



# COUNTY OF SANTA CRUZ

## PLANNING DEPARTMENT

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KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR

April 20, 2011

**Agenda Date: April 27, 2011**

Planning Commission  
701 Ocean Street  
Santa Cruz CA 95060

**SUBJECT: Referral from the Board of Supervisors to the Planning Commission for report and recommendation on revisions that the Board of Supervisors intends to make to the proposed fence ordinance (amendments to County Code Chapter 13.10) that was recommended by the Planning Commission to the Board of Supervisors on March 23, 2011. Chapter 13.10 is a coastal implementing ordinance.**

Commissioners:

On April 5, 2011 the Board of Supervisors held a public hearing regarding your Commission's recommendation on amendments to the fence ordinance. The Board proposed several modifications. Under State law and County Code Section 13.03.90(b), modifications must be referred to the Planning Commission for report and recommendation back to the Board. The Board voted 5 to 0 to refer the proposed ordinance back to the Planning Commission. The Planning Commission is not required to hold a formal public hearing, but it was requested that the Commission place the matter on this April 27<sup>th</sup> agenda for review and recommendation. Failure to report back to the Board within 40 days shall constitute approval by the Planning Commission of the modifications.

### **Corner Sight Clearance Triangles**

Between the time that this item was last before your Commission and the Board of Supervisors hearing, it came to the attention of the Planning Department that there are additional Corner Sight Clearance Triangle industry standards that may apply to certain front and side yard setbacks, which would further restrict fence heights over three feet within the triangle. Staff brought this to the attention of the Board and the Board directed staff to modify the ordinance to make it clear that the illustrations showing the 30 foot and 10 foot distances for Corner Sight Clearance Triangles apply to properties on local neighborhood residential streets, and to provide language that makes it clear that greater distances may apply adjacent to streets that allow vehicular speeds greater than 25 miles per hour, as determined by County Public Works Department guidelines.

To respond to that direction, staff is recommending that your Commission recommend to the Board that subsection (iii) be added to the "Maximum fence and retaining wall heights"

section of the proposed ordinance that addresses Corner Sight Clearance Triangles, and that other minor modifications be made to that subsection, as follows (proposed deleted language shown ~~struck through~~ and proposed new language shown underlined):

2. Maximum fence and retaining wall heights
  - (a) Except as provided in Section 13.10.323(d)5(A), maximum heights for fences and retaining walls not located in a Corner Sight Clearance Triangle (~~depicted in the Corner Sight Clearance Triangles diagram below~~) are shown on the Fence Location and Height Table given in 13.10.525(c)3, below. Examples of Corner Sight Clearance Triangles are shown in the diagrams below.
  - (b) Except as provided in Section 13.10.323(d)5(A), within Corner Sight Clearance Triangles (~~depicted in the Corner Sight Clearance Triangles diagram below~~), no fence or retaining wall shall exceed three feet in height, if the fence or retaining wall is:
    - (i) located in a corner sight clearance triangle on a parcel located at the intersection of two local neighborhood streets for a distance of 30 feet along each street right-of-way; or
    - (ii) located in a residential driveway or alley corner sight clearance triangle for a distance of 10 feet along the street right-of-way on each side of the driveway or alley; or
    - (iii) located in a corner sight clearance triangle determined to be applicable by the County based on professional standards established by the American Association of State Highway and Transportation Officials (AASHTO) or other applicable technical publications. Greater sight clearance triangles may be required for front and side yards adjacent to roads that allow vehicular travel speeds of more than 25 miles per hour.

### **Fence Heights By Right and with Over-Height Fence Certification**

Your Commission previously expressed some reservation about allowing fence heights up to six feet by right in front yard setbacks and street side yard setbacks, as proposed for sites located outside of the Urban Service and Rural Service areas. The Board generally agreed that this could become an issue, and indicated an intention to limit fence heights in front yards to 3 feet. The Board also requested information about why up to eight-foot heights should be considered for fences along the sides and rear of sites when those yards do not abut a street.

The modifications shown in the following table reflect both the Board's direction and staff's recommendations, with the originally proposed regulations in regular type with the Board proposed modifications shown as underlined text and proposed deletions shown as ~~struck through~~ text.

