

1. 2:00 P.M. Agenda

Documents:

[2021-06-15 Planning Commission Agenda.pdf](#)

2. Meeting Materials

Documents:

[Study-06-15-21-FencesWallsHedges-LAD.pdf](#)
[JGD Recommended Wording For Code Revision .Pdf](#)
[Fence Height.pdf](#)
[A BASIC OUTLINE Lake Oswego.pdf](#)
[Bend, Oregon.pdf](#)
[Future Tasks.pdf](#)



CITY OF YACHATS
PLANNING COMMISSION MEETING
Yachats OR
Tuesday June 15, 2021, at 2:00 pm
Public Meeting via ZOOM Meeting

Join Zoom Meeting

<https://us02web.zoom.us/j/83635844124>

Meeting ID: 836 3584 4124

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Find your local number: <https://us02web.zoom.us/u/kcsCGYNmt6>

Work Session

- I. Discussion of Fences, Hedges and Walls Code Changes
- II. Other Business
 - A. The Commission
 - B. The Staff

Public Hearing

- I. Applicant: Grand Pacific LLC by Drew Roslund
Workamper at the Fireside Hotel

Regular Meeting

- I. Call to Order
- II. Announcements and Correspondence: Laura Buhl Workshop
- III. Citizen Concerns
- IV. New Business
 1. None

This meeting is open to the public and all interested persons are invited to attend the ZOOM Meetings. This meeting will be audio taped. All items to be considered by the Commission must be submitted to City Hall no later than one week prior to the meeting. The minutes of this meeting is the Audio Tape which will added to the packet after the meeting within 24 hours. In accordance with ORS 192.630, City of Yachats will make a good faith effort to provide accommodations for any person desiring to attend a public meeting, if the request is made at least 48 hours in advance of the meeting time; a sign language or foreign language interpreter may be available, with advance notice. Call City Hall at 541- 547-3565 or Oregon Relay 1- 800-735-2900 (TDD) two days in advance. Posted 06/04/2021

V. Old Business

1. Fences, Hedges & Walls - Discussion or VOTE
2. Review next tasks to work on

VI. Planner Report

VII. Other Business

1. From the Commission
2. From Staff

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FENCES – WALLS - HEDGES

For PC MEETING DATE: June 15, 2021

By: Loren Dickinson 5-23-2021

Based on discussion in the Planning Commission Meeting of May 18, 2021, the following are observations and potential options in lieu of creating a new ordinance for Fences, Walls & Hedges:

DEFINITIONS, 9.04.030

The existing definitions for Fence, and for Sight-Obscuring Fence appear to be appropriate and concise. No changes recommended.

A definition is needed for Sight-Obscuring Screen, as this term is used a number of places within the YMC. The definition would be essentially the same as Sight-Obscuring Fence – so either creating a separate definition using the same language, or simply adding the term to the existing definition (i.e. “Sight-Obscuring Fence / Screen”) would be appropriate. (Used in 9.28.030.E)

The term “barbed wire” might need a definition (as used in 5.08.090A YMC).

The term “buffer” is used in a few locations but is not defined and perhaps should be. (Used in 9.28.030H, 9.68.030.C.15, 9.68.040.8, and perhaps elsewhere). It is, however, partially defined by stated requirements within the code sections, but might benefit from a general definition.

The term “Clear Vision Area” might benefit from a definition, as used in 9.64.010 YMC.

The term “hedge” is used in several locations within YMC, but has no formal definition.

CHANGES TO EXISTING ORDINANCES:

During my research and analysis, I found a few ordinances that would benefit from changes and / or additions. These would obviously entail more effort and difficulty beyond simply adding or changing the Definitions.

9.28.030 Standards – C1 Retail Commercial Zone, Paragraph E: Currently, this paragraph does not prescribe minimum and maximum heights of screening, which I believe are necessary. Perhaps also modify to read “...screen or fence.”.

