



# City of Santa Barbara California

## PLANNING COMMISSION STAFF REPORT

**REPORT DATE:** November 26, 2013  
**AGENDA DATE:** December 5, 2013  
**PROJECT ADDRESS:** Amendment to Santa Barbara Municipal Code §28.87.170  
(Fences, Screens, Walls and Hedges)  
**TO:** Planning Commission  
**FROM:** Planning Division, (805) 564-5470, extension 4466  
Renee Brooke, AICP, Senior Planner

### I. INTRODUCTION

Santa Barbara Municipal Code (SBMC) §28.87.170 (Fences, Screens, Walls and Hedges) 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 three and one-half feet (3½') within ten feet of a front lot line, within ten 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 (measured from the edge of the vehicular travelled way). For many years the Planning Division has identified this code section, originally adopted in 1957, as needing review and possible revision.

Proposed for the Commission's consideration are draft amendments to applicable sections of SBMC Chapter 28.87 (Exhibit A) and accompanying guidelines to help implement the ordinance (Exhibit B). The purpose of this hearing is to present the proposed changes, hold a public hearing, and receive input on the draft ordinance and guidelines. At a subsequent hearing, staff will present a proposed final ordinance and guidelines and request that the Planning Commission make a recommendation to City Council for their adoption.

### II. BACKGROUND

A large number of hedge-related complaints received from the public in 2008 caused significant community discord and further highlighted the need to address these regulations. 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 to consider community input on a possible comprehensive amendment to the code. As other work priorities and limited staff resources did not allow adequate time for this effort, the suspension was extended on March 15, 2011 for three additional years and will expire March 23, 2014. At a joint meeting of the City Council and Planning Commission on April 17, 2013, Staff indicated that we could devote resources to proceed with amending the ordinance.

### III. DISCUSSION

The intent of regulating the height and location of fences, screens, walls and hedges is not explicitly stated in the Municipal Code; however, one can infer that limiting the height of obstructions next to driveways and street corners allows for adequate sight lines for motorists, cyclists and pedestrians. Height limits along interior lot lines balance a desire for privacy between neighbors with adequate access to air and sunlight and, to some extent, views. More nebulous, although extremely common in most communities, is a height limit along front property lines. Maintaining a height limit along a street frontage is primarily an issue of overall desired community character, openness of the streetscape and the maintenance of an interface between the public realm and private property.

#### Proposed Amendments

The purpose of amending the ordinance is to establish regulations consistent with the community's values that can be regularly and fairly enforced. Currently, a significant number of properties are out of compliance with these regulations and enforcement of the requirements is haphazard at best, as staff almost exclusively relies on complaints to prioritize our enforcement efforts.

Staff originally set out to limit the proposed amendments to the minimum extent necessary to provide additional clarity and flexibility in applying the regulations to unique situations. To that end, our original scope of revisions addressed the following:

- Add relevant definitions to clarify and distinguish among fences, screens and hedges
- Clarify how the height is measured
- Reduce the 3½' height limit within the 10' x 20' driveway visibility area to a 10' x 15' or 10' x 10' area
- Allow decorative elements of a certain size and spacing on top of fences and walls
- Exclude code-required guardrails from the maximum height limit
- Allow administrative approval of minor exceptions or variations of the regulations, if all safety-related standards are met
- Develop guidelines to assist in consistent and fair implementation of the regulations

Over the course of several public hearings, additional discussions among staff, further input from the Council Ordinance Committee, Neighborhood Advisory Council and Single Family Design Board, and public input, the proposed amendments were expanded to also address the following:

- Allow limited exceptions to the height limit along interior property lines, with administrative approval, if directly affected neighbor(s) agrees
- Allow an entryway arbor in front yards, not to exceed eight feet in height
- Allow exceptions to the 3½' height limit at street corners if certain criteria are met
- Allow replacement of more than 10% of a nonconforming fence, screen or wall in any twelve-month period on sites designated as City Landmarks or Structures of Merit, or if the wall is necessary to retain soil
- Allow the Public Works Director to reduce the height of any fence, screen, wall or hedge if deemed a safety hazard

- Remove reference to the standards applying in the R-O (Restricted Office), C-O (Medical Office) and C-X (Research and Development) Zones, and instead refer to “residentially zoned parcels.”

