

## **Section 115. Screening and Bufferyard & Lighting Standards.** *(Amended 4/19/11)*

A. **Purpose.** The purpose of screening requirements is to add to the beautification of the city; to protect neighboring property values; and to improve vehicular safety by reducing the impacts of visual clutter. Guidelines are established for the use of bufferyards and screening in the City of Jacksonville and its extraterritorial jurisdiction.

B. **Benefits of Bufferyards.**

1. Bufferyards reduce the transmission from one land use to another of noise, dust, glare, trash, odors, overcrowding and traffic.
2. Bufferyards can reduce visual pollution that may otherwise occur within an urbanized area.
3. Bufferyards can establish a greater sense of privacy from visual or physical intrusion, the degree of privacy varying with the intensity of the bufferyard.
4. Vegetation produces oxygen and reduces the carbon dioxide content of the air.
5. Vegetation transpires considerable amounts of water each day.
6. Vegetation helps neutralize surface water runoff passing to groundwater tables.
7. Vegetation, through root systems, stabilizes groundwater tables.
8. Vegetation, through root systems, conserves soil, prevents erosion and helps control flooding.
9. Vegetation makes urban life more comfortable by providing shade and cooling the air and land.
10. Bufferyards encourage the preservation of existing vegetation.
11. Bufferyards increase the value of surrounding property.

C. **Definitions.**

1. **Adjacent lot** shall mean any lot which has a common boundary with the subject lot.

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2. **Alternative design** shall mean a buffer design, though not specifically identified within the standards, which by mutual agreement, is equal to or exceeds the intent of the screening requirements.
3. **Bufferyard** shall mean a unit of required yard which is a combination of land and physical barriers such as fencing, plant materials, and earthen berm which separate various land uses.
4. **Built opaque fence/wall** shall mean a vertical structure at least 6 feet in height constructed of cedar, masonry, redwood, or pressure treated lumber resistant to rot, that is opaque when viewed from a 90 degree angle directly in front of and behind the fence/wall. Fence installation should be consistent with acceptable building practices. The fence/wall shall be the natural color of the material used to build the fence/wall or an earthen tone, a shade of brown, forest green, or beige, and shall be an unadorned, solid color.
5. **Earthen berm** shall mean a mound of earth that complies with the standards setforth in the Manual of Specifications Standards and Design (MSSD).
6. **Growing season** shall mean the period from April to October of each calendar year.
7. **Large shrub** shall mean shrub type vegetation with a typical height at maturity of between six and eight feet.
8. **Large tree** shall mean a tree with a typical height at maturity of 25 feet or more.
9. **Opaque Fence/Wall for Refuse Collection Areas** shall mean a vertical structure at least 6-feet in height or the height of the dumpster, whichever is greater. The fence/wall shall be constructed of cedar, masonry, redwood, pressure treated lumber resistant to rot, or other suitable material as determined by the Planning Administrator, that is opaque when viewed from a 90 degree angle directly in front of and behind the fence/wall. The fence installation should be consistent with acceptable building practices and shall be an unadorned, solid color or a façade that is consistent with the primary structure. Opaque fencing/walls shall be constructed to City standards per the Manual of Specifications, Standards and Design (at a minimum). Six (6) foot high fences shall be built according to the same detail as the Eight (8) foot fence; however, it shall be reduced by two feet while keeping the same proportions. Chain link fencing is prohibited.
10. **Screening** shall mean the required built and/or plant material located in the bufferyard for the purpose of visually separating different land uses.

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11. **Small business customers** a small business as defined within the Jacksonville City Code and determined by the Public Services Department.
12. **Small shrub** shall mean shrub type vegetation with a typical height range at maturity of between one and six feet.
13. **Small trees** shall mean trees with a typical height range at maturity of between 10 and 25 feet.

### **D. Location of Bufferyards.**

Bufferyards should be located on the outer perimeter of a lot or parcel, extending to the lot's boundary line. Bufferyards may be located in whole or in part within any required front, side, and backyard setbacks. Bufferyards shall not be located on any portion of a public or private road right-of-way.

### **E. Responsibility for Development of a Bufferyard.**

1. The property owners of the developing land use shall be responsible for submitting a bufferyard plan to the Planning Division and for providing and maintaining the required bufferyard and screening. If the replacement of screening material becomes necessary to continue its effectiveness, the property owner is responsible for such replacement.

If a single family detached residential structure builds next to an existing nonresidential structure, the residence is not required to erect a bufferyard.

