

## **Subd. D. General Performance Standards.**

1. **Purpose.** The purpose of this subdivision is to establish general performance standards to ensure compatibility of uses and to prevent nuisance problems that may detract from the health, safety, and welfare of the residents.

### **2. Outdoor Lighting.**

a. **Purpose.** It is the purpose of this section to encourage the use of lighting systems that will reduce light pollution and promote energy conservation while increasing night time safety, utility, security and productivity.

b. **Exemptions.** The provisions of this section shall not apply to the following:

- 1) The use of temporary outdoor lighting used during customary holiday seasons.
- 2) The use of temporary outdoor lighting used for civic celebrations and promotions.
- 3) Lighting required by a government agency for the safe operation of airplanes, or security lighting required on government buildings or structures.
- 4) Emergency lighting used by police, fire, and rescue authorities.

c. **Non-Conforming Uses.**

1) **Existing Fixtures.** All outdoor lighting fixtures existing and legally installed prior to the effective date of this Ordinance are exempt from regulations of this section but shall comply with the Ordinance requirements for glare as follows:

a) Any lighting used to illuminate an off-street parking area, sign or other structure, shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, where from flood lights or from high temperature processes such as combustion or welding shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights which cast light on a public street shall not exceed one (1) foot candle (meter reading) as measured

from the right-of-way line of said street. Any light or combination of lights which cast light on residential property shall not exceed four-tenths (0.4) foot candles (meter reading) as measured from said property.

- 2) New Fixtures. Whenever a light fixture that was existing on the effective date of this Ordinance is replaced by a new outdoor light fixture, the provisions of this section shall be satisfied.

d. Intensity.

- 1) Maximum Foot Candles. No light source or combination thereof which cast light on a public street shall exceed one (1) foot candle (meter reading) as measured from the right-of-way line of said street nor shall any light source or combination thereof which cast light on adjacent residential property exceed four-tenths (0.4) foot candles (meter reading) as measured at the property line per the method outlined in Section 51.03, Subd. D.2.c.1.a) of this Ordinance.
- 2) The foot candle level of a light source shall be taken after dark with the light meter held six (6) inches above the ground with the meter facing the light source. A reading shall be taken with the light source on, then with the light source off. The difference between the two readings will be identified as the light intensity.

e. Performance Standards.

- 1) Residential District Standards. In all residential districts, any lighting used to illuminate a structure, an off-street parking area, or other area shall be arranged as to deflect light away from any adjoining residential property or from any public right-of-way. All lighting shall be installed in accordance with the following provisions:
  - a) The light source shall be hooded or controlled so as not to light adjacent property in excess of the maximum intensity defined by this Ordinance.
  - b) Bare light bulbs shall not be permitted in view of adjacent property or public right-of-way, unless part of a permanent or decorative fixture.
- 2) Business/Industrial District Standards. In all business and industrial districts, any lighting used to illuminate a structure, an off-street parking area, or other area shall be arranged so as to deflect

light away from any adjoining residential property or from any public right-of-way. All lighting shall be installed in accordance with the following provisions:

- a) The luminaire shall contain a cutoff which directs and cuts off the light at an angle of ninety (90) degrees or less.
- b) Light sources shall not be permitted so as to light adjacent property in excess of the maximum intensity defined in Section 51.03, Subd. D.2.c.1).d) of this Ordinance.
- c) Architectural/historical light fixtures that feature globes that are not shielded, or lighting of entire facades or architectural features of a building may be approved by the City Council. In no case shall the light affect adjacent property in excess of the maximum intensity defined in Section 51.03, Subd. D.2.c.1).d) of this Ordinance.
- d) The maximum height of the fixture and pole above the ground grade permitted for light sources is thirty (30) feet. A light source mounted on a building shall not exceed the height of the building. In no case shall the height of a light source mounted on a pole or on a building exceed the height limits of the zoning district in which the use is located, unless allowed by conditional use permit.
- e) Location.
  - (1) The light source of an outdoor light fixture shall be set back a minimum of ten (10) feet from a street right-of-way or where the lot line abuts a residential property and five (5) feet from an interior side or rear lot line.
  - (2) No light source shall be located on the roof unless said light enhances the architectural features of the building and is approved by administrative permit.
- f) Direct or reflected glare from high temperature processes such as combustion or welding shall not be visible from any adjoining property.

3) Outdoor Recreation. Outdoor commercial or public recreational uses such as, but not limited to, baseball fields, football fields, hockey rinks, and tennis courts have special requirements for night time lighting. Due to these unique circumstances, an administrative permit shall be required for commercial and public outdoor

recreational use lighting systems which do not comply with the regulations of this section.

