

City of Canby

MEMO TO PLANNING COMMISSION

DATE: March 31, 2024
WORK SESSION DATE: April 8, 2024
TO: Planning Commission
STAFF: Ryan Potter, AICP, Planning Manager
SUBJECT: Fence Standards – Session #4

Overview

Canby Planning Staff and the Planning Commission have held three work sessions related to updating the City’s fence standards. These previous sessions are listed below, along with links to the applicable meeting packets and YouTube videos. Staff encourage the Planning Commission to revisit these materials as a refresher on previous discussions.

Work Session	Date	Link to Packet and Video
1	June 27, 2022	https://www.canbyoregon.gov/bc-pc/page/planning-commission-meeting-52
2	July 25, 2022	https://www.canbyoregon.gov/bc-pc/page/planning-commission-meeting-53
3	December 12, 2022	https://www.canbyoregon.gov/bc-pc/page/planning-commission-meeting-61

Upon digesting the Commission’s previous comments, Planning Staff recognize that fencing is a complicated subject with a number of facets:

- Property rights and property owner’s expectations,
- Code enforcement and fairness,
- Responsibilities of developers,
- Privacy and security,
- Urban design and neighborhood/community character,
- Safety, including pedestrian safety; and
- Sight distance and vision obstruction.

Due to this complexity, Staff have identified an approach to addressing potential code changes by placing different aspects of the subject in three different “buckets” to be discussed semi-independently. These are summarized on the following page.

Bucket 1	Bucket 2	Bucket 3
<p style="text-align: center;">Fences for Typical Residential Yards</p>	<p style="text-align: center;">Fences for Special Conditions</p>	<p style="text-align: center;">Enforcement/ Processes</p>
<ul style="list-style-type: none"> • Fences heights in corner lot side yards • Fence heights within front setbacks 	<ul style="list-style-type: none"> • Fences that back onto roadways • Fences along trails/paths • Fences that abut parks • Fences separating uses (residential adjacent to nonresidential) • Etc. 	<ul style="list-style-type: none"> • Proactive vs. reactive enforcement • Potential for enforcing vision clearance/sight obstruction/vegetation overgrowth • Fence permit vs. no permit • Certificate of occupancy oversight

In recent years, the items under Bucket 1 have caused the most issues with homeowners, builders, and developers. Staff recommend we aim to resolve the issues with these provisions first, with the idea that items under Bucket 2 and Bucket 3 will be subsequently addressed.

Fences for “typical” residential yards have been an issue largely because corner lot homeowners generally prefer to fully enclose their back yards with full height-fences, to preserve privacy and contain pets. Often, the aforementioned parties have either 1) ignored the code and built fences that are too high, or 2) complied with the code but strongly voiced objections to the current height limits.

Current Fence Code

Although a few tangential provisions are located elsewhere, Canby’s fence code is primarily located in Subsection 16.08.110 of Chapter 16.08, *General Provisions*. This chapter is an assortment of code provisions, many unrelated to each other, which make this a less than ideal location for the fence code. Staff have received feedback that the fence code is hard to find for the layperson.

The current fence code is reproduced in its entirety below. Note that the first two provisions (A and B) are those that apply to Bucket 1 site conditions:

16.08.110 Fences.

- A. Fences not more than three and one-half feet in height may be constructed within the street setbacks of any R-1, R-1.5, R-2 or C-1 zone. Fences not more than six feet in height may be constructed in any interior yard, rear yard, or street yard along an alley; provided, however, that in no case shall a fence be constructed in violation of the requirements of a vision clearance area.
- B. On corner lots, the 3.5-foot height limit will apply within the required setback along both street-facing yards.
- C. No more than one row of fencing is allowed within a required street yard setback.