2. When screening for outdoor storage is required, the owner\ tenant\ occupant shall be required to submit a bufferyard plan to the Planning Division and to install and maintain the required bufferyard and screening.

### **F. Maintenance of a Bufferyard.**

#### **1. Vegetation.**

The property owner shall be responsible for maintaining all vegetation required by this section in a healthy condition. Any dead, unhealthy or missing vegetation shall be replaced upon written notice of noncompliance by the Planning Division to insure compliance with all bufferyard requirements. Replacement must occur upon notification by the Planning Division of any dead, unhealthy or missing vegetation and shall be planted in accordance with the provisions of this section. Replacement shall occur at the earliest suitable planting season.

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### 2. **Fence.**

No fence shall have more than twenty (20) percent of its surface area covered with disfigured, cracked or missing materials or peeling paint for a period of more than thirty (30) successive days. No fence shall be allowed to remain with bent or broken supports or be allowed to stand more than fifteen (15) degrees away from the perpendicular for a period of more than thirty (30) successive days. Support structures of the fence/wall, other than those used to enhance its appearance, shall be seen, if at all, by the use responsible for building and maintaining the buffer and not by the adjacent use.

### G. **Types of Screens.**

1. **Type "A".** This type is intended to exclude all visual contact between uses and to create a strong impression of spatial separation. Type "A" screening shall consist of a screen that is opaque from ground level to a height of at least 6 feet, with a lesser amount of up to 30 feet above ground surface. Such a screen may be composed of various combinations of wall, fence, planted vegetation, and existing vegetation.

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**Type "A" Screen**

MINIMUM PLANTS PER 100 LINEAR FEET	
SCREENING MATERIAL	BUFFERYARD WIDTH
	30 FT. OR MORE
Large trees (deciduous or evergreen)	4
Small trees (deciduous or evergreen)	6
Large Shrubs (evergreen only)	25
Built opaque fence or wall (6' height minimum) covering entire length of bufferyard	Required
<b>MINIMUM AMOUNT OF REQUIRED SCREENING MATERIAL PER 100 LINEAR FEET TOTAL</b>	10 trees plus 25 large shrubs

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### 2. **Type "B"**

A type "B" buffer shall be required for commercial sites along US Highway 17, NC Highway 24, Old Bridge Street (SR 1402), US Highway 258, Bell Fork Road (SR 1308), Gum Branch Road (SR 1308), and Western Boulevard (SR 1470) when any of the following types of outdoor storage are visible from a public right-of-way:

- a. Any junk located within 200 feet of any public right-of-way;
- b. Commercial salvage yards, automobile yards, and junkyards;
- c. Any disassembled, wrecked, inoperable, cannibalized, junked or abandoned vehicle not currently awaiting repairs and which is located within 200 feet any public right-of-way;
- d. Any disassembled, wrecked, inoperable, cannibalized boat or boat trailer, not currently awaiting repairs, within 200 feet of any public right-of-way;
- e. Any disassembled, inoperable, used or cannibalized appliance which is located within 200 feet of any public right-of-way;
- f. Any used, non-reconditioned manufactured home which is located within 200 feet of any public right-of-way;
- g. Any building materials, equipment, vehicles, or any type of junk located on the site of a contractor's office and/or storage lot within 200 feet of any public right-of-way (not including building supply establishments); and,
- h. Any damaged, and/or unrepairable vehicle tire which is located within 200 feet of any public right-of-way.

**Opaque Fence.** The Type "B" screening shall consist of a fence that is opaque from ground level to the height required. The height of the fence shall be such that the height of any stored materials may not exceed the height of the fence; however, no fence may be lower than 6 feet.

**\*Vegetation.** Vegetation is required between the fence and right-of-way to accent the required opaque fence. The Type "B" screening shall consist of 25 small and 3 large evergreen shrubs (no tree substitutes permitted) per 100 linear feet of screen required. An alternative design may be submitted in

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lieu of the specific requirements stated herein for approval by the landscape superintendent. Landscaping is not required in front of an entrance gate.

\*When the fence or wall is to be located more than 50 feet from the street right-of-way only one-half of the vegetation is required.

**Additional Requirements.** The following are additional requirements for the Type "B" screen:

- i. Tarpaulins, tents or other temporary screens are not acceptable screening materials; and
- ii. The fence shall be set back from the road or street right-of-way a distance of five feet but may be no closer than 10 feet from the edge of pavement. No part of any screen shall impede the visibility at driveways.
- iii. Junk or other materials required to be screened shall not be used to support the screening materials or comprise part of the screen itself.