- a) No outdoor recreation facility whether public or private shall be illuminated after 12:00 AM, except for required security lighting.
- b) Off-street parking areas for outdoor recreation uses which are illuminated shall meet the requirements stated for business or industrial applications as found in Section 51.03, Subd. D.2.e.2) of this Ordinance.
- c) The provisions for an administrative use permit, Section 51.02, Subd. C of this Ordinance, are considered and satisfactorily met.

f. **Submission of Plans.** All applications, except single family residential, that include outdoor lighting shall include evidence the proposed outdoor lighting will comply with this section. The application shall contain the following information, in addition to other required information:

- 1) Site plans indicating the location on the premises of all illuminating devices, fixtures, lamps, supports, reflectors, and other lighting devices.
- 2) Description of the type of illuminating devices, fixtures, lamps, supports, reflectors, and other lighting devices (angle of cutoff). The description shall include, but is not limited to, catalog cuts by manufacturers and drawings (including sections where required).
- 3) Photometric plans illustrating the light emissions, and illumination field of the proposed site lighting.

3. **Smoke.** The emission of smoke by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Rules, MPCA Chapter 7009, as amended.

4. **Dust and Other Particulated Matter.** The emission of dust, fly ash or other particulated matter by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Rules MPCA Chapter 7009, as amended.

5. **Noise.** Noises emanating from any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Rules MPCA 7030, as amended and City Code.
6. **Waste Material.** Waste material resulting from or used in industrial or commercial manufacturing, fabricating, servicing, processing or trimming shall not be washed into the public storm sewer system, the sanitary sewer system or any public water body, but shall be disposed of in a manner approved by the Minnesota State Fire Marshal, the Pollution Control Agency, the Department of Natural Resources and the Zoning Administrator.
7. **Bulk Storage (Liquid).** All uses associated with the bulk storage of all gasoline, liquid fertilizer, chemical, flammable and similar liquids shall comply with requirements of the Minnesota State Fire Marshal, Minnesota Department of Agricultural Offices, and have documents from those offices stating the use is in compliance.
8. **Electrical Emission.** All activities which create electrical emissions shall comply with the minimum requirements of the Federal Communications Commission.
9. **Exterior Storage.**
  - a. Residential Zoning Districts.
    - 1) **Exceptions.** All personal property in a residential zoning district shall be stored within a building or fully screened so as not to be visible from adjoining properties and public streets, except for the following items which may be stored in a rear yard or an interior side yard and provided they maintain a five (5) foot setback from the rear and interior side lot line:
      - a) Laundry drying equipment.
      - b) Non-vehicular recreational equipment.
      - c) Home heating fuel tanks.
      - d) Stacked firewood.
      - e) Construction and landscaping materials or equipment currently (within a period of twelve (12) months) being used on the premises.
      - f) Agricultural equipment and materials, if these are used or intended for use on the premises.
      - g) Off-street parking of licensed passenger automobiles and pick up trucks in designated driveway or parking area, surfaced in compliance with Section 51.03, Subd. E of this Ordinance.

- h) Licensed motor vehicles per Section 51.03 Subd. E.3.f of this Ordinance.

2) Recreational and Utility Vehicle and Trailer Storage. Recreational vehicles, as defined by Section 51.01, Subd. B.2 of this Ordinance may be parked or stored on a residential site provided that:

- a) The vehicles are registered to or rented by a resident of the dwelling on such site, provided that:
  - (1) The vehicles have affixed thereto current registration or license plates as required by law and are operable.
  - (2) The vehicles are stored no closer than five (5) feet from side and rear lot lines.
  - (3) The vehicles located within front or side yard areas are confined to designated driveways or parking areas surfaced in compliance with Section 51.03, Subd. E.5.d of this Ordinance.
- b) All front yard storage shall be set back fifteen (15) feet from street curb and/or pavement lines.
- c) No vehicle shall be parked in a manner that blocks a city or county trail or sidewalk.
- d) The vehicles are not connected to any electrical, water or sewage disposal system on the residential property where the same is so parked or stored.
- e) The vehicle shall not be stored or parked on a public street for a period longer than twenty-four (24) hours

b. Commercial and Industrial Zoning Districts.

- 1) Exterior Storage. Exterior storage shall be governed by the respective zoning district in which such use is located.
- 2) Screening. All exterior storage shall be screened so as not to be visible from adjoining properties and public streets except for the following:
  - a) Merchandise being displayed for sale in accordance with zoning district requirements.

