

CHAPTER 81: LANDSCAPE BUFFER REGULATIONS*

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ARTICLE I. GENERAL PROVISIONS

§ 81.001 PURPOSE

It is the intent of this chapter to provide for the utilization of landscaping techniques for the purpose of improving the aesthetic and functional quality of new development and to minimize the friction between incompatible urban land uses.

(Ord. passed 1-9-73)

***Cross reference:**

Streets, sidewalks, and other public places, see Ch. 41

Subdivision regulations, see Ch. 72

Zoning Code, see Ch. 80

Statutory reference:

Planning and zoning, see KRS Ch. 100

§ 81.002 APPLICABILITY

This chapter will govern the use of trees, bushes, plants, ground covers, walls, fences, and earth mounds, to achieve the following objectives:

- (A) Retard erosion;
- (B) Channel vehicular and pedestrian circulation;
- (C) Protect surrounding property values;
- (D) Reduce the effects of air, odor, visual and noise pollution;
- (E) Reduce glare from artificial lighting;
- (F) Separate certain land use activities from vehicular movement;
- (G) Screen unsightly activities; and
- (H) Separate incompatible land use activities.

(Ord. passed 1-9-73)

§ 81.003 AUTHORITY

The authority to administer these landscape regulations is granted to the Planning Commission under KRS 100.201, 100.203, and 100.281.

(Ord. passed 1-9-73)

§ 81.004 DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context indicates or clearly requires a different meaning.

"BUFFER EASEMENT." A strip of land to be set aside to separate incompatible land uses on which shall be placed trees, bushes, ground covers and barriers as necessary to reduce the deleterious effects of the activities.

"BUSHES." Planting materials with a functional mature height of two (2) to twelve (12) feet with foliage for its full height.

"EARTH MOUNDS." Ridges of piled earth up to four (4) feet in height and constructed with proper slopes and plant material to prevent erosion.

"FENCE." A barrier constructed of wood or metal for the purpose of restricting movement, or screening from sight conflicting activities. The height of fences shall be governed as set forth in the zoning code. Fences shall not be used for advertising purposes in residential or agricultural zones.

"GROUND COVER. Planting with a mature height of twelve (12) inches or less including but not limited to grass, certain junipers, phlox, and ivy. Within interior landscaping areas and landscaping easements next to a public right-of-way, crushed rock, tree bark, or processed shale may also be used.

"HEDGE." A row of bushes planted at such interval as to create a continuous mass within two (2) years after planting.

"INTERIOR LANDSCAPING AREAS. Planting areas such as islands or peninsulas within a vehicular use area as required by § 81.103.

"LANDSCAPING." The use of planting material, pavements, walls, fences, and earth mounds to enhance the aesthetic and safety characteristics of new and existing development.

"LOW SHRUBS." Low lying deciduous or evergreen ground covers.

"TREES." Planting materials with a functional mature height of ten (10) or more feet. When used in conjunction with interior landscaping areas, trees should have a minimum clear height of five (5) feet from the ground to the lowest branch.

"VEHICULAR USE AREA (V.U.A.). Any open or enclosed area containing more than one thousand eight hundred (1,800) square feet of area and used by six (6), or more, of any type of vehicle, or mobile home, whether moving or at rest, including, but not limited to, parking lots, loading and unloading areas, mobile home parks, and sales and service areas. For the purpose of interior landscaping, driveways shall be considered to be a part of all vehicular use areas to which they are adjacent. For the purpose of landscape buffering, driveways shall be considered vehicular use areas, regardless of size, if they are used by six (6) or more cars and are adjacent to a public street. Intervening curbs, sidewalks, landscaped strips, etc. shall not be considered to eliminate adjacency.

(Ord. passed 1-9-73; Am. Ord. passed 7-20-76, § 3)

§ 81.005 JURISDICTION

The area for which these regulations shall apply shall coincide with the jurisdiction of the zoning code.

(Ord. passed 1-9-73)

§ 81.006 CONFLICTING REGULATIONS

Should the requirements set forth in this chapter be found in conflict with other provisions governing these regulations, the more stringent regulations shall apply.

(Ord. passed 1-9-73)

ARTICLE II. GUIDELINES

§ 81.100 CONFLICTS WHERE LANDSCAPING IS NEEDED

(A) The following provisions and guidelines shall apply for implementing this article.

(B) The following table describes those types of developments that create problems and conflicts for adjoining property, where landscape materials will help to reduce the adverse effects.