### 3. **Exceptions:**

- a. **Alternative designs.** Where proposed by the developing use, or where recommended by the Planning Division, and where such proposal or recommendation is acceptable to both parties, alternative designs may be provided in lieu of the specific requirements stated herein. Alternative designs may include, but are not specifically limited to:
  - i. **Landscape earthen berm** or combinations of berm and shrubs meeting the specified minimum height requirements. The amount of vegetation may be reduced by up to 50 percent if an earthen berm is provided.
  - ii. **Natural buffers** of a width and density that, during all seasons, insure the screening intents herein.
  - iii. **Drainage corridors** with vegetated banks and adjacent areas which meet the screening intents herein.

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- iv. **Substitutes of trees for shrubs.** One small tree may be substituted for four shrubs. If more than 8 feet is available, then one large tree may be substituted for 4 shrubs.
- v. **Other alternative designs** which will insure the screening intent of these standards will be acceptable.
  
- b. **Driveways and street intersections.** To insure that landscape materials do not constitute a driving hazard, a sight distance as defined in the Zones and Boundaries Section of this Ordinance will be observed at all street intersections or intersections of driveways with streets. Within this sight triangle, no landscape material, fencing or berm exceeding 30 inches above the adjacent street shall be permitted.

Nonconcurrency of any proposed alternative design, as determined by the Planning Division, will mean automatic rejection unless otherwise approved through the appeals process.

### H. **Required Screening Types Between Adjacent Land Uses**

Screening is required based on the category of land uses adjacent to the proposed use:

1. <b>Categories of Land Uses</b>	<b>Symbol</b>
a. low and moderate density residential uses less than 6 units/acre - excluding mobile home parks	R-LD
b. high density residential, 6 or more units/acre, group housing and mobile home parks	R-HD
c. public recreational and public institutional (including schools and churches)	PI
d. commercial, industrial including retail, office, wholesale, manufacturing, storage, and utilities uses	BUS

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2. **Type of Screening Required Between Adjacent Land Uses**

	<b>R-LD</b>	<b>R-HD</b>	<b>PI</b>	<b>BUS</b>
<b>R-LD</b>	None	A	A	A
<b>R-HD</b>	A	None	A	A
<b>PI</b>	A	A	None	A
<b>BUS</b>	A	A	A	None

3. **Adjacent Vacant Lot.** When developing a use directly adjacent to a vacant lot or parcel, then the developing property owner shall not be required to provide a bufferyard. At the time the vacant lot is developed, the owners of said lot shall provide all screening and bufferyard requirements between the two uses.

I. **Requirements for Refuse Collection Areas.**

1. **Applicability.** Screening is required for all refuse collection areas.
2. **Location Requirement.** A location for refuse collection shall be shown on all site plans. An area specifically designated for recycling is also strongly recommended and in some cases required per North Carolina General Statutes.
3. **Exemptions:** Unmanned uses (e.g. public or private utilities such as power, water or communication facilities and cemeteries) that do not generate any refuse. If a refuse collection area is provided then the requirements of this section shall apply.
4. **Screening Requirement:** Refuse collection areas shall be screened on 3 sides by an opaque fence/wall so that it is not visible from any public or private right of way. In rare circumstances where site conditions support the refuse collection area(s) facing a right of way, the 4<sup>th</sup> side would require screening in the form of an opaque gate (chain link fencing is prohibited). Collection areas shall be designed so that the waste removal trucks can access the containers.

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5. **Setback Requirements:** Refuse collection area shall be set back at least 5 feet from the side and rear property line and shall not be closer to any street right of way than the wall(s) of the primary structure.
6. **Surface/Pad Detail Requirements:** Refuse collection areas shall be constructed to City standards per the Manual of Specifications, Standards and Design. (If more than one container is needed, the collection area shall be based on the detail multiplied by the number of containers needed.)
7. **Other Requirements:** Refuse collection areas that serve restaurants or other use(s) that the Public Service Department determines necessary, shall drain to the sanitary sewer through a grease trap or other approved method as deemed appropriate by the Public Service Department.
8. **Modifications:** Any modifications to existing refuse collection areas shall comply with the requirements of this section.
9. **Administrative Flexibility:** The City Council recognizes that due to the particularities of any given development, the inflexible application of Part I above may result in a development that is unable to fully comply with the standards herein. Therefore, the Planning Administrator may grant flexibility when an existing development has insufficient land available, an unsafe condition would be created or other extenuating circumstances exist.