### Proposed Fence Height Regulations

<u>Property and Fence Location</u>	<u>Maximum Height without Permit outside of Corner Sight Distance Triangles*</u>	<u>Maximum Height with Over-height Fence Certification outside of Corner Sight Distance Triangles*</u>	<u>Maximum Height with a Level IV Permit</u>
Front Yard inside Urban Services Line (USL) and Rural Services Line (RSL)	3 feet	6 feet	As determined through permit process
Front Yard outside USL and RSL	6 <u>3</u> feet	8 feet	As determined through permit process
Side/Rear Yard Abutting on a Street	6 <u>3</u> feet	8 <u>6</u> feet if on <u>property line</u> ; 8 feet if fence at <u>least 5 feet back from property line</u>	As determined through permit process
Side/Rear Yard Not Abutting on a Street	8 feet	<del>N/A: already at 8 feet; would need Level IV to go higher</del> <u>8 feet</u>	As determined through permit process
<p>The following would be allowed without any discretionary approval in all locations, except for Corner Sight Clearance Triangles:</p> <ol style="list-style-type: none"> <li>1. Archways/trellises/pergolas up to 8 feet tall associated with a walkway through a fence and not making up more than 25% of the length of the fence along the applicable property line.</li> <li>2. Open decorative features such as lattice that does not exceed the given maximum fence heights by more than 6 inches.</li> </ol>			
<p><u>*County Public Works Department guidelines establish applicable Corner Sight Clearance Triangle requirements</u></p>			

In staff's professional opinion, the proposed "by right" provisions are appropriate with regard to both vehicular visibility and neighborhood character concerns, and also reflect the reality of the way that many property owners construct their fences. As directed by the Board, the proposal has been modified from the original proposal to provide that all fences adjacent to streets throughout the unincorporated area may not exceed 3 feet in height (front, sides and rear) unless an Over-Height Fence Certification is obtained.

The proposal continues to reflect the staff recommendation to allow for fences to be up to 8 feet in height along the rear yard and side yards that are not adjacent to streets. This 8-foot height reflects the reality that many rear and side yard fences are constructed as "6

foot boards with 2 feet of lattice", or "6 foot boards placed on 1 to 2 feet of runner boards", and similar configurations. Property owners throughout the county often desire the additional backyard privacy afforded by a fence that is taller than 6 feet. In rural and large lot areas, property owners often desire a taller fence to discourage deer from backyard gardens and landscape areas. Staff does not believe it is necessary or a good use of public resources to regulate or require permits for these side and rear yard fences up to 8 feet that are not adjacent to a street or in the front yard, and believes that having the County brought into disputes over fences that may exceed 6 feet in these locations is not a priority use of resources.

The current proposal would allow a property owner to apply for an Over-Height Fence Certification to exceed 3 feet in front yards; to up to 6 feet at sites located within the Urban and Rural Services Lines, or up to 8 feet outside of these areas. The Certification process will provide a simplified process for an applicant whose property is not typical, for instance when a "front yard" is actually not adjacent to a street or public view, or where the property line is substantially set back from the actual traveled way and deer fencing is desired, or where a proposed 6- or 8-foot height is not right on the property line but further set back. Also, site conditions are variable, particularly in the rural areas, where traffic volumes are generally less, topography is often more rugged with greater vertical relief, and parcels are generally larger resulting in fewer driveways than within urban areas. Deer or privacy fencing with heights greater than 6 feet is common in the rural areas and can fit in well with the rest of the built environment and the natural environment. The Over-Height Fence Certification will be a discretionary permit, and conditions can be imposed or the request denied if inappropriate for safety or neighborhood character reasons.

In response to Board discussion, staff is proposing an additional modification to limit the Over-Height Certification process allow proposals for only up to 6 feet along side- or rear-yard property lines adjacent to streets, or up to 8 feet if the fence is set back an additional 5 feet from the property line adjacent to a street.

## **Fire Issues**

The Board directed that staff check with the fire agencies to determine whether there are comments or issues regarding fences up to eight feet high. The County Fire Marshal's office indicated that height is not generally an issue and because six foot fence heights are already allowed, which is already above most people's line of sight, that agency would not have any concerns about an additional couple of feet in fence height. The main concern is that gates and driveway fence openings be wide enough to allow fire equipment to enter.

