

City of Detroit

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HONORABLE CITY COUNCIL

RE: Proposed text amendment to Chapter 50 of the 2019 Detroit City Code, Zoning, to streamline and update the current set of landscaping and screening requirements that apply to a limited set of specific land uses and site features, and to modernize related fence and wall standards for nonresidential uses with the goal of proactively improving the appearance of commercial and industrial properties and corridors. **(RECOMMEND APPROVAL)**

BACKGROUND

Planning and Development Department Request

For the past couple of years, staff of the Planning and Development Department (P&DD), the Buildings, Safety Engineering, and Environmental Department (BSEED), the Law Department, and CPC have been working towards updating numerous parts of the 2019 Detroit City Code related, in part, to improving the physical appearance of commercial and industrial areas within the city. The physical appearance of certain commercial and industrial sites, especially the appearance of these sites from their perimeter boundaries along streets where the use of a site is highly visible to the public, has been a noticeable issue citywide and has resulted in frequent complaints from residents that may live near these sites. Staff has identified the following zoning-related items as key factors that contribute to the appearance of certain sites:

Screening Zoning Factors (Existing Issues)

1. Applicability. Currently, there are some key land uses or site features, such as parked semi-trailers, that are not subject to required perimeter landscaping and screening but should be given the impact of their appearance from streets or residential properties.
2. Standards. When landscape or fence screening is required, the existing requirements for how to screen uses or site features are vague which can lead to an inconsistent or inadequate appearance of screening as individual sites develop or redevelop over time.
3. Enforcement. Certain types of highly intensive commercial and industrial uses, especially auto-related uses, are continually noncompliant with existing screening requirements. Updating screening standards can help to proactively improve the appearance of certain commercial and industrial sites through the site plan review and building permit processes.

This effort to update the City Code has been informed by two sets of principles that have been established by P&DD: Commercial Corridor Design Principles for the design and appearance of properties with commercial uses, and Industrial Design Guidelines for the design and screening of properties with industrial uses. Below is a summary of the principles that relate to screening:

P&DD Screening Principles (Goals)

- Make the rules that govern screening clearer
- Beautify street frontages
- Enhance landscape buffers between certain uses and neighborhoods
- Provide more specific material standards for appropriate walls and fences

The above principles and goals for screening are strongly related to zoning and would therefore need to be achieved through an amendment to Chapter 50, Zoning, of the City Code. Given the wide-ranging impact of these principles, staff previously grouped the discussion of amendments to the Zoning Ordinance (ZO) that would be required to implement these principles into the categories of required landscaping and screening (introduced at the Oct. 20, 2022, CPC meeting) and fences and walls (introduced at the Sept. 29, 2022, CPC meeting). Since these two meetings and additional CPC input, staff has combined these two closely related items under one proposed ordinance for consideration.

Zoning Best Practices

It is necessary to consider updating both required landscaping and screening, and citywide fence and wall standards together as the two sets of standards work in tandem to regulate the physical appearance of properties along their perimeter.

- Required landscaping and screening addresses which ZO specific land uses or site features require perimeter screening, when that screening is required for sites or uses that are being modified, and the screening standard details required to create a perimeter buffer.
- Fence and wall standards address two key features that are typically regulated by zoning: the maximum permitted height of fences or walls, and which materials (e.g., chain link, wood, etc.) are permitted or prohibited to be used to construct fences or walls.

Most zoning ordinances address the above two topics independently as fence and wall standards affect all properties within a municipality, while required landscaping and screening only affects a limited set of highly impactful land uses or site features. The link between these two sets of standards is that landscaping and screening requirements often include that a fence or wall screen be installed as one feature within a landscape buffer area (in addition to landscape plantings and ground cover). Alternatively, a property owner or tenant may desire to install a fence or wall that is not otherwise required, such as security fencing, often without the addition of landscaping. The proposed amendment seeks to balance the city's desire to improve screening development standards with the needs of commercial and industrial property owners and developers.

Junkyard and Auto Uses Text Amendment (Ord. No. 2023-6)

The timing of this proposed text amendment is beneficial as the CPC previously provided a positive recommendation to the City Council to amend how the ZO treats auto-related uses, including junkyards, auto repair facilities, used auto sales lots, towing yards, used tire sales, scrap tire processing, etc. The focus of the auto amendment, which was recently adopted by the City Council, was to change or restrict the permissibility of these uses as far as being By-right, Conditional, or Prohibited principal uses in certain non-residential districts. The amendment also added spacing requirements, revised use definitions, and updated use regulations. The auto amendment purposely did not address the development standards that apply to auto-related uses.

By amending the permissibility of auto-related uses, the auto amendment addressed the primary issue of the citywide proliferation of all types of auto-related uses that have occurred over time through restricting the zoning districts where auto uses are allowed and adding spacing requirements that reduce eligible areas for auto uses within permissible districts. The rationale for this approved amendment was that many of these auto uses are continually non-compliant with City zoning regulations, property standards, and licensing requirements, but were widely permissible in non-residential zoning districts, resulting in a blighting influence on the City as discussed with CPC.

While auto-related uses are not the sole focus of this proposed screening text amendment, most auto-related specific land uses are currently required to provide landscaping and screening adjacent to residential. No changes are proposed to this use-based applicability. The proposed screening text amendment seeks to further address the blighting or aesthetic impacts of certain auto-related and other uses on the City by amending ZO site improvement development standards contained in Article XIV, Division 2, Subdivision D Landscaping and Screening; Miscellaneous Provisions, which are standards that are referred to once use permissibility has been determined. The current ZO applicability and standards for required landscaping and screening that would be subject to this proposed amendment are summarized in the Current Development Standards section of this report.

Blighting Impacts of Poor Landscaping and Screening

In addition to auto-related uses, there are a number of other commercial and industrial uses that may be permitted within corresponding zoning districts but have applicable development standards that try to ensure that a use does not have a blighting or negative influence, especially along public streets or adjacent to residential properties. A blighting influence, for any use or development, could result from multiple factors concerning landscaping, screening, and fencing:

Screening Development Standards – Aesthetic Factors

- Inappropriate fence or wall materials used as required or desired screening
- Excessive or ineffective fence or wall height
- Lack of landscape or natural ground cover at the perimeter of a site
- Insufficient or minimal landscape buffer width along the perimeter
- Lack of or ineffective landscape plantings along the perimeter



Fencing Aesthetic Considerations

A key desire of P&DD is to reduce the use of chain link fencing along commercial corridors, which often includes barbed wire attached to the top, in favor of other types of newer fencing materials that are available. This is reflected in the proposed amendment as a prohibition on the use of chain link fencing, as well as barbed wire, in business zoning districts (B1 through B6) and other districts along streets. Staff has observed a couple of issues with the continued use of chain link fencing along streets within business districts or for commercial businesses that would typically be present in these districts, including some low impact auto uses.

First, indicated in the below image is a used car dealership, classified by the ZO as a “motor vehicles, used, salesroom or sales lot” specific land use and zoned B4. This entire site is enclosed by chain link barbed wire fencing six feet in height (to the right of the image) and greater (to the left). While it is understandable that a used car dealer would want to secure vehicles for sale on their lot, the general appearance of this site, in part due to the fence materials and height chosen by the property owner or tenant, is that it is not an active commercial business but is rather a vehicle holding or storage business with intermittent sales, vehicle turnover, or commercial activity (note the damaged burgundy truck). This is also supported by the business not appearing to keep regular open hours, the inability to enter the site to view vehicles or park during the day, and the poor condition of pavement on the site where vehicles are stored.

