

MEMORANDUM

To: Mayor and City Council

From: Ronnie Kurtz
Planner II

Date: March 26, 2018

Subject: Amendment to City of Dunwoody Ordinances
Chapter 27 – Fences and Walls

ITEM DESCRIPTION

Request to consider text amendments to the zoning code regarding fences and walls (Chapter 27). The proposed changes aim to institute an administrative approval and permitting process for fences and walls in specific circumstances, establish material standards, and clarify ambiguous code sections.

DISCUSSION

Fence Height

The Zoning Board of Appeals has heard a spate of cases involving the height of fences in side street yards on corner lots. As the code currently reads, side street yards are treated the same as front yards. Thus, a fence may not exceed 4-feet in height; this is not conducive to provide the privacy afforded to the backyard of a standard residential lot, which may have an 8-foot fence by right. The ZBA has approved almost all requests of this nature, and has requested a code amendment to allow such height increases be granted administratively. As such, this amendment allows the Community Development Director to approve fences up to 6-feet in height in the side street yard through the Administrative Permit process.

Retaining Wall Setback

The code as written uses somewhat confusing language to permit retaining walls to encroach building setbacks up to 50% by right and 75% with an administrative permit. This lack of transparency has led to frequent mistakes by contractors that have required after-the-fact variances to bring into compliance. To clarify the allowances, staff proposes requiring an administrative permit for any retaining wall outside the required building setbacks.

Material Standards

Currently, material standards for fences and walls are undefined and at the discretion of the Community Development Director. Staff has taken the opportunity of this amendment to codify preferred materials, based on common allowances from surrounding municipalities. Additionally, to ensure Dunwoody's neighborhood character is preserved, this amendment requires that an over-the-counter permit be obtained for any fence or wall in a street yard. Staff envisions this permit taking the form of an affidavit signed by the applicant signifying that all material standards will be met.

Summary of Changes from First Read

- Clarified how fence height is measured
- Modified list of allowed and prohibited materials
- Provided for Community Development Director to approve of alternative materials
- Removed prohibition on privacy fences

RECOMMENDATION

Staff recommends Mayor-City Council approve the attached draft changes to Chapter 27—Fences and Walls, as prepared.

Attachments:

Chapter 27—Fences and Walls, with edits

STATE OF GEORGIA

CITY OF DUNWOODY

ORDINANCE NO. 2018-

AN ORDINANCE TO AMEND CHAPTER 27 (ZONING ORDINANCE) ARTICLE V (REVIEW AND APPROVAL PROCEDURES) OF THE CITY OF DUNWOODY CODE OR ORDINANCES; TO AUTHORIZE THE COMMUNITY DEVELOPMENT DIRECTOR TO APPROVE CERTAIN ADMINISTRATIVE PERMITS; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, the Mayor and City Council of the City of Dunwoody are empowered to regulate zoning within the City of Dunwoody pursuant to Section 1.03(b)(25) of the City charter; and

WHEREAS, the City of Dunwoody’s zoning code currently authorizes the Community Development Director to approve certain special administrative permits; and

WHEREAS, the Mayor and Council wish to delegate to the Community Development Director the power to approve special administrative permits relating to fence heights on residential corner lots.

BE IT ORDAINED by the Mayor and City Council of the City of Dunwoody, Georgia that the City’s Code of Ordinances is amended as follows:

SECTION I: Division 4 of Article V of Chapter 27 relating to the Zoning Ordinance is hereby amended to read as follows:

DIVISION 4. - FENCES AND WALLS

Sec. 27-266. - Applicability.

The fence and wall regulations of this division govern the design and location of all fences and walls, including retaining walls and wing walls.

