



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** February 25, 2014

**TO:** Council Ordinance Committee

**FROM:** Planning Division, Community Development Department

**SUBJECT:** Municipal Code Amendments Regarding Fences, Screens, Walls And Hedges

### **RECOMMENDATION:**

That the Ordinance Committee consider a draft ordinance amending the Santa Barbara Municipal Code (SBMC) as it relates to fences, screens, walls and hedges, based on recommendations from the Staff and Planning Commission.

### **DISCUSSION:**

#### Background

For many years the Planning Division has identified SBMC §28.87.170 (Fences, Screens, Walls and Hedges), originally adopted in 1957, as needing review and possible revision. On November 25, 2008, City Council adopted an ordinance to suspend for two years the application of SBMC §28.87.170.A and §28.87.170.B.1 to hedges to allow time for a comprehensive amendment to the code. The suspension was extended on March 15, 2011 for three additional years and will expire March 23, 2014.

#### Current Standards

SBMC §28.87.170 regulates the height and location of fences, screens, walls and hedges on private property in the A, E, R, C-O, and C-X Zones. Specifically, it limits the height of those elements to eight feet (8') in required setbacks, and to three and one-half feet (3½') within ten feet of a front lot line, within 10 feet of either side of driveway for a distance of 20 feet back from the front lot line, or within 50 feet of a street corner.

#### Public Input

Since 2008, Staff has maintained a list of parties interested in this subject and notified them by mail of all relevant public hearings. As part of this recent work effort, staff sought initial direction and input at seven public meetings:

- April 17, 2013 – Joint City Council/Planning Commission Work Session
- June 25, 2013 - City Council Ordinance Committee
- August 14, 2013 - Neighborhood Advisory Council

- September 23, 2013 – Single Family Design Board
- December 5, 2013 – Planning Commission
- December 18, 2013 – Historic Landmarks Commission
- January 23, 2014 – Planning Commission

Additionally, in July 2013, a page on the City's website was dedicated to this subject where background material and notices of upcoming hearings could be readily accessed by the public. Notifications were also posted on the website, NextDoor, requesting subscribers to participate in the ordinance amendment process.

Overall, public input has maintained a general and constant theme – the City should continue to regulate the height of fences and walls for the general welfare of the community, while allowing staff to approve exceptions to the standards when appropriate. Opinions are more varied when it comes to establishing and enforcing the height limit for hedges, which is further discussed below.

### Proposed Amendments

The City Attorney's office has prepared a draft ordinance based on recommendations from staff and the Planning Commission (see Attachment 1). The purpose of the proposed amendments is to develop regulations consistent with the community's values that can be regularly and fairly enforced. A large majority of the proposed amendments have the support of staff, the Planning Commission, and the public. Also strongly supported are the proposed administrative authority to grant exceptions to the height limits, when warranted, and if certain findings can be made, the use of guidelines to help implement the regulations.

The one issue that warrants further discussion is the height limit and extent of City enforcement of hedges. Throughout the public meetings, many have stated that hedges should be treated differently; however, it was not entirely clear what was intended by that statement or how that would be effectuated in an ordinance until the most recent Planning Commission meeting.

### **Fences and Walls**

There is general support among staff, the Planning Commission, and the public to retain the existing height limits for fences and walls, with the understanding that flexibility will be allowed through a new administrative approval process. As proposed, and recommended by the Planning Commission, fences and walls would be limited to eight feet (8') in all required setbacks and three and one-half feet (3 ½') within ten feet of a front lot line. The administrative review and approval process would allow staff to grant up to an additional four feet (4') in height in these areas if the required findings (SBMC §28.87.170.E) can be made.

### **Guardrails, Decorative Elements and Arbors**

Staff has received positive feedback on our proposal to allow building code-required guardrails to exceed the fence or wall height limit by the minimum amount necessary, and to allow decorative elements (e.g., finials, posts, lighting fixtures) to exceed the

maximum height of a fence or wall by not more than twelve inches (12”), provided such features are spaced not less than six feet (6’) apart. Similarly, there is general support to allow an entryway arbor, not to exceed eight feet in height, in front yards to announce the pedestrian entrance to the property.

### **Driveways**

The current 3½’ height limit for all elements within 10 feet of driveway for a distance of 20 feet back from the front lot line is excessive in many cases. Staff’s proposal to reduce the area subject to that 3½’ height limit to a smaller triangle (as opposed to a rectangle) has been well-received. As proposed, when a driveway directly abuts a street improved with a sidewalk and parkway, the visibility triangle is measured on two sides by a distance of 10 feet from the side of a driveway and 10 feet back from the front lot line. Otherwise, the triangular area is measured on two sides by a distance of 20 feet from the side of a driveway and 10 feet back from the front lot line. Diagrams depicting these areas are in the *Fences, Screens, Walls and Hedges Guidelines* (Attachment 2).

Notwithstanding the above, pursuant to SBMC §28.87.170.B.2, staff could further restrict the height of any fence, screen, wall or hedge if it obstructs the sightlines required for the safe operation of motor vehicles.

### **Street Corners**

Based on initial direction from the Ordinance Committee, staff developed templates for various stop-controlled intersection scenarios that establish the area within which elements on corner lots must adhere to a 3½’ height limit. The “Intersection Sight Distance” diagram is referenced in the proposed ordinance and included in the attached *Fences, Screens, Walls and Hedges Guidelines*.

### **Hedges and Screens**

At various public meetings, the question as to whether or not hedges along interior property lines should be allowed to extend to 12 feet in height, or not be regulated at all, received mixed responses from the public and advisory group members. Any established height limit will not address every situation perfectly in a community with varied topography and lot sizes, and highly valued public and private views. This is the primary reason why staff had proposed maintaining height limits of eight feet along interior property lines and 3½ feet near front property lines, with the administrative approval process to consider exceptions (up to an addition four feet) to established height limits based on site-specific factors.

While some believe that even the current height limit of eight feet along interior property lines can impede one’s access to sunlight and air on smaller lots, many people expressed to the Planning Commission that the height limit should be increased and, furthermore, that the City should only take enforcement action on an over-height hedge if/when a directly affected neighbor complains. A majority of people agree that, in any case, directly affected neighbors should play a role in establishing an agreeable height limit along interior property lines.

On January 23, 2014, the Planning Commission ultimately recommended that hedges be allowed to extend to 12 feet in all required setbacks, and to 7 ½' within ten feet of a front lot line. Hedges and screens, along with fences and walls, would continue to adhere to a 3½' height limit within the visibility triangle adjacent to driveways and in accordance with the Intersection Sight Distance for corner lots. As recommended by the Planning Commission, the administrative approval process would allow staff to grant up to an additional four feet (4') in height if the required findings can be made, including compliance with the City's solar access regulations (SBMC §28.11.020).

While staff is not proposing a change to our current enforcement policy that allows anyone to request the city to investigate a potential code violation, the proposed increase in allowed hedge height will inherently lessen the potential for violations and the administrative approval process will offer a much-needed remedy for abatement. Given that hedges do not require a building permit, unlike walls or fences over 3½' in height, staff is reconsidering the practice of routinely asking property owners to identify their location and height on project plans and will also consider whether or not over-height hedges should be listed on Zoning Information Reports as violations.

Regardless of the outcome of this amendment process, staff has no intention to change our practice and begin proactively enforcing hedge heights, unless deemed a safety hazard. Thus, the large number of hedges currently out of compliance with the existing or future height limits could presumably remain in place until such time that a complaint is filed and enforcement action results in a lower height.

#### Administrative Authority

An administrative approval process is proposed to allow exceptions to these standards if necessary findings can be made. The intent is to provide flexibility in applying the regulations to unique sites, with topographical or other physical challenges, without requiring a Modification (SBMC §28.92.110) and hearing before the Staff Hearing Officer for relatively minor exception requests. Of particular note is the requirement that adjacent property owners agree to allow a fence, screen, wall or hedge to exceed the height limit along an interior property line prior to staff considering the exception request. The authority for the administrative review and approval process is included in the Municipal Code and the proposed guidelines (discussed below) provide some examples for which staff may consider exceptions to the standards.

#### Proposed Guidelines

The proposed *Fences, Screens, Walls and Hedges Guidelines* are intended to assist in the implementation of the Municipal Code. Beyond amending the regulations to better reflect the community's values and the current pattern and style of development, staff and the public could benefit from guidelines to further clarify certain aspects of the regulations best explained in layperson's terms, diagrams and pictures. The guidelines also describe how regulations are applied in unique circumstances, the basic parameters to grant administrative approval, and the triggers for design review and the

extent to which staff may rely on the input of design review boards when considering an exception request.

**BUDGET/FINANCIAL INFORMATION:**

No significant expenditures are required for the staff work required to implement amendments to SBMC §28.87.170.

**ATTACHMENT(S):** 1. Draft Ordinance Amending SBMC §28.87.170  
2. Draft *Fences, Screens, Walls and Hedges Guidelines*

**PREPARED BY:** Renee Brooke, AICP, Senior Planner

**SUBMITTED BY:** Bettie Weiss, City Planner/Acting Community Development Director

**APPROVED BY:** City Administrator's Office

ORDINANCE COMMITTEE DISCUSSION DRAFT 2/25/14  
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AN ORDINANCE OF THE COUNCIL OF THE  
CITY OF SANTA BARBARA AMENDING  
SECTION 28.87.170 OF THE SANTA BARBARA  
MUNICIPAL CODE RELATING TO FENCES,  
SCREENS, WALLS AND HEDGES.

THE COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS  
FOLLOWS:

**SECTION 1.** Section 28.87.170 of Chapter 28.87 of the Santa Barbara Municipal Code is deleted in its entirety and readopted to read as follows:

**28.87.170 Fences, Screens, Walls and Hedges.**

A. **DEFINITIONS.** As used in this Section 28.87.170, the following terms and phrases shall have the indicated meanings:

1. **Arbor.** An open structure typically constructed of latticework or metal that often provides partial shade or support for climbing plants, sometimes referred to as a trellis or pergola. An arbor is not considered an accessory building.
2. **Fence.** An upright structure serving as an enclosure, barrier, or boundary or that visually divides or conceals a parcel, usually made of posts, boards, wire, or rails.
3. **Hedge.** A row of closely planted shrubs, bushes, or any other kind of plant material that forms a boundary or substantially continuous visual barrier.
4. **Parkway.** An area between the curb and sidewalk in a fully improved right of way, typically landscaped.
5. **Screen.** Vegetation, including but not limited to trees, shrubs, bushes, and other plantings, that visually divides or conceals a parcel.
6. **Wall.** An upright structure of masonry, wood, plaster, or other building material serving to enclose, divide, or protect an area.