- b) Materials and equipment currently being used for construction on the premises.
- 3) Within an industrial zoning district, the exterior storage of semi-trailers accessory to the principal use may be allowed by conditional use permit according to Section 51.02, Subd. B. Semi-trailers connected to semi-tractors queuing for loading or unloading shall be considered truck parking and be exempt from the outdoor storage conditional use permit.

c. All Zoning Districts.

- 1) No recreational vehicles may be used as a residence, office, business, industrial manufacturing, testing, or storage of items in conjunction with a residential, business, commercial, or industrial enterprise.
- 2) Temporary trailers and facilities generated by public service agencies (i.e., bookmobiles, bloodmobile, highway construction trailers, etc.) are a permitted use allowed by administrative permit provided:
  - a) The facilities are located in a manner that does not interfere with traffic on a public street.
  - b) The facility has a specific term for placement and removal approved by the City.
- 3) Temporary real estate sale/rental trailers or offices may be allowed by interim use permit, regulated by Section 51.02, Subd. 3 of this Ordinance provided:
  - a) The temporary sales trailer/office is located on a site of a City approved project or subdivision.
  - b) The temporary trailer/office meets all the required setbacks of the underlying zoning district.
  - c) The temporary trailer/office provides adequate parking in accordance with Section 51.03, Subd. E of this Ordinance.
  - d) The site is landscaped in a manner that enhances the temporary trailer and allows for reuse of the site after trailer removal.

- e) The applicant provide a schedule for the removal of the trailer and reclamation of the site consistent with the approved site plan or subdivision.
- 4) The City Council may order the owner of any property to cease or modify open storage uses including existing uses, provided it is found that such uses constitute a threat to the public health, safety, convenience or general welfare.

## 10. Required Screening, Landscaping, and Buffer Yards.

- a. Screening. Where any business or industrial use (i.e., structure, parking or storage) abuts property zoned for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front (as determined by the Zoning Administrator). All the fencing and screening specifically required by this Ordinance shall be subject to Section 51.03, Subd. D.10 and shall consist of either a fence or a green belt planting strip as provided for below:
  - 1) A green belt planting strip shall consist of vegetation and plants and shall be of sufficient width and density to provide an effective visual screen. This planting strip shall be designed to provide eighty (80) percent opacity to a minimum height of six (6) feet at time of planting. Earth mounding or berms may be used but shall not be used to achieve more than three (3) feet of the required screen. In such cases when planting strips are used in conjunction with berms designed to support plant growth, plant height may be reduced accordingly such that an eighty (80) percent visual screen of not less than six (6) feet in height is maintained. The planting plan and type of plantings shall require the approval of the City Council.
  - 2) A required screening fence shall be constructed of masonry, brick, wood or metal. Such fence shall provide a screening effect to eighty (80) percent opacity to a height of six (6) feet. The design and materials used in constructing a required screening fence shall be subject to the approval of the City Council. Fences in excess of six (6) feet in height shall require approval of the Zoning Administrator. Plantings shall be included in the design of any screening fence except as otherwise approved by the City Council due to grade constraints.
- b. Landscaping - General Residential. The lot area remaining after providing for off-street parking, off-street loading, sidewalks, driveways, building site and/or other requirements shall be landscaped using ornamental grass, shrubs, trees or other acceptable vegetation or treatment generally used in landscaping prior to issuance of a certificate of occupancy. Prior to issuance of certificate of occupancy, the front yard extending from the back of street curb to the front of the home shall be sodded except for areas landscaped with shrubs, trees, or other acceptable vegetation. At least one (1) shade tree of two (2) inches diameter shall be provided in the front yard. Occupancy may be taken in the Winter with a temporary certificate of occupancy provided a security is posted equal to one

hundred fifty (150) percent of the cost of any remaining landscaping to be accomplished and all such remaining landscaping shall be installed by the first of June the following Spring. Fences, trees, or other plantings placed upon utility easements require City approval and are subject to removal at the owner's expense if required for the maintenance or improvement of the utility. The City assumes no liability for replacement. Branches of trees on utility easements containing overhead wires shall not extend within ten (10) feet of such wires at mature plant height.

c. Landscaping - New Residential Subdivisions, Semi-Public and All Income Producing Property Uses. (Excluding residential structures containing less than four (4) dwelling units). Prior to approval of a building permit, all above referenced uses shall be subject to mandatory landscape plan and specification requirements.