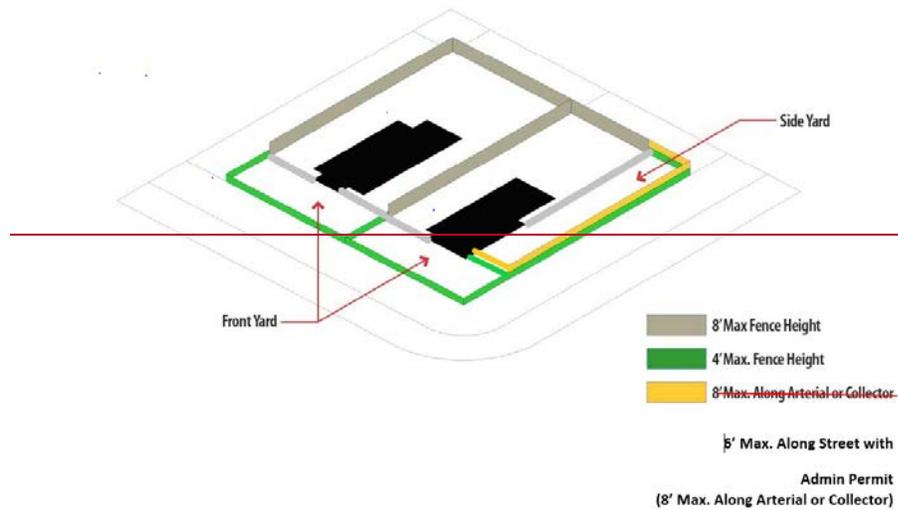
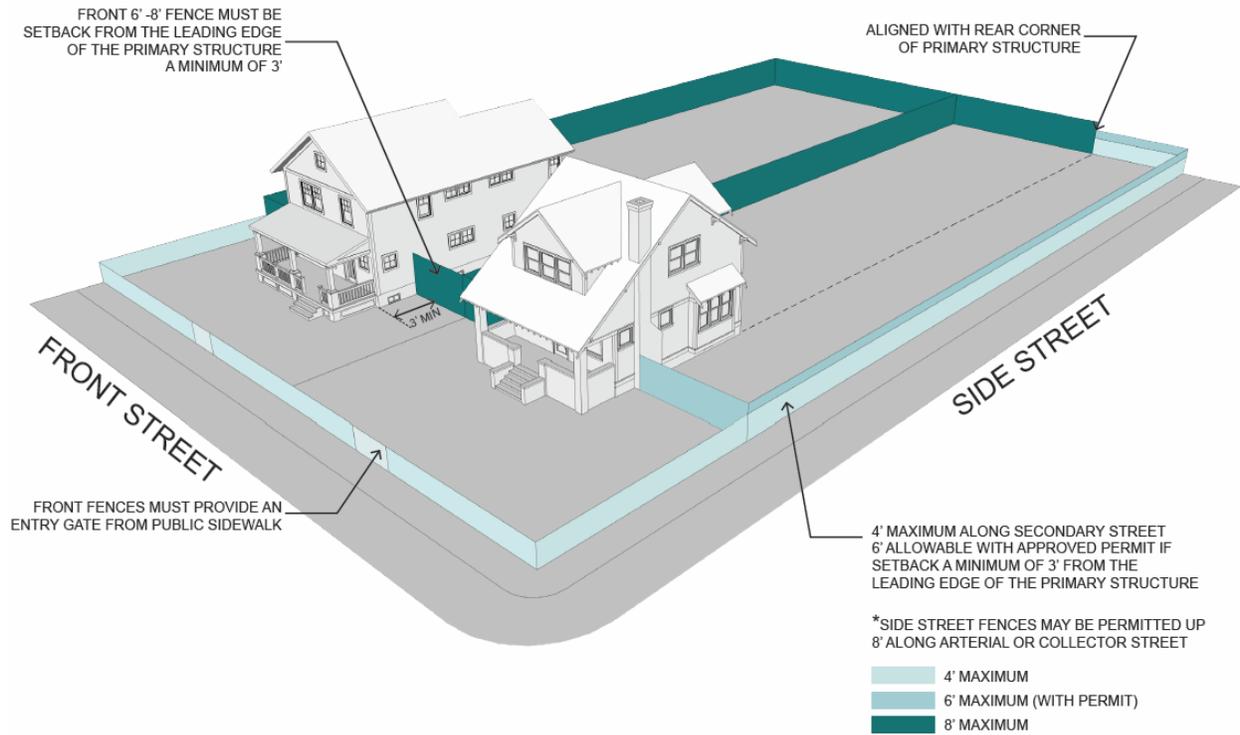
- (1) Building Permit Required. Walls, fences, and retaining walls constructed in a front yard or a side yard fronting a street must be permitted by the Community Development Department prior to installation. To receive a permit, the applicant must submit a completed application to the Community Development Department. For walls and fences, upon receipt of a completed, compliant application, the Community Development Department shall issue the applicant a permit on the day of receipt of the completed application at no cost to the property owner. For retaining walls, the applicable fee shall be that which is listed in the Community Development Department fee schedule as adopted by the city council. Permits shall only be issued for walls, fences, and retaining walls that conform to the provisions of this section.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-15.10), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