B. **GENERAL RULES.** The following guidelines and standards apply in any zone within the City:

1. **Guidelines.** The Fences, Screens, Walls and Hedges Guidelines, as adopted by resolution of the City Council, shall provide direction and guidance to decision makers and City staff in connection with applications reviewed pursuant to this Section.
2. **Required Reduction for Safety.** If the height of any fence, screen, wall or hedge obstructs the sightlines required for the safe operation of motor vehicles, the Public Works Director (or Director's designee) may declare the fence, screen, wall or hedge to be a public nuisance and require the reduction of the height of the fence, screen, wall or hedge in order to provide for the safe operation of motor vehicles.
3. **Height Measurement.** The height of a fence, screen, wall or hedge shall be measured in a vertical line from the lowest point of contact with the ground directly adjacent to

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either side of the fence, screen, wall or hedge to the highest point of the fence, screen, wall or hedge along said vertical line.

4. **Separation.** Unless there is a horizontal separation of at least five feet (5') between a fence, screen, wall or hedge, the combined height of a fence, screen, wall or hedge and any adjacent fence, screen, wall or hedge shall be measured from the lowest point of the lowest such fence, screen, wall or hedge to the highest point of other fences, screens, walls or hedges.

5. **Schools.** A chain link or open mesh type fence of any height necessary to enclose an elementary or high school site may be located and maintained in any required yard.

6. **Barbed Wire, Concertina Wire, Sharp Wire or Points.** No barbed wire or concertina wire shall be used or maintained in or about the construction of a fence, screen, wall or hedge along the front or interior lot lines of any lot, or within three feet (3') of said lot lines. No sharp wire or points shall project at the top of any fence or wall less than six feet (6') in height.

C. **RULES APPLICABLE TO FENCES AND WALLS ON RESIDENTIALLY ZONED PARCELS.** On parcels zoned A-1, A-2, A-3, E-1, E-2, E-3, R-1, R-2, R-3, or R-4, the following standards apply to fences and walls:

1. **Required Setbacks.** Except as otherwise provided in this Section, no fence or wall located in the required setbacks shall exceed a height of eight feet (8').

2. **Front Lot Lines.** Except as otherwise provided in this Section, no fence or wall located within ten feet (10') of a front lot line shall exceed a height of three and one-half feet (3-1/2').

3. **Driveways.** Except as otherwise provided in this Section, no fence or wall exceeding a height of three and one-half feet (3-1/2') shall be located within a triangular area on either side of a driveway as follows:

a. When a driveway directly abuts a portion of a street improved with a sidewalk and a parkway, the triangle is measured on two sides by a distance of ten feet (10') from the side of a driveway and ten feet (10') back from the front lot line.

b. When a driveway directly abuts a portion of a street without a sidewalk or parkway, the triangle is measured on two sides by a distance of twenty feet (20') from the side of a driveway and ten feet (10') back from the front lot line.

4. **Corner Lots.** Within the required "Intersection Sight Distance", as depicted in the Fences, Screens, Walls and Hedges Guidelines, no fence or wall may obstruct the sightlines required for the safe operation of motor vehicles. This paragraph does not apply to parcels located adjacent to intersections controlled by an all-way stop.

5. **Guardrails.** A guardrail may extend above the maximum height limit for a fence or wall without requiring an exception or modification, only to the minimum extent required for safety by the California Building Code, and only if the guardrail is predominately transparent.

6. **Decorative Elements.** Notwithstanding the above provisions, decorative elements not wider than nine inches (9") by nine inches (9"), such as pilaster caps, finials, posts, lighting fixtures, or similar decorative features as determined by the Community Development Director (or the Director's designee), may exceed the maximum height of any fence or wall by not more than twelve inches (12"), provided such features are spaced not less than six feet (6') apart, measured on-center.

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7. **Entryway Arbors.** Notwithstanding the above provisions, one entryway arbor, substantially open (no solid walls or roof) and not exceeding a maximum of eighteen (18) square feet in area and eight feet (8') in height, is permitted in any front yard. The square footage of the arbor shall be determined by the area located within the rectangle formed around the posts of the arbor or the roof portion of the arbor, whichever dimension is larger. This exception shall only apply to an entryway arbor used in combination with and attached to a fence or wall. No arbor shall be located on a street corner in conflict with the provisions of Section 28.87.170.C.4.

D. **RULES APPLICABLE TO SCREENS AND HEDGES ON RESIDENTIALLY ZONED PARCELS.** On parcels zoned A-1, A-2, A-3, E-1, E-2, E-3, R-1, R-2, R-3, or R-4, the following standards apply to screens and hedges:

1. **Required Setbacks.** Except as otherwise provided in this Section, no screen or hedge located in the required setbacks shall exceed a height of twelve feet (12').

2. **Front Lot Lines.** Except as otherwise provided in this Section, no screen or hedge located within ten feet (10') of a front lot line shall exceed a height of seven and one-half feet (7-1/2').

3. **Driveways.** Except as otherwise provided in this Section, no screen or hedge exceeding a height of three and one-half feet (3-1/2') shall be located within a triangular area on either side of a driveway as follows:

a. When a driveway directly abuts a portion of a street improved with a sidewalk and a parkway, the triangle is measured on two sides by a distance of ten feet (10') from the side of a driveway and ten feet (10') back from the front lot line.

b. When a driveway directly abuts a portion of a street without a sidewalk or parkway, the triangle is measured on two sides by a distance of twenty feet (20') from the side of a driveway and ten feet (10') back from the front lot line.

4. **Corner Lots.** Within the required "Intersection Sight Distance", as depicted in the Fences, Screens, Walls and Hedges Guidelines, no screen or hedge may obstruct the sightlines required for the safe operation of motor vehicles. This paragraph does not apply to parcels located adjacent to intersections controlled by an all-way stop.

E. **ADMINISTRATIVE REVIEW AND APPROVAL OF MINOR EXCEPTIONS.**

1. **Exceptions to the Fence and Wall Standards by the Community Development Director.** The Community Development Director (or the Director's designee) may grant minor exceptions, as specified in the Fences, Screens, Walls and Hedges Guidelines approved by a resolution of the City Council, to Paragraphs C.1, C.2, C.5, C.6, and C.7 above, if the Community Development Director finds that:

a. If the subject fence or wall is located on, or within the required setback of, an interior property line, the adjacent property owner(s) that share a common property line nearest to the fence or wall have agreed to the requested exception;

b. The granting of such exception will not create or exacerbate an encroachment into the necessary sightlines for safe operation of motor vehicles;

c. As applicable, the subject fence or wall will be compatible with other similarly situated and approved structures in the neighborhood; and

d. The granting of such exception will not be detrimental to the use and enjoyment of other properties in the neighborhood.

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**2. Exceptions to the Screen and Hedge Standards by the Community Development Director.** The Community Development Director (or the Director's designee) may grant minor exceptions, as specified in the Fences, Screens, Walls and Hedges Guidelines approved by a resolution of the City Council, to Paragraphs D.1 and D.2 above, if the Community Development Director finds that:

a. If the subject screen or hedge is located on, or within the required setback of, an interior property line, the adjacent property owner(s) that share a common property line nearest to the screen or hedge have agreed to the requested exception;

b. The granting of such exception will not create or exacerbate an encroachment into the necessary sightlines for safe operation of motor vehicles;

c. The screen or hedge will be compatible with the character of the neighborhood (the Community Development Director may seek advice from the appropriate design review body when considering this finding);

d. The proposed height of the screen or hedge will respect the height limitation applicable to structures for the protection of solar access as specified in Section 28.11.020 of this Code; and

e. The granting of such exception will not be detrimental to the use and enjoyment of other properties in the neighborhood.

**3. Exceptions to Corner Lot and Driveway Sightline Standards by the Public Works Director.** The Public Works Director (or the Director's designee) may grant minor exceptions, as specified in the Fences, Screens, Walls and Hedges Guidelines approved by a resolution of the City Council, to Paragraphs C.3, C. 4, D.3 and D.4 above, if the Public Works Director finds that:

a. The granting of such exception will not create or exacerbate an encroachment into the necessary sightlines for safe operation of motor vehicles; and

b. The granting of such exception will not be detrimental to the use and enjoyment of the other properties in the neighborhood.

F. NONCONFORMING. Any fence, screen, wall or hedge which is nonconforming to the provisions of this section and which existed lawfully on January 10, 1957 (the effective date of the ordinance adopting the provisions of this section) may be continued and maintained, provided there is no physical change other than necessary maintenance and repair in such fence or wall, except as permitted in other sections of this title. A hedge shall be determined to be nonconforming by the Community Development Director upon receipt of sufficient evidence indicating that the hedge existed in its present location on January 10, 1957. Notwithstanding the foregoing, no more than ten percent (10%) of the length of a nonconforming fence or wall may be replaced within any twelve-month period, unless: 1) such fence or wall is a significant structure or feature associated with a designated City Landmark or Structure of Merit and the extent of repair or maintenance occurs pursuant to Santa Barbara Municipal Code Section 22.22.070; or 2) such fence or wall is necessary to retain or support soil in a vertical or near vertical slope of earth. If a nonconforming fence, screen, wall or hedge has been determined to be a safety hazard by the Public Works Director, the Public Works Director (or Director's designee) may declare the fence, screen, wall or hedge to be a public nuisance and require the reduction of the height of the fence, screen, wall or hedge in order to provide for the safe operation of motor vehicles.

# Fences, Screens, Walls and Hedges Guidelines

## INTRODUCTION

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### Purpose of the Fences, Screens, Walls and Hedges Guidelines

The Fences, Screens, Walls and Hedges Guidelines have been developed to assist in the implementation of Santa Barbara Municipal Code Section 28.87.170. These guidelines explain, in user-friendly terms and diagrams, the application of the standards in various situations and provide criteria for circumstances that may qualify for Administrative approval of exceptions to the standards.

### Relationship to Other Documents

- **Relationship to the Zoning Ordinance.** The Zoning Ordinance (Title 28 of the Municipal Code) contains standards to which development must comply. In the event of a conflict between these Guidelines and the Municipal Code, the Code requirements prevail. These Guidelines are intended to augment the Municipal Code by providing additional detail and some examples of methods available to comply with the Code.
- **Relationship to Other Guidelines.** Many other City Guidelines provide direction regarding physical development, architectural style, site design and landscaping. The Fences, Screens, Walls and Hedges Guidelines are compatible with, and are not meant to contradict or take the place of, other applicable Guidelines. For example, the Fences, Screens, Walls and Hedges Guidelines primarily address the allowed location and height of fences, screens, walls and hedges. The exact material, color, width and style of any of those elements may be subject to other guidelines (e.g., Single Family Design Board General Design Guidelines and Meeting Procedures), as applicable.