In summary, the substantive elements of Staff’s proposal address all of the above and include:

- Retaining the current 8’ height limit in required setbacks and the 3½’ limit within ten feet of a front lot line;
- Reducing the area adjacent to driveways subject to the 3½’ height limit to either a 10’ x 10’ or 10’ x 20’ triangle, depending on whether or not the driveway directly abuts a street with a sidewalk and parkway;
- Removing the 3½’ height restriction on corners controlled by an all-way stop and using established sight distance guidelines for all other street corners;
- Allowing exceptions to the height limits for code-required guardrails, decorative elements and entryway arbors, if certain criteria are met; and
- Allowing nonconforming retaining walls, and fences, screens or walls on sites designated at City Landmarks or Structures of Merit, to be repaired or replaced at a rate of more than 10% within any 12-month period

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 would be 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 help apply the Municipal Code regulations in a fair and consistent manner. 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.

Furthermore, the guidelines describe how regulations are applied in unique circumstances and the basic parameters to grant administrative approval for exceptions to the standards. For example, staff could potentially grant up to four feet of additional height if certain criteria are met, allowing a total height of up to 12 feet in interior setbacks and 7½ feet within ten feet of a front lot line. The administrative approval process would also allow discretion in regulating decorative elements, guardrails, entryway arbors, and fences, screens, walls or hedges in secondary front yards on lots with multiple street frontages.

#### **IV. PUBLIC INPUT**

##### Public Notice

Prior to the April 17, 2013 joint Planning Commission and City Council meeting, discussions surrounding this topic had primarily been in reaction to a dispute of the current regulations. Given the opportunity to thoughtfully and comprehensively amend this section of the code, staff sought to have the issues thoroughly vetted and considered at several public hearings before returning to the City Council for review and adoption.

Beginning in 2008 with the initial Council resolution to suspend certain sections of this ordinance, Staff has maintained a list of parties interested in this subject and notified them of all relevant public hearings. Additionally, in July 2013, a page on the City's website was dedicated to this work effort where background material and notices of upcoming hearings could be readily accessed by the public. In November 2013, a notification was posted on the website, NextDoor, requesting subscribers to participate in the ordinance amendment process and informing them of the December 5<sup>th</sup> Planning Commission hearing.

##### Public Hearings

On June 25, 2013, Staff requested direction from the Council Ordinance Committee to develop general preferences and help focus future discussions prior to receiving additional public input. At that meeting, the Committee:

- Supported staff's general approach to amending the ordinance
- Agreed that rules need adjusting to apply to unique sites and topographical differences
- Supported flexibility and use of templates (objectivity) to reflect different driveway and street corner configurations
- Requested increased enforcement of hedges encroaching onto sidewalks
- Supported regulations to ensure safety

On August 14, 2013, Staff received additional input from the public and the Neighborhood Advisory Council (NAC):

- The majority of the NAC supported the development of a new/revised ordinance that considers safety, privacy, and community character
- Supported flexibility in standards to address site-specific conditions
- At least one NAC member believed hedges should be regulated differently than fences or walls, but that a height limit should still be imposed
- One member favored retaining lower height limits along front lot lines, and expressed concern that even the current eight-foot limit along interior property lines could cause adverse shading effects on a typical 50' x 100' lot.
- One member questioned the need for an amendment, especially in light of the current regulations not being adequately enforced

On September 23, 2013, staff presented our general concepts for the proposed ordinance and guidelines to the Single Family Design Board (SFDB) and received the following input:

- Most suggested considering property size to determine the appropriate fence/wall/hedge height, with the assumption that larger lots can accommodate higher barriers and still provide adequate solar access
- Most expressed support for the existing height limits to remain, but desired flexibility when appropriate
- Believed hedges should continue to be regulated but treated differently than fences/walls, as they have a different aesthetic appearance and are not a static feature
- Requested flexibility when SFDB reviews development projects to allow higher hedges if it helps address neighborhood compatibility or privacy issues
- Strongly supported driveway visibility triangle, as opposed to a rectangle, as it more accurately represents the necessary line of sight
- Recommended the entryway arbor be allowed up to five to six feet wide, three to four feet deep, and eight feet tall
- Requested flexibility in the exception for code-required guardrails, if appropriate
- Three members supported measuring an average height of fences, screens, walls and hedges between two lots with different ground elevations
- At least one member supported measuring the height of elements along front property lines from the level of the adjacent sidewalk/street, rather than lowest point of contact with the ground

Overall, public input has maintained a general and constant theme – the City should continue to regulate the height of fences, screens, walls and hedges for the general welfare of the community, while allowing increased ability for staff to approve exceptions to the standards, when appropriate. Opinions are more varied when it comes to establishing (or reaffirming) the actual height limits. Also at issue is the extent to which the City should allow neighbors to establish an agreeable height limit between them and only take enforcement action if/when a directly affected neighbor complains. Staff is not proposing changes to our current enforcement procedures that allow anyone to request the city to investigate a potential code violation.