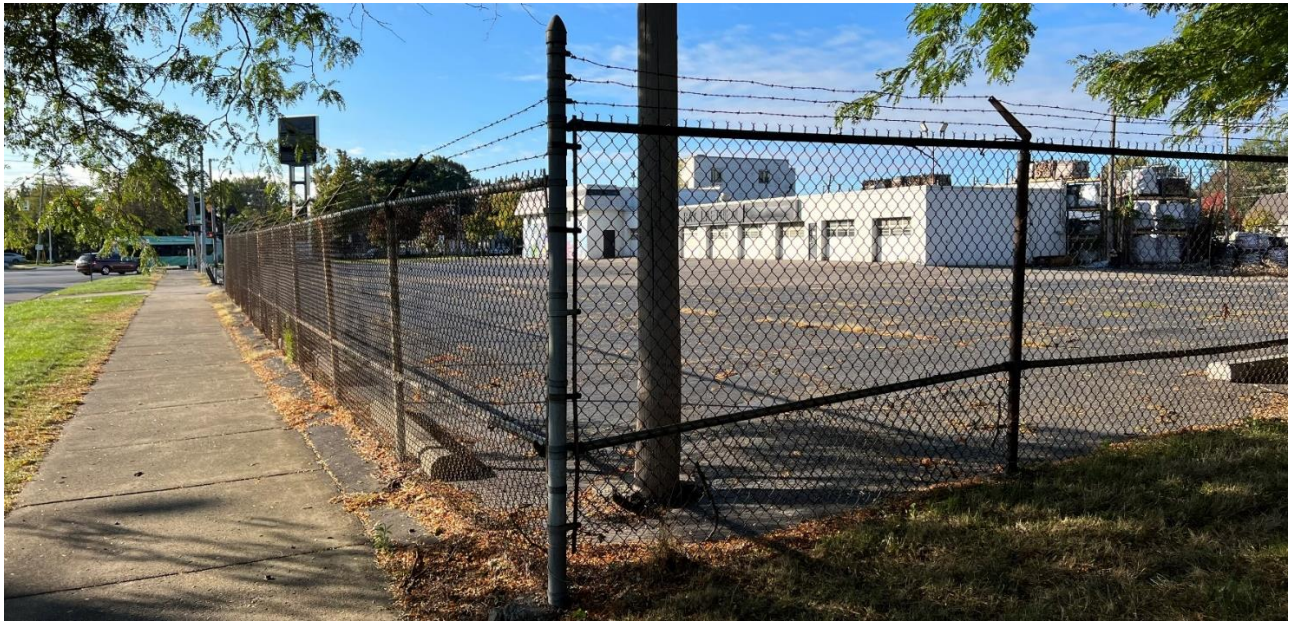
Specific to the issue of permitted fencing, the question for consideration here is if the standard chain link fence material with barbed wire attached should continue to be permitted along streets in business districts citywide, or if prohibiting this specific type of fencing is a policy change that is desirable and would improve the aesthetics and overall appearance of commercial businesses and corridors where we typically anticipate and desire some level of activity, rather than only security, which is the primary purpose of chain link barbed-wire fencing. Prohibiting chain link fencing in favor of other material options, which can also provide security in a more attractive, high-quality manner, could potentially create a more welcoming appearance for patrons and a different aesthetic from streets than is seen in the below example and others within the City.



View of used car dealership fencing

Related to the above consideration, the following image is also of a used car lot zoned B4, except in this example the site is vacant and for lease. A second issue related to both examples is the indefinite use of chain link and barbed wire fencing for properties that may develop or change use over time as normally occurs. While staff is not proposing any changes to the applicability of when fencing is required to be removed or changed through the site plan review or building permit processes, amending the ZO to prohibit this type of fencing along streets would have the benefit of giving the City a new legal ability through zoning to require this type of fencing, that is currently permitted, to be removed over time when sites are modified or land uses change and ZO compliance is opened up for review due to a property owner’s desire to modify a site or change its use.

As the use of chain link fencing goes back several decades, there are many older commercial sites that continue to use this type of fencing regardless of if they are vacant, or not. It is more difficult to require sites to remove chain link barbed wire fencing that may be many years or decades old, in favor of newer fencing and different materials and height, if there is no zoning requirement for a new type of fencing material or height. Again, a benefit of this proposed amendment as it relates to fencing and the numerous existing developed sites with chain link fencing, is that it would give the City more power to improve the appearance of commercial sites as they seek building permits or site plan review, while maintaining the current standards would likely limit or eliminate the ability for the City to require site improvements and upgrades to fencing if the standards for fencing remain as-is.



View of vacant former auto use fencing

Lastly, in the last example picture, as well as the first one, chain link fencing is sometimes used to enclose an entire commercial site to provide security regardless of business operating hours and if a building or site is vacant. In both examples, the issue here is that fencing can be used to prevent the public from parking on the site. In the last example, this is an active business with regular daily hours where patrons are required to park on the street and only employees appear to be allowed, or aware, that there is a parking lot behind the business that can be accessed indirectly.

While the proposed amendment wouldn't solve the issue of fencing blocking parking lots and the fencing in the below image is likely in violation of the City Code as it is not in sound condition, this is another example of a site where it would be beneficial from an aesthetic standpoint to require fencing to be updated from the standard chain link fencing type. If the proposed text amendment is ultimately approved with a new prohibition on chain link fencing along streets in business districts and other districts, the City would be able to require property owners to remove chain link fencing in favor of new fencing at such time a property owner seeks building permits or site plan review, while maintaining the current standards would likely limit or eliminate the ability for the City to require significant upgrades to fencing if the standards for fencing remain as-is. In this case, the property owner could simply repair the chain link fencing but there would be no zoning requirement to completely replace what may be decades-old fencing that is simply used to secure a large parking lot as this fencing appears to meet current material and height requirements.



View of commercial site fencing blocking rear parking lot (gate to left)

SITE PLAN REVIEW (NO CHANGES)

Article III, Division 5 – Site Plan Review

Below is a summary of current ZO requirements for site plan review, which is the main mechanism the City uses to require compliance with current development standards proposed to be amended. The goals of the proposed amendment are also based on the below ZO purpose statements. No amendments are proposed that would affect the site plan review process or applicability.

Subdivision A – In General

The purpose of the site plan review process is to:

1. Protect the public health, safety, and welfare;
2. Minimize adverse effects upon pedestrian and vehicular traffic;
3. Ensure that design is safe, efficient, environmentally sound, aesthetically responsive, and protects properties in the immediate vicinity and the general public;
4. Ensure compliance with this chapter, the Master Plan, and other documents that may control development; and
5. Provide a consistent and uniform method of review.

Site plan approval, which is the desired final step in the site plan review process, is required prior to the building permitting process for land uses that require site plan review. Applicants who are required, but fail, to receive final site plan approval are ineligible to apply for building permits.

Proposed developments that meet any one or more of the applicability thresholds below are required to be approved through the site plan review process prior to permitting. Developments that do not meet any of the below criteria may proceed directly to the permitting process without site plan approval being required. Site plan review is not required for the construction or alteration of an individual single- or two-family dwelling (ZO development standards still apply).

Summary of Site Plan Review Applicability (Sec. 50-3-113)

1. New construction that involves any of the following:
 - a. Any new development with more than 20,000 sq. ft. of gross floor area, except on land zoned M1 through M5, the threshold is increased to 50,000 sq. ft.
 - b. Projects with multiple principal structures on one zoning lot
 - c. Any multiple-family residential or loft development with more than 12 units
 - d. Site condominium developments
 - e. Projects in a 100-year floodplain
 - f. Any parking structure as defined by the ZO
 - g. Projects located in the portion of the MKT District described in Section 50-13-157(a)
2. Additions or major structural alterations that involve any of the following:
 - a. For existing developments of less than 20,000 sq. ft. of gross floor area, any addition or

alteration that results in a cumulative total of more than 20,000 sq. ft. of gross floor area considering existing floor area and proposed additions, except on land zoned M1 through M5, the threshold is increased to 50,000 sq. ft.