## GUIDELINES

### Measuring Height

Per SBMC §28.87.170.B.3, the height of a fence, screen, wall or hedge shall be measured in a vertical line from the lowest point of contact with the ground directly adjacent to either side of the fence, screen, wall or hedge to the highest point of the fence, screen, wall or hedge along said vertical line. [Figure 1]

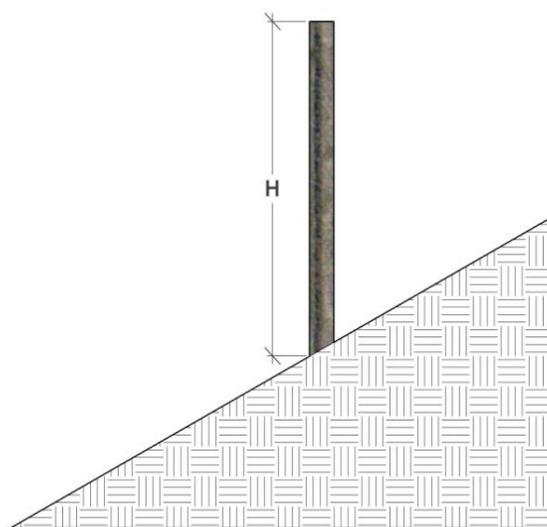


Figure 1

### Horizontal Separation

Per SBMC §28.87.170.B.4, if there is a horizontal separation of **at least** five feet (5') between fences, screens, walls or hedges, the height shall be measured separately for each fence, screen, wall or hedge. The horizontal separation shall be measured from the “back” face of the lower fence, screen, wall or hedge to the “front” face of the higher fence, screen, wall or hedge. [Figure 2]

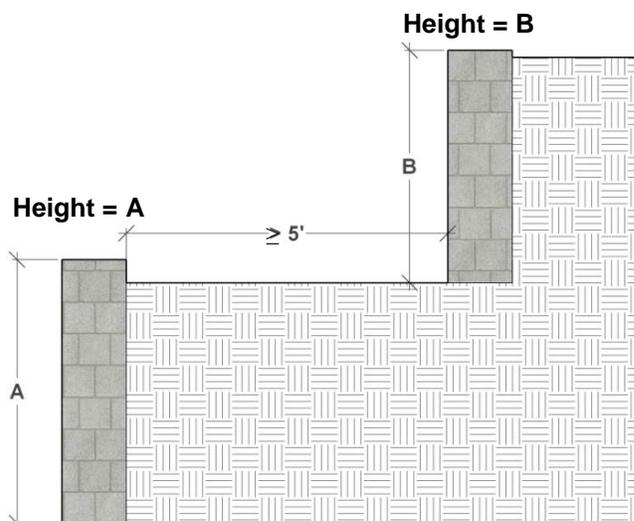


Figure 2

Also per SBMC §28.87.170.B.4, if there is a horizontal separation **less than** five feet (5') between fences, screens, walls or hedges, the height shall be measured as the cumulative vertical distance from the lowest point of the lowest fence, screen, wall or hedge to the highest point of other fences, screens, walls or hedges. The horizontal separation shall be measured from the “back” face of the lower fence, screen, wall or hedge to the “front” face of the higher fence, screen, wall or hedge. [Figures 3 through 5]

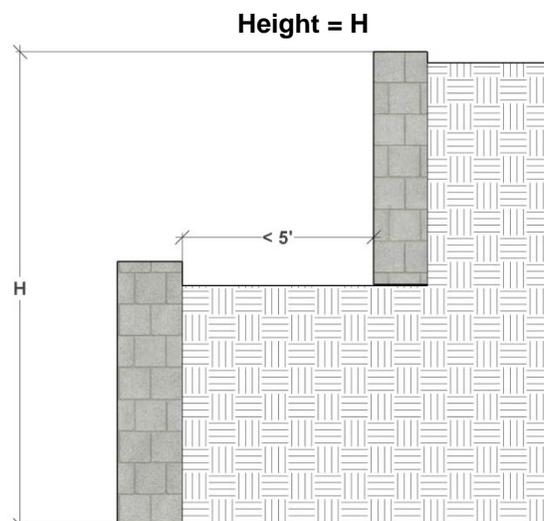


Figure 3

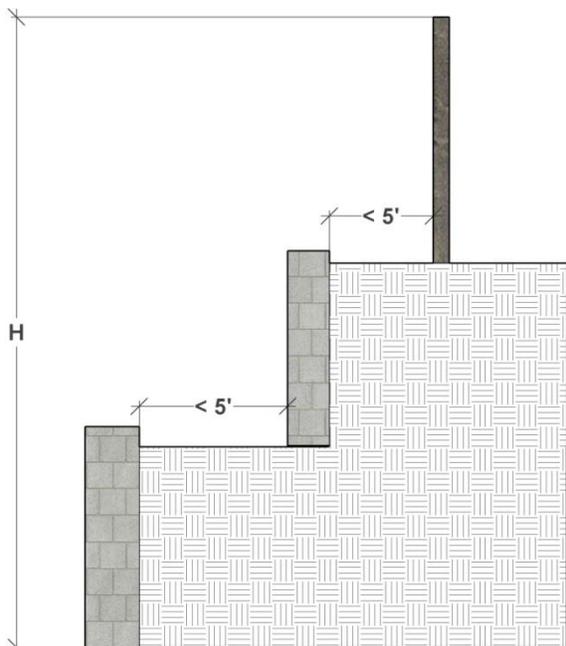


Figure 4

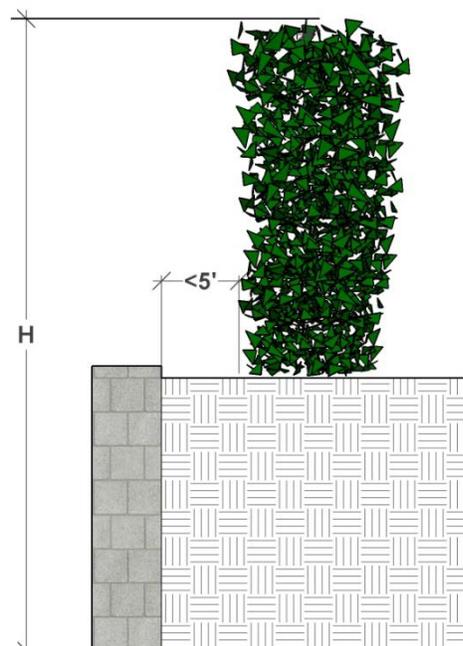


Figure 5

### Retaining Walls

Where fences, screens, walls or hedges are located on retaining walls, the portion of the retaining wall above finished grade shall be considered as part of the overall height of the fence, screen, wall or hedge.

### Guardrails

Per SBMC §28.87.170.C.5, a guardrail may extend above the maximum height of a fence or wall, but only to the minimum extent required for safety by the California Building Code (CBC Section 1013.2). To qualify for this exception to the height limit, safety guardrails themselves must be predominantly transparent. Some examples of guardrails that meet the intent of “predominantly transparent” are shown in Figures 6 through 8, below.



Figure 6

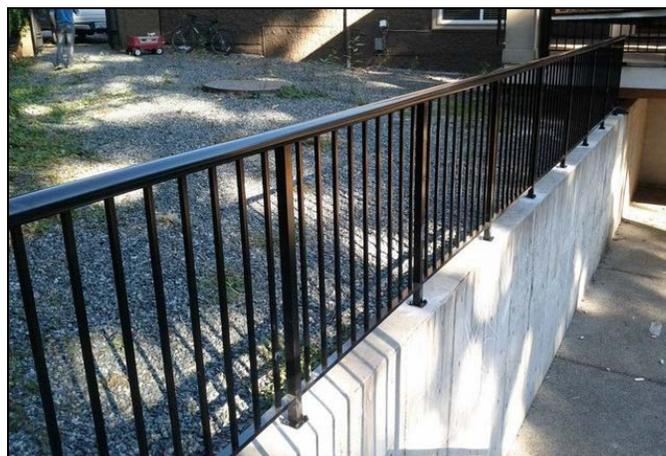


Figure 7

Guardrails or similar features proposed voluntarily to address an abrupt change in grade or perceived safety issue, and not explicitly required by the CBC, may exceed the height limit, subject to Administrative review and approval, and will be evaluated on a case-by-case basis.

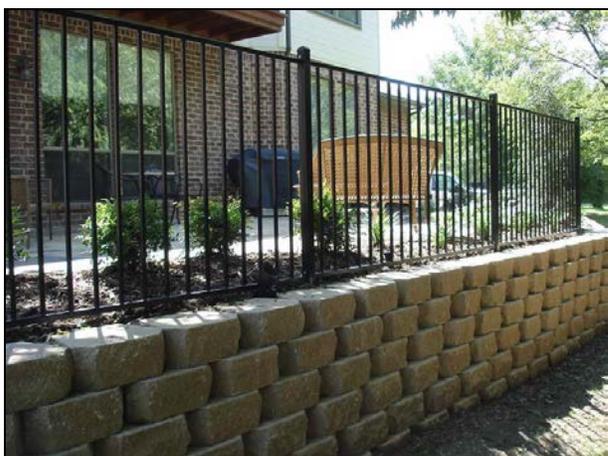


Figure 8



Figure 9

Guardrails that are not predominantly transparent (Figure 9) may exceed the height limit if necessary to achieve consistency with the architectural style of the site, subject to Administrative review and approval, and will be evaluated on a case-by-case basis.

### Driveways

Per SBMC §28.87.170.C.3, no fence, screen, wall or hedge exceeding a height of three and one-half feet (3-1/2') shall be located within a triangular area (often referred to as “visibility triangle” or “sightline”) on either side of a driveway, as described in the following scenarios.

When a driveway directly abuts a portion of a street improved with a sidewalk and parkway, the triangle is measured on two sides by a distance of ten feet (10') from the side of a driveway and ten feet (10') back from the front lot line [Figure 10].