Page Two

Fences, Walls & Hedges – Comments

By Loren Dickinson

5-23-21

9.64.010 Standards – Street Construction and Design. This ordinance section, as it is currently named is very problematic. By its name, it would appear that the section is intended to regulate design and construction of (public) streets. However, the ordinance by virtue of its wording is clearly meant for inclusion of requirements for development on private property. This should be clarified, particularly to reinforce its requirements for private driveways entering a public street (clear vision requirement). The biggest offender of this ordinance is Paragraph B., which covers fences, hedges & walls on private property not in public streets and rights-of-way. It clearly does not belong in this section as this section is currently titled. Could the solution be to modify the title of this section to somehow include development on private property, or can Paragraph B be put into other ordinance section(s)?

9.68.040.8 – Manufactured dwelling subdivisions. Paragraph 8, should be modified to state the requirements as being in the “street side yard” not the (interior) “side yard”, as it is a vision safety guideline.

9.48.010.G Standards – Off-Street Parking and Loading. This paragraph may be incorrectly worded. For sure it is confusing and should be looked at. It reads “...*sight obscuring fence of not less than five (5) feet in height where vision clearance is required.*”. This appears to conflict with the three foot height limitations (clear vision standards) of Ordinance 9.64.010.

ADDITIONAL CONSIDERATIONS:

In a related, but more complex issue, during my research I found some confusion with definitions of “Yard” in YMC. Specifically with respect to height of landscaping in a “side yard” in 9.68.040.8, I believe the relevance is to a “street-side yard”, not an (interior) side yard. I found that “street side yard” is not defined in YMC Definitions 9.04.030. Whereas these may not appreciably affect Fences, Walls & Hedges directly, they nonetheless may pose confusion with interpretation on this and other issues.

The following is the definition of Front Yard in YMC:

“Yard, Front. “Front yard” means a yard extending across the full width of a lot , the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto at the nearest point of the foundation of the main building.”

In that definition, it does not describe which is the front yard when a lot faces two streets (a corner lot). The difference is partially covered by YMC Definition of “Lot Line, Front” in 9.4.030, but is not reflected in descriptions of yards. The following is the definition of Front Yard in the Lincoln County Ordinance definitions 1.1115, page 43:

*“A **“front yard”** is a yard between side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of a building. Any yard meeting this definition and abutting on a street other than any alley, shall be considered a front yard.”*

The differentiation of which is considered a “front yard” or a “street side yard” could be solved by adding the County’s definition for “street side yard” (Lincoln County Ordinance definitions 1.1115, page 43). The actual wording may need to be revised a bit to fit within Yachats’ formats of other yard definitions:

*“A **“street side yard”** is a yard on a corner lot that is adjacent to a street between the front yard and the rear and the rear lot line measured horizontally and at right angles from the side lot line to the nearest point of a building.”*

Suggestions:

After reviewing codes from other municipalities it seems that the standard fence height in residential areas, on average, is 6' with anything above that requiring a permit. Since we do touch on height with regards to commercial abutting residential (allowing up to 8') perhaps under *Section 9.28.030 Standards* we add a section stating that in all areas zoned residential a maximum 6' fence or wall is allowed within the required yard except where clear vision standards are enforced. Anything above 6' needs a permit. We can include a diagram such as the one attached.

I like the idea of creating a "one-sheet" that residents can pick up that is an easily understood simplified explanation of what we want regarding fences, walls, and vegetative growth. Attached are examples. The same could be developed for other specific ordinances such as lighting.

Vegetation:

Vegetation Is Not Considered a Fence: Hedges or other plant material may provide screening similar to a fence but are not considered fences and are not regulated under the Fence Code. However, no such hedge shall be grown or maintained at a height greater than that permitted by these regulations for a wall or fence.