- 1) The landscape plan shall address the following:
  - a) The boundary or perimeter of the proposed subdivision or site at points adjoining other properties.
  - b) The immediate perimeter of the structure.
  - c) The perimeter and landscaped islands within parking and loading areas, and light standards.
  - d) Preservation of existing trees in conformance with Section 51.03, Subd. D.10.d of this Ordinance.
  - e) Required screening and/or buffer yards.
  - f) Wetland, ponding, wetland filter strips, landscaping, buffering and restoration.
- 2) All landscaping incorporated in said plan shall conform to the following standards:
  - a) All plants shall be at least equal to the following minimum size:

	<u>Potted/Bare Root</u>	<u>or</u>	<u>Balled &amp; Burlapped</u>
Shade Trees*		2 in. dia	2 in. dia

Half Trees (Flowering Crabapple, Hawthorn, Etc.)	6 - 7 ft.	1-1/2 in. dia
Evergreen Trees	-----	3 - 4 ft.
Tall Shrubs & Hedge Material (Evergreen or Deciduous)	3 - 4 ft.	3 - 4 ft.
Low Shrubs - Deciduous	18-24 in.	24-30 in.
- Evergreen	18-24 in.	24-30 in.
- Spreading Evergreen	18-24 in. potted	18-24 in. potted

\* Type and mode are dependent upon time of planting season, availability, and site conditions (soils, climate, ground water, manmade irrigation, grading, etc.).

b) Types of New Plantings. Plantings and suitable trees include but are not limited to:

(1) Deciduous Trees:

<u>Common Name:</u>	<u>Scientific Name:</u>
Oak	<i>Quercus</i> (all climatic Zone 4 varieties)
Maple	<i>Acer</i> (all climatic Zone 4 varieties)
Hackberry (Thornless)	<i>Celtis occidentalis</i>
Birch	<i>Betula</i> (all climatic Zone 4 varieties)
Honeylocust	<i>Gleditsia triacanthos</i>
Linden/Basswood (American and Little Leaf)	<i>Tilia (cordata and americana)</i>
Ash (Green and White)	<i>Fraxinus (pennsylvanica &amp; americana)</i>
Ginkgo (male tree only)	<i>Ginkgo biloba</i>
Kentucky Coffee Tree	<i>Gymnocladus dioicus</i>
Ohio Buckeye	<i>Aesculus glabra</i>
Amur Chokecherry	<i>Prunus maackii</i>
Delaware American Elm	<i>Ulmus americana "Delaware"</i>
Amur Cork	<i>Phellodendron amurense</i>
Robusta Poplar	<i>Populus X robusta</i>
Niobe Weeping Willow	<i>Salix X blanda</i>
Crabapple	<i>Malus spp.</i>

(2) Evergreen Trees:

<u>Common Name:</u>	<u>Scientific Name:</u>
Fir	<i>Abies</i> (all climatic Zone 4 varieties/ <i>Pseudotsuga</i> )
Spruce	<i>Picea</i> (all climatic Zone 4 varieties)
Pine	<i>Pinus</i> (all climatic Zone 4 varieties)
Canadian Hemlock	<i>Tsuga canadensis</i>
European Larch	<i>Larix decidua</i>
Cedar	<i>Cedrus</i> (all climatic Zone 4 varieties)

(3) Shrubs:

<u>Common Name:</u>	<u>Scientific Name:</u>
Dwarf-winged euonymus	<i>Euonymus alatus</i> "compactus"
Winged euonymus	<i>Euonymus alatus</i>
Privet	<i>Ligustrum</i> spp.
Mock orange	<i>Philadelphus</i> spp.
Sumac	<i>Rhus</i> spp.
Common lilac	<i>Syringa vulgaris</i>
Japanese yew	<i>Taxus cuspidata</i>
American arborvitae	<i>Thuja occidentalis</i>

(4) Ground Covers:

<u>Common Name:</u>	<u>Scientific Name:</u>
Ground juniper	<i>Juniperus</i> spp.
Periwinkle, myrtle	<i>Vinca minor</i>

(5) Wetland and Pond Plantings: All wetland and pond plantings shall require City review and approval.

c) Prohibited Trees:

(1) Deciduous Trees:

Norway Maple  
Silver Maple  
Siberian Elm  
Cottonwood

(2) Coniferous Trees:

None

d) Design.