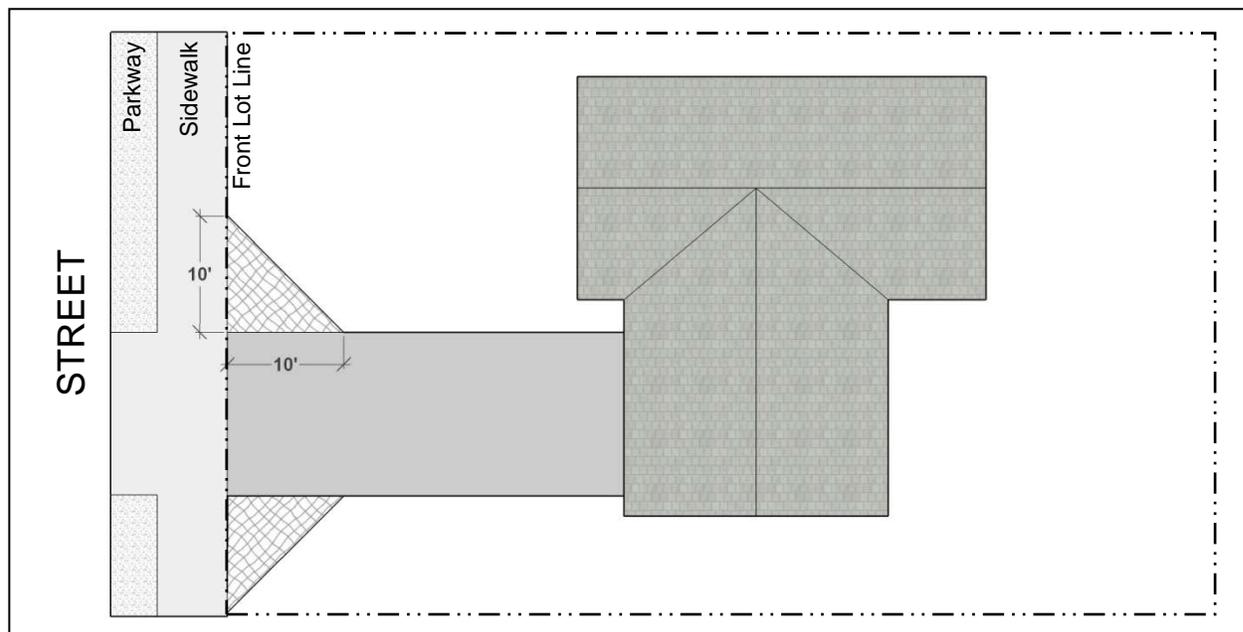


Figure 10

Figure 11 provides an example of how this provision may apply to a driveway not aligned perpendicularly to the street, which occurs in many locations throughout the community.

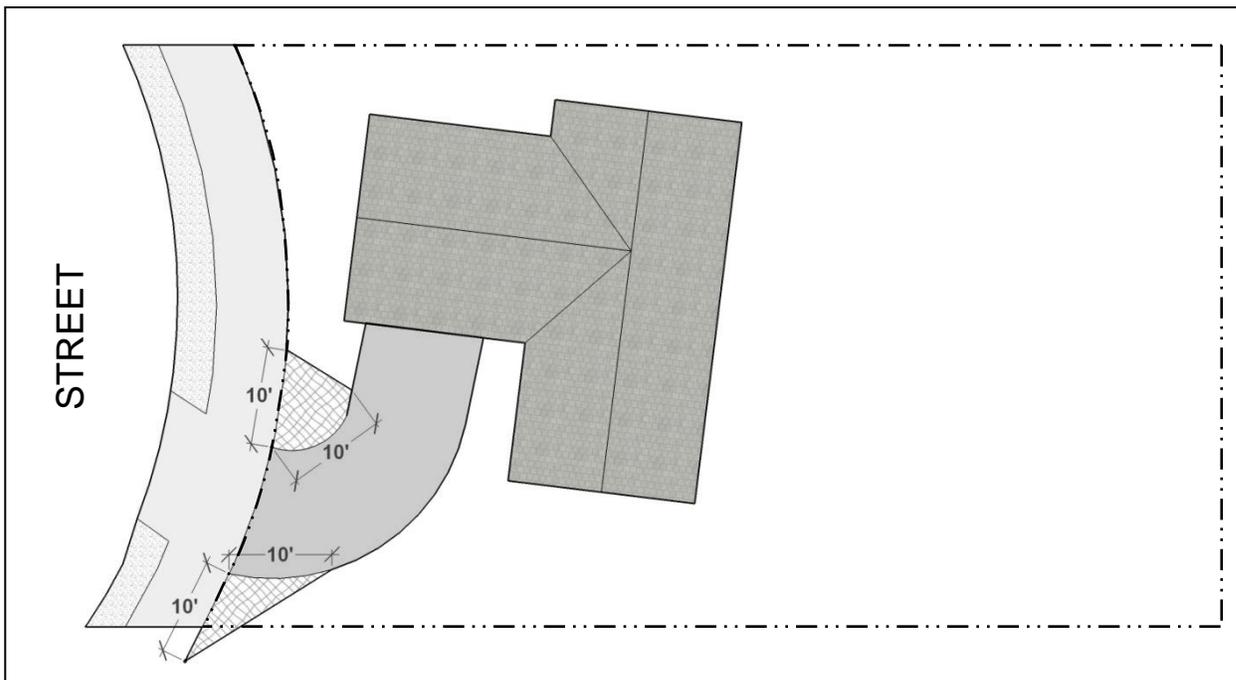


Figure 11

When a driveway directly abuts a portion of a street without a sidewalk or parkway, the triangle is measured on two sides by a distance of twenty feet (20') from the side of a driveway and ten feet (10') back from the front lot line. [Figure 12]

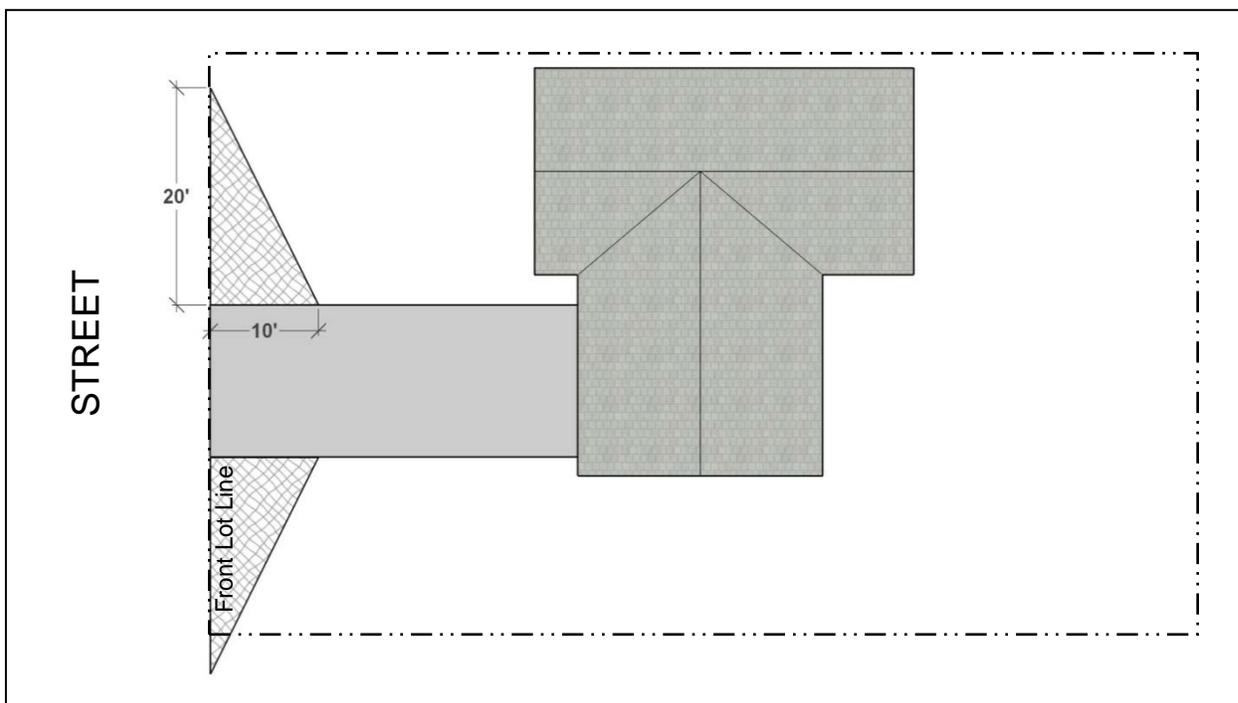


Figure 12

### Corner Lots

Per SBMC §28.87.170.C.4, the height and location of fences, screens, walls, or hedges located within the required “Intersection Sight Distance” (see Figure 13) shall be evaluated by Public Works Staff on a case-by-case basis. The required sight distance is established based on legal vehicle speed and the position of the driver’s eye in relation to the intersection. Fences, screens, walls or hedges located adjacent to intersections controlled by an all-way stop are not subject to additional height restrictions pursuant to this subsection. Use of this template does not preclude the need for additional visibility due to site-specific conditions.