Sec. 27-267. - Maximum height.

In residential zoning districts fences and walls located in street yards may not exceed four feet in height. Fences on residential lots adjacent to a collector or arterial street may not exceed eight feet in height within said street yard. Fences on residential lots fronting on a collector or arterial street may not exceed four feet within the front yard. The Community Development Director is authorized to approve an administrative permit (in accordance with article V, division 7) allowing fences in the side yard fronting a street on residential corner lots at a height of up to six feet. Fences shall not obstruct visibility as prescribed in section 27-289 of this ordinance. All other fences and walls are limited to a maximum height of eight feet unless otherwise expressly stated in this zoning ordinance ([see] Figure 15-1). The height of fences shall be measured from the natural adjacent grade on the lowest side of the fence to the top of the fence.

Figure 15-1: Maximum Fence and Wall Heights



(Ord. No. 2013-10-15, § 1(Exh. A § 27-15.20), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

Sec. 27-268. - Required fences and walls.

When fences or walls are required to be installed, the wall or fence must be in place before issuance of a certificate of occupancy for the principal use or structure.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-15.30), 10-14-2013)

Sec. 27-269. - Retaining walls in single-dwelling residential districts.

The regulations of this section apply to retaining walls in single-dwelling residential zoning districts.

(1) Newly constructed retaining walls are subject to the following maximum height limits:

Required Approval	Maximum Height (feet)
As of right (except when building permit required per Sec. 27-266(1))	Up to 4
Administrative permit (article V, division 7)	More than 4, up to 8
Special exception (article V, division 6)	More than 8, up to 12

(2) Existing retaining walls may be repaired and replaced if the repair or replacement does not result in an increase in the height of the wall.

(3) On lots occupied by a detached house, retaining walls must be set back from all property lines a distance equal to ~~at least 50 percent of~~ the required building setback. The ~~e~~Community ~~d~~Development ~~d~~Director is authorized to approve an administrative permit (in accordance with article V, division 7) allowing a ~~maximum~~ retaining wall ~~to encroach the setback reduction of 50 percent (down to not less than 25 percent of the required building setback).~~

(4) A decision to allow an authorized administrative permit or special exception must be based on a determination that exceptional topographical restrictions exist on the lot in context with the adjoining property that were not created by the applicant or owner, and a determination that no practical alternative retaining wall design is feasible. The applicant must submit a site plan or a topographical map certified by an engineer or landscape architect with any exception application for retaining walls.

(5) Retaining walls may not exceed 12 inches above grade at the higher side elevation.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-15.40), 10-14-2013)

Sec. 27-270. - Wing walls in single-dwelling residential districts.

The regulations of this section apply to wing walls in single-dwelling residential zoning districts.

(1) Newly constructed wing walls that are part of the foundation of the principal structure are permitted when exceptional topographical restrictions exist on the subject lot in context with the adjoining properties that were not created by the owner or applicant.