- (1) 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, etc., which are largely intended for aesthetic purposes).
- (2) 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 City.
- (3) Turf slopes in excess of three to one (3:1) are prohibited.
- (4) Four (4) inches of black dirt shall be applied to all disturbed landscape situations and be thoroughly tilled into the sub-grade to a minimum depth of seven (7) inches. Existing top soil shall be preserved in place or stockpiled and redistributed on the site as top soil in final grading.
- (5) All ground areas under the building roof overhang must be treated with a decorative mulch and/or foundation planting.
- (6) All sites shall have irrigation or an exterior water spigot to insure that landscape maintenance can be accomplished.
- (7) Trees and shrubs shall not be planted in the right-of-way except for designated parkways and boulevard reforestation as determined by City.
- (8) Plant material centers shall not be located closer than three (3) feet from the fence line or property line and shall not be planted to conflict with public plantings based on the judgment of the City.
- (9) Where planting materials are planted in two (2) or more rows, plantings shall be staggered in rows unless otherwise approved by the City staff.

- (10) Large deciduous shrubs shall be planted so that mature widths shall overlap so as to provide an effective visual screen.
- (11) All landscaped areas, except those consisting entirely of prairie plantings, shall be mulched to a minimum of two (2) inches with a mulch material deemed acceptable by the City.
- (12) In areas with naturalistic plantings, plant mix and spacing should approximate native plant communities and/or readily succeed to a naturalistic stand. In addition, naturalist plantings should be bordered with a strip of mowed grass or other more "manicured" edge.

e) Landscape Guarantee. All new plants shall be guaranteed for twelve (12) months from the time construction 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 twelve (12) months from the time of planting or a letter of credit and/or cash escrow in lieu of a warranty.

f) Landscaping Maintenance.

- (1) General. The property owner, or if applicable, the homeowners association, shall be responsible for maintenance of landscape elements (plants, structures, pavement, etc.) so as to present a neat and aesthetically pleasing appearance free of any unhealthy or potentially unsafe conditions.
- (2) Disease Control. Plants shall be maintained in a healthful, disease-free condition. Plants that have died or become diseased shall be promptly replaced.
- (3) Watering. Automatic irrigation systems should be operated between the hours of midnight and 6:00 AM or as otherwise approved by the City. Irrigating during these hours reduces fungus growth and loss of water due to evaporation. Irrigation systems shall be maintained to minimize water waste due to loss of heads, broken pipes, or misadjusted nozzles.

- (4) Pruning. All pruning should be accomplished according to good horticultural practices. Trees shall be pruned only as necessary to promote healthy growth.
- (5) Removal or Replacement. It shall be the responsibility of the property owner, or if applicable, the homeowners association, to remove any trees or shrubs, or parts thereof, that are dead, diseased, or that overhang or interfere with traffic control devices, public sidewalks, rights-of-way, or property owned by someone else.
- (6) Non-Compliance. If the City finds that the property is not in compliance with the approved landscaping/screening plan, it shall inform the applicant regarding the non-compliance and describe, in writing, the steps needed to bring the property into compliance within a reasonable timeframe, not to exceed sixty (60) calendar days.

d. Tree Preservation.

- 1) Tree Preservation for Single Family (Custom Graded Lots in a Tree Preservation Subdivision), Commercial, Industrial, Multiple Family Residential, and Institutional Lots.
  - a) Builders shall furnish the following items for tree preservation at the time the building permit application is submitted for all lots with at least one (1) significant tree:
    - (1) A tree preservation plan with the elements described below. The individual lot tree preservation plan shall be certified by a forester or landscape architect and signed by the homeowner.
    - (2) Financial security in an amount determined by City Council, and adopted by ordinance, shall be required for tree protection requirements for each lot or outlot with at least one (1) significant tree to be saved and each lot that is a custom grading lot.
  - b) Builders shall be liable for their sub-contractors that destroy or damage significant trees that were indicated to be saved on the individual lot tree preservation plan.

- c) Tree protection measures shall remain in place until all grading and construction activity is terminated.
- d) Site grading for individual lots shall comply with the final grading plan of the plat and shall not result in the flooding of tree preservation areas.
- e) No soil disturbance shall occur within the lot until the tree preservation plan is approved and tree protection measures are in place.
- f) Pruning of oak trees shall not take place from April 15 through July 1. If wounding of oak trees occurs, a non-toxic tree wound dressing must be applied immediately. A non-toxic tree wound dressing shall be available on the development site at all times.
- g) Builders, contractors, or others working on site shall not fill, stockpile materials, or store equipment or vehicles against the trunk of the tree, in the critical root zone, or under the drip line of a tree to be saved.
- h) On mass graded lots with at least one (1) significant tree to be saved, home builders are required to follow the tree preservation plan for the plat.
- i) For each custom graded lot with at least one (1) significant tree, the builder shall submit an individual lot tree preservation plan. The plan shall be consistent with the original tree preservation plan for the plat. The property owner and/or builder, applicant's forester, or landscape architect shall meet with City staff prior to the development of the individual lot tree preservation plan to determine the placement of the building where the fewest significant trees would be destroyed or damaged. The builder shall be responsible for ensuring the tree preservation plan is followed during building construction.
- j) The tree preservation plan shall be prepared and incorporated on the certificate of survey required for a building permit and shall include the following:
  - (1) Size, species, and location of all significant trees, specimen trees, and significant tree stands including significant trees with drip lines or critical root zones extending over the lot line of an adjoining lot.