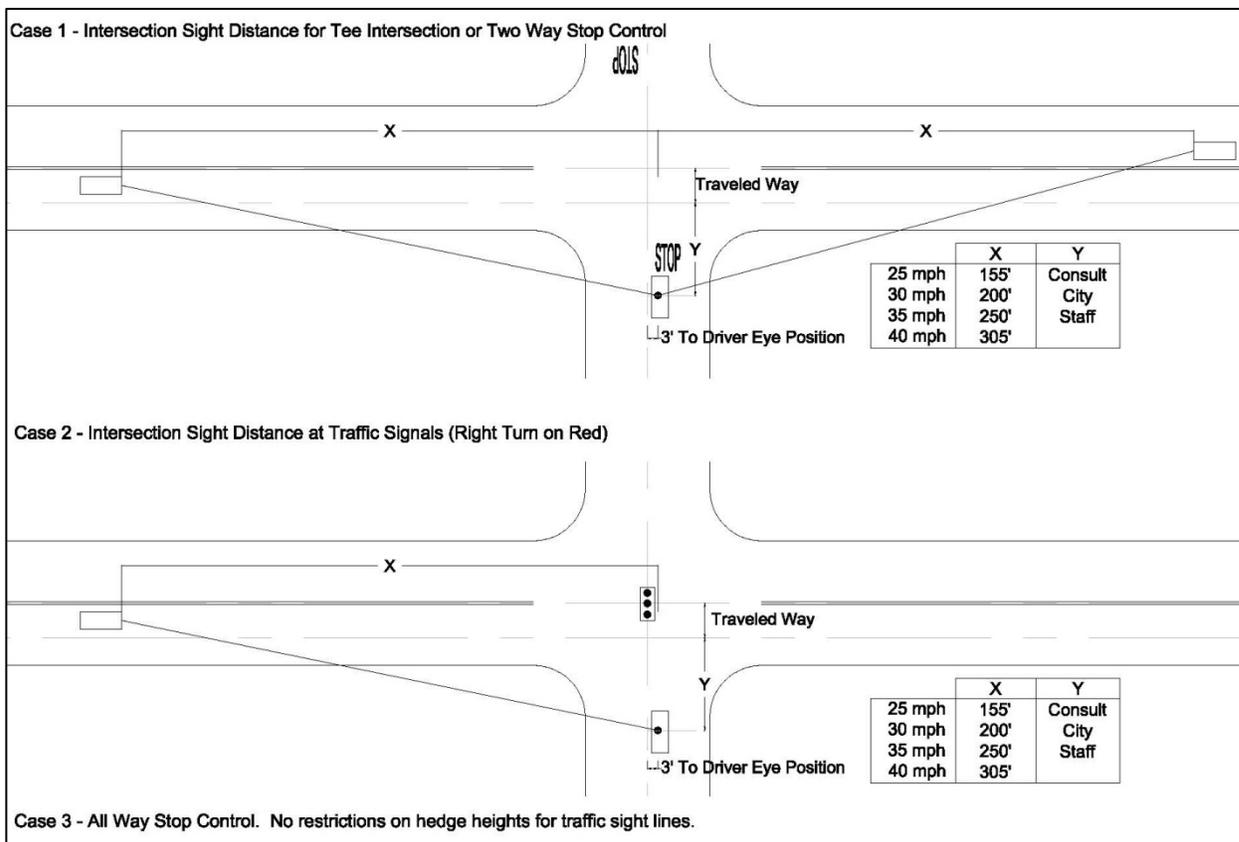


Figure 13

## Entryway Arbor

An entryway arbor is intended to provide a decorative gateway to the property and define the pedestrian entrance from the street. To meet the provisions of SBMC §28.87.170.C.7, an entryway arbor must be used in combination with, and attached to, a fence or wall. A free-standing arbor or similar element is subject to the provisions of SBMC §28.87.062 (Setback, Open Yard, Common Outdoor Living Space, and Distance Between Main Buildings Encroachment).

The square footage of the arbor shall be determined by the area located within the rectangle formed around the posts of the arbor or the roof portion of the arbor, whichever dimension is larger, as shown in Figures 14 and 15. The height is measured from the lowest point of contact with the ground directly adjacent to the arbor to the highest point of the arbor.

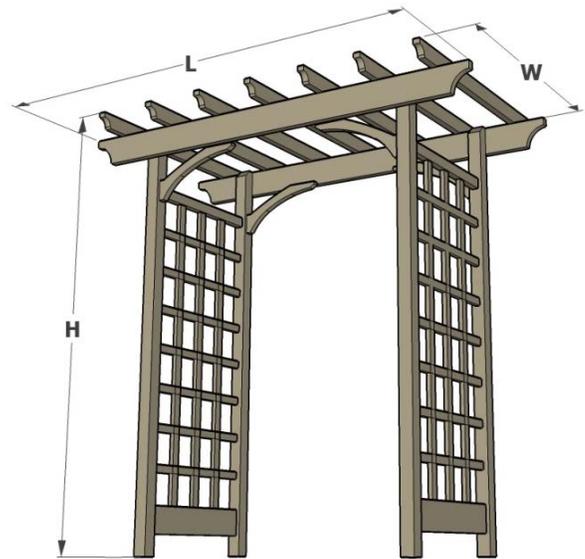


Figure 14

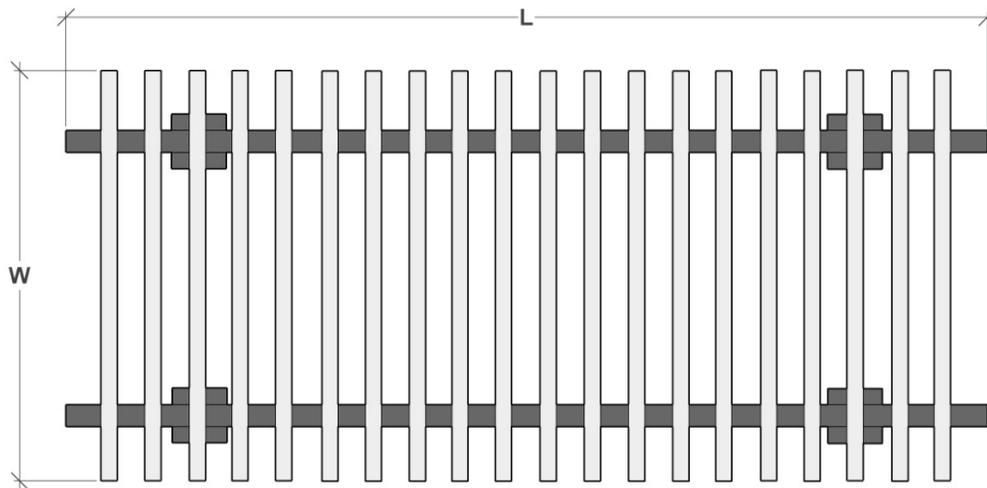


Figure 15

Consistent with SBMC §28.87.170.C.7, an entryway arbor must be substantially open, with no solid walls or roof. Exceptions to this provision may be evaluated on a case-by-case basis, subject to Administrative review and approval.

Gates or doors that meet the location and height limitations of SBMC §28.87.170 may be allowed within the frame of an entryway arbor. A gate or door may exceed the height limit, subject to Administrative review and approval, as long as the height, width, and visual transparency of the gate or door remain consistent with the intent to provide a welcoming entry feature to the property and does not obstruct sight lines for motorists, cyclists, or pedestrians.

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## **ADMINISTRATIVE REVIEW AND APPROVAL OF MINOR EXCEPTIONS**

Pursuant to SBMC §28.87.170.E., the following minor exceptions to the subject standards may be considered for approval administratively by the Community Development Director or Public Works Director (or the Directors' designee), if the necessary findings are made. If any of the required findings cannot be made, the owner/applicant has the option to request a Modification of the Fences, Screens, Walls and Hedges requirements, pursuant to SBMC §28.92.110.

### **Exceptions to Height Limits**

Due to variations in lot size, configuration, and topography (both on- and off-site), flexibility in the height of fences, screens, walls or hedges may be warranted to allow an improvement similar to that enjoyed by other properties in the neighborhood. In all cases, the necessary sightlines for driveways and street corners must be met. Some examples of where exceptions may be considered within interior and front setbacks and along front lot lines, and potential conditions for approval, are described below.

#### **Interior Setbacks**

Within interior setbacks (ranging from 5 to 15 feet in residential zones), fences and walls are limited to eight feet (8') in height, and screens and hedges are limited to twelve feet (12'). A fence, screen, wall or hedge may, upon granting Administrative approval, exceed the height limit within interior setbacks by no more than four feet (4'). An owner/applicant who desires a fence or wall to extend more than 12 feet in height, or a screen or hedge to extend more than 16 feet, within an interior setback has the option to request a Modification of the Fences, Screens, Walls and Hedges requirements, pursuant to SBMC §28.92.110.

Factors that may typically warrant special consideration and a possible exception include, but are not limited to, the following:

- An abrupt difference in elevation on either side of the fence, screen, wall or hedge
- The presence of a retaining wall or series of retaining walls
- The need to install a code-required security fence or wall around a pool
- A desire for additional privacy or security, with the agreement of adjacent property owner(s)

Methods to mitigate the actual or apparent height of the improvement, such as the following, are desirable and may be required as a condition of Administrative approval:

- Provide adequate separation between vertical elements (e.g., retaining wall system) to allow space for plantings between the walls or fences. Refer to the Single Family Residence Design Guidelines for appropriate treatment of retaining walls.
- Use vines or trellises and other climbing plants to screen the additional height
- Incorporate visually transparent elements (e.g., wrought iron, forged steel tubing, wood pickets)
- Use color and/or materials that soften the appearance of the fence or wall
- Undulate or break up the wall or fence into sections, to minimize the overall continuous length

### Front Setbacks

Within front setbacks (ranging from 10 to 35 feet in residential zones), fences and walls are limited to eight feet (8') in height, and screens and hedges are limited to twelve feet (12'). A fence, screen, wall or hedge located at least ten feet back from the front lot line may, upon granting Administrative approval, exceed the height limit within front setbacks by no more than four feet (4'). An owner/applicant who desires a fence or wall extend more than 12 feet in height, or a screen or hedge to extend more than 16 feet, within a front setback has the option to request a Modification of the Fences, Screens, Walls and Hedges requirements, pursuant to SBMC §28.92.110.

Factors that may typically warrant special consideration and a possible exception include, but are not limited to, the following:

- An abrupt difference in elevation on either side of the fence, screen, wall or hedge
- The presence of a retaining wall or series of retaining walls
- The need to install a code-required security fence or wall around a pool
- A desire/need to secure a secondary front yard
- A desire/need to buffer noise from a busy street

Methods to mitigate the actual or apparent height of the improvement, as outlined above, are desirable and may be required as a condition of Administrative approval.

### Front Lot Lines

Within ten feet (10') of a front lot line, fences and walls are limited to three and one-half feet (3 ½') in height, and screens and hedges are limited to seven and one-half feet (7 ½'). A fence, screen, wall or hedge may, upon granting Administrative approval, exceed this height limit by no more than four feet (4'). An owner/applicant who desires a fence or wall extend more than 7 ½ feet in height, or a screen or hedge to extend more than 11 ½ feet, within ten feet of a front lot line has the option to request a Modification of the Fences, Screens, Walls and Hedges requirements, pursuant to SBMC §28.92.110.

Elements along front lot lines are typically much more visible to the public and, therefore, require additional scrutiny and consideration beyond approval by staff. This is reinforced by the fact that the Municipal Code (SBMC §22.69.020.C.8) requires review and approval by the Single Family Design Board for walls, fences or gates greater than 3 ½' in height within front yards. Although the installation of screens or hedges may not in all cases trigger design review, as a matter of policy, Staff will refer to the appropriate design review board most applications for requests to exceed the height limit within ten feet of a front lot line.

Factors that may typically warrant special consideration and a possible exception include, but are not limited to, the following:

- An abrupt difference in elevation on either side of the fence, screen, wall or hedge, particularly if the elevation of the public right of way is above the elevation of the private property (see Figures 16 and 17 for examples).
- The presence of a retaining wall or series of retaining walls
- The need to install a code-required security fence or wall around a pool

- A desire/need to secure a secondary front yard
- A desire/need to buffer noise from a busy street

Methods to mitigate the actual or apparent height of the improvement, as outlined above, are desirable and may be required as a condition of Administrative approval.