A	B	C
<i>Land Use</i>	<i>Conflicts Created</i>	<i>Adverse Effect Reduced</i>
ACTIVITY AREA CONFLICTS		

Commercial, industrial, office, and parking areas.	1. Residential property (especially single family homes), as well as conflicts between themselves.	1. Pollution by air (odors, auto exhausts, smoke) noise (cars, loudspeakers), visual (lights, trash), accidents (cars), land use (property values).
2. Churches, hospitals, schools	2. Residential properties (especially single family homes), as well as between themselves.	2. Same as C, 1.
3. Urban type residential or	3. Farming, such as growing crops, raising livestock, (especially horses), forestry areas, etc.	3. Same as C, 1; plus water pollution (sewage and storm water runoff), child and pet damage to crops, livestock, forestry areas, etc.
MOVEMENT FACILITY CONFLICTS		
4. Transportation facilities, including highways (especially freeways, arterials, and collectors), railways and airways.	4. All activity areas (commercial, industrial, residential), but especially the residential areas of the community.	4. Same as C, 1.
5. Facilities for energy supply, waste disposal, and telecommunications; including all forms of overhead wires, poles, towers, underground pipes, buildings.	5. All activity areas, but especially the residential areas of the community.	5. Same as C, 1 and C, 3.

Cross reference:

Lexington-Fayette Zoning Ordinance, see Article 20, Planting Manual Supplement

§ 81.101 LANDSCAPE REQUIREMENTS

(A) The following table describes the various land use relationships governed by these regulations.

(B) The landscape requirements in column three are keyed to the table in § 81.102.

<i>Where Zoning Category* Use Adjoins</i>	<i>Zoning Category* (or use) (including vehicle use areas)</i>	<i>Landscape Buffer Categories that apply</i>
Single or two-family	Multi-family or mobile home	§ 81.102, II
Agriculture, single or two-family	Commercial or industrial	§ 81.102, III
Multi-family & mobile home	Commercial or industrial	§ 81.102, IV
Multi-family	Mobile home	§ 81.102, I
Commercial	Industrial	§ 81.102, I
All residential zones	Freeway thoroughfare and railroad	§ 81.102, V
Commercial	Freeway thoroughfare	§ 81.102, VI
Industrial	Freeway thoroughfare	§ 81.102, VI
Vehicular use areas- all zones	Any public right-of-way (excluding freeways)	§ 81.102, VII
All zones	Utility substations, landfills, junkyards, sewage plants, or similar uses	§ 81.102, VIII

*The corresponding zone classifications as specified in the chapter should be substituted for these terms.

(C) In all zones, vehicular use areas are subject to the interior landscaping requirements set out in § 81.103.

(D) (1) Observance of this chapter should be required in all cases where a building permit is requested for new construction, or where approval of a subdivision is asked or a conditional use permit is sought.

(2) The Board of Adjustment, in approving conditional uses may, in its discretion, require such additional landscape buffering and interior landscaping as it may deem necessary or desirable.

(Ord. passed 1-9-73; Am. Ord. passed 7-20-76, § 1)

§ 81.102 LANDSCAPE BUFFER EASEMENT

(A) This table describes the landscaping requirements for the buffer easements required between the activities listed in § 81.101.

<u>Landscape Buffer Easement</u>	<u>Minimum Landscape Easement Requirements</u>

Categories					
	Width	Trees	Bushes	Ground Cover	Barrier
I	10'	1 med. or lge. tree within 40 ft. intervals or part thereof	4' continuous only w/fence barrier or at 10' intervals w/ wall or earth mound	Grass or low shrub	4' wall, fence, or earth mound
II	10'	1 small to med. tree within 40 ft. intervals or part thereof	6' cont. hedge or 3' w/earth mound	Grass or low shrub	3' earth mound or 4' wall or fence
III	15'	Same as I	6' cont. hedge w/fence or intermittent planting w/wall	Grass	6' wall or fence
IV	10'	Same as I	Same as III	Grass	Same as III
V	20'	1 med. or lg. tree within 30' intervals or part thereof	6' continuous only w/fence	Grass	Same as III
VI	10'	Same as V	Same as I	Grass or low	Same as I

				shrub	
VII	5'	Same as II	3' continuous hedge or barrier with intermittent planting	Grass, mulch or crushed stone	3' wall or earth mound or hedge
VIII	15' to all boundaries (5' for substations)	Same as V	6' continuous	Grass	Same as III

(Ord. passed 1-9-73; Am. Ord. passed 7-20-76, § 2)

(B) *Location of landscape buffer easements.* The easements described in categories I, II, III, and IV of subsection (A) shall apply to all common boundaries as defined in § 81.101. The easements described in categories V, VI, and VII shall apply to the property line adjacent to the freeway or public right-of-way as described in § 81.101. Easements described in category VIII shall apply to all boundaries of the stated activities.

(C) *Relationship to yard requirements.* The landscape buffer easements set forth in subsection (A) shall be provided in addition to the minimum yard requirements of the appropriate zone.