## **V. RECOMMENDATION**

Staff recommends that the Planning Commission consider the draft amendments to the ordinance and accompanying guidelines, and direct Staff to return at a subsequent hearing with the proposed final ordinance and guidelines.

## **VI. NEXT STEPS**

Once the Planning Commission adopts a resolution recommending that the City Council adopt the proposed ordinance amendments and accompanying guidelines, Staff will present the amendments to the Council Ordinance Committee, likely in January 2014. Staff then anticipates presenting the final proposal to City Council in February 2014.

### Exhibits:

- A. Draft Ordinance Amending Section 28.87.170 of Chapter 28.87 of the SBMC
- B. Draft *Fences, Screens, Walls and Hedges Guidelines*



AN ORDINANCE OF THE COUNCIL OF THE  
CITY OF SANTA BARBARA AMENDING  
SECTION 28.87.170 OF CHAPTER 28.87 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:

**Chapter 28.87 – General Provisions**

**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.** A structure serving as an enclosure, barrier, or boundary, 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.** A physical device or vegetation, including but not limited to trees, shrubs, bushes and other plantings, that visually divides or conceals a parcel.

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

1. **Guidelines.** The Fences, Screens, Walls and Hedges Guidelines 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.** The Public Works Director (or Director's designee) may require the height of any fence, screen, wall or hedge to be reduced if the fence, screen, wall, or hedge obstructs the sightlines required for the safe operation of motor vehicles.

3. **Height Measurement.** The maximum height of a fence, screen, wall or hedge shall be measured from the lowest point of contact with the ground directly adjacent to either side of the fence, screen, wall or hedge.

4. **Separation.** Unless there is a horizontal separation of at least five feet (5') between fences, screens, walls or hedges, the height 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.** An 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 lines of any lot, or within three feet (3') of said 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 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, screens, walls, and hedges:

1. **Required Setbacks.** Except as provided in Subsection D below, no fence, screen, wall or hedge located in the required setbacks shall exceed a height of eight feet (8').

2. **Front Lot Lines.** Except as provided Subsection D, no fence, screen, wall or hedge 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 provided Subsection D, 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 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 and 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, screen, wall, 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.

5. **Guardrails.** A guardrail may extend above the maximum height limit for a fence or wall, 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.

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. ADMINISTRATIVE REVIEW AND APPROVAL OF MINOR EXCEPTIONS.

1. **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, screen, wall 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 fence, screen, wall 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 subject fence, screen, wall, or hedge will be compatible with other similarly situated and legal 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.

2. **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 and C.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.

E. **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, screen, wall or hedge, except as permitted in other sections of this title. Notwithstanding the foregoing, no more than ten percent (10%) of the length of a nonconforming fence, screen, or wall may be replaced within any twelve-month period, unless: 1) such fence, screen, 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 wall is necessary to retain or support soil in a vertical or near vertical slope of earth. 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. If a nonconforming fence, screen, wall or hedge has been determined to be a safety hazard by the Public Works Director, the City may require the removal or reduction of the height of the nonconforming fence, screen, wall or hedge.



# DRAFT

## Fences, Screens, Walls and Hedges Guidelines

### INTRODUCTION

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

The Fences, Screens, Walls and Hedges Guidelines have been developed to assist in the consistent and fair implementation of the Municipal Code relative to these improvements. Strict application of the regulations in a community with varied topography and lot configurations does not always result in the best solution for the subject property or surrounding neighborhood.

#### **Relationship to Other Documents**

- **Relationship to the General Plan and Local Coastal Plan.** The Santa Barbara General and Local Coastal Plans contain policies regarding improvements to properties and are the standard of review for many discretionary applications.
- **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 maximum height of a fence, screen, wall or hedge shall be measured from the lowest point of contact with the ground directly adjacent to either side of the fence, screen, wall or hedge. [Figure 1]

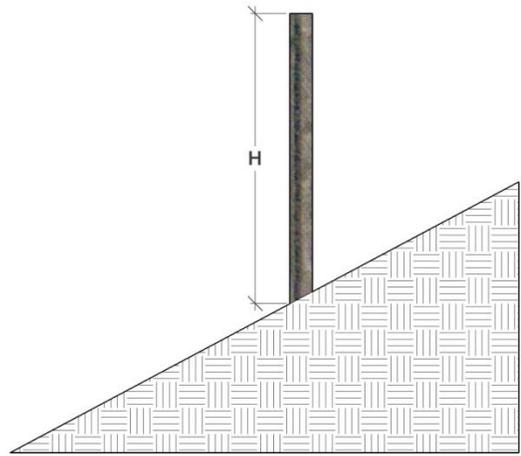


Figure 1

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]

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. [Figure 3]