When evaluating requests to exceed the height limit within ten feet of a front property line, the methodology for measuring the maximum height may differ from that stated in SBMC §28.87.170.B.3. In situations where no obvious public purpose would be served by measuring the height from the lowest point of contact with the ground directly adjacent to the fence, screen, wall or hedge, such improvement may instead be measured from the elevation of the nearest adjacent sidewalk or curb (Figure 16) or, where no sidewalk or curb exists, the elevation of the right-of-way surface nearest to the fence, screen, wall or hedge (Figure 17). This will typically apply in situations where the elevation of the street is above the elevation of the subject property and the most significant portion of the height is visible primarily to the property owner(s), and not the public.

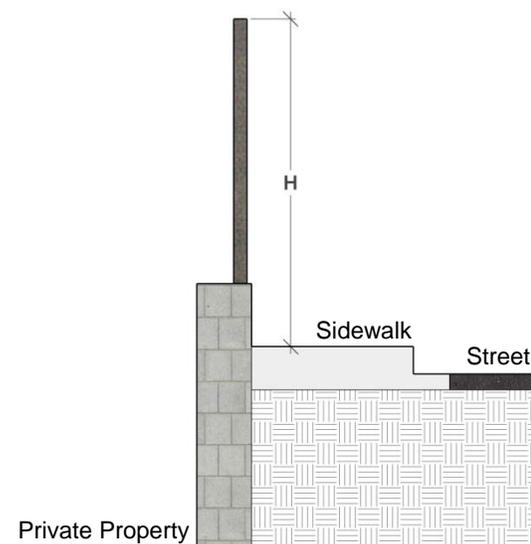


Figure 16

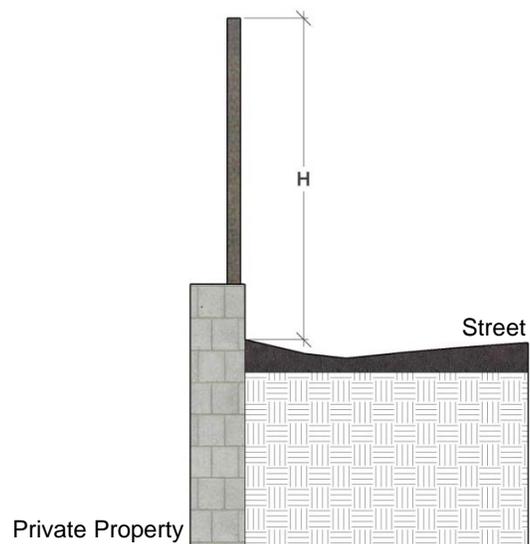


Figure 17

### Exceptions for Decorative Elements

Decorative elements (e.g., pilaster caps, finials, posts, lighting fixtures, or similar decorative features) in excess of the size and spacing allowed by SBMC §28.87.170.C.6 may, upon granting Administrative approval, be allowed if the general amount (in terms of volume) of encroachment into the height, over the length of the fence or wall is, on average, relatively the same as allowed by the Municipal Code.

The Code allows decorative elements not wider than nine inches (9") by nine inches (9") to exceed the maximum height of any fence or wall by not more than twelve inches (12"), provided such features are spaced not less than six feet (6') apart, measured on-center. Two examples of generally equivalent exceptions include, but are not limited to:

- Pilasters that are twelve inches (12”) by twelve inches (12”) wide and that exceed the height limit by six inches (6”) and are spaced six feet (6’) apart
- Lighting fixtures that are seven inches (7”) by seven inches (7”) wide and that exceed the height limit by fifteen inches (15”) and are spaced five feet (5’) apart

## **DESIGN REVIEW**

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The Municipal Code currently requires design review of certain applications for fences, walls or gates, as outlined below. In cases where an exception request triggers design review, staff will rely to a great extent on the appropriate advisory group to provide input on the aesthetics of an exception request prior to making a final Administrative decision on height.

### **Single Family Design Board**

Pursuant to SBMC §22.69.020.C.7 and 22.69.020.C.8 (excerpts cited below), a building permit to construct, alter, or add to the exterior of a single family residential unit or related accessory structure (including fences and walls) on any lot shall be referred to the Single Family Design Board for design review if the permit involves the following:

7. The construction, alteration or addition of a retaining wall that is six feet (6’) or greater in height, or
8. The construction, alteration or addition of a wall fence or gate in the front yard of the lot that is greater than three and one-half feet (3 ½’) in height.

### **Historic Landmarks Commission**

Pursuant to SBMC §22.22.130.A, no structure or real property in El Pueblo Viejo Landmark District or Brinkerhoff Avenue Landmark Districts shall be constructed, demolished, moved or altered on its exterior without the approval of the Historic Landmarks Commission (HLC). Further, SBMC §22.22.130.D states that no natural feature (including landscaping) affecting the visual qualities of private property located in El Pueblo Viejo Landmark District or Brinkerhoff Avenue Landmark Districts shall be placed, altered or removed without the approval of the HLC.

### **Architectural Board of Review**

Pursuant to SBMC §22.68.020.B, a building permit to construct, alter or add to the exterior of a duplex or multi-family residential buildings and related accessory structures (including fences and walls) shall be referred to the Architectural Board of Review for design review.



**SBMC §28.87.170**

# **Fences, Screens, Walls & Hedges**

Council Ordinance Committee

February 25, 2014



# Background & Purpose

- ◆ SBMC §28.87.170 adopted in 1957
  - Recent Suspension Ordinances
- ◆ Purpose of Amendments
  - Re-evaluate relevance of regulations
  - Allow flexibility in application
  - Create guidelines to help implement the ordinance



# Current Regulations

- A. **Required Setbacks.** No fence, screen, wall or hedge located in the required setbacks shall exceed a height of 8'.
- B. **Front Lot Line, Side of Driveway.** No fence, screen, wall or hedge exceeding a height of 3½' shall be located:
1. Within 10' of a front lot line
  2. Within 10' of either side of a driveway for a distance of 20' back from the front lot line.
- C. **Corner.** No fence, screen, wall or hedge located within 50' of a street corner...shall exceed a height of 3 ½'.



# Public Input

## ◆ Public Meetings

- April 17<sup>th</sup> - Council/PC Meeting
- June 25<sup>th</sup> – Council Ordinance Committee
- August 14<sup>th</sup> – Neighborhood Adv. Council
- September 23<sup>rd</sup> – Single Family Design Board
- December 5<sup>th</sup> – Planning Commission
- December 18<sup>th</sup> – Historic Landmarks Commission
- January 23<sup>rd</sup> – Planning Commission

## ◆ City Website

## ◆ NextDoor Website



# Public Input

- ◆ City should continue to regulate height
  - Consider regulating by neighborhood
- ◆ Support flexibility when appropriate, and for decorative elements (e.g., arbors, pilasters)
- ◆ Support reducing driveway/street corner visibility areas
- ◆ Agreement between neighbors should play a role in height limit along interior property lines
- ◆ Many believe hedges should be treated differently



# Proposed Amendments

## Fences & Walls

- ◆ Maintain 8' limit in required setbacks
- ◆ Maintain 3½' limit within 10' of front lot line
- ◆ Allow Admin. Approval for Minor Exceptions
  - ◆ Up to 4' additional height if certain findings are made

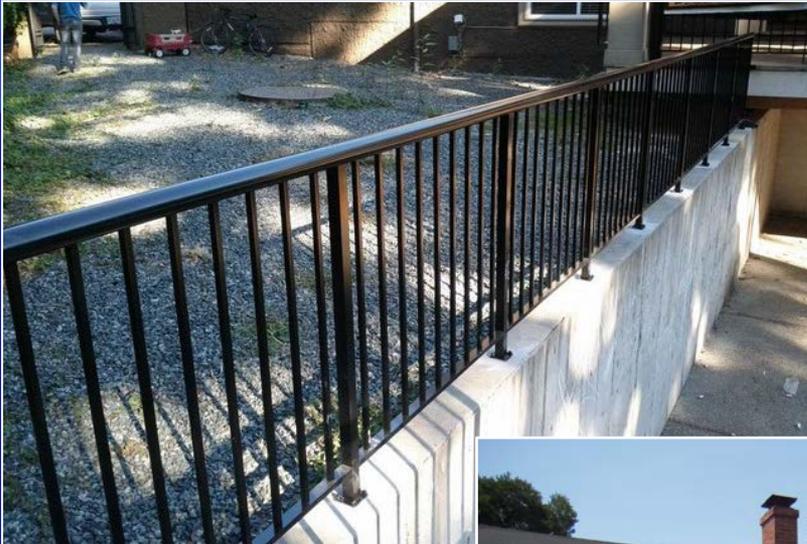


# Proposed Amendments

## Guardrails & Decorative Elements

- ◆ Allow code-required guardrails
- ◆ Allow decorative elements (posts, finials, light fixtures) within parameters
- ◆ Allow entry arbors in front yards
- ◆ Allow Administrative Approval for Minor Exceptions