- b. For existing buildings of greater than 20,000 sq. ft. of gross floor area, an increase of 25% or more in gross square footage, except on land zoned M1 through M5, the threshold is increased to 50,000 sq. ft.
 - c. Projects in a 100-year floodplain
3. Any development with a lot area of more than one acre, except on land zoned M1 through M5, the threshold is increased to three acres
 4. Substantial changes in use within any building that has more than 20,000 sq. ft. of gross floor area or of any use with a lot area of more than one acre (exempt M1 through M5)
 5. Any conditional, regulated, or controlled land use, and any case before the BZA as the body of first jurisdiction
 6. Any use that has drive-up or drive-through facilities, or a walk-up component
 7. Projects within any PD, and certain projects within SD1, SD2, or SD5 Districts
 8. Projects within the SD4 District that involve certain utility uses
 9. Projects seeking Alternative Residential Development Options provisions
 10. Urban farms and all other agricultural uses specified as a conditional use
 11. Any new or newly established motor vehicle salesroom or sales lot for used vehicles
 12. Development projects with certain post-construction stormwater management thresholds

Subdivision D – Site Plan Approval Criteria

The ZO provides site plan approval criteria that should be utilized when considering site plan approval. These criteria are general statements that seek to achieve sound planning principles and allow for some design flexibility through the criteria, but they are not intended to modify, reduce, waive, etc., explicit ZO standards. For example, any proposed site plan is required to meet the landscaping and screening standards of Article XIV, Division 2, but there is some flexibility to require an enhanced landscape buffer design that meets base ZO standards but may exceed them to satisfy site plan approval criteria. This is a good policy to have in any ZO, but it can be unsustainable to rely on in long term if the base ZO standards are not viewed as effective and plan reviewers must review projects on a case-by-case basis for sound landscaping design when the ZO could be improved to provide consistent and clear requirements. This is one purpose of the proposed text amendment, to improve the City's administration of site plan reviews by providing improved standards and applicability that are based on site plan approval criteria (note criteria 2).

Site Plan Approval Criteria for Landscaping and Screening

1. The type, dimensions, and character of open spaces, landscaping, screening, and buffering shall enhance the design, character, use, and value of the property and abutting lands (Sec. 50-3-178)
2. To the extent practicable, the type, dimensions, and character of open spaces, landscaping, earth berms, fencing, screening, buffering, signs, walls, and other site features shall be designed and located on the site so that the proposed development is aesthetically pleasing and harmonious with nearby existing or future development (Sec. 50-3-180 part).
3. Utility and mechanical equipment and fixtures that abut a public right-of-way shall be effectively screened to the extent possible.

Article XIV, Division 2 – Landscaping, Screening, and Fencing (Applicability)

The above information on the applicability of the site plan review process directly informs when the actual requirements contained within the ZO may be legally enforced by BSEED through the site plan review process, if applicable, and the permitting process only when site plan review is not required (Sec. 50-14-302). Through either process, P&DD and/or BSEED can currently require that new development greenfield sites, or redevelopment sites with existing buildings or other site improvements upgrade their

site features to meet the current requirements of Article XIV, Division 2 as may be enhanced by the site plan approval criteria.

Provided below is the section that indicates when the landscaping and screening standards of Division 2 apply, which includes the current citywide fence standards in Section 50-14-381. This applicability is specific to the standards of Article XIV, Division 2 and is in addition to site plan review applicability but closely follows and overlaps site plan review applicability.

- If site plan review is required per 50-3-113, the standards of Article XIV, Division 2 are applied through the site plan review process.
- If site plan review is not required, the standards of Article XIV, Division 2 may still be applied through the building permit process under Section 50-14-302, such as a change of use (6) that may not otherwise require site plan review.

Section 50-14-302 Applicability (specific to Article XIV, Division 2 standards):

1. The construction of any principal building.
2. The addition to, or enlargement of, any principal building by more than 10 percent.
3. The addition to, or enlargement of, any principal building by more than 2,000 square feet.
4. The construction or installation of any surface parking area that contains five or more off-street parking spaces or the addition of five or more off-street parking spaces to any existing surface parking lot or parking area.
5. Alterations to any structure or improvements to the land for which a building permit is required, where the cost of such work exceeds 60 percent of the assessed valuation.
6. Change of use of the property to a more intensive use.

CURRENT DEVELOPMENT STANDARDS – LANDSCAPING AND SCREENING

The primary way that the ZO requires landscaping and screening is by reference to Article XIV, Division 2 (Landscaping, Screening, and Fencing) for certain land uses. Division 2 contains the following subdivisions; Subdivision D is the only subdivision proposed to be amended.

Article XIV, Division 2 Subdivisions

- A. Subdivision A – In General includes the purpose statement and applicability of Division 2 (Sec. 50-14-302), and that single- and two-family dwellings are exempt from this Division.
- B. Subdivision B – Landscaping, Quality includes required plant materials, quality and type (species), prohibited tree species, planting size, ground treatment, and other details.
- C. Subdivision C – Landscaping and Screening of Off-Street Parking Areas includes required screening for off-street parking areas located along rights-of-way, or abutting or across from residential lots, and interior parking area landscaping requirements.
- D. Subdivision D – Landscaping and Screening, Miscellaneous Provisions includes a street tree requirement, screening requirements for dumpsters, open storage areas, and other industrial areas, and specific landscaping and screening requirements for certain land uses.

Article XIV, Division 2, Subdivision D - Applicability

The following is a summary of land uses that are currently required to provide landscaping and screening by reference to either Article XIV, Division 2, or Section 50-14-367, which is located within Article XIV, Division 2, Subdivision D. Current required screening for these land uses, except for the first two general references, would be impacted by the proposed amendment.

General References to Art. XIV, Div. 2 (includes Sub. D and Sec. 50-14-367)	
Section – Specific Land Use	Requirement
50-9-26 – Other regulations (B1 District)	Non-residential uses in B1: (1) “The site shall be screened and landscaped in accordance with Article XIV, Division 2”
50-12-190 – Stadiums or sports arenas; outdoor entertainment facilities	(7) “All outdoor areas shall be either landscaped in accordance with Article XIV, Division 2...or hard surfaced.”
50-12-267 – Motor vehicle filling stations; and screening and landscaping	(b) “Any such building, or portion of a building, which faces, abuts, or is adjacent to, or across an alley from, land zoned R1 through R6, residential PD, or TM, shall comply with the screening and landscaping requirements of Article XIV, Division 2”
50-12-270 – Motor vehicle filling stations; screening and landscaping	(a) “In addition, the site shall be screened and landscaped in accordance with Article XIV, Division 2”
50-12-296 – Motor vehicle washing and steam cleaning	(14) “As may be required, landscaping shall be provided in accordance with Article XIV, Division 2”
50-12-358 – Wholesaling, warehousing, storage buildings, or public facilities	(6) “Permitted outdoor accessory storage...screening shall be subject to the applicable provisions of Article XIV, Division 2, Subdivision D”
50-13-103 – Setback requirements for boundary lot lines (Industrial districts)	“Setbacks shall be provided in industrial districts where abutting or across a street or alley from land zoned R1 through R6, TM, or residential PD in accordance with the following: (5) All portions of the setbacks that are required in Subsections (1) through (4) of this section...not used for access shall be landscaped in accordance with Article XIV, Division 2”

Specific References to Sec. 50-14-367 (located within Art. XIV, Div. 2, Sub. D)	
Retail, Service, and Commercial Uses	
Section – Specific Land Use	Requirement
50-12-292 – Motor vehicles, new, salesroom or sales lot	“The premises shall be screened by six-foot high opaque walls where adjacent to, or across an alley from, land zoned R1 through R6, or residential PD, in accordance with Section 50-14-367” (Vehicles parked for sale are treated as off-street parking and do not require compliance with 50-14-367)
50-12-293 – Motor vehicles, used, salesroom or sales lot	
50-12-294 – Motor vehicle services, major	
50-12-295 – Motor vehicle services, minor	
50-12-296 – Motor vehicle washing and steam cleaning	“The premises shall be screened by six-foot high opaque walls where adjacent to land zoned R1 through R6, or residential PD, in accordance with Section 50-14-367”

Manufacturing and Industrial Uses	
Section – Specific Land Use	Requirement

50-12-343 – Lumber yards	“All lumber yards with accessory outdoor sales, display, or storage areas shall be screened from view of street rights-of-way and land zoned R1 through R6, or residential PD in accordance with Section 50-14-367”
Very high impact manufacturing or processing uses	No requirements currently
Uses with 20-foot Setback (Buffer) Requirement	
50-12-341 – Junkyards	“Notwithstanding the junkyard screening provisions of Chapter 41, a masonry wall that is not less than eight feet in height and not more than 12 feet in height, shall be constructed and maintained in good condition around any junkyard” “All buildings, screening, and junk materials shall be set back at least 20 feet from any lot line abutting a right-of- way” “As required by Section 50-14-361, the 20-foot setback area between the masonry wall and the lot line shall be landscaped in accordance with Section 50-14-362 and 50-14-365”
50-12-344 – Outdoor storage yards; containerized freight	“No storage shall be maintained within 20 feet of any lot line abutting a public street. Said setback area shall be landscaped in accordance with Section 50-14-362 and Section 50-14-367” “All such uses shall be screened from adjacent streets, alleys, and properties by an opaque fence that is not less than six feet high. The height of stored items shall not exceed the height of any fence or wall surrounding such lot.”
50-12-354 – Transfer station for garbage, refuse, or rubbish	“No storage or processing shall be maintained in the open within 20 feet of any lot line abutting a public street. Said setback shall be landscaped in accordance with Section 50- 14-362 and Section 50-14-367” “All such uses shall be screened from adjacent streets, alleys, and properties by a masonry wall that is not less than eight feet height, and not more than 12 feet high”
50-12-352 – Towing service storage yards	“As required by Section 50-14-361, the 20-foot setback area between the masonry wall and the lot line, where required, shall be landscaped in accordance with Section 50-14-362 and Section 50-14-367”
50-12-355 – Trucking terminals, transfer buildings, truck garages, RV storage lots, and open areas for the parking of operable trucks	No requirements currently