Materials:

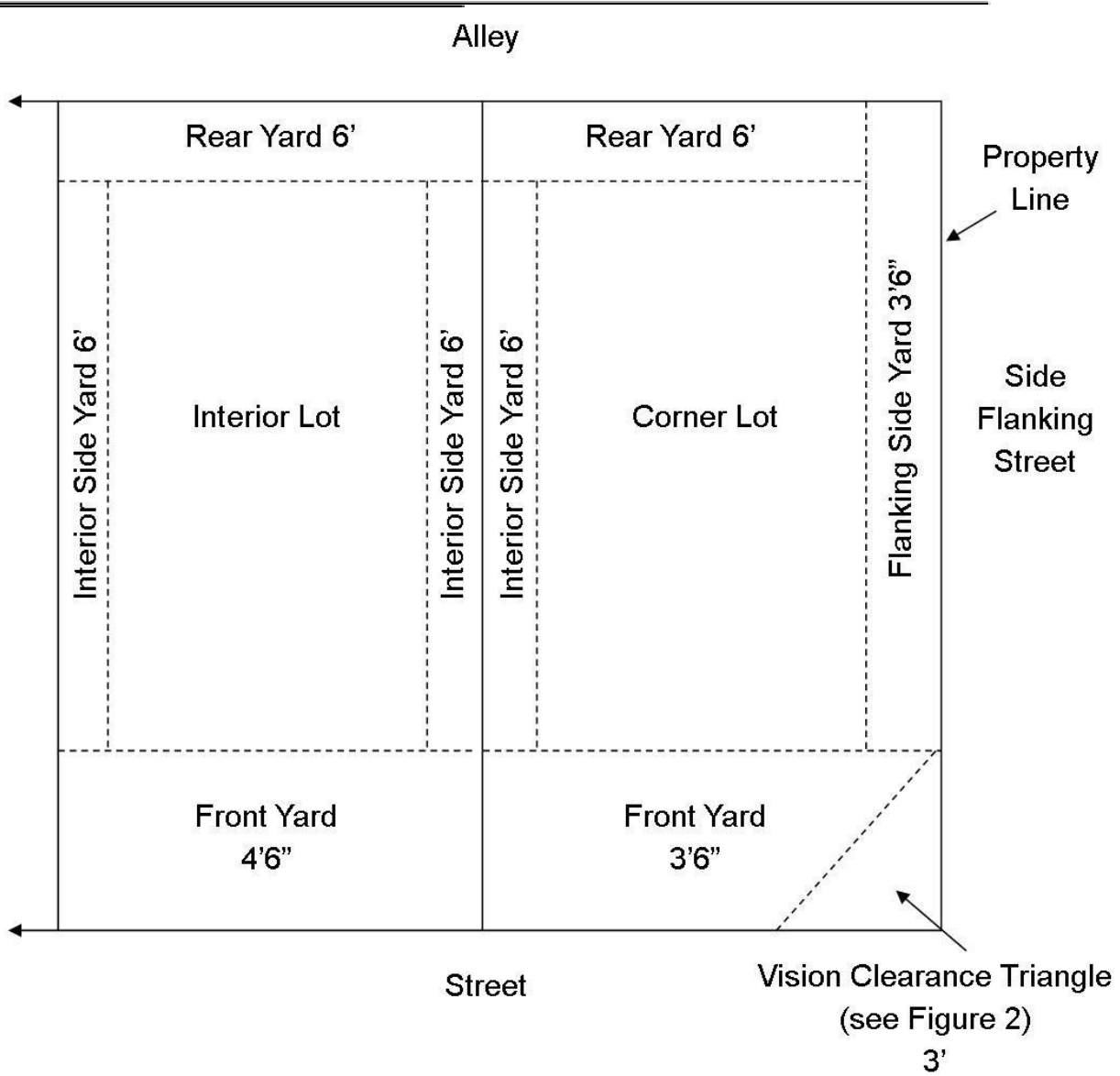
Fences must be constructed of material specifically designed and manufactured for fencing purposes. They cannot contain any material which will do bodily harm, such as electric or barbed wire, upturned barbed edging, broken glass, spikes, or any other hazardous or dangerous materials.