- (2) Identification of all significant trees proposed to be saved and significant trees proposed to be removed, including significant trees with drip lines or critical root zones extending over the lot line of an adjoining lot.
- (3) Location of snow fencing or polyethylene laminar safety netting placed at the drip line or critical root zones.
- (4) Installation of signage at all tree protection areas that instructs workers to stay out.
- (5) Erosion control methods.
- (6) Measures proposed to protect significant trees including but not limited to:
  - (a) Tree removal procedures including directional felling away from existing trees to be saved and trenching to separate root systems prior to bulldozing trees or stumps.
  - (b) Coordination of utility planning with tree preservation plan to strategically extend utility connections from the street to the building in a manner that protects trees intended to be saved.
  - (c) Measures for preventing changes in soil chemistry due to concrete wash out and leakage or spillage of toxic materials such as fuels or paints.

k) The Building Official shall monitor the tree protection measures at the time of routine inspections.

l) If tree replacement is required on the individual lot because a tree which was to be saved was destroyed or damaged, the applicant's forester or landscape architect, in conjunction with the property owner, shall determine where the replacement trees shall be installed. Replacement trees shall not be placed on easements or street rights-of-way.

m) Prior to the issuance of a certificate of occupancy and release of tree preservation security, the applicant's forester

or landscape architect shall certify to the City in writing the final disposition of saved trees on the lot and that all the tree protection measures identified on the tree preservation plan were installed from the start of construction to the end of construction and tree replacement is completed, if necessary.

e. Buffer Yards.

- 1) Establishment. Space for buffering/screening plantings shall be established along major highways, arterials, and collector streets in accordance with the applicable provisions of the City's subdivision regulations.
- 2) 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.
- 3) Timing/Responsibility of Installation. Weather permitting, all buffer yards, berms, and/or plantings shall be constructed or planted prior to the issuance of an occupancy permit.
- 4) Maintenance.
  - a) Maintenance (including mowing) of the buffer yard planting and/or fence shall be the responsibility of the individual property owners or if applicable, the homeowners association.
  - b) Color of the screening wall or fence shall be uniform along its entire length and shall not be modified without City approval.
  - c) All repairs to the screening wall or fence shall be consistent with the original screening wall fence design in regard to location and appearance.
  - d) Replacement of landscape materials or plantings in a screen area shall be consistent with the original screen design.
  - e) All repair or plant replacement shall be done within forty-five (45) days of written notification from the City or if applicable, the homeowners association.
- 5) Design Standards.

- a) Plantings. All plantings within designated buffer yards shall comply with the following:
  - (1) Plant material centers shall not be located closer than three (3) feet from the fence line or property line.
  - (2) Landscape screen plant material shall be planted in two (2) or more rows. Plantings shall be staggered in rows unless otherwise approved by the City.
  - (3) Landscape material sizes shall be consistent with Section 51.03, Subd. D.10.c.2) of this Ordinance.
  - (4) Plantings suitable for buffering/screening purposes include, but are not limited to, types listed in Section 51.03, Subd. D.10.c.2) of this Ordinance:
  - (5) In areas with naturalistic plantings, plant mix and spacing should approximate native plant communities and/or readily succeed to a naturalistic stand. In addition, naturalist plantings should be bordered with a strip of mowed grass or other more "manicured" edge.
- b) Walls and Fences. All walls and fences erected within designated buffer yards shall comply with the following:
  - (1) At least fifty (50) percent 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.
  - (2) Exposed fences shall run a maximum length of fifty (50) feet between landscaping areas or clusters.
  - (3) Walls, fences and landscaping shall not be located within the traffic visibility triangle as defined in Section 51.03, Subd. D.5.a.3) of this Ordinance.
- c) Earth Berms. Earth berms designed to support landscape plantings existing within designated buffer yards shall:
  - (1) Be designed to support plantings.

- (2) Not exceed a three to one (3:1) slope unless approved by the City Engineer.
- (3) Contain no less than four (4) inches of topsoil.