(D) *Responsibility for providing buffer easements.* The landscape buffer easements set forth in subsection (A) shall be provided as a condition of development by the owner or developer of the property which creates the incompatible situation. An owner securing a change in zone which creates an incompatible situation shall be deemed the one who creates such situation and shall immediately provide the buffer easement as a condition of the zone change. If the incompatible situation already exists or is created by a general zone change not sponsored by the property owner, the buffer easement shall be provided as a condition of the approval of any subdivision of the affected land.

(E) *Inclusion on subdivision plat.* Areas to be set aside for landscape buffer easements shall be shown on preliminary subdivision plats. Illustrations including trees, bushes, ground covers, and barriers shall be shown on final subdivision plats.

(F) *Easement conflicts.* Where landscape easements are required in the same location as utility easements, the two may be combined providing that the total width and screening requirements of subsection 81.102 are met.

(G) *Provision of planting materials and barriers.* Such trees, bushes, ground covers, and barriers as shall be required and/or shown on the final subdivision plat shall be provided by the owner or developer and considered as any other site improvement. Sufficient bond as may be determined adequate to cover the required improvements may be required to be posted by the Planning Commission.

(Ord. passed 1-9-73)

§ 81.103 INTERIOR LANDSCAPING FOR VEHICULAR USE AREAS

Any open vehicular use area containing more than six thousand (6,000) square feet of area or twenty (20) or more vehicular parking spaces shall provide interior landscaping in addition to the previously required perimeter landscaping.

(A) *Landscaped area.* For each one hundred (100) square feet or fraction thereof, of vehicular use area, five (5) square feet of landscaped area shall be provided.

(1) *Minimum area.* The minimum landscape area permitted shall be sixty-four (64) square feet, with a dimension of at least eight (8) feet.

(2) *Maximum contiguous area.* In order to encourage the required landscape areas to be properly dispersed, no required landscape area shall be larger than three hundred fifty (350) square feet in vehicular use areas under thirty thousand (30,000) square feet in size, and no required area shall be larger than one thousand five hundred (1,500) square feet in vehicular use areas over thirty thousand (30,000) square feet in both cases, the least dimension of any required area shall be eight (8) feet. Landscape areas larger than above are permitted as long as the additional area is in excess of the required minimum .

(B) *Minimum trees.* A minimum of one (1) tree shall be required for each two hundred fifty (250) square feet or fraction thereof, of required landscape area. Trees shall have a clear trunk of at least five (5) feet above the ground, and the remaining area shall be landscaped with shrubs, or ground cover, not to exceed two (2) feet in height.

(Ord. passed 1-9-73)

Cross reference:

Landscape Zoning Ordinance for Lexington-Fayette County, see § 20.32

§ 81.104 QUALITY; TYPE OF PLANTING

All planting materials shall be living plants (not artificial) native to the area and suitable for the conditions of the site. Plant materials shall conform to the standards of the American Association of Nurserymen and shall have passed any inspections required under state regulations. All landscaping materials shall be installed according to accepted good planting and construction procedures. Use should be made of existing on-site planting.

(Ord. passed 1-9-73)

§ 81.105 VEHICLE OVERHANG

Parked vehicles shall not be permitted to hang over a landscape buffer easement or an interior landscaping area more than two and one-half (2 ½) feet. Curbs or wheel stops shall be provided to permit no greater overhang.

(Ord. passed 1-9-73)

§ 81.106 MAINTENANCE

All landscaping materials shall be installed in a sound workmanlike manner, and according to accepted good construction and planting procedures. The owner of the property shall be responsible for the continued proper maintenance and replacement of all landscaping materials, and shall keep them in a proper, neat and orderly appearance, free from refuse and debris at all times. All unhealthy or dead plant material shall be replaced within one (1) year, or by the next planting period, whichever comes first; while other defective landscaping material shall be replaced or repaired within three (3) months. Violation of these installation and maintenance provisions shall be grounds for the enforcement officer to refuse a building occupancy permit or to institute legal proceedings.

(Ord. passed 1-9-73; Am. Ord. passed 7-20-76, § 4)

§ 81.107 TREE TYPES; SIZES

(A) Whenever trees are required herein for interior landscaping or are used for buffer landscaping, if deciduous trees (trees which normally shed their leaves in the fall) are used, they shall be of a species having an average mature crown spread of greater than fifteen (15) feet in Bourbon County and having trunks which can be maintained with over five (5) feet of clear wood in areas which have visibility requirements, except at vehicular use area intersections where an eight (8) foot clear wood requirement will control.

(B) Trees having an average mature spread of crown less than fifteen (15) feet may be substituted by grouping of the same so as to create the equivalent of a fifteen (15) foot crown spread. A minimum of ten (10) feet overall height or a minimum caliber (trunk diameter, measured six (6) inches above ground for trees up to four (4) inches caliber) of at least one and three-quarter (1 ¾) inches immediately after planting shall be required.