- D. The Planning Commission may require sight-blocking or noise mitigating fences for any development it reviews.
- E. Fences of up to eight feet in height are permitted for any development in C-2, C-M, M-1 or M-2, or Planned Unit Development zones.
- F. No fence/wall shall be constructed throughout a subdivision, planned unit development or be part of a project that is/was subject to site and design review approval where the effect or purpose is to wall said project off from the rest of the community unless reviewed and approved by the Planning Commission. (Ord. 890 section 8, 1993; Ord. 740 section 10.3.05(K), 1984; Ord. 955 section 2, 1996; Ord. 981 section 43, 1997)
- G. In all zones, private fences along a public pedestrian/bicycle pathway shall comply with the following in order to provide security and visibility for pathway users while maintaining privacy for the residence.
 - 1. Fencing installed as part of a new subdivision shall comply with either (a) or (b) below.
 - 2. Fencing installed by a property owner on an individual lot shall comply with either (a), (b), or (c) below.
 - i. Solid fencing shall be no greater than four (4) feet in height; or
 - ii. Fencing shall be constructed with black open wire material, wooden slats, or some other material that allows visual access between the pathway and adjacent uses; or
 - iii. Solid fencing shall be set back at least three (3) feet from the property line that abuts the pathway.
- H. Use of hazardous materials. Fences and walls shall not be constructed of or contain any material which will do bodily harm, such as electric or barbed wire, razor wire, broken glass, spikes, or any other hazardous or dangerous material, except as follows:
 - 1. Barbed wire or electrified fences enclosing livestock are permitted in any zone permitting farm use. Electrified fences shall be posted or flagged at not less than 25-foot intervals with clearly visible warnings of the hazard when adjacent to developed areas.
 - 2. In commercial and industrial zones barbed wire is permitted attached to the top of a fence that is at least six foot in height above grade; provided, that barbed wire shall not extend over a street, sidewalk, alley or roadway. The attached barbed wire shall be placed at least six inches above the top of the fence. (Ord. 890 section 8, 1993; Ord. 740 section 10.3.05(K), 1984; Ord. 955 section 2, 1996; Ord. 981 section 43, 1997; Ord. 1338, 2010; Ord. 1514, 2019)
 - 3. 1996; Ord. 981 section 43, 1997; Ord. 1338, 2010; Ord. 1514, 2019)

Analysis

Changing provisions A and B, as identified above, would add clarity to the City's fence code and address comments and complaints received by Planning Staff. Code options for A and B are identified below:

Option 1 – Retain Current Code Language

- A. Fences not more than three and one-half feet in height may be constructed within the street setbacks of any R-1, R-1.5, R-2 or C-1 zone. Fences not more than six feet in height may be constructed in any interior yard, rear yard, or street yard along an alley; provided, however, that in no case shall a fence be constructed in violation of the requirements of a vision clearance area.
- B. On corner lots, the 3.5-foot height limit will apply within the required setback along both street-facing yards.

Option 2 – Allow Residents to Fully Enclose Their Back Yards (via minor edits)

- A. Fences not more than three and one-half feet in height may be constructed within the **front** street setbacks of any R-1, R-1.5, R-2 or C-1 zone. Fences not more than six feet in height may be constructed in any interior yard, rear yard, or street yard along an alley; provided, however, that in no case shall a fence be constructed in violation of the requirements of a vision clearance area.
- ~~B. On corner lots, the 3.5-foot height limit will apply within the required setback along both street-facing yards.~~

Option 3 – Allow Residents to Fully Enclose Their Back Yards (restructured code)

- A. Fences in the R-1, R-1.5, R-2, and C-1 zones shall be constructed consistent with following development standards:
 - 1. Fences may not be taller than six feet in height in any location or condition.
 - 2. Fences in rear and side yard setbacks may be up to six feet in height (including adjacent to alleys, abutting properties, and streets), except where the side yard setback overlaps with the front yard setback (on both corner and non-corner lots).

[Optional language: Fences in corner lot side yards must be set back X feet from the back of sidewalk.] [Optional language: Fences adjacent to alleys must be set back X feet from the alley.]
 - 3. Fences in all front yard setbacks may not exceed three and one-half feet.

[Alternative language: Fences may not exceed three and one-half feet in the area between the front building façade and the public right-of-way.]
 - 4. In no case shall a fence be constructed in violation of the requirements of a vision clearance area.

These options are not exhaustive but are identified here to facilitate conversation in the Planning Commission work session. Because all of the above options result in positives and negatives, Planning Staff do not endorse a particular code option for provisions A and B at this time.

Three graphics from Work Session #3 are included below for reference. Figures 1 and 2 show what is currently allowed on corner lots, with all “street yards” requiring shorter fences.

Figure 1 – Current limitations on enclosing back yards (1 of 2).