Accessory Uses	
Section – Specific Land Use	Requirement
50-12-461 – Accessory outdoor operations–Screening	“All accessory outdoor storage areas shall be screened as required under Section 50-14-365”
Miscellaneous Uses	
50-12-349 – Scrap tire storage, processing, or recycling facility	“Where conducted outside of an enclosed structure, such uses shall comply with all applicable provisions of Part 169 of the MNREPA, titled “Scrap Tires,” being MCL

	324.16901 through 324.16910, and Article I of Chapter 18”
50-14-365 – Screening of open storage areas (principal use)	“Open storage of any goods, materials, products, or equipment shall be screened from view of street rights-of-way and from view of land zoned R1 through R6, and residential PD in accordance with Section 50-14-367. Screening is not required for permitted outdoor sales areas. This provision shall not apply to the R1 through R6 and B1 Districts, except where involving a prohibited commercial or industrial use under jurisdiction of the BZA.”
50-14-265 – Landscaping and screening (off-street loading)	“Off-street loading areas shall be landscaped and screened from view in accordance with the standards of Division 2, Subdivision C, of this article.”
50-14-366 – Screening of loading docks, service yards, and exterior work areas	“Service yards, loading docks, exterior work areas, and truck maneuvering areas shall be screened from view of street rights-of-way and from view of land zoned R1 through R6, and residential PD, in accordance with Section 50-14-367, except where an opening is required for vehicle access.”

CPC staff comments: *As indicated in the above tables, uses with required screening can be grouped into the following categories:*

- *Retail, Service, and Commercial Uses*
- *Manufacturing and Industrial Uses*
- *Accessory/Miscellaneous Use*

Landscaping and screening requirements are currently addressed in two separate ZO articles. First, the base screening requirement is provided as part of the Article XII, Division 3 Specific Use Standards for all the above uses except for the last three, Article XII is indicated by the number 12 middle section number (50-12-XXX). Secondly, the Specific Use Standards for all of these uses reference, directly or indirectly (using section numbers before 367), the requirements of Section 50- 14-367 located in Article XIV, Division 2, Subdivision D. To understand the full screening requirement for each use, both Articles are currently required to be referenced as the detailed screening requirements for specific land uses are in Article XII while additional screening requirements that also apply are in Article XIV. Having to use two different ZO articles to determine screening requirements makes the ZO more difficult to use, makes the ZO longer as similar standards must be repeated for each use, makes it harder to understand the base standards when combined between articles as required, and creates the opportunity for error by having to use two different articles that address screening or where there are subtle nuances between screening requirements of similar land uses, such as Motor vehicle washing and steam cleaning.

Staff believes the administration and understanding of what screening requirements apply would be greatly improved by eliminating any detailed screening requirements located in the Article XII, Division 3 Specific Use Standards to be replaced with a summary table within Article XIV that addresses all uses that require screening in one ZO location. In addition to this reorganization of standards, Section 50-14-367 would be substantially updated with an improved set of screening requirements as summarized in the Proposed section of this report. By bringing the full set of screening requirements together under Article XIV, it should also be easier to evaluate and improve zoning requirements in the future with the reorganized of standards.

Lastly, P&DD and CPC staff believe that current screening requirements are deficient or unclear when it comes to a desired landscape buffer depth along the perimeter of properties (uses) required to be screened. As indicated in the above table, only four uses currently require a 20-foot-deep setback area along the perimeter lot line, and the language for whether this setback area is only required along

adjacent streets/alleys is inconsistent. Also, the use of “setback” is not ideal as setback typically is only a requirement (prohibition) related to buildings or structures and is not typically used to describe an area desired to be improved and maintained as a landscape buffer as setbacks often still permit site improvements such as parking areas. With the proposed amendment, the term “setback” within these sections would be replaced with “buffer area/depth” to indicate the intent of the requirement and to avoid confusion that this requirement is somehow related to building/structure setback requirements. An additional benefit of doing this would be that a new term and requirement for a buffer depth would override the current minimal setback requirements for Industrial districts located in Section 50-13-103 that often result in a lack of landscaped screening.

CURRENT DEVELOPMENT STANDARDS – FENCING

Historic Standards

As with many zoning standards, the current general fence standards that apply citywide are based on standards that evolved through past ordinances. Based on staff’s research, it does not appear that there were any prescriptive or reactive zoning fence standards prior to 1968 when Zoning Ordinance 390-G was adopted. With the adoption of 390-G, prescriptive fence standards were added for some non-residential land uses to require screening adjacent to residential zoning districts. However, 390-G did not address general citywide fence standards in cases where fencing was not required based on use.

In 1978, Ordinance 290-H was adopted and appears to contain the first set of general citywide fence standards that addressed the location of fences, materials, and construction requirements. These standards were located within the Building Code, not 390-G, and were carried into zoning by the 2005 “Clarion” ZO update that is the basis of much of the current zoning standards.

Current Standards

Section 50-14-381 (Article XIV, Division 2, Subdivision D) contains the current general citywide requirements for fences. These standards apply where the ZO does not provide specific fence standards in other sections, such as for height or materials, that are more restrictive and would override this section. The proposed amendment would delete this section to be replaced with a new subdivision addressing fencing quality. Below is a summary of Section 50-14-381 existing standards with CPC staff comments below each standard in italics.

Section 50-14-381 Summary and Analysis

1. Owners of all lots in the city are required to construct and maintain “partition fences” between their own lot and adjoining lots, except when not desired by both property owners.
 - **CPC staff:** *This seems to be an unusual requirement that also may be unenforceable. We do not propose to maintain this requirement with Subdivision E.*
2. Materials. All fences shall be supported by iron pipe or angle irons embedded in concrete in the ground, or wood posts or reinforced concrete posts embedded in the ground at least three feet with an average height above grade of at least two feet. Materials permitted to be attached to posts: woven wire (chain link), boards, metal, or other approved materials, with the junction of the posts and materials being considered the lot line.
 - **CPC staff:** *A primary concern here is that the permitted materials of “boards or metal” is very generic language that permits boards or metal of any quality or design to be used as fence screening in residential and non-residential districts. This generic language permits corrugated or smooth metal panels, wood sheets or panels, other types of manufactured boards, and salvaged or repurposed building materials that could be considered “boards”. In our review of zoning ordinances from other communities, material standards could be more specific and based on zoning district to achieve higher quality fencing materials.*

3. Posts of all fences shall be placed (face) on the side of the fence leading to the higher address number between the adjoining lots as assigned by the city, except for East and West Grand Boulevard and Outer Drive. Additional requirements for which lot owner is required to construct and maintain portions of fencing based on address.

- **CPC staff:** *This relates to subsection 1 and seems to be another unusual requirement that also may be unenforceable. We propose to replace this requirement with a clearer standard that is based on the zoning lot being fenced, not the city address system.*

4. Fence height.

In general (does not include single- and two-family). Fences between adjoining lots and on streets, alleys, and easements shall not be less than two feet in height or more than eight feet in height, except fences enclosing industrial properties may be 12 feet in height.

- **CPC staff:** *In our review of zoning ordinances from other communities, permitting fencing up to eight feet in height for multi-family properties, and between eight feet and 12 feet in height for industrial or commercial properties is excessive, especially along public streets (see the below examples). Additionally, model zoning ordinances typically base fence height on location, such that shorter fences are desired in front yards along streets, and taller fences are permitted in side or rear yards. This is not something the current standards do for multi-family, commercial, or industrial properties but would be achieved with the proposed text amendment.*



Single- and two-family dwellings – Front yard. The height of any fence that abuts the front yard of a single-family dwelling or two-family dwelling shall not exceed four feet in height, except that opaque fences shall not exceed three feet in height.