Posts, trellises, lattice, and any other material placed on top of the fence is considered to be part of the fence when measuring the overall height.

Maintenance:

Every fence shall be maintained in a condition of reasonable repair and not be allowed to become or remain in a condition of disrepair including noticeable leaning or missing sections, broken supports, non-uniform height, and growing or noxious vegetation.

Figure 1. Fence, Wall and Hedge Height Limits when located in Required Yards



Yachats Code wherever the words "fence, wall, hedges" appear:

Section 9.64.010 Design standards.

No temporary or permanent obstruction (e.g., structure, fence, or shrub vegetation) between three (3) feet and eight (8) feet in height shall be placed in clear-vision areas on streets, driveways, or alleys, as shown in the Clear-Vision Area Diagram figure below. Trees exceeding this height may be located in this area provided all branches and foliage are removed to a height of eight (8) feet above grade.

B. **Fences, Hedges** and **Walls. Fences, hedges** and **walls** may be located within required yards, but shall not exceed three (3) feet in height in any required yard which abuts and runs parallel to a street other than an alley. **Hedges** that front Highway 101 are exempt from this height requirement as long as the height does not interfere with clear vision requirements in Section [9.64.010\(A\)\(3\)](#).

Section 9.68.040 Requirement for manufactured dwelling subdivisions.

8. **Fences. Fences, walls, hedges** and landscaping shall be no greater than three (3) feet in height in the front yard or side yard of a corner lot.

Section 9.28.030 Standards.

H. **Fences, Hedges, Walls** and Landscaping. Where a commercial use abuts a residential zone, a fence, evergreen hedge, wall or landscaping shall be constructed and maintained immediately adjacent to the abutting property line. Such a buffer shall screen at least seventy (70) percent of the view between the zones. The buffer shall not be less than five (5) or more than eight (8) feet in height, except where vision clearance would be interrupted. Exceptions shall be subject to approval by the Planning Commission through a public hearing in accordance with Chapter [9.80](#) Variances.

Section 9.68.030 Manufactured dwelling parks.

1. Location and type of landscaping plantings, **fences, walls** or combination of any of these, or other screening materials

Section 5.08.090 Fences.

A. Barbed Wire. No owner or person in charge of property shall construct or maintain a barbed wire fence or permit barbed wire to remain as part of a fence, along a sidewalk or other public way; except such wire may be placed above the top of other fencing not less than six (6) feet, six (6) inches high.

B. Electric Fence. No owner or person in charge of property shall construct, maintain or operate an electric fence along a sidewalk or other public way or along the adjoining property line of another person. (Ord. 174 § 18, 1995)

Section 9.52.060 County Road No. 804 right-of-way.

3. For the purposes of this section, structures, alterations and development includes, but is not limited to, construction of buildings or **fences**, placement or removal of material, filling, grading, ditching and draining

CHANGES RECOMMENDED FOR FENCE, HEDGE, AND WALL HEIGHT

MAY 26TH, 2021

by: Lance Bloch

Definitions from 9.04.030 (do not need changes)

Fence: An unroofed barrier or an unroofed enclosing structure such as masonry, ornamental iron, woven wire, wood pickets of solid wood or any any other material used as an unroofed barrier to light, sight, air or passage.

Sight-Obscuring Fence: Consists of either a continuous fence, wall, evergreen planting, or combination thereof, constructed and/or planted so as to effectively screen the particular use from view.

Changes required:

9.48.010G add "...or more than 8 feet"

9.68.030 C15 add "...or up to 8 feet maximum"

9.72.050 G3 add "...between 5 and 8 feet tall as needed for screening"

9.12.040 add B7

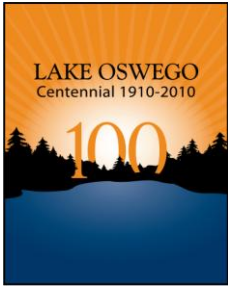
9.16.040 add B7

9.20.040 add B7

9.24.040 add B7

9.28.030 H does not require changes

B7 : Where a residential use abuts another residential zone a fence, wall, or sight-obscuring fence may be constructed/grown and maintained immediately adjacent to the abutting property line so long as it is not greater than 6 feet in height, or up to 8 feet in height with approval by the Planning Commission through a public hearing in accordance with Chapter 9.80.