# Guardrails & Decorative Elements





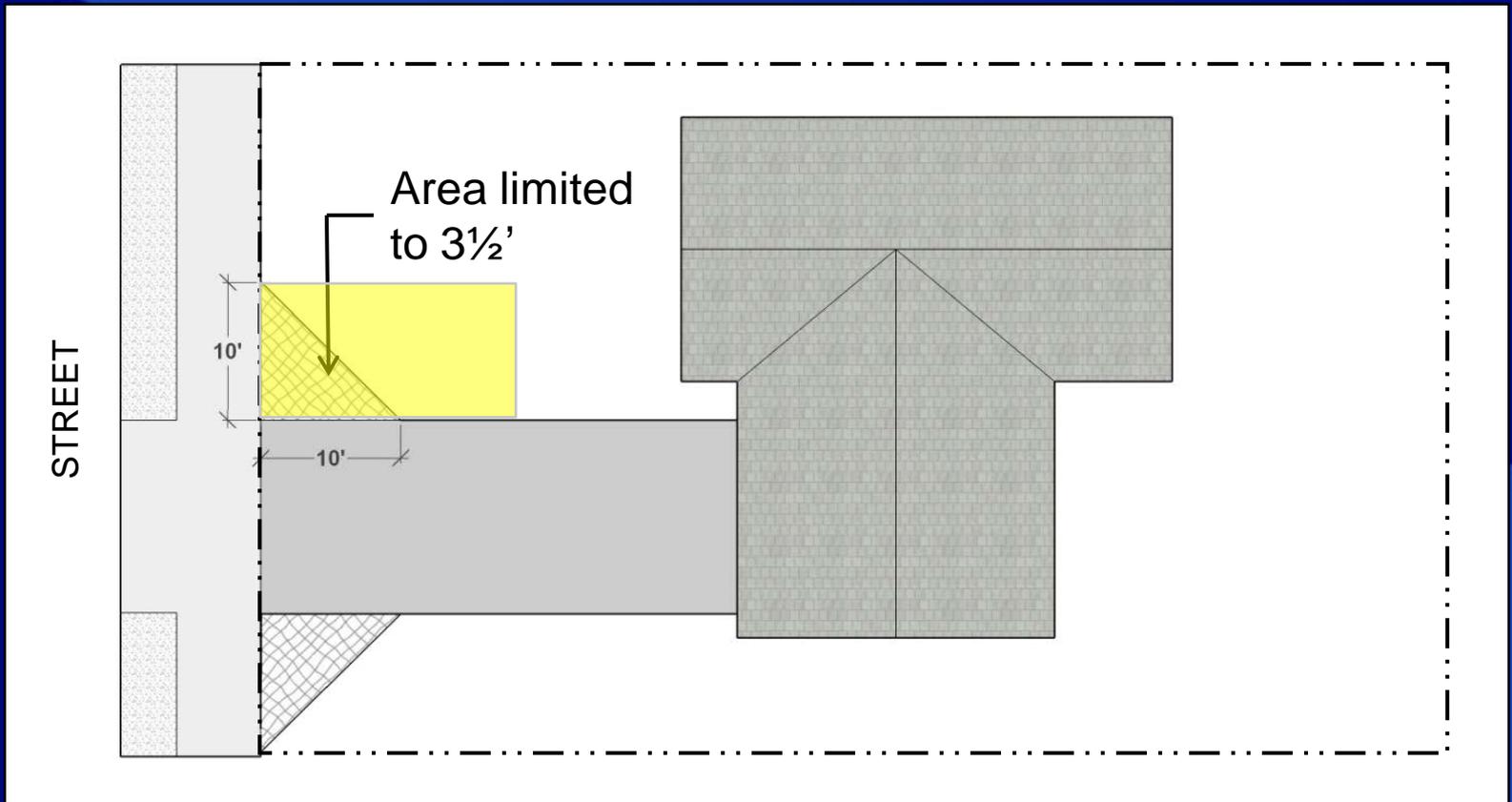
# Proposed Amendments

## Driveways

- ◆ Revise visibility area next to driveways
  - ◆ 3½' height limit within a 10' x 10' or 10' x 20' triangle
- ◆ Allow Admin. Approval for Minor Exceptions
  - ◆ Up to 4' additional height if certain findings are made

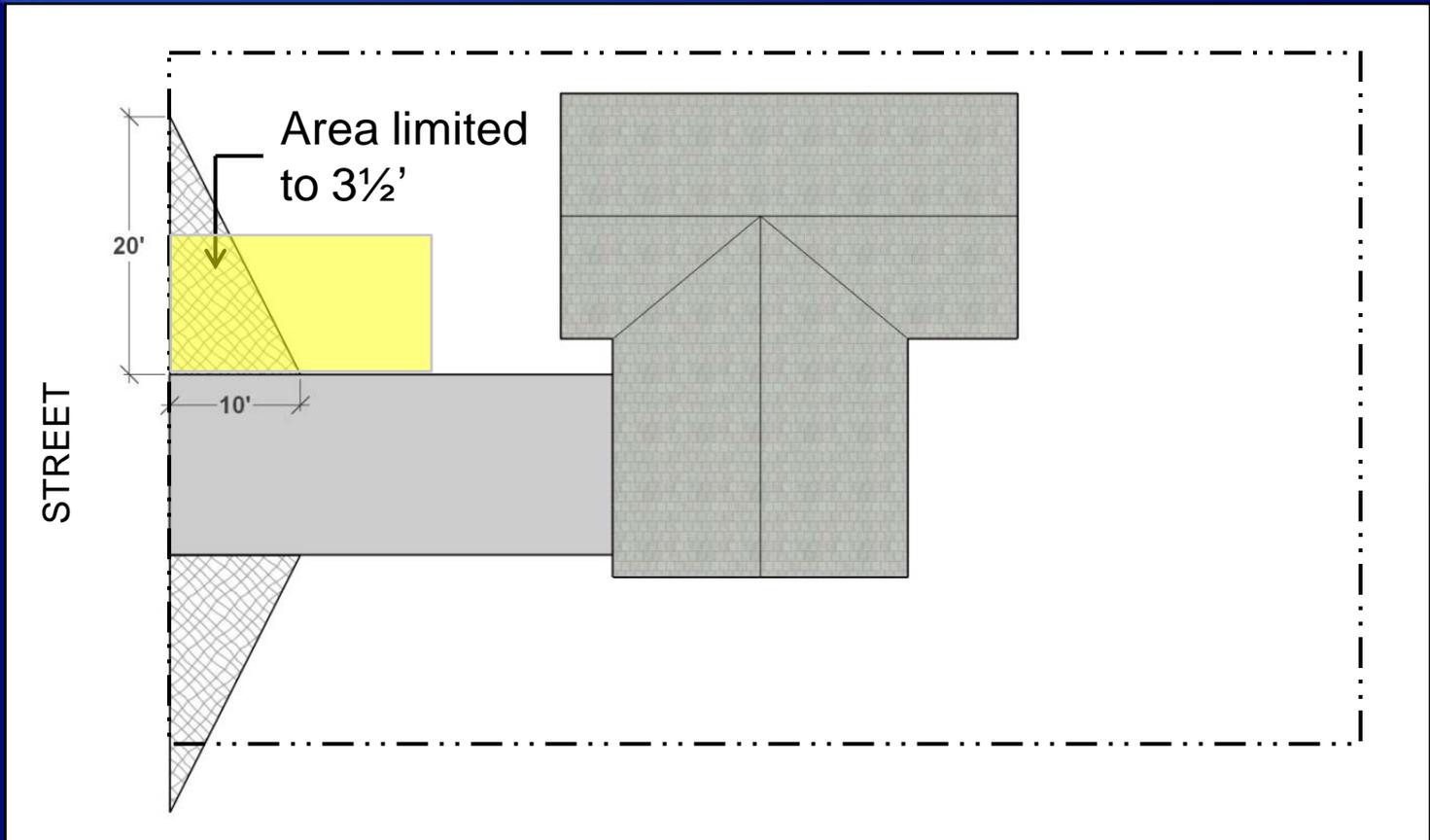
# Driveways

- ◆ When abutting a sidewalk & parkway



# Driveways

- ◆ Without a sidewalk & parkway





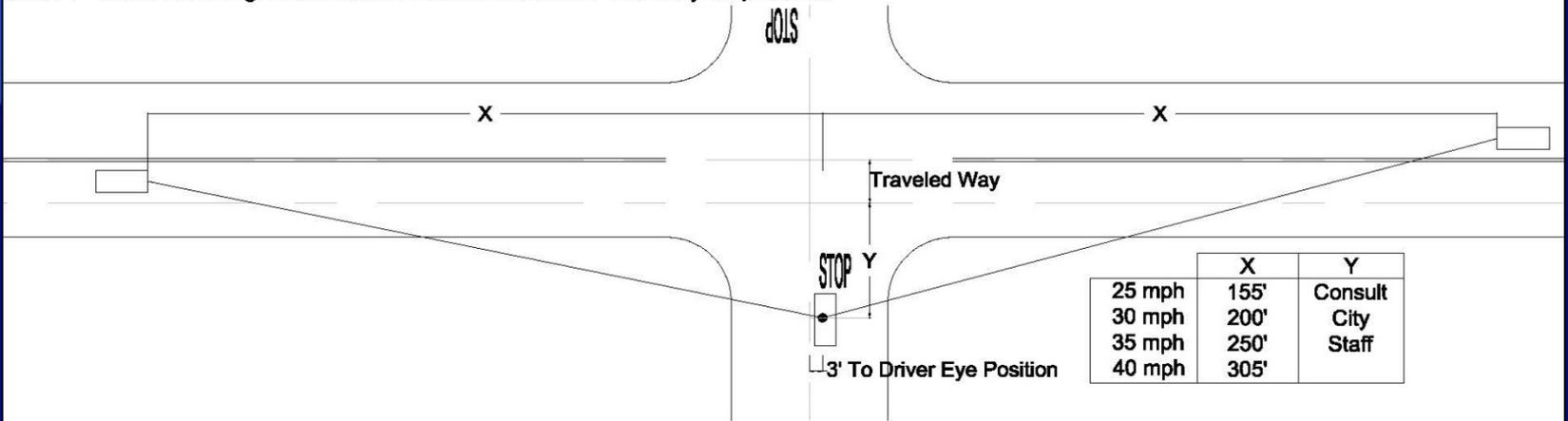
# Proposed Amendments

## Corner Lots

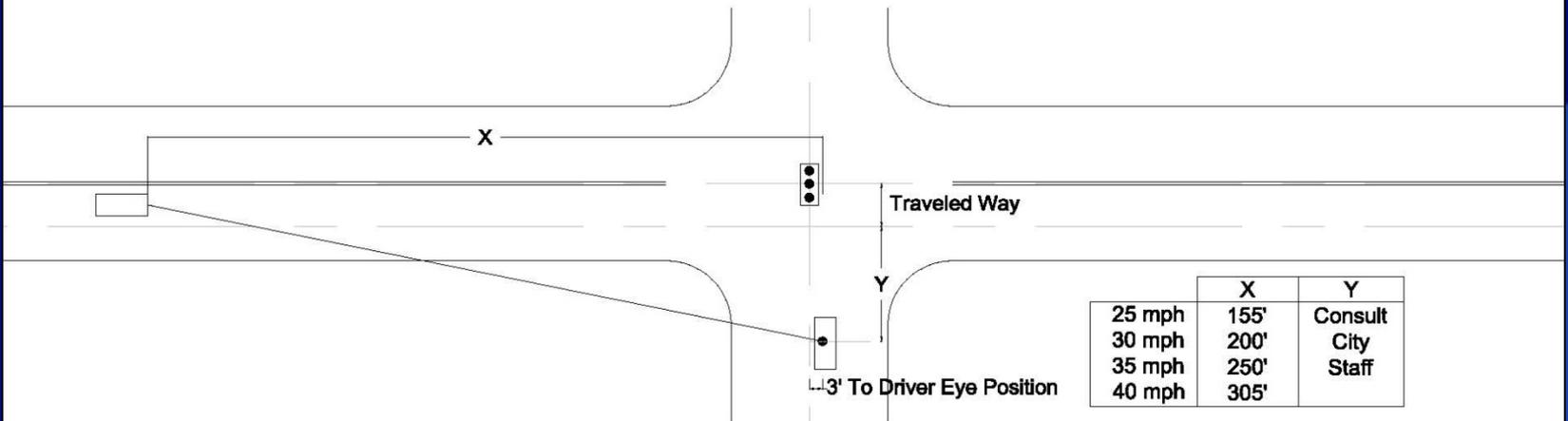
- ◆ Refer to “Intersection Sight Distance” in Guidelines for most corner lots
  - ◆ Does not apply to parcels located adjacent to intersections controlled by an all-way stop
- ◆ Allow Admin. Approval for Minor Exceptions
  - ◆ Up to 4' additional height if certain findings are made

# Corners Lots

Case 1 - Intersection Sight Distance for Tee Intersection or Two Way Stop Control



Case 2 - Intersection Sight Distance at Traffic Signals (Right Turn on Red)



Case 3 - All Way Stop Control. No restrictions on hedge heights for traffic sight lines.