11. **Fences.** Fences shall be permitted in all required yards subject to the following:

- a. Permit Required. It is unlawful for any person hereafter to construct or cause to be constructed or erected within the platted areas of the City, any fence without first making an application for and securing a fence permit.
- b. Certificate of Survey. An application for a fence permit shall be accompanied by a current certificate of survey providing exact lot dimensions, the location of existing buildings, structures, and easements on the lot, and the location of the proposed fence. At the discretion of the City, a final plat detail of the lot with the required information shown may suffice if no certificate of survey is available. Applicant shall be required to physically identify the property corners for City inspection.
- c. Location. All fences or walls shall be located entirely within the private property of the person, firm, or corporation constructing or causing the construction of such fence.
  - 1) No fence or wall shall be permitted on public rights-of-way.
  - 2) Traffic visibility requirements set forth in Section 51.03, Subd. B.5.a.3) of this Ordinance shall be satisfactorily met.
  - 3) No fence or wall shall obstruct natural drainage or extend within a wetland, land, drainage ditch, or river.
  - 4) Fences may be constructed within public and private utility and drainage easements provided that:
    - a) No fence or wall shall be located within a drainage or utility easement without written permission of the Zoning Administrator and/or the private utility provider and the filing of an encroachment agreement.
    - b) Removal of a fence or wall or a portion thereof for the purpose of utilizing the easement shall be at the property owner's expense.
  - 5) Shoreland Height. No fence shall exceed three (3) feet in height which abuts any navigable lake, river, or stream within a shoreland impact area.
- d. Construction and Maintenance.

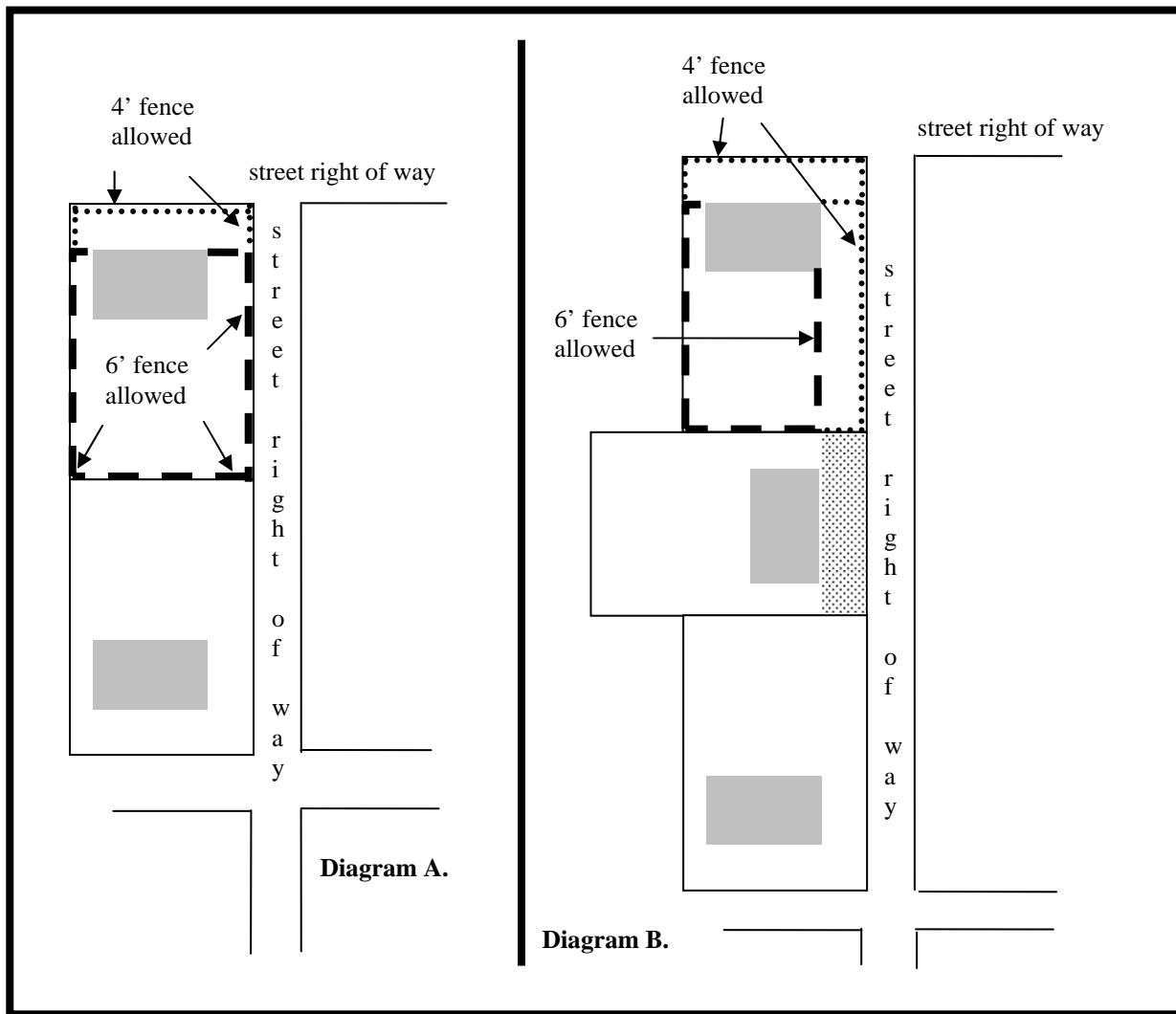
- 1) Every fence shall be constructed in a professional and substantial manner and of substantial material reasonably suitable for the purpose for which the fence is proposed to be used. The materials and design shall also be compatible with other structures in the area in which the fence is located and shall not cause blight or a negative impact. Fences shall be at least five (5) percent open to provide space for the passage of air. No used material shall be used in conjunction of fences.
- 2) 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 such fence which is or has become dangerous to the public safety, health or welfare is a public nuisance, and the City shall commence proper proceedings for the abatement thereof.
- 3) All posts or similar supporting instruments used in the construction of fences shall be faced inward toward the property being fenced. That side of the fence considered to be the face shall be oriented toward abutting property or rights-of-way.
- 4) Fences which are ninety (90) percent open (barb wire, chain link, woven wire, and other similar type fences) which are for the sole purpose of containing non-domestic animals within a rural zoning district are not subject to the provisions of this Ordinance and do not require a building permit. Chain link fences shall have round steel parts and braces. Electric fences and barb wire are prohibited in all residential districts, except farming activities within the R-A Zoning District.
- 5) Solid walls and retaining walls (such as masonry construction) in excess of forty-eight (48) inches in height shall require a building permit. When utilized, tiered retaining walls shall be separated by a horizontal landing not less than three (3) feet in width.