Single- and two-family dwellings – Side/rear yards. The height of any fence that abuts the side or rear yards of a single-family dwelling or two-family dwelling shall not exceed six feet. Uses on a lot adjoining the lot of a single-family dwelling or two-family dwelling shall observe this height limit for any fence separating said use from the dwelling lot.

- **CPC staff:** *In our review of zoning ordinances from other communities, we found that height limitations are not typically based on if a fence is abutting a single-family or two-family dwelling. This is an impact-based standard that could create confusion depending on whether the dwelling lot is installing the fence, or the non-dwelling lot is installing the fence.*
- *Additionally, limiting fence height for commercial or industrial properties to four feet when abutting the front yard of a single-family dwelling and six feet when abutting the side/rear*

yards may be overly restrictive and impractical. Height standards could be more specific and based on zoning district to improve administration of height requirements.

Current Standards Summary Table – Sec. 50-14-381(4) Fence height.				
Yard	All Other Properties		Commercial or Industrial Properties	
	Min.	Max. ¹	Min.	Max. ¹
Not abutting the front/side/rear yard of a SF or 2F dwelling (includes along streets/alleys)	2'	8'	2'	12'
Abutting the front yard of a SF or 2F dwelling		4'3" if opaque		4'3" if opaque
Abutting the side/rear yard of a SF dwelling or 2F dwelling		6'		6'
Footnotes				
¹ No fence facing a Traditional Main Street shall exceed six feet in height. Opaque fences or walls facing a Traditional Main Street shall not exceed three feet in height, except as specified for screening purposes according to Section 50-14-372.				

5. In business or industrial districts, barbed wire is permitted to be attached to fences that are six feet in height or greater. Barbed wire is prohibited for single- or two-family dwellings (lots). No use (lot) adjoining a single- or two-family dwelling may attach barbed wire to any fence separating the dwelling use.
 - **CPC staff:** *As part of the proposed Subdivision C, the districts where barbed wire fencing would be permitted would be aligned with razor wire fencing given they have a similar purpose and design. Discouraging the use of barbed wire (typically on chain link) fencing is a specific request of P&DD as there are other types of security fencing available for use that are higher quality design and appearance, such as spear top ornamental security fencing and anti-climbing fencing.*
 - *Currently, the standard six-foot chain link fence with barbed wire is permitted citywide, except on or adjacent to single- or two-family dwellings. Citywide includes along all streets (except on single- or two-family lots) and along all side or rear lot lines (except on single- or two-family lots). This is an extensive permission of the use of chain link barbed wire fencing, especially along streets, that is not seen in other Michigan cities and suburban communities where there is a general desire to limit the use of chain link barbed wire fencing.*

6. Razor wire and electrified fencing is prohibited in any residential, business, or special zoning district classification. Where permitted (includes industrial districts), razor wire shall not be placed at any point closer to the ground than six feet.
 - **CPC staff:** *This permission is proposed to remain with additional supporting standards, but we are proposing that razor wire or barbed wire be prohibited adjoining lots containing a single- family or two-family dwelling as this is a current requirement for barbed wire fencing and may be inappropriate from the perspective of the residential occupant or property owner.*

SUMMARY OF PROPOSED TEXT AMENDMENT

Below is a summary of the main parts contained in the proposed text amendment with sample images or text of proposed zoning standards that are the focus of this proposal.

1. Consolidate Screening Standards into Article XIV

As discussed in this report, there is a general goal to improve the administration and understanding of ZO landscaping and screening standards by consolidating the details of these requirements into one ZO article. Below is an example of how this would be achieved for one specific land use that currently requires screening, the details of the screening standard in the text of the specific use standard would be replaced with a table in Article XIV that provides all specific uses that require screening.

From the draft ordinance, the following table includes the specific uses that would require screening based on adjacency to streets, residential districts, and other property lines:

Uses that Require Screening			
Use	Permissible Buffer Types		
	Adjacent to street rights-of-way	Adjacent to or across an alley from Residential Districts	Adjacent to all other property lines
Containerized freight yard	Type V	Type V	Type III
Junkyard	Type V	Type V	Type III
Light duty vehicle repair establishments	Type I or II	Type III	Screening Not Required
Light duty vehicle services establishments	Type I or II	Type III	Screening Not Required
Lumber yard	Type III or IV	Type V or VI	Screening Not Required
Medium/heavy duty vehicle or equipment repair establishment	Type III	Type III or V	Type III
Motor vehicle filling stations	Type I or II	Type III	Screening Not Required
Motor vehicles, new or used, salesroom or sales lot	Type I or II	Type III	Screening Not Required
Motor vehicles, new or used; storage lot accessory to a salesroom or sales lot for new or used motor vehicles.	Type I or II	Type III	Screening Not Required
Motor vehicle washing and steam cleaning	Type I or II	Type III	Screening Not Required
Outdoor storage yard	Type V	Type V	Type III
Towing service storage yard	Type III	Type V	Type III
Transfer station for garbage, refuse, or rubbish	Type V	Type V	Type III

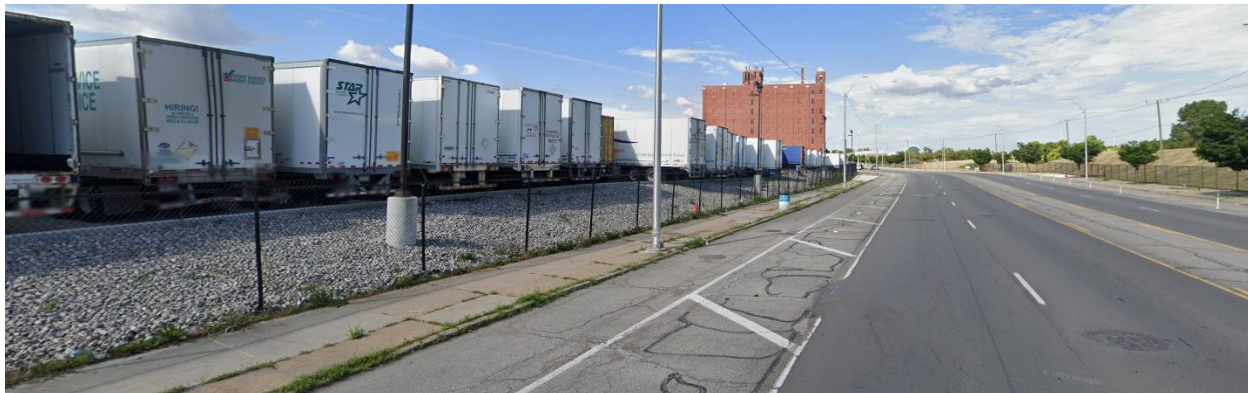
Trucking terminals, transfer buildings, recreational vehicle storage lots, and parking areas for operable trucks	Type III or IV	Type V or VI	Type III or IV
Utilities, basic and major	Type III or IV	Type V or VI	Type III
Very-high impact manufacturing or processing facilities	Type V	Type V	Type V
Wholesaling, warehousing, storage buildings, or public facilities	Type III or IV	Type V or VI	Type III or IV

2. Add Certain Uses or Site Features as Requiring Screening

The following is a list of specific land uses or site features that would be added to the current applicability of required landscaping and screening. These uses or features do not currently require landscaping and screening but would under the proposal:

- Trucking terminals
- Utilities (e.g., substations)
- Warehouses
- Very-high impact manufacturing and processing
- Truck and semi-trailer parking (site feature)

The goal with adding “Warehouses” as a specific land use and “Truck and semi-trailer parking” as a site feature, is indicated in the current and proposed images provided by P&DD of a site that would typically have both of these uses or features, and what landscaping and screening could look like at installation to achieve some screening from the street, new fencing is also indicated.