Whenever flexibility is granted, the reasons for granting the flexibility and specific screening requirements that are imposed shall be documented. In addition, the Planning Administrator may impose specific conditions to any flexibility granted.

### **J. Plant Materials Used in Bufferyards.**

Generally accepted principles of landscape plant material installation and construction shall be followed.

1. **Minimum Size of Installed Plants.** At installation, large trees shall be a minimum of 8 feet high; small trees between 4 and 6 feet high; small shrubs not less than 15 inches high; and large shrubs not less than 24 inches high. All trees must have a minimum 1-inch caliper when planted.
2. **Existing Plant Material.** The property owner shall make reasonable effort to preserve existing plant material if it contributes to the required screening and to preserve significant trees. Where natural growth of sufficient height and density

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serve the same purposes as the required buffer, then the natural growth may fill screening requirements.

### K. Further Bufferyard Requirements.

1. **Seeding.** All bufferyard areas that are not landscaped shall be seeded with lawn unless ground cover is already established.
2. **Encroachment.** Among other things, bufferyards may not be encroached upon by vehicular areas (except common access drives), buildings, exterior storage, dumpsters or mechanical equipment unless otherwise provided.

Encroachment by stormwater detention ponds may occur subject to the approval of the City of Jacksonville. Any plant materials placed within stormwater storage areas shall be of a variety that will survive periodic flooding.

3. **Recreational Use.** A bufferyard may be used for passive recreation; it may contain pedestrian or bike trails, provided that: a) no plant material is eliminated, b) the total width of the bufferyard is maintained, and c) all other regulations of the ordinance are met. In no event, however, shall active recreational uses such as play fields, swimming pools, or tennis courts be permitted in bufferyards.
4. **Easement.** No vegetative screening or barrier required by this section shall be planted on property subject to utility or drainage easements without the consent of the Public Works and/or Public Utilities Departments and the easement holder.
5. **Solar Access.** If the development on the adjoining use is existing, and is designed for solar access, small trees shall be substituted for large trees where large trees would destroy solar access.
6. **Future Thoroughfare.** Required landscaping materials, fencing and berm shall not encroach within projected future thoroughfare rights-of-way.
7. **Shopping Centers, Condominium/Townhouse.** Bufferyards are required only along exterior property lines of the project for shopping centers and condominium/townhouse type developments.
8. **Solid Wall.** A building wall of solid construction (wood, masonry, etc.) that is without openings, access, protrusions, mechanical equipment, etc., may be used to satisfy the fencing requirements of this article along those areas where the building exists. There shall be no breaks or separations between fencing and building walls along property lines where a combination of fencing and building walls are used to satisfy the requirements of this section.

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### L. Lighting.

Unless exempted in conjunction with a special use permit, lighting shall be limited to the following when adjacent to a different type of land use as identified in this section:

1. Lighting shall be prohibited in required bufferyards;
2. Light poles shall not exceed 14 feet in height; and
3. Luminaries shall be designed to “dark sky standard.”

### M. Compliance.

1. **Certificate of Occupancy.** No certificate of occupancy for any construction or renovation shall be approved by the zoning administrator until the required screening buffer is installed in accordance with the approved plan.
2. **Second Inspection.**
  - a. **Time.** A second inspection shall be completed during the second growing season after installation.
  - b. **Purpose.** To determine if sufficient progress toward full compliance has been made. Sufficient progress shall mean that at a minimum all the following conditions have been met:
    - i. all plant material used for screening purposes is healthy, and producing foliage normally.
    - ii. with normal growth, the specified screening standard can reasonably be expected to be achieved within five growing seasons from time of installation.
    - iii. all built structures used for screening are well maintained and in good condition.
3. Prior to the installation of a type "B" screen for outdoor storage, a bufferyard plan to include the area of the storage area(s) and the specific type of fence and plantings shall be submitted to the zoning administrator for approval. This plan may be prepared by the applicant and does not have to be prepared by a licensed surveyor, landscape architect, etc. The purpose of the plan is to avoid any misunderstanding/ misinterpretation of the requirements before the applicant spends any time/money on the installation of the bufferyard.

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- a. **New construction.** No certificate of occupancy for any construction or renovation shall be approved by the zoning administrator until the required screening buffer is installed in accordance with the approved plan.
  - b. **Existing sites.** Screening requirements as stated herein shall be installed for all outside storage areas within the City of Jacksonville planning jurisdiction within 6 months from the date of the adoption of this ordinance or within 6 months of any new areas being included in the planning jurisdiction.
4. **Additional Inspection.** Additional inspections shall be made, as needed, to assure compliance with this section.
  5. **Penalty for Non-compliance.** Failure to maintain the plantings and/or fences in good condition shall constitute a violation of the City Code. A written notice of non-compliance will be sent to the property owner. He will then be given a reasonable amount of time, at the discretion of the zoning administrator, to correct the violation.