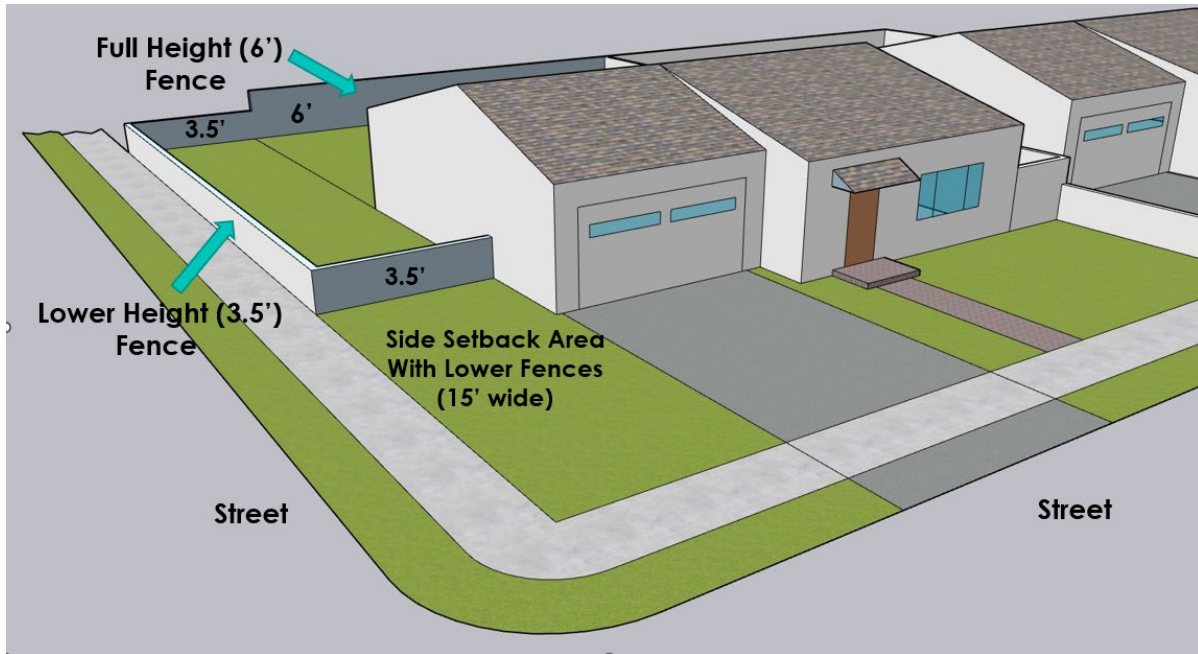


Figure 2 – Current limitations on enclosing back yards (2 of 2).