Department of Planning and Building Services
380 A Avenue
Post Office Box 369
Lake Oswego, OR 97034
503-635-0270
www.ci.oswego.or.us

FENCES, WALLS & RETAINING WALLS

The Fence Code [LOC 50.06.004.2] regulates the location, height, materials, maintenance and appearance of fences, walls and retaining walls within the City of Lake Oswego. For the purposes of this handout, fences and walls (not including retaining walls) are referred to as "fences" [See definitions, LOC 50.10.003]. This handout summarizes the most frequently asked questions regarding fences and walls.

Building Permits: Building permits may be required based on the height and purpose of a fence or retaining wall, as follows:

- Fences:** A Building Permit is required for all fences or walls over 6 feet in height. *[The height of a fence is measured from the downslope side of finished grade below the fence to the highest horizontal surface, not including posts or columns less than 2 feet in width and spaced at least 8 feet apart].*
- Retaining Walls:** A Building Permit is required for all retaining walls that are greater than 4 feet in height, and any retaining wall that is over 2 feet in height that supports a surcharge (i.e., has a slope behind it). *[For purposes of a Building Permit, the height of a retaining wall is measured from the bottom of the footing to the top of the retaining wall].*
- Portals, Arbors & Trellises:** A Building Permit may be required based on the materials, height, and connections of the structure. Please contact the Building Division for more information.

Vegetation Is Not Considered a Fence: Hedges or other plant material may provide screening similar to a fence, but are not considered fences and are not regulated under the Fence Code. However, please note that the Vision Clearance standards of LOC 50.06.011 prohibit fencing and vegetation more than 30 inches in height within "vision clearance triangles" where driving surfaces intersect (streets, driveways, etc.).

Maximum Height of a Fence in a Residential Zone: The maximum height of a fence in a residential zone is 6 feet; therefore, a building permit is not required. However, when located within 10 feet of a property line abutting a public or private street or an access easement serving more than two lots, a fence can only be 4 feet in height. For the purposes of this section, alleys are not considered streets. Please note that your property lines are not necessarily the edge of pavement or the back of the sidewalk – please consult with a surveyor to determine the location of property lines.

Maximum Height of a Retaining Wall in a Residential Zone: Retaining walls cannot exceed the height limits of the underlying residential zone; however, any retaining wall greater than 4 feet in height must meet required yard setbacks as determined by the zone. *[For purposes of setback compliance, the height of a retaining wall is measured from the top of the footing to the top of the retaining wall. A retaining wall greater than 4 feet in height (measured from the bottom of the footing to the top of the retaining wall) requires a Building Permit].*

Fences Along Shared Property Lines: There are no setbacks required for fences from property lines. If you are constructing a fence between your property and your neighbor's, please contact your neighbor to work out an acceptable location if the fence will be on or near the property line. The City does not participate in private property disputes between neighbors, i.e., where a fence is located.

Multiple Retaining Walls in a Residential Setback: For multiple retaining walls within a required setback (see above), each retaining wall shall be set back at least 5 feet from another retaining wall, measured from the back of one retaining wall to the front of the next retaining wall.

Wildlife-Friendly Fences Located in a Sensitive Lands Overlay District (Wetland or Stream Corridor): Fences cannot be located within a wetland or stream channel. If a fence is located below the top of the bank of a stream, a two-foot section of every 100 foot fence segment must be (1) at least 12 inches above the ground, and (2) no more than four feet tall as measured from the ground [LOC 50.05.010.2.c.iv].