e. Access. All fences shall be provided with a gate which affords reasonable and convenient access for public safety.

f. Residential District Fences.

- 1) All residential district fences shall be placed within the property being fenced.
- 2) Fences may be located in any yard up to a height of four (4) feet.

- 3) Except as prohibited by Section 51.03, Subd. D.11.f.5) below, a fence up to six (6) feet high may be erected from a line extended from the front facade of the principal building to the side lot lines, and then along the side lot lines and the rear lot line (see Diagram A).
- 4) Should the rear lot line of a lot be common with the side lot line of an abutting lot, that portion of the rear or side lot equal to the required front yard setback of the abutting lot shall not be fenced to a height of more than four (4) feet. For the purpose of this section, the front and side yards of the abutting lot shall be as defined in this Ordinance rather than as related to the orientation of the house (see Diagram B).
- 5) Fences in excess of four (4) feet in height shall be located a minimum of ten (10) feet from the right-of-way of any alley.
- 6) Residential Fences Height Exceptions.
  - a) Fences for sport courts may be up to twelve (12) feet in height with ten (10) foot setback.
  - b) Residential boundary line fences may be erected to a height of eight (8) feet along a property line abutting a commercial, industrial, or semi-public use or zoning district.
- 7) Wire fence other than chain link shall not be permitted as boundary line fences within five (5) feet of the property in residential zoning districts.



g. Commercial and Industrial District Fences.

- 1) Fences in all commercial and industrial districts shall not exceed eight (8) feet in height, except that:
  - a) Fences erected within the required front yard shall not be over eight (8) feet in height, shall conform to Section 51.03, Subd. B.5.a.3) of this Ordinance, and shall be of a chain link construction permitting maximum visibility.
  - b) Fences erected within side or rear yards which abut any navigable lake channel or stream shall not exceed four (4) feet in height.

- 2) Within commercial and industrial and public/semi-public zoning districts, barbed wire may be attached to the tops of fences with the following conditions:
  - a) Fences shall be a minimum of eight (8) feet in height exclusive of the security arm.
  - b) The security arm shall be angled in such a manner that it extends only over the property of the permit holder.
  - c) Wire security fencing shall not be permitted within the required front yard or along a property line abutting a residential use.
- 3) Setback from Alleys. Commercial and industrial fences shall be a minimum of ten (10) feet from any alley right-of-way.