 1169, then the normal zoning violation procedure as described in Chapter 1175, Administration and Enforcement, shall be followed. All damaged screening or unhealthy or dead plant material shall be replaced within thirty (30) days or by the next planting period, whichever is sooner, with plant material of the same size and quality and of an equivalent type as required when originally installed. If the screening or landscape material is not replaced within the specified time period, then the City of Kettering may replace such material and assess the cost to the property owner.

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