Setbacks for Fences and Retaining Walls on Non-Residential Property: There are no setbacks for fences or retaining walls in non-residential zones; however, fences and retaining walls cannot exceed 8 feet in height. In addition, any fence or wall over 6 feet in height must be screened by an evergreen hedge that provides a 6-foot high dense screen within three years of planting. A fence greater than six feet in height also requires a building permit.

Fences Located On Top of a Retaining Wall: If a fence is located on top of or within 5 feet of a retaining wall on the upslope side, the combined height of the fence and retaining wall shall be less than 8 feet, as measured from the lower side of the retaining wall. When located within 10 feet of a property line abutting a public or private street or an access easement serving more than two lots, the retaining wall and fence must be separated by a distance of at least five feet.

Berms: If a fence or wall is located on top of a berm, the height of the berm (measured from finished grade) is included in overall fence height determination.

Good-Neighbor Fence Required: If there is an unfinished or structural side to the fence, it must face the property owner's property unless written consent has been obtained from all abutting property owners to face the structural side in another direction.

Materials: Fences cannot contain any material that will do bodily harm, such as electrification, barbed wire, broken glass, spikes, etc. There are certain exceptions to these provisions for fencing livestock and for property located in the General Commercial and Industrial Zones [See 50.06.004.2.d].

Old Town Fences (DD Zone): Except for stone fences, new fences in the Old Town Neighborhood placed in the front yard shall be used in an ornamental or symbolic way, rather than as a visual barrier. Metal chain link fencing is prohibited in the front yard.

Swimming Pools, Spas and Hot Tubs: Fences around these bodies of water cannot have openings which are larger than four inches, except for doors and gates. All gates or doors must be equipped with an automatic closing and latching device combined with a lock. Please contact the Building Division for more information concerning pool fencing.

Exceptions and Variance to Fence Standards: LOC 50.06.004.2.c identifies circumstances in which the height limits for fences and retaining walls do not apply. Minor Variances are available for exceptions to the maximum fence or retaining wall height restrictions. All other variances to the Fence Code (material, screening) must be processed as a Hardship Variance.

This publication summarizes only portions of the Lake Oswego Community Development Code and is intended to be used solely as an informal discussion document. As such, it should not be relied on as a guarantee that a particular development request could be approved or denied. Please contact the Planning and Building Services Department of the City of Lake Oswego for more information.

Fences and Retaining Walls

Quick Reference Guide

Planning Division
planning@bendoregon.gov
541-388-5570 option 3



COMMUNITY
DEVELOPMENT

Standards exist for fences and walls to promote security, personal safety, and privacy. The standards in this guide are for fences and retaining walls that are on properties developed with single-family dwellings within the Residential Districts and include regulations on height, types of materials and layout.

See [Bend Development Code \(BDC\) 3.2.500](#) at bendoregon.gov/citycode for detailed requirements.

Eligibility

- Fences and retaining walls are permitted on any property within the Residential District. This handout has been developed to assist residents of **single-family dwellings** in Residential Districts. For other uses, please consult [BDC 3.2.500](#) for detailed requirements.
- Special standards apply to fences on properties that are Historic Resources or are located in the Historic Districts ([Bend Code 10.20](#)), Waterway Overlay Zone (WOZ) ([BDC 2.7.600](#)), Lava Ridge Refinement Plan area ([BDC 2.7.200](#)) and Murphy Crossing Refinement Plan area ([BDC 2.7.800](#)).
- Please check your HOA regulations or CC&Rs, as private restrictions may be stricter than those of the City. The City does not monitor nor enforce private restrictions.

Layout Schematic

The following schematic (Figure 1) illustrates requirements for fences and walls on a property. Key elements include maximum fence/wall height, front setback distance, and clear vision area. Please note: all measurements are taken from the property line, which is not necessarily the edge of the street surface.