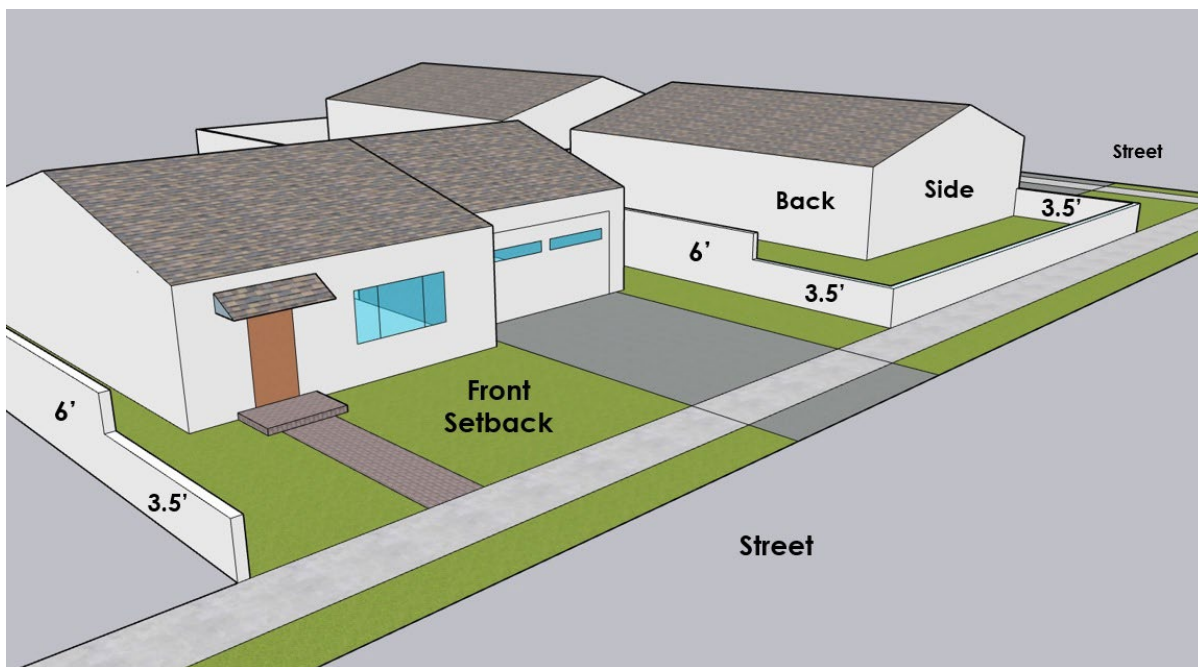
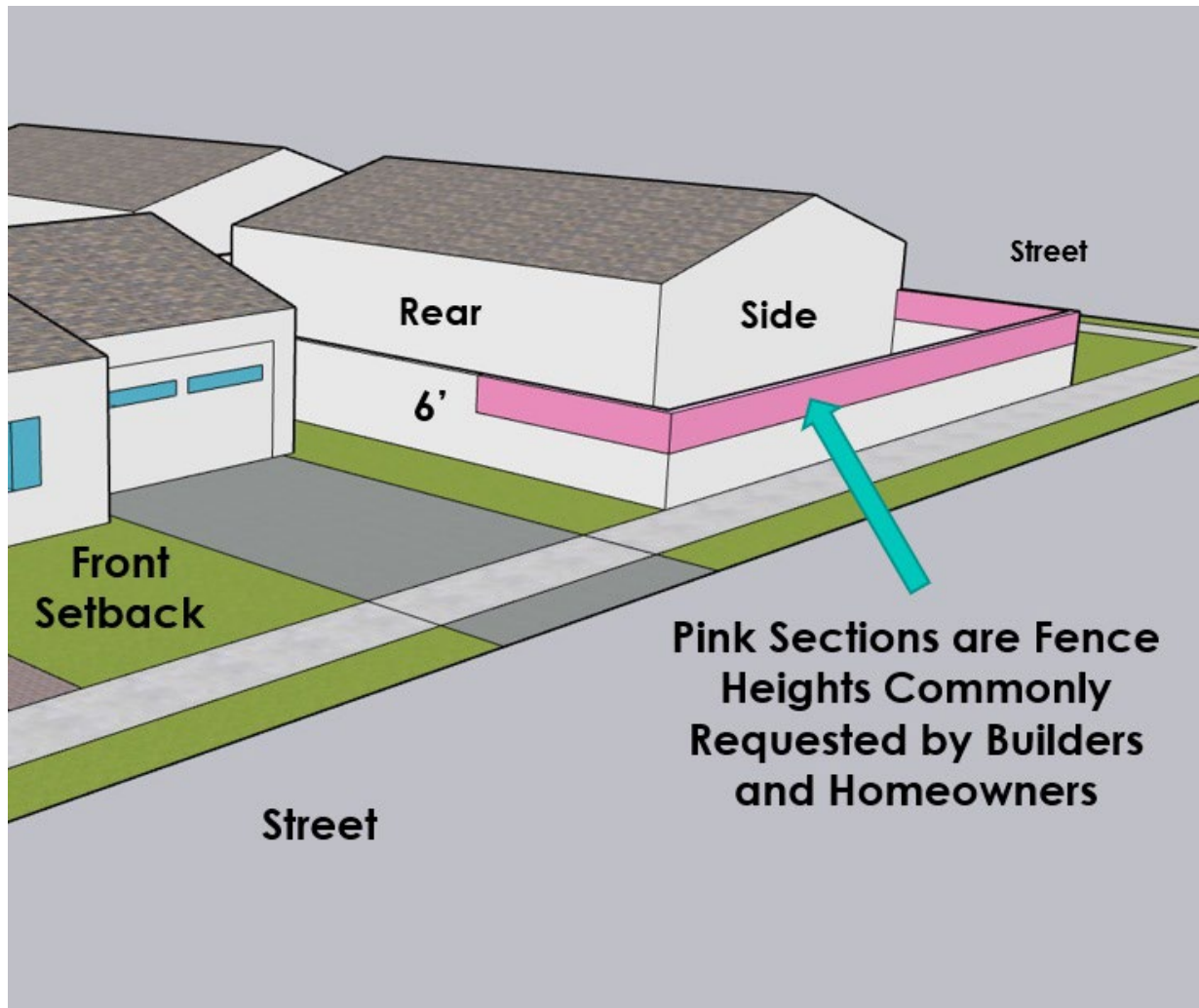


Figure 3 shows what many homeowners, builders, and developers have requested, which is corner lot back yards that have full-height (six feet) fences that wrap around into the street-facing side yard. Note that the viewer is looking at the back of a home whose “front” is facing the back of the graphic. Also note that if this home had a mirrored row of houses behind it, the pink fence would presumably be twice as long along the side-street sidewalk.

Figure 3 – More permissive back/side yard fencing.



Staff Recommendation

Planning Staff recommend that the Planning Commission continue to contemplate changes to the City’s fence code as Staff work on additional code language.

Attachments

- Planning Commission Memo from July 11, 2022.