Developed Under Current Standards



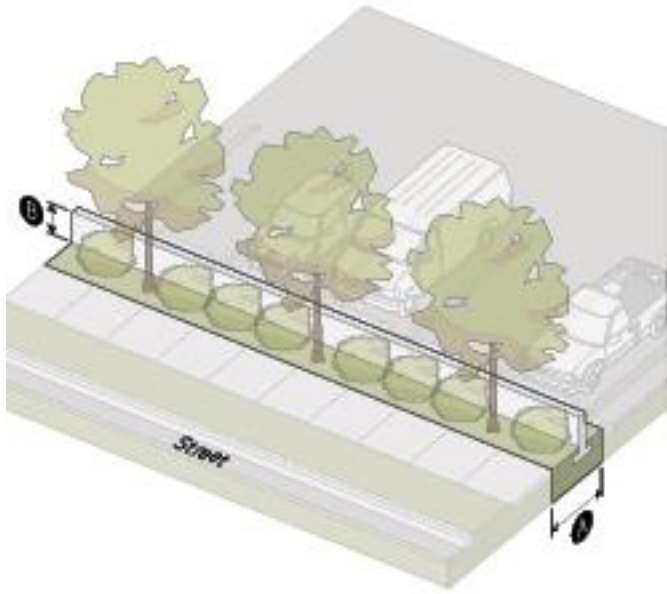
Developed Under Proposed Standards

From the draft ordinance, the following table includes the site features that would require screening based on adjacency to streets, residential districts, and other property lines:

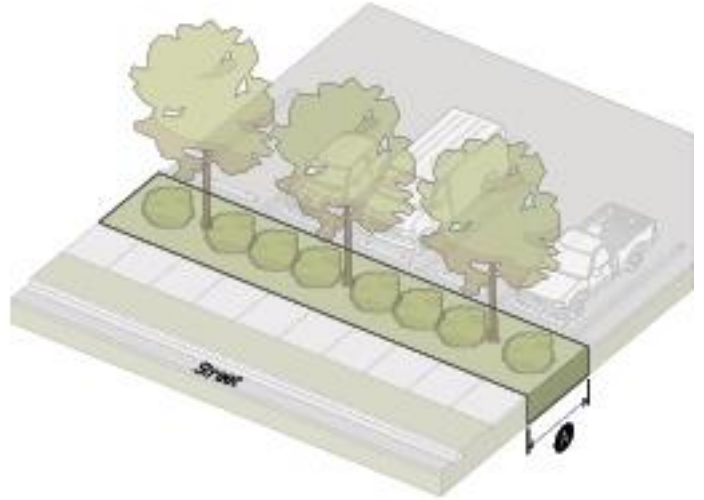
<u>All Other Uses - Site Features That Require Screening</u>			
	<u>Permissible Buffer Types</u>		
<u>Site Feature</u>	<u>Adjacent to street rights-of-way</u>	<u>Adjacent to or across an alley from Residential Districts</u>	<u>Adjacent to all other property lines</u>
<u>Loading docks, service yards, exterior work areas, truck maneuvering areas, and open areas for the parking of trucks, semi-trucks, and semi-trailers</u>	<u>Type III or IV</u>	<u>Type V or VI</u>	<u>Type III or IV</u>
<u>Open storage areas, principal or accessory</u>	<u>Type V</u>	<u>Type V</u>	<u>Type III</u>
<u>Off-street parking areas</u>	<u>Type I or II</u>	<u>Type III</u>	<u>Screening Not Required</u>
<u>Off-street parking areas for operable commercial vehicles, not including taxicabs and limousines</u>	<u>Type III or IV</u>	<u>Type III or IV</u>	<u>Screening Not Required</u>

3. *Replace Deficient Current Screening Standards*

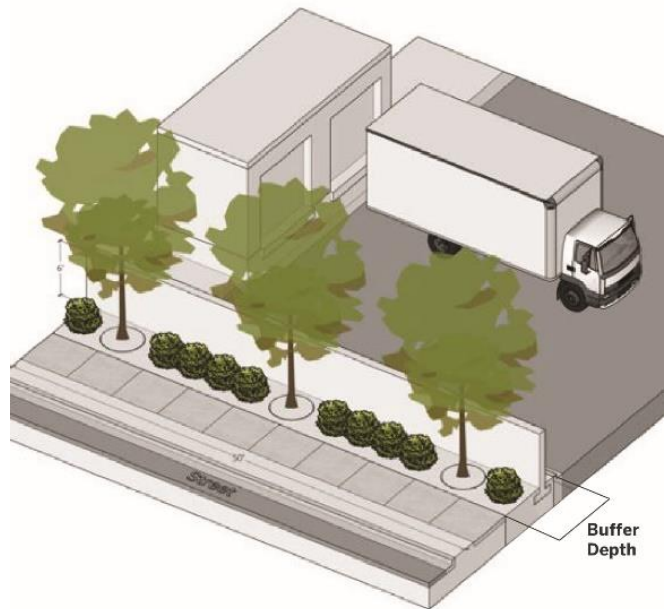
The proposed replacement of screening standards, which staff agrees are currently deficient, is the key point where the proposed text amendment would incorporate the draft standards of Zone Detroit. This would be through the introduction of six “Buffer Types” with clear standards for how these areas should be designed (depth, plantings, fences/walls). Staff believes the proposed buffer types would have a significant aesthetic impact on commercial corridors and could make the many industrial sites and areas within the City better neighbors when they abut residential areas if they do not currently have any type of sufficient buffering. Below are images depicting the details of the proposed screening standards, these have been adapted from Zone Detroit. The buffer types that would be required by the specific use or site feature tables would correspond with the buffer type standards and graphics.