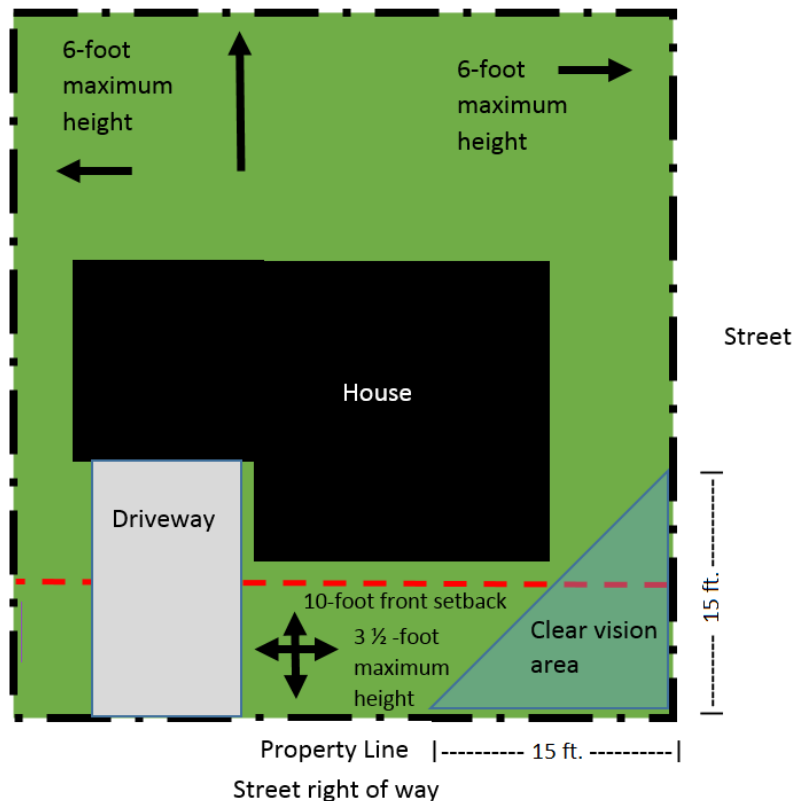
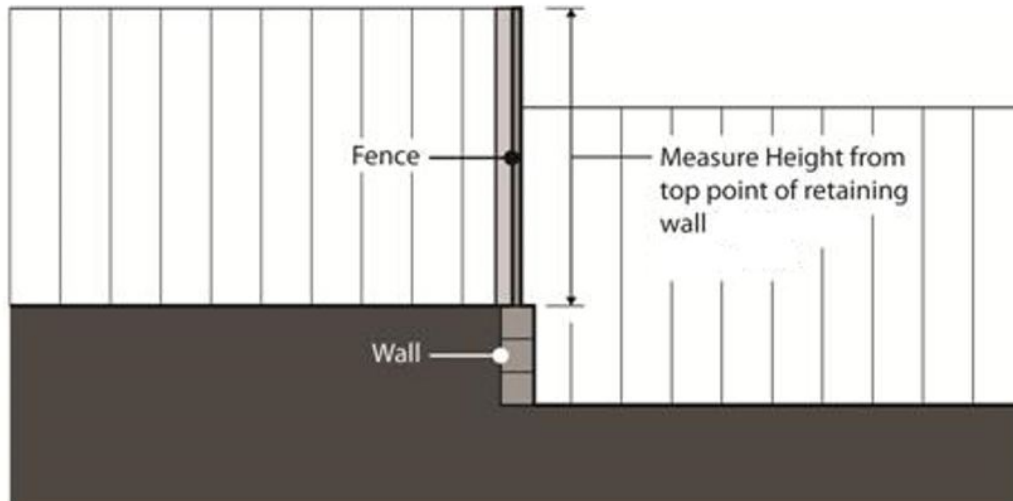


Figure 1: Example of a corner lot layout

Height Limits

Height: must be measured from the lowest grade at the base of the fence or retaining wall unless stated otherwise. Posts, trellises, lattice and any other material placed on top of the fence is considered to be part of the fence when measuring the overall height. As illustrated in the Figure 2 below, when a fence is placed atop a retaining wall, the height of the fence is determined exclusive of the height of the retaining wall such that the top of the retaining wall is considered the finished grade.