### **N. Appeals Process.**

The Board of Adjustment shall hear and decide appeals from and review any order, requirement, decision, or determination made by the zoning administrator in the enforcement of this ordinance. It shall also hear and decide all matters referred to it upon which it is required to pass under this ordinance. The concurring vote of 4 members of the Board shall be necessary to reverse any order, requirement, decision or determination of the zoning administrator to decide in favor of the applicant any matter upon which it is required to pass under this ordinance, or to affect any variation of this ordinance.

Such appeal from the zoning administrator shall be taken within such time as shall be prescribed by the Board of Adjustment by general rule, by filing with the zoning administrator, from whom the appeal is taken, and by filing with the Board of Adjustment a notice of appeal. The zoning administrator from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the zoning administrator from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent perils to life, or property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board of Adjustment or by a court of record on application on

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notice to the zoning administrator from whom the appeal is taken and on due cause shown.

The Board of Adjustment shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

### **O. Bufferyard Plan.**

1. **Bufferyard Plan Contents.** Prior to the issuance of a building permit, an applicant must propose and receive approval for a bufferyard plan. The applicant must submit a bufferyard plan drawn to scale to the zoning administrator indicating the following information:
  - a. screening type required (A or B);
  - b. existing and proposed buildings, drives, parking areas, exterior storage areas, dumpsters, stormwater detention areas (if applicable) and accessory structures (if applicable);
  - c. location of existing and proposed planting areas and type of vegetation that will be used to comply with the bufferyard requirements, including the species (identified by common and scientific name), height at maturity, caliper (the single stem trees only) at maturity, and spacing of all vegetation;
  - d. existing and proposed physical barriers used to comply with the bufferyard requirements; and
  - e. all surrounding existing land uses and zoning classifications.
2. **Special Cases.**
  - a. In the event that the owner/developer has not established a bufferyard plan at the time a building permit is requested, then a building permit may be issued subject to providing all information required in the appeals process above except for the specific information on proposed vegetation and physical barriers.
  - b. Temporary certificates of occupancy may be issued only after a detailed bufferyard plan indicating the required bufferyards has been submitted and approved by the City Planning Staff.

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- c. Bufferyard plans shall require approval by the Planning Department. Recommendations on the proposed bufferyard may be obtained from the zoning administrator or landscaping superintendent.
- d. In order for a final certificate of occupancy to be issued, all vegetation, fencing and berm required by this section shall be in place. Also written certification from the installer stating that the vegetation has been installed in accordance with the approved bufferyard plan must be submitted to the Planning Department.
- e. A developer of a subdivision may either submit a bufferyard plan for each lot or one for the entire subdivision. Should he/she submit one plan for the entire subdivision, he/she may either install the entire bufferyard at once or install the bufferyard requirements for each lot in conjunction with the building permit issuance for that lot.

### **P. Allowable Deviations to Bufferyard Requirements.**

Deviations may be granted in the bufferyard plan review process through negotiation or may be approved (if approval is granted) by City Council in conjunction with a special use permit. The deviations may be approved only if the following findings are made:

- 1. **Hardship Cases.** There are practical difficulties or unnecessary hardships in carrying out the strict letter of the ordinance because of one or more of the following conditions:
  - a. unusually narrow (less than thirty feet) sections of land available for planting within the back and/or side yards because of existing permanent structures, existing paving, or natural features;
  - b. specialized land uses such as radio and television towers, airports, etc. where strict adherence to the screening standard would significantly interfere with the function of that use or would create a public safety problem;
  - c. difficulties arising from the recorded platting or deeding of land prior to the adoption of this ordinance;
  - d. a strip of existing vegetation, dense enough to satisfy capacity requirements, making added buffering unnecessary;
  - e. irregular shaped lots;

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- f. lots less than one (1) acre in size; or
  - g. lots with less than two hundred (200) feet in depth.
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- 2. Approval of the variance will not endanger public health/safety if located and installed according to the application and plan as submitted and approved.
  - 3. Approval of the variance will not substantially injure the value of adjoining or abutting property.
  - 4. Use of the property otherwise meets all required conditions and specifications.

**Sections 116-117. Reserved**