- (2) Wing walls may not exceed ten feet in height, or the height of the foundation wall to which it is attached, whichever results in a lower wing wall height. Wing walls may not be used to allow a house to exceed the detached house infill regulations of section 27-147.
- (3) When affixed to a detached house, a wing wall may project into a street setback or rear setback for a distance not to exceed ten feet. The ~~e~~C~~o~~m~~m~~u~~n~~i~~t~~y ~~d~~e~~v~~e~~l~~o~~p~~m~~e~~n~~t~~ ~~d~~i~~r~~e~~c~~t~~o~~r is authorized to approve an administrative permit (in accordance with article V, division 7) allowing a wing wall to project a side setback to a point not closer than five feet from the side lot line.
- (4) Guardrails must be installed atop all wing walls exceeding 30 inches in height above grade. Guardrails may not be opaque and must be a minimum of 36 inches and a maximum of 48 inches in height.
- (5) Wing walls may not exceed 12 inches above grade at the higher side elevation.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-15.50), 10-14-2013)

Sec. 27-271. - Measurement of wing wall and retaining wall height.

- (a) The height of wing walls is measured from the bottom of the footing or foundation at the base of the wall to the topmost point on the wall.
- (b) For zoning purposes the height of retaining walls is measured from the natural adjacent grade on the lowest side of the wall to the top of the wall.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-15.60), 10-14-2013; Ord. No. 2017-04-07, § 4, 4-11-2017)

Sec. 27-272. – Fence and Wall Materials

The following standards shall apply to fences and walls.

- (1) Adjoining Right-of-Way. In all single-family detached dwelling developments, wire fencing materials, including chain-link fencing with plastic, vinyl, or wooden inserts shall not be used adjoining a street right-of-way. The architectural treatment of poured concrete, common aggregate block or concrete block walls requires review and approval by the Community Development Director. This provision shall not preclude the use of chain link fencing as a security fence around storm water facilities ([see] Figure 15-2).

Figure 15-2: Examples of Permissible Fence Types



(2) Fences Along All Property Lines. Walls and fences constructed along all property lines shall be constructed with a finished side toward the neighboring property.

(a) Wall and Fences shall be constructed of wood, brick, block, vinyl, PVC, stone, metal, stucco, split rail, or wrought iron.

(b) Prohibited Materials:

i. Barbed wire, razor wire, or electrically charged fencing shall not be approved for any single-family dwelling lots. Barbed wire may be used for security strands in all but single-family dwelling districts at a height of at least 6 feet above grade.

ii. The use of plywood/sheet goods, canvas, cloth, vinyl sheeting, EFIS, or other nondurable materials is prohibited.

iii. Chain-link fencing with plastic, vinyl, wooden, or other inserts is prohibited.

iv. No wall or fence shall be constructed of exposed concrete block, tires, junk, or other discarded materials.

(c) Materials not permitted in subsection (a) nor explicitly prohibited in subsection (b) may be utilized upon review and approval by the Community Development Director.

(d) Chain link fencing, where permitted, shall be vinyl coated, black or green.

(e) Painted or stained wood shall be maintained.

(f) Metal fencing shall be painted or vinyl coated.

(g) Fence supports shall face inwards.

(h) Posts shall be anchored in concrete.

(i) Fences may step down a slope, however supports shall be vertical and plumb.

Sec. 27-273. - Setback

(1) Fences and walls shall be set back a minimum of three feet from a public right of way unless otherwise approved by the Community Development Director.

(2) Fences in front yards exceeding 4-feet in height must be setback from the leading edge of the primary structure by a minimum of 3-feet.

Secs. 27-274~~2~~—27-285. - Reserved.

SECTION II: Subsection 436 of Division 7 of Article V of Chapter 27 relating to the Zoning Ordinance is hereby amended to read as follows:

Sec. 27-436. - Applicability.