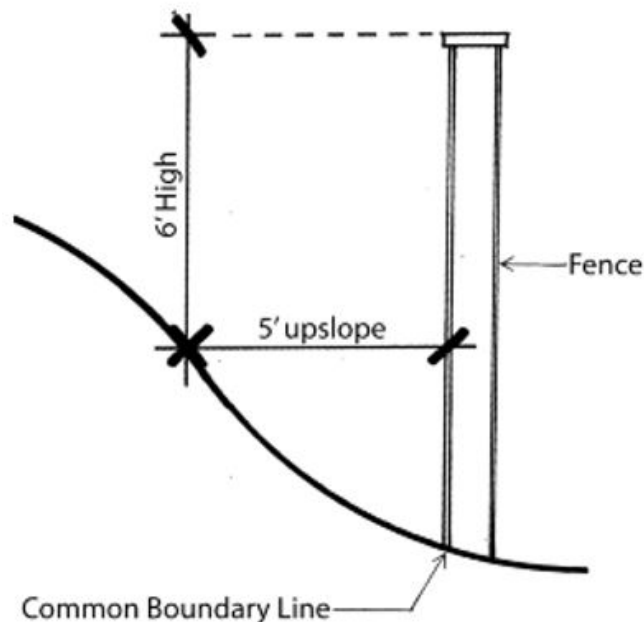


Maximum height: 6 feet

If located within front setback: 3 feet 6 inches

Corner lots, as depicted in Figure 1, are subject to the 3-1/2-foot height requirement only on the front setback (i.e. along the street to which the house address is assigned). The fence or wall along the non-front side must not exceed 6 feet.

If there is a grade difference between two sites which would make a six-foot-high fence inadequate to provide for privacy, such fence must be no higher than six feet above the highest grade within five feet of the common boundary line, as illustrated in Figure 3 below.



Setbacks and Layouts

Setback: For 6-foot-tall fences and walls between the front of the house and the adjacent street, a 10 foot setback is required. This is to be measured from the property line, not the street curb or edge of pavement.

Clear Vision standards: Fences and retaining walls on corner lot properties must comply with Clear Vision standards ([BDC 3.1.500](#)) to ensure that the line of sights for motorists, pedestrians, and bicyclists are not obstructed. Clear vision applies to both street and alley intersections.

Additional Information

Height Exception: Retaining and terraced walls may exceed 6 feet only when permitted as part of a Site Plan Review or land division approval.

Fence Materials and Colors: Acceptable materials include wood, vinyl, metal, masonry or other material that is able to be painted and/or maintained in structurally sound condition. The City does not regulate color.

Required Review Process

Fences and walls generally do not require building permits, with the following exceptions:

- Planning Division review may be required for fences on properties that are Historic Resources or located in the Historic Districts or Waterway Overlay Zone (WOZ).
- A building permit and/or approved engineering plans may be required if the retaining wall is greater than four feet in height or is less than four feet in height and supports a surcharge.

Unsure about what permits may be required?
Want to obtain a fee estimate for permits?
Questions about how to file an application?

Contact the Planning Division at:
541-388-5570, menu option 3
planning@bendoregon.gov

Future Tasks for the Planning Commission

1. Parking Recommendations – Requested by the City Council, started with the inventory.
2. Fences, Hedges, and Walls – in progress
3. Comprehensive Plan Audit – Priority 2, due every two years
4. Wetlands Survey – Almost Complete, paused in 2011
5. Building Heights Review – later
6. Buildable Lots Inventory – later
7. Water Conservation Recommendations/ Incentives
8. Accessory Dwelling Units (ADU)
9. Architectural Standards
10. City Street Lights Plan – generated as followup to the Lighting Ordinance