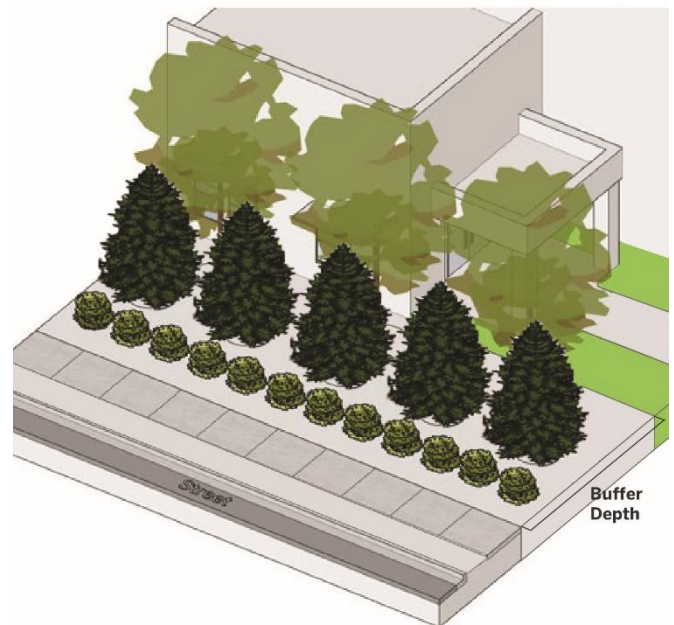
Type I Buffer



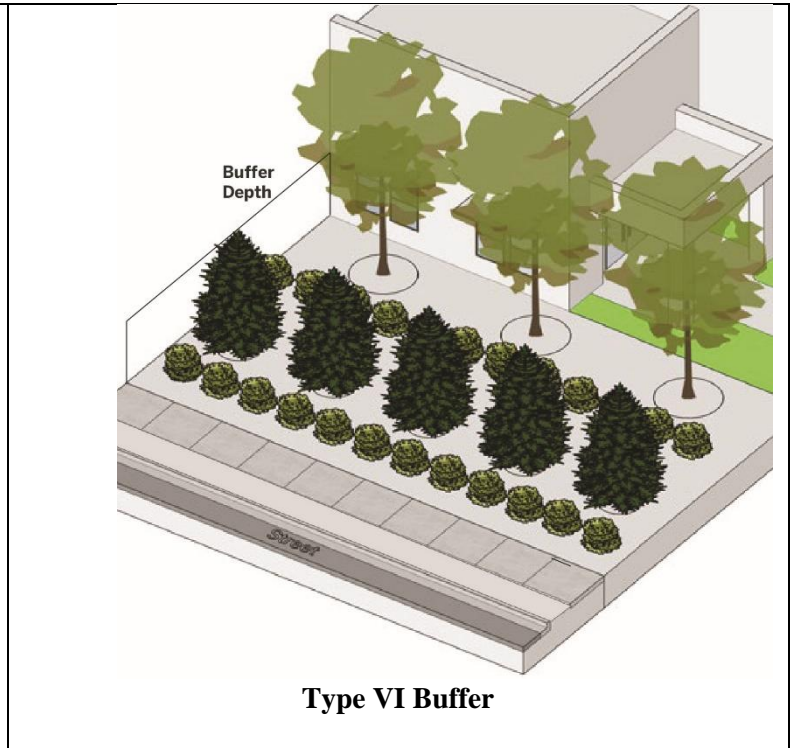
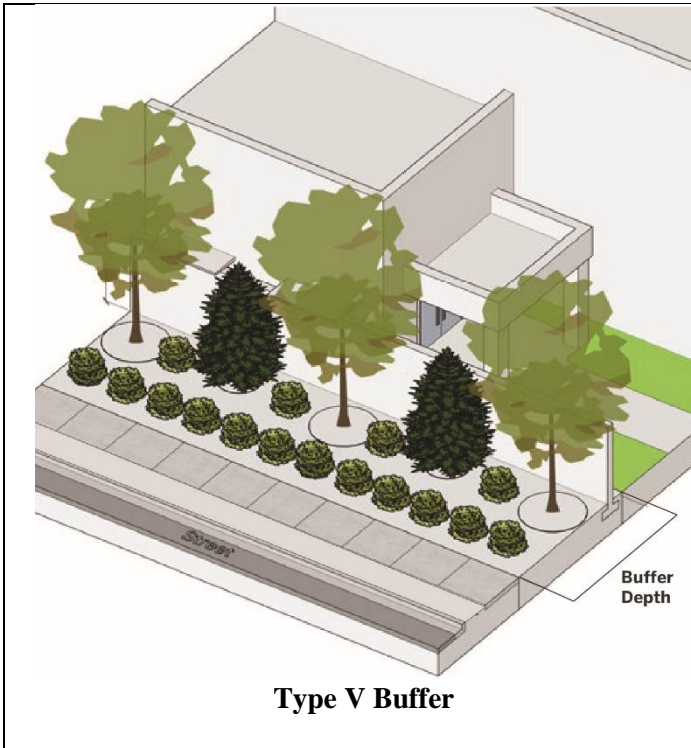
Type II Buffer



Type III Buffer



Type IV Buffer



4. Amend Maximum Fence Height Standards

Below is an image of the proposed maximum fence height standards provided in table form. A key improvement would be that height would be based on zoning district, which is the normal method by which cities typically administer zoning, not “properties” as the ZO currently uses. Of note here is that no changes would occur to the standards that apply to residential uses, primarily single-family homes, if they are in a residential district. Residential uses that are not located in residential districts would be impacted by the proposal to base fence height by district. For example, if there is an existing nonconforming single-family home located in an industrial district, they may be required to rezone to residential, which may be appropriate anyways for a nonconforming home, or obtain a variance to utilize residential district fence standards that would not apply to properties zoned industrial.

Another key change requested by P&DD related to fencing aesthetic concerns that would broadly impact commercial and industrial sites, is that fences or walls with an opacity greater than 75%, typically meaning solid, would be prohibited within front yards (along streets) in all non-residential districts when screening is not required, which is many businesses. Fencing would still be permitted but it would be required to be less than 75% opaque, such as an ornamental metal fence, when screening is not required and there is a general acceptance that a use that does not require screening should be visible from the street.

<u>Fence or Wall Opacity</u>	<u>Residential Districts¹</u>		<u>Business and Special Districts</u>		<u>Industrial Districts</u>	
	<u>Front</u>	<u>Side/Rear</u>	<u>Front</u>	<u>Side/Rear</u>	<u>Front</u>	<u>Side/Rear</u>
<u>Transparent Fence or Wall</u>	<u>4'</u>	<u>6'</u>	<u>6'/8'</u>	<u>6'/8'</u>	<u>6'/12'</u>	<u>6'/12'</u>
<u>Opaque Fence or Wall if screening is not required</u>	<u>3'</u>	<u>6'</u>	<u>Prohibited</u>	<u>3'/8'</u>	<u>Prohibited</u>	<u>3'/12'</u>
<u>Opaque Fence or Wall if screening is required</u>	<u>3'</u>	<u>6'</u>	<u>3'/8'</u>	<u>8'</u>	<u>12'</u>	<u>12'</u>

Image of Proposed Maximum Fence Height Standards

5. Amend Fence Material Standards

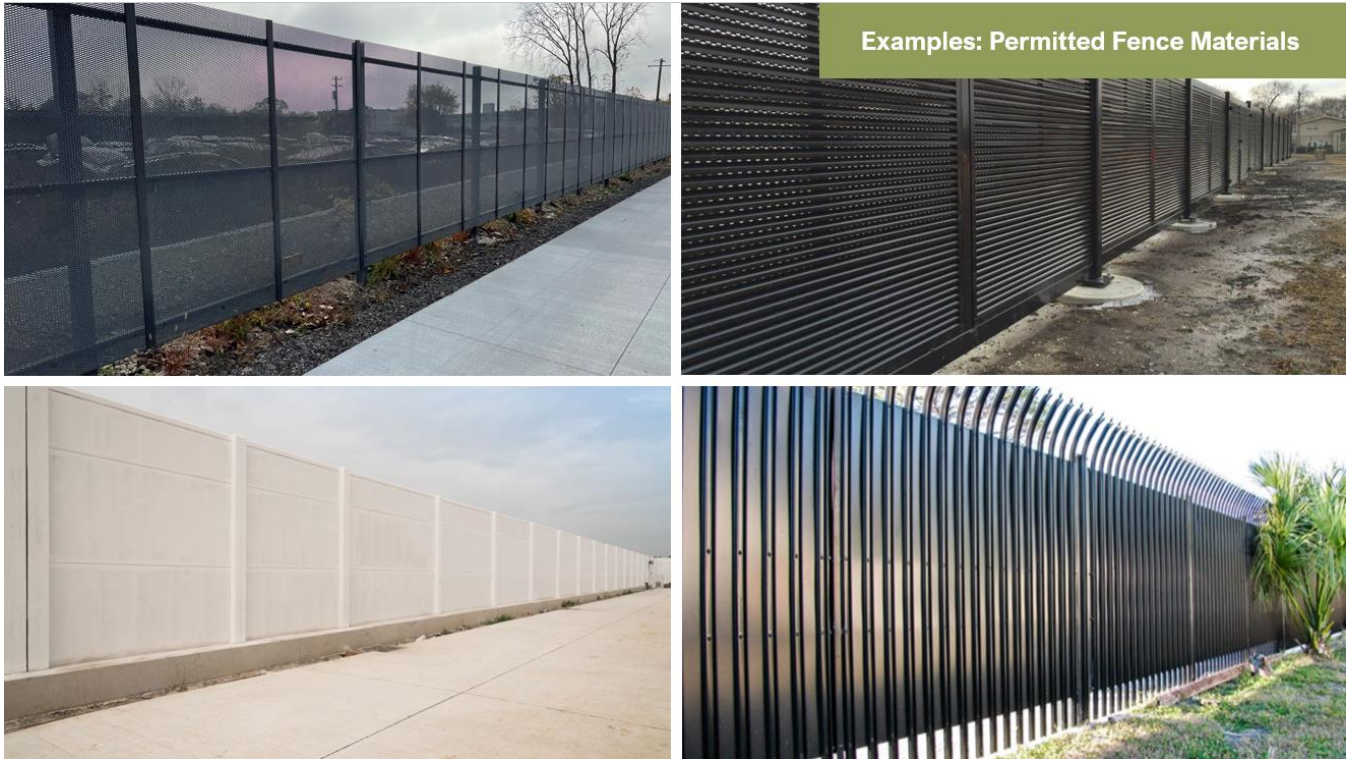
Expanding the ZO to try to comprehensively address the numerous types of modern fencing materials is one of the key proposals of this amendment. The below table from the draft ordinance would have the following effect:

- Specify permitted fence or wall materials based on zoning district, which the ZO does not currently do and is of concern to staff
- Prohibit chain link fences along streets in Business, Special, and Industrial Districts when screening is required for a specific use or site feature
- Permit barbed wire, razor wire, and electric fences only in Industrial Districts. The prohibition of this type of fencing that is currently permitted in Business and Special Districts would be a substantial zoning policy change and is desired by P&DD.
- Add flexibility, and potential cost and time savings, for business owners to permit fencing or other types of walls for specific land uses that require screening where currently only a masonry wall is permitted.