## **CEQA Analysis of Modifications to the Proposed Ordinance**

The proposed changes to the fence/retaining wall regulations are exempt from environmental review according to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines because CEQA applies only to projects which have the potential to cause a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the

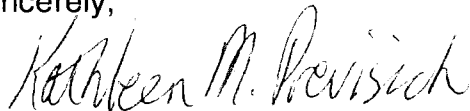
environment, the activity is not subject to CEQA. Further, County Code Chapter 13.10 is part of the County's certified Local Coastal Program and CEQA Guidelines Section 15265 states that CEQA does not apply to activities and approvals, pursuant to the California Coastal Act, by a local government necessary for the preparation and adoption of a local coastal program (this essentially shifts the burden of environmental review to the Coastal Commission). The proposed modifications result in a limitation to "by right" fence heights of 3 feet adjacent to streets (whether in front, side or rear yards), and also further limit the heights that can be allowed through an Over-Height Fence Certification, and therefore these modifications continue to meet the criteria for a CEQA Exemption and are not subject to further environmental review by the County.

## **RECOMMENDATION**

It is therefore RECOMMENDED that your Commission take the following actions:

1. Consider the ordinance modifications proposed by the Board of Supervisors and staff's recommendations on those proposed modifications; and
2. Provide a recommendation of support for the ordinance with the proposed modifications.

Sincerely,



Kathleen M. Previsich  
Planning Director

Exhibits: A. Ordinance with proposed modifications

**ORDINANCE NO. \_\_\_\_\_**

**ORDINANCE AMENDING SUBSECTION (d)5(A) OF SECTION 13.10.323 AND SECTION 13.10.525, ADDING A DEFINITION TO SECTION 13.10.700-C, AMENDING A DEFINITION IN SUBDIVISION 13.10.700-F AND DELETING A DEFINITION IN SUBDIVISION 13.10.700-H OF THE SANTA CRUZ COUNTY CODE RELATING TO THE MAXIMUM HEIGHT ALLOWED FOR FENCES AND RETAINING WALLS IN REQUIRED YARDS AND THE REQUIRED LEVEL OF REVIEW FOR OVER-HEIGHT FENCES AND RETAINING WALLS.**

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The Board of Supervisors of the County of Santa Cruz ordains as follows:

**SECTION I**

Subsection (A) of subsection 5. of Subdivision (d) of Section 13.10.323 of the Santa Cruz County Code is hereby amended to read as follows:

(d) Site and Structural Dimensions Exceptions Relating to Parcels.

5. Parcels with Steep Slopes.

(A) In all residential zone districts, if the elevation of the lot at a point 50 feet from the center line of the traveled roadway is 7 feet or more above or below the elevation of said center line, an attached or detached carport which (in the interest of public safety) is unenclosed on all sides may be built to within 5 feet of the front property line or edge of right-of-way of the lot. Open safety railings no more than forty-two (42) inches in height may be constructed to the property line without a development permit.

**SECTION II**

Section 13.10.525 of the Santa Cruz County Code is hereby amended to read as follows:

13.10.525 Regulations for fences and retaining walls within required yards.

(a) The purposes of fence and/or retaining wall regulations for yards abutting on streets are:

1. To ensure adequate visibility of vehicles entering the street from driveways, adequate sight distance from such vehicles, and adequate sight distance at street corners.
2. To ensure adequate light and air for the street area.
3. To preserve a harmonious and compatible street front appearance.

(b) The purposes of fence and/or retaining wall regulations for side and rear yards which do not abut on streets are:

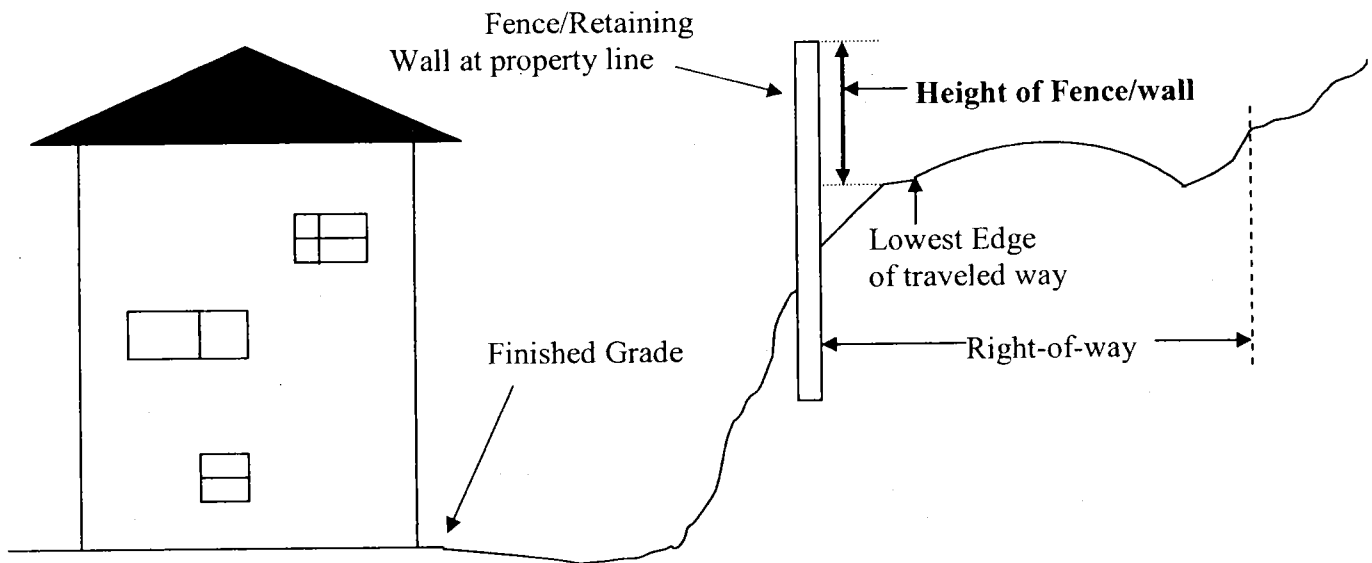
1. To provide for privacy screening of these yard areas.
2. To ensure that light and air of abutting properties are protected from excessively high man-made structures.

(c) The height regulations for fences and/or retaining walls are:

1. The height of fences and/or retaining walls is determined as follows:

(i) By measuring the exposed face of the fence and/or wall at its tallest point, from finished grade at the base, to the top of the fence and/or wall, except as provided in (c) 4 and (c) 5 below.

(ii) Where a parcel slopes down from a public or private right-of-way, the height of a fence or retaining wall shall be measured from the lowest elevation of the traveled portion of the right-of-way nearest the fence or retaining wall to the top of the fence and/or wall as shown in the diagram below, except as provided in (c) 4 and (c) 5.



Height of fence or wall on parcel sloping down from right-of-way

## 2. Maximum fence and retaining wall heights

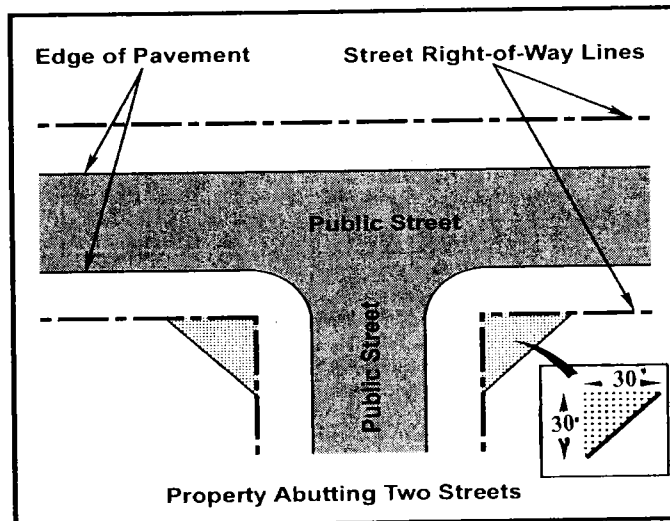
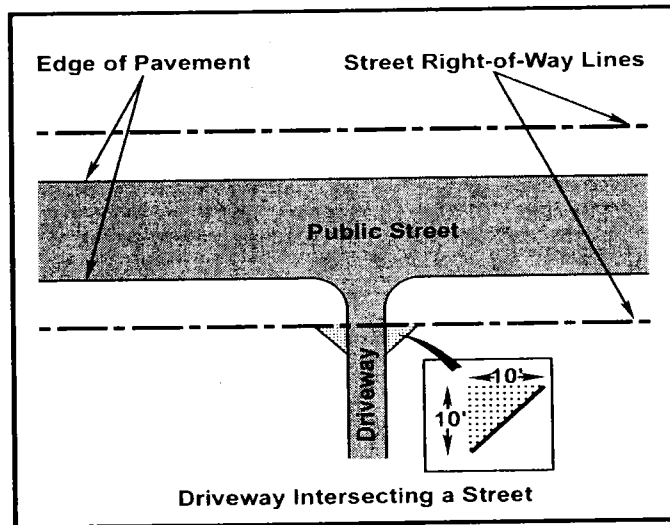
(a) Except as provided in Section 13.10.323(d)5(A), maximum heights for fences and retaining walls not located in a Corner Sight Clearance Triangle (~~depicted in the Corner Sight Clearance Triangles diagram below~~) are shown on the Fence Location and Height Table given in 13.10.525(c)3, below. Examples of Corner Sight Clearance Triangles are shown in the diagrams below.