The eCommunity eDevelopment eDirector is authorized to approve the following as special administrative permits in accordance with the procedures of this division:

- (1) Any use or activity expressly authorized to be approved by special administrative permit pursuant to the provisions of this zoning ordinance;
- (2) Reductions in minimum off-street motor vehicle parking and loading ratios by up to one space or ten percent, whichever is greater and reductions in minimum bicycle parking ratios by up to two spaces or ten percent, whichever is greater;
- (3) Minor exceptions to those Perimeter Center Overlay and Perimeter Center zoning district regulations expressly identified in section 27-98(a)(7)a. and section 27-104(a)(5)a.;
- (4) Reduction of any zoning district building setback requirements by up to ten percent;
- (5) Reduction of any rear building setback, greater than ten percent, but no more than ten feet, for building additions not exceeding one story or 18 feet in height;
- (6) Type B home occupations that are solely teaching-related and conducted entirely within the principal dwelling;
- (7) Relatives residences;
- (8) Antennas that project more than ten feet above the height of the structure to which they are attached;
- (9) Reduction of minimum building spacing requirements for multiple buildings on a single lot by up to ten percent;
- (10) Increase in the maximum front door threshold height allowed by section 27-147.
- (11) Increase in the maximum retaining wall height, as allowed by section 27-269.
- (12) Reduction of the minimum retaining wall setback requirement, as allowed by section 27-269; ~~and~~
- (13) Reduction of the minimum wing wall side setback requirement, as allowed by section 27-270; ~~and~~
- (14) Increase in maximum fence height on residential corner lots, as allowed by section 27-267

SECTION III: It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

b. It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

c. In the event that any section, paragraph, sentence, clause or phrase of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgement or decree of any court or competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionally or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining sections, paragraphs, sentences, clauses or phrases of this Ordinance and that, to the greatest extent allowed by law, all remaining sections, paragraphs, sentences, clauses or phrases of this Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

SECTION IV: All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION V: This Ordinance shall be codified in accordance with State law and the Code of the City of Dunwoody, Georgia. This Ordinance shall become effective upon adoption.

SO ORDAINED, this _____ day of _____, 2018.

Approved by:

Approved as to form:

Denis L. Shortal, Mayor

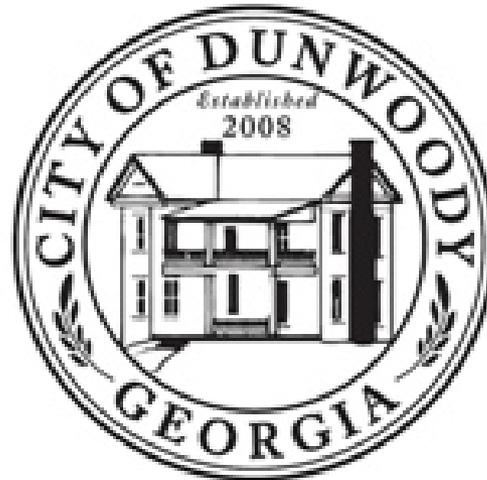
Cecil G. McLendon, City Attorney

Attest:

Sharon Lowery, City Clerk

SEAL

Mayor and City Council March 26, 2018 Meeting



City of Dunwoody, GA

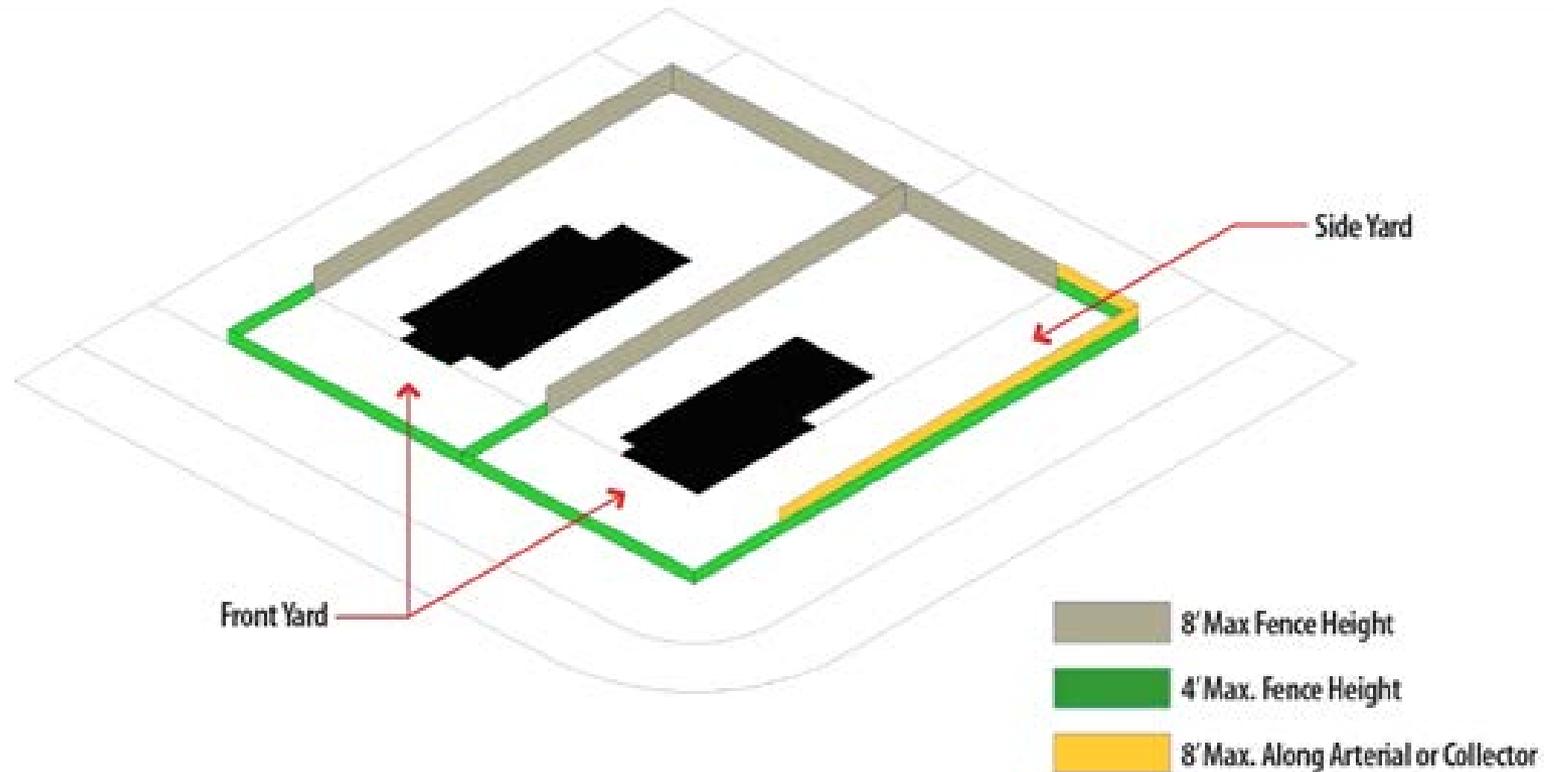
Chapter 27 – Fences and Walls

Text Amendments

- Three main objectives:
 1. Allow administrative permits to increase fence height;
 2. Clarify language regarding retaining wall setbacks; and
 3. Codify material standards for fences and walls

