

Chapter 16.28

FENCES*

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For statutory provisions making fences taller than ten feet a nuisance, see Civil Code § 841.4.

Prior ordinance history: Ords. 112, 686, 852, 1179, 1630, 1637 and 1777.

16.28.010 Purpose.

The purpose of this chapter is to regulate the location and height of fences and vegetation in yards of all zoning districts in order to protect the safety, privacy, and property values of residents and resident/property owners of the City. (Ord. 1788 § 1 (part), 1998)

16.28.020 Definitions.

The words and terms used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

A. "Fence" means a man-made structure which is designed, intended or used to protect, defend or obscure the interior property of the owner thereof from the view, trespass or passage of others upon that property.

B. "Fence height" means the vertical distance from the highest point of the fence (excluding post caps) to the finish grade adjoining the fence. In a case where the finish grade is different for each side

of the fence, the grade with the highest elevation shall be utilized in determining the fence height.

C. "Plant" means a vegetative matter.

D. "Setback area, required front" means the area extending across the front of the lot between the front lot line and a line parallel thereto. Front yards shall be measured either by a line at right angles to the front lot line, or by the radial line in the case of a curved front lot line. The front of the lot is the narrowest lot line from a public street.

E. "Setback area, required rear" means the area extending across the full width of the lot between the rear lot line and the nearest line or point of the main building.

F. "Setback area, required side" means the area between the side lot line and the nearest line of the building, and extending from the front setback line to the rear setback line. (Ord. 1788 § 1 (part), 1998)

16.28.030 Fence location and height for zones requiring site review.

A. The Design Review Committee, Planning Commission and City Council shall have the authority to require, approve, or disapprove wall and fencing plans including location, height and materials in all zones requiring design review.

B. The basic design review guidelines for the review of fences and walls are as follows:

1. Fences and walls separating commercial, industrial, offices, and institutional zones from residential zones shall be constructed at a height and with materials designed to acoustically isolate part of or all noise emitted by future uses within the commercial, industrial, offices, or institutional zones. The degree of acoustical isolation shall be determined during the design review process.

2. Fences and walls separating commercial, industrial, offices, and institutional zones from residential zones shall be constructed at a height and with materials designed to ensure visual privacy for adjoining residential dwelling units. The degree of visual privacy shall be determined during the review process.

3. Fences and walls shall be designed in a manner to provide for sight visibility at private and

public street intersections. (Ord. 1844 § 1 (part), 2000; Ord. 1788 § 1 (part), 1998)

16.28.040 Fence location and height for zones not requiring site review.

A. In the case of an interior residential lot, a maximum six-foot-high fence shall be permitted in the rear yard setback area and in the side yard setback areas. A maximum three-foot-high fence, measured from finish grade, shall be permitted in the front yard setback area.

B. In the case of a corner residential lot, a maximum six-foot-high fence shall be permitted in the required rear yard setback area and on the side yard lines, excepting that fence heights within the side yard setback area adjacent to a public street shall be regulated as described below. No portion of a fence shall extend into the front yard setback area or forty-foot corner triangle.

1. Situation in which the rear property line adjoins a rear property line: The minimum side fence setback line for a six-foot-high fence shall be five feet from the property line.

2. Situation in which the rear property line adjoins the side property line of a key lot: The minimum side fence setback line shall be five feet from the property line, except that the setback line within ten feet of an adjacent side property line shall be maintained at twelve feet.

3. A fence not exceeding three feet in height measured from finish grade can be constructed on any location within a required yard except the forty-foot corner triangle.

C. Where a six-foot fence is allowed, an eight-foot-high fence can be constructed in lieu thereof subject to building permit approval and upon receipt of written approval from property owners.

D. In the case of parcels zoned residential hillside (RHS) or open space (OS), the fences shall be governed by Section 19.40.080.

16.28.045 Vehicular electronic security gates.

Vehicular electronic security gates may be ap-

proved through a fence exception if the development meets any one of the following conditions: is a mixed-use development, where the parking for different uses needs to be separated to assure availability of parking for each use; if a development includes a below-grade parking structure, where the gates are required to secure the below grade parking; if gates are required for a development to obtain federal or state funding; if the development is secluded; if the electronic gates are needed for demonstrated security reasons; or if the electronic gates were in existence prior to September 20, 1999. (Ord. 1833, 1999; Ord. 1802 (part), 1999)

16.28.050 Proximity of plants and fences to public streets.

The proximity of plants and fences to public streets shall be controlled by the provisions of Chapter 14.08 of the Municipal Code. (Ord. 1788 § 1 (part), 1998)

16.28.060 Exceptions.

Where practical difficulties, unnecessary hardships, or results inconsistent with the purpose and intent of this chapter result from the strict application of the provisions hereof, exceptions may be granted as provided in this section.

A. Application and Fee. Application shall be made in writing to the Design Review Committee on a form prescribed by the Director of Community Development. The application shall be accompanied by a fee as prescribed by City Council resolution.

B. Public Hearings. Upon receipt of an application for exception, the Director of Community Development shall set a time and place for a public hearing before the Design Review Committee and order the public notice thereof. Mailed written notice of the hearing on the fence exception shall be given by the Director of Community Development to all owners or record of real property (as shown in the last assessment roll) which abut the subject property, as well as property and its abutting properties to the left and right, directly opposite the subject property and located across a street, way, highway or alley. Mailed notice shall include owners of

property whose only contiguity to the subject site is a single point. Said notice shall be mailed by first class mail at least ten days prior to the Design Review Committee meeting in which the application will be considered. The notice shall state the date, time and place of the hearing. A description of the fence exception shall be included in the notice. If the Director of Community Development believes the project may have negative effects beyond the range of the mailed notice, particularly negative effects on nearby residential areas, the Director, in his discretion, may expand noticing beyond the stated requirements.

Compliance with the notice provisions set forth in this section shall constitute a good-faith effort to provide notice, and failure to provide notice, and the failure of any person to receive notice, shall not prevent the City from proceeding to consider or to take action with respect to an application under this chapter.

The Design Review Committee shall hold a public hearing at which time the committee may grant the exception based upon the following findings:

1. The literal enforcement of the provisions of this chapter will result in restrictions inconsistent with the spirit and intent of this chapter.
2. The granting of the exception will not result in a condition which is materially detrimental to the public health, safety or welfare.
3. The exception to be granted is one that will require the least modification of the prescribed regulation and the minimum variance that will accomplish the purpose.
4. The proposed exception will not result in a hazardous condition for pedestrian and vehicular traffic.
5. The proposed development is otherwise consistent with the City's General Plan and with the purpose of this chapter as described in Section 16.28.010.
6. The proposed development meets the requirements of the Santa Clara Fire Department and Sheriff's Department, and if security gates are proposed, that attempts are made to standardize access.

After closing the public hearing, the Planning Commission may approve, conditionally approve or deny the application for exception.

C. Appeals. Any application for exception which received final approval or disapproval by the Design Review Committee may be appealed to the Planning Commission as provided by Section 19.136.060 of this code. (Ord. 1844 § 1 (part), 2000; Ord. 1822 (part), 1999; Ord. 1802 (part), 1999; Ord. 1788 § 1 (part), 1998)

16.28.065 Temporary fences for construction.

The Chief Building Official may require persons constructing structures in the City to erect and maintain temporary fences around all or a portion of the construction site in order to secure the site from entry by the general public. (Ord. 1777 (part), 1998)

16.28.070 Violation—Penalty.

Any person who violates the provisions of this chapter shall be guilty of an infraction and upon conviction thereof shall be punished as provided in Chapter 1.12. (Ord. 1788 § 1 (part), 1998)