(b) Except as provided in Section 13.10.323(d)5(A), within Corner Sight Clearance Triangles (~~depicted in the Corner Sight Clearance Triangles diagram below~~), no fence or retaining wall shall exceed three feet in height, if the fence or retaining wall is:

(i) located in a corner sight clearance triangle on a parcel located at the intersection of two local neighborhood streets for a distance of 30 feet along each street right-of-way, or

(ii) located in a residential driveway or alley corner sight clearance triangle for a distance of 10 feet along the street right-of-way on each side of the driveway or alley.

(iii) located in a Corner Sight Clearance Triangle determined to be applicable by the County based on professional standards established by the American Association of State Highway and Transportation Officials (AASHTO) or other applicable technical publications. Greater sight clearance triangles may be required for front and side yards adjacent to roads that allow vehicular travel speeds of more than 25 miles per hour.



Corner Sight Clearance Triangles

### 3. Fence Location and Height Table

<u>Property and Fence Location</u>	<u>Maximum Height without Permit outside of Corner Sight Clearance Triangles*</u>	<u>Maximum Height with Over-height Fence Certification outside of Corner Sight Clearance Triangles*</u>	<u>Maximum Height with a Level IV Permit</u>
Front yard inside Urban Services Line (USL) and Rural Services Line (RSL)	3 feet Except as allowed by Section 13.10.323(d)5(A)	6 feet	As determined through permit process



Front yard outside USL and RSL	6 <u>3</u> feet	8 feet	As determined through permit process
Side/Rear Yard abutting on a street	6 <u>3</u> feet	<u>8 <del>6</del> feet if on a property line;</u> <u>8 feet if fence at least 5 feet</u> <u>back from property line</u>	As determined through permit process
Side/Rear Yard not abutting on a street	8 feet	<del>N/A, already at 8 feet;</del> <del>would need Level IV to go</del> <del>higher</del> <u>8 feet</u>	As determined through permit process

\* County Public Works Department guidelines establish applicable Corner Sight Clearance Triangle requirements

4. Walkway fence openings, with or without gates, may have associated archways/trellises/ pergolas up to a maximum height of 8 feet without a discretionary approval, except in corner sight clearance triangles, where no fence or retaining wall shall exceed three feet in height. Archways/trellises/pergolas may not make up more than 25 percent of the length of the fence along a given property line without a Level IV development permit.

5. Open architectural, decorative, and ornamental features such as lattice may exceed the given maximum fence heights by no more than six (6) inches without a discretionary approval, except in corner sight clearance triangles, where no fence or retaining wall shall exceed three feet in height. Open means that no more than 50 percent of the feature may be opaque.

### SECTION III

Section 13.10.700-C of the Santa Cruz County Code is hereby amended by adding a definition for "Corner sight clearance triangle" following the definition of "Congregate Care Senior Housing" to read as follows:

Corner sight clearance triangle. A triangular area formed by two lot lines abutting upon a street, alley, or driveway and a line connecting them at points equally distant from their intersection within which, for vehicular and pedestrian visibility and safety purposes, no fence, hedge, landscaping, wall, structure, or material that exceeds 3 feet in height may be placed.

### SECTION IV

The definition for "Fence" found in Section 13.10.700-F of the Santa Cruz County Code is hereby amended to read as follows:

Fence. Any construction of wood, metal, plastic, earth or other materials obstructing the clear view, but not including a structure as defined herein or a hedge.

## SECTION V

The definition for "Hedge" found in Section 13.10.700-H of the Santa Cruz County Code is deleted.

## SECTION VI

This ordinance shall take effect on the 31<sup>st</sup> day after the date of Final Passage, or upon certification by the California Coastal Commission, whichever date is later.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by the following vote:

AYES: SUPERVISORS  
NOES: SUPERVISORS  
ABSENT: SUPERVISORS  
ABSTAIN: SUPERVISORS

\_\_\_\_\_  
CHAIRPERSON, BOARD OF SUPERVISORS

ATTEST: \_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM:

\_\_\_\_\_  
County Counsel

Copies to: Planning  
Public Works  
County Counsel