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## 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.*