(C) Trees of species whose roots are known to cause damage to public roadways or other public works shall not be planted closer than fifteen (15) feet to such public works, unless the tree root system is completely contained within a barrier for which the minimum interior containing dimensions shall be five (5) feet square and five (5) feet deep and for which the construction requirements shall be four (4) inches thick reinforced concrete.

(D) Whenever evergreen trees are used, they shall be a minimum of five (5) feet high with a minimum caliber of one and one-half (1 ½) inches and a minimum spread of three (3) feet immediately after planting.

(Ord. passed 1-9-73; Am. Ord. passed 7-20-76, § 5)

ARTICLE III. ADMINISTRATION

§ 81.200 ADMINISTRATION; ENFORCEMENT

(A) The enforcement of this chapter shall be carried out as set forth in subsection (B).

(B) The requirements of this chapter will be administered by the Planning Commission and enforced by the appointed zoning enforcement officer. No occupancy permit shall be issued until the landscaping is completed and certified by the zoning enforcement officer or the Building Inspector. It shall be unlawful to occupy any premises unless the required landscaping has been installed in accordance with the final subdivision plat.

(Ord. Passed 1-9-73)

§ 81.201 VARIANCES

In such individual situations where, by reason of exceptional topographic, dimensional, or shape, or other special conditions of the site, the enforcement of this chapter would create an undue hardship on the applicant, that applicant may appeal to the Board of Zoning Appeals for relief from specific provisions. In granting such variances, the Board of Adjustment shall make supporting findings, including the following:

(A) The specific conditions and detail which are unique to the applicant's land and do not exist on other land within the same zone.

(B) The manner in which the strict application of the provisions of this chapter would deprive the applicant of a reasonable use of the land in a manner equivalent to the use permitted other landowners in the same zone.

(C) That any unique conditions and circumstances are not the result of actions of the applicant subsequent to the adoption of this chapter.

(D) Reasons that the variance will preserve, not harm, the public safety and welfare, and will not alter the essential character of the neighborhood.

(Ord. passed 1-9-73; Am. Ord. passed 7-20-76, § 6)

§ 81.202 APPROVAL OF PLAT SUBJECT TO LANDSCAPE PLAN

(A) No final approval shall be given by the Planning Commission to any subdivision plat of more than three (3) lots or to any development plan until the property owner or developer has prepared a landscape plan and submitted it to the Commission.

(B) *Plan content.* The contents of the plan shall include, in addition to the requirements of Chapter 72, Subdivision Regulations, the following:

(1) All existing and proposed vehicular use areas (including parking stalls, driveways, service areas, giving square footage, etc.), water outlets, and landscape material (including height at planting time, average mature height and on-center planning dimensions for all plants);

(2) The appurtenant names and addresses (property owner, person drawing plan, and person installing landscape material) scale, date, north arrow (generally orient plan so that north is to top of plan), and zoning district.

(Ord. passed 1-9-73; Am. Ord. passed 7-20-76, 7)

§ 81.203 PERFORMANCE BOND

(A) No final approval shall be given by the Planning Commission to any such subdivision plat of more than three (3) lots or development plan until a performance bond has been given to insure proper installation of landscape materials not already installed, with complete cost of all work certified by a landscape contractor, with the bond amount to include the accurate cost plus no more than twenty-five percent (25%) and the bond to be release upon satisfactory completion of the work as determined by the body approving the plan. The bond shall run to the Planning Commission and to the city where the area involved is located, or, if outside the city, to Bourbon County.

(B) *Waiver of plan and issuance of building permit.* The Planning Commission, in its discretion, may waive the requirement that a landscape plan be presented and approved before final plat approval; provided, however, that in all instances where landscaping is required by this chapter, no building permit shall be issued until the required landscaping plan has been submitted and approved and the bond required by subsection (A) posted; and, no occupancy permit or certificate of zoning compliance shall be issued until the landscaping is completed, as certified by an on-site inspection by the enforcement officer. It shall be unlawful to occupy any premise unless the required landscaping is installed, or bond or irrevocable letter of credit posted, in accordance with these requirements.

(Ord. passed 1-9-73; Am. Ord. passed 7-20-76, § 7)

ARTICLE IV. SUBDIVISION PLAT REQUIREMENTS

§ 81.300 REQUIREMENTS ADDED TO SUBDIVISION REGULATIONS

The following requirements should be added to the subdivision regulations of communities adopting this landscape chapter.

(A) *Requirements for preliminary subdivision plats.* Areas to be set aside for landscape buffer easements in accordance with article of the zoning code shall be shown and include dimensions.

(B) *Requirements for final subdivision plats.* Areas to be set aside for landscape buffer easements shall be shown along with an indication of planting and barriers to be provided. Existing trees and shrubbery shall be so designated. In addition, a typical elevation and cross-section shall also be shown.

(Ord. passed 1-9-73)