From the draft ordinance, fences and walls shall comply with the following material standards, subject to the additional standards set forth in this section:

Fence or Wall Material	Residential Districts	Business and Special Districts	Industrial Districts
Attached materials (e.g., fabric, cloth, plastic, or vinyl slats)	Permitted	Prohibited along street rights-of-way and any property line where screening is required	Prohibited along street rights-of-way and any property line where screening is required
Barbed/Razor wire attached	Prohibited	Prohibited	Permitted
Brick/stone masonry	Permitted	Permitted	Permitted
Chain link	Permitted	Prohibited along street rights-of-way and any property line where screening is required	Prohibited along street rights-of-way and any property line where screening is required

Concrete pre-cast/masonry	Permitted		
Discarded or recycled materials (e.g., tires, motor vehicle doors)	Prohibited		
Electrified fencing, attached	Prohibited	Prohibited	Permitted
Fiberglass, polycarbonate, or wood sheets/panels	Prohibited		
Manufactured wood/board, (e.g., plywood, MDF, chipboard, hardboard)	Prohibited		
Metal panels, corrugated, box-ribbed, or smooth	Prohibited		
Movable concrete or plastic barriers	Prohibited		
Ornamental metal (aluminum/steel/iron)	Permitted		
Salvaged or repurposed building materials (e.g. residential doors, shipping containers)	Prohibited		
Vinyl/PVC	Permitted	Prohibited	Prohibited
Welded wire, woven wire, louvered, or die-cut metal panels	Permitted		
Wood boards/slats (e.g. cedar)	Permitted	Permitted	Prohibited
Wood-like composite materials	Permitted	Permitted	Prohibited



MEETINGS – CPC AND COMMUNITY ENGAGEMENT

Fall 2022 CPC Introduction

Following the October 20 CPC meeting where the discussion was introduced, staff conducted engagement with the public that previously expressed an interest in this proposed amendment, including City Council District 3 residents and stakeholders. As was done for other recent or in-progress zoning text amendments, staff worked with the City’s Department of Neighborhoods (DON) to inform residents, business-owners, and other stakeholders of the discussion and proposal. Additionally, the Detroit Economic Growth Corporation (DEGC) assisted staff in contacting the business community since the bulk of the proposed amendment deals with certain commercial and industrial uses, primarily auto and transportation uses that have a strong presence in District 3.

November 22 and 28 DON Casts

In November 2022, staff presented the proposed amendment at a DON City Council District 3 monthly virtual meeting held on November 22 (introduction only) and a citywide DON virtual meeting on November 28 (presentation). The goal for both November meetings was to make attendees aware of the proposal and to direct attendees and others to a December 13 CPC virtual forum hosted by the DON District 3 manager, which was a similar forum as occurred for the auto-related and marijuana amendments, where attendees could discuss the amendment informally with staff.

December 13 CPC Forum

The December 13 CPC virtual forum hosted by the DON District 3 manager had 91 attendees, which is a significant number of attendees compared to previous CPC virtual forums where text amendments were discussed. This was due to the efforts of the DEGC to proactively reach out to their business community contacts who attended and asked questions of staff, as well as the DON District 3 manager who contacted 43 block clubs operating in District 3.

Feedback received from attendees at this meeting was primarily related to how or when the proposed

development standards would apply to existing businesses or residents. This is logical concern as site improvements required through zoning often have a financial cost to property owners or tenants to achieve compliance and acquire City approvals and permits, or to avoid zoning violations. As many stakeholders or residents had general concerns or questions about applicability of the proposed standards, staff sought to identify specific scenarios being discussed of concern to determine if landscaping and screening requirements currently apply to business-owners that asked questions or posed hypothetical scenarios. Staff does want to highlight that many residents were in support of the proposal and expressed that the lack of adequate buffering has been an issue they have been dealing with for some time.

In many cases, it appeared that landscaping and screening requirements or concerns would not apply to a business owner, such as a general retail business, that does not currently require screening and would not be subject to the proposed amendment. However, these types of businesses would be impacted by the proposed fencing standards, such as the prohibition of chain link barbed wire fencing along streets, and this intent was made clear to attendees as having a citywide impact and potentially an impact to their business on a case-by-case basis depending on existing or future improvements.

In other cases, it appeared that some auto-related businesses may currently be out of compliance with existing standards. The general discussion with business owners was the issue of when they would have to bring their site into compliance with updated landscaping and screening or fencing standards. Staff emphasized that the review of zoning compliance for any site would only normally occur either through (1) enforcement upon inspection of a site that is out of compliance with or failed to receive its permits or (2) a property owner request to modify their property or use in a way that may require site plan review or building permits. Compliance with development standards is always reviewed and administered on a case-by-case basis considering the standards that are applicable at the time and the activity that triggered the review. That said, the intent of this amendment is to require businesses to come into compliance with the new, high-quality standards over time, and we should not allow businesses, or specific site features of landscaping and fencing, to be grandfathered under previous development standards indefinitely as doing so would fail to proactively improve the appearance of individual sites, corridors, and neighborhoods.

January 5 CPC Public Hearing

On January 5, 2023, the City Planning Commission held a new public hearing on the subject request as proposed within the draft text amendment ordinance dated December 14, 2022. Please see the attached copy of the public hearing notice containing a summary of the draft ordinance as published for the January 5 public hearing. At the January 5 meeting, staff presented Commissioners and the public with a summary of the proposed text amendment and supporting information contained in the staff report. Attached is a summary of this discussion. See Public Comment – Speaker 3 for a summary of the minimal updates that were requested and occurred to proposed amendment following the January 5 meeting.

JANUARY 19, 2023, STAFF RECOMMENDATION TO CPC

If approved by City Council, the proposed text amendment would substantially update and modernize the current set of landscaping and screening requirements that apply to a limited set of specific land uses and site features, that would be slightly expanded. The proposed text amendment would also substantially update and modernize the current minimal fence and wall requirements that apply citywide in a way that would not alter or negatively impact current standards for residential uses but could improve the appearance of numerous commercial and industrial properties and city corridors.

The proposed text amendment has been drafted in line with the goals of P&DD and BSEED, was informed by the in-progress Zone Detroit and Vibrant Blocks for Businesses projects, and is consistent with standards from other cities, including Grand Rapids. Lastly, the proposed text amendment is supported by the purpose of the ZO site plan review process to “ensure that design is safe, efficient, environmentally sound, aesthetically responsive, and protects properties in the immediate vicinity and the general public,” and is also supported by the criteria for site plan approval that “to the extent practicable, the type, dimensions, and character of landscaping, fencing, screening, buffering, walls, and other site features shall be designed and located so that proposed development is aesthetically pleasing and harmonious with nearby existing or future development.” Based on the above analysis and consistent with the approval criteria of Section 50-3-49 of the Zoning Ordinance, CPC staff recommended that the CPC approve the rezoning request at the January 19 meeting.

CPC RECOMMENDATION TO CITY COUNCIL

On January 19, 2023, the City Planning Commission voted unanimously to recommend approval of the proposed text amendment as presented in the draft text amendment ordinance dated January 10, 2023. Additionally, the City Planning Commission previously requested that staff continue to be proactive in notifying the public of the proposed standards. If approved by City Council, staff will continue to work with BSEED on implementation of the new standards and will produce informational brochures that explain the impact of the new standards in an easy-to-use format for the public.

Respectfully submitted,

DONOVAN SMITH, CHAIRPERSON



Marcell R. Todd, Jr., Director
Eric Fazzini, City Planner
Julie Connochie, P&DD Staff
Greg Moots, P&DD Staff

Attachments: December 13 CPC Forum Flyer
PHN Text Amd Screening
Jan 5 CPC PH Summary
Jan 19 CPC Presentation
LISC Detroit Email of Support

cc: Antoine Bryant, Director, PDD
Karen Gage, PDD
Greg Moots, PDD
David Bell, Director, BSEED
Jayda Philson, BSEED
Conrad Mallett, Corporation Counsel
Bruce Goldman, Chief Assistant Corp. Counsel
Daniel Arking, Assistant Corp. Counsel