# Proposed Amendments

## Hedges & Screens

- ◆ Currently subject to the same limits as fences and walls
- ◆ Many believe that hedges should be treated differently
- ◆ On January 23<sup>rd</sup>, Planning Commission recommended increasing the height limits for hedges



# Proposed Amendments

## Hedges & Screens

- ◆ Addressed in a separate section of the ordinance
- ◆ Allow up to 12' in required setbacks
- ◆ Allow up to 7½' within 10' of front lot line
- ◆ Allow Admin. Approval for Minor Exceptions
  - ◆ Up to 4' additional height if certain findings are made



# Administrative Review & Approval of Minor Exceptions

- ◆ Community Development or Public Works Director may grant exceptions
  - Allows discretion and flexibility not currently available
  - Ministerial decision
- ◆ Requires specific Findings
- ◆ *Fences, Screens, Walls and Hedges Guidelines* provide general parameters for consideration



# Administrative Review & Approval of Minor Exceptions

- ◆ Factors that may warrant an exception:
  - An abrupt difference in elevation on either side of the fence, screen, wall or hedge
  - The presence of a retaining wall or series of retaining walls
  - A desire/need to secure a secondary front yard
  - A desire/need to buffer noise from busy street
  - A desire for additional privacy or security, with the agreement of adjacent property owner(s)
  - The need to install a code-required security fence or wall around a pool



# Administrative Review & Approval of Minor Exceptions

- ◆ Findings for **Fences and Walls** (paraphrased)
  - a. If located within an interior setback, the adjacent property owner(s) have agreed to the requested exception;
  - b. ...Will not create or exacerbate an encroachment into the necessary sightlines for safe operation of motor vehicles;
  - c. ...Will be compatible with other similarly situated and approved structures in the neighborhood; and
  - d. ...Will not be detrimental to the use and enjoyment of other properties in the neighborhood.



# Administrative Review & Approval of Minor Exceptions

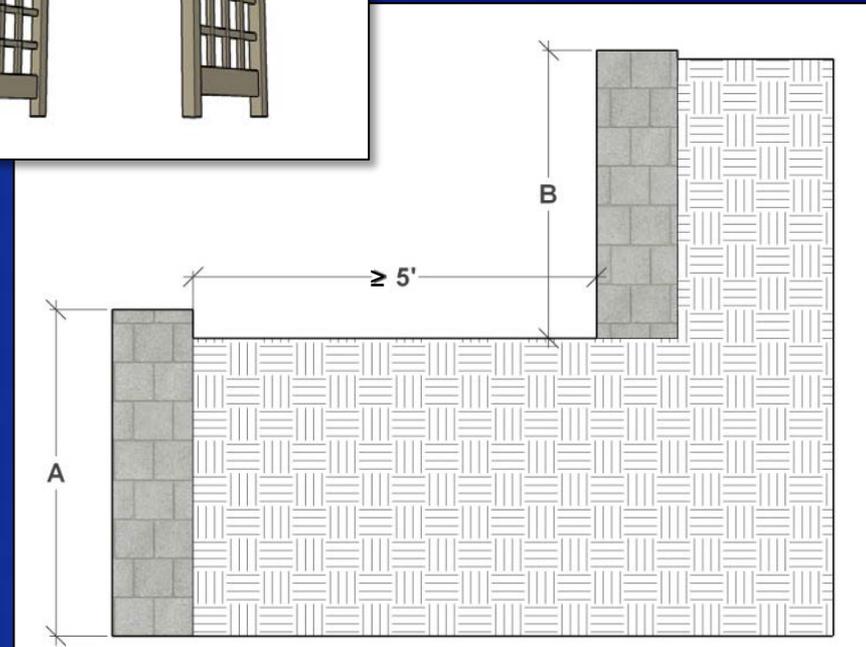
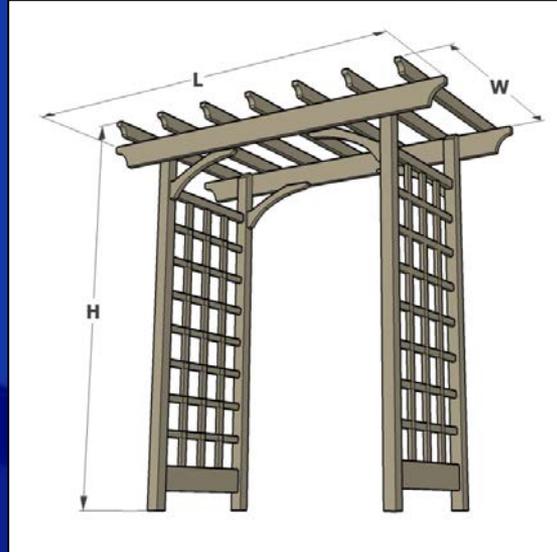
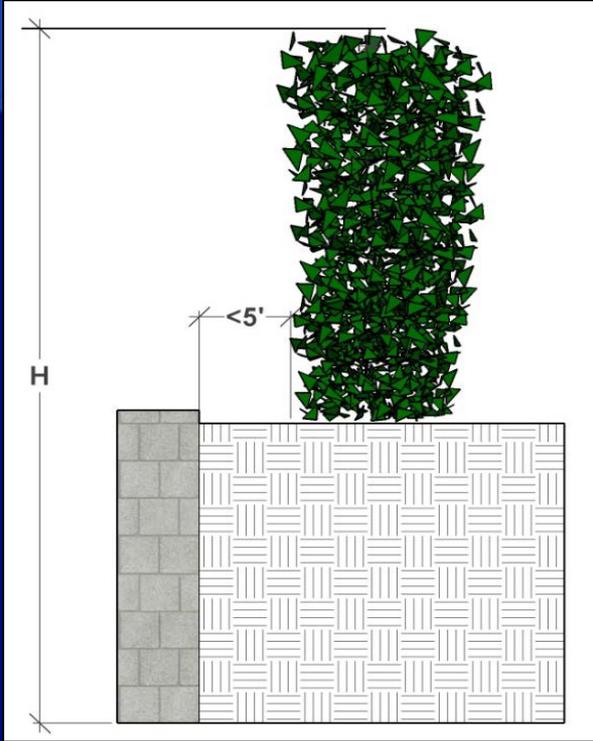
- ◆ Findings for **Hedges and Screens** (paraphrased)
  - a. If located within an interior setback, the adjacent property owner(s) have agreed to the requested exception;
  - b. ...Will not create or exacerbate an encroachment into the necessary sightlines for safe operation of motor vehicles;
  - c. ...Will be compatible with the character of the neighborhood;
  - d. ...Will respect height limitations for structures, as specified in the Solar Access Ordinance; and
  - e. ...Will not be detrimental to the use and enjoyment of other properties in the neighborhood.



# Proposed Guidelines

- ◆ Provide guidance in implementing regulations
  - User-friendly terms and explanations
  - Photos & diagrams
- ◆ Provide parameters for exceptions to height limits
- ◆ Describe triggers for design review

# Proposed Guidelines





# Recommendation

Based on public input received to date, Staff recommends the Committee:

- ◆ Forward the proposed Municipal Code amendments and accompanying *Fences, Screens, Walls and Hedges Guidelines* to the City Council for their adoption.



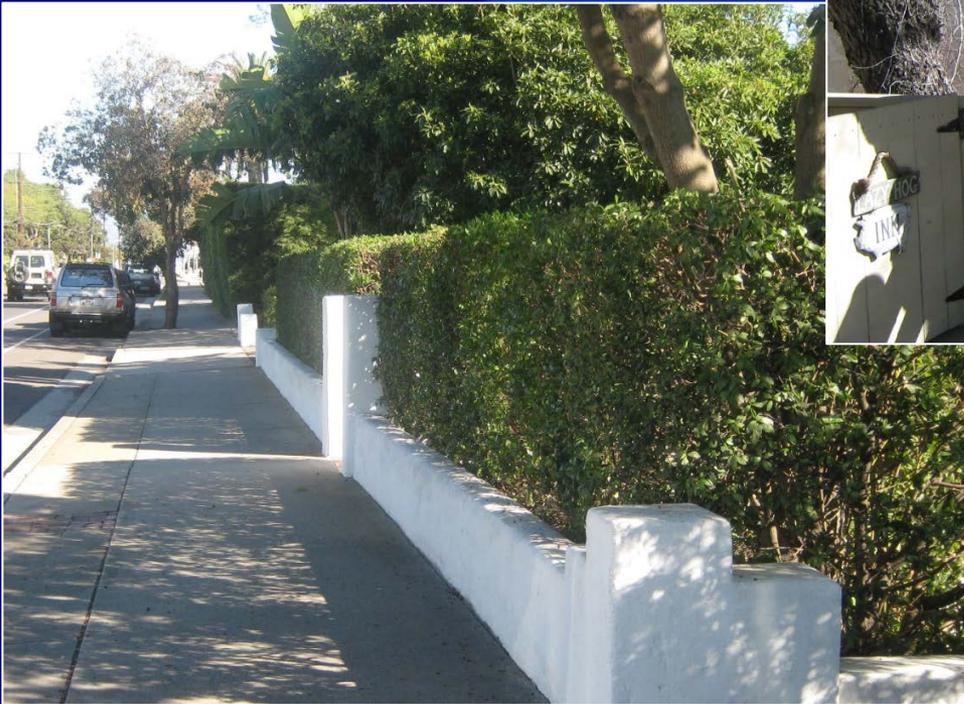
# Administrative Review & Approval of Minor Exceptions

## Interior Setbacks



# Administrative Review & Approval of Minor Exceptions

## Front Setbacks



# Administrative Review & Approval of Minor Exceptions



Front Setbacks



# Administrative Review & Approval of Minor Exceptions