*Changes from First Read will be in **RED**

Current Conditions

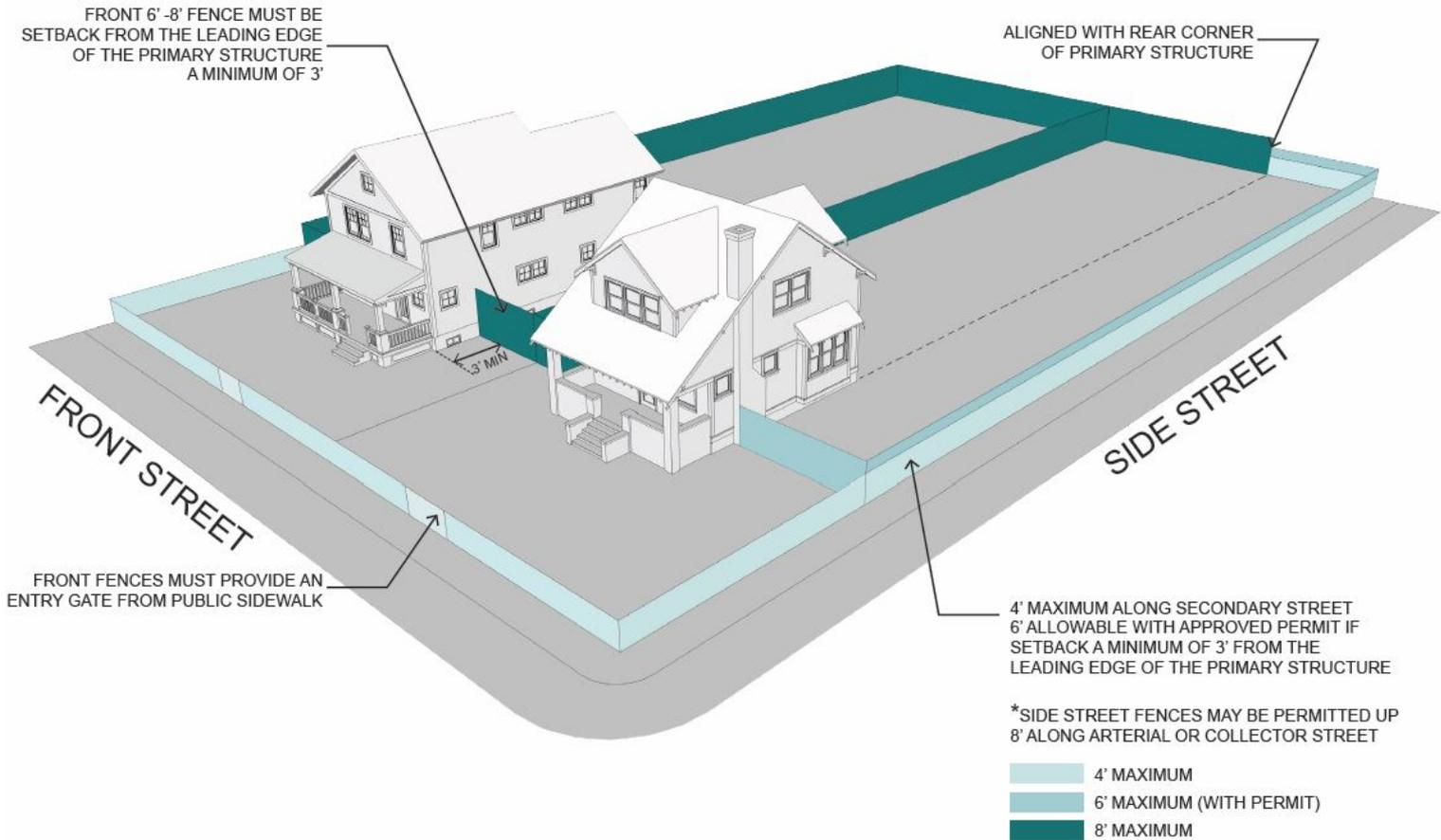




Fence Height

- Allow for increase in maximum fence height on residential corner lots up to 6-feet
- See Sec. 27-436 and Sec. 27-267
- The height of fences shall be measured from the natural adjacent grade on the lowest side of the fence to the top of the fence.

Fence Height



Retaining Wall Setbacks

- Require an administrative permit for retaining walls outside of regular building setbacks
- Allow for 100% encroachment where deemed necessary
- See Sec. 27-269(3)







Codify Material Standards

- Standards for all fences and walls (Sec. 27-272(2)):
 - Wall and Fences shall be constructed of wood, brick, block, vinyl, **PVC**, stone, metal, **stucco, split rail, or wrought iron**
 - Chain link fencing, where permitted, shall be vinyl coated, black or green.
 - Painted or stained wood shall be maintained.
 - Metal fencing shall be painted or vinyl coated.
 - Fence supports shall face inwards.
- Require 3-foot setback from right-of-way and from front of primary structure (Sec. 27-273)

Prohibited Materials

- Barbed wire, razor wire, or electrically charged fencing shall not be approved.
- The use of plywood/sheet goods, canvas, cloth, vinyl sheeting, EFIS, or other nondurable materials is prohibited
- Chain-link fencing with plastic, vinyl, wooden, or other inserts is prohibited.
- No wall or fence shall be constructed of exposed concrete block, tires, junk, or other discarded materials. (27-272(2)(b))

Director Authorization

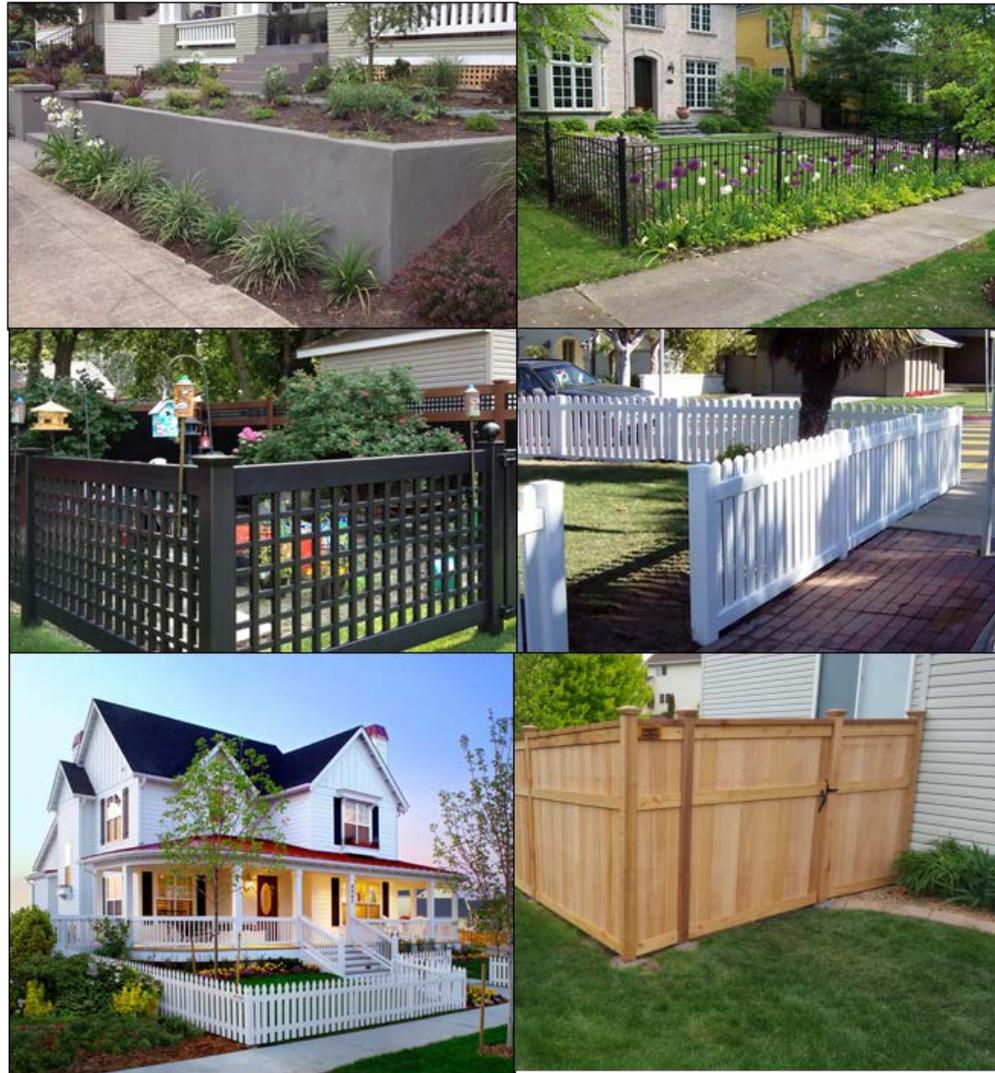
- Materials not permitted in subsection (a) nor explicitly prohibited in subsection (b) may be utilized upon review and approval by the Community Development Director. (27-272(c))

Codify Material Standards

- Prohibited along street frontages (Sec. 27-272(1)):
 - Chain-link and wire fences
- Verify via over-the-counter permit process (Sec. 27-266(1))



Examples of Permissible Fences



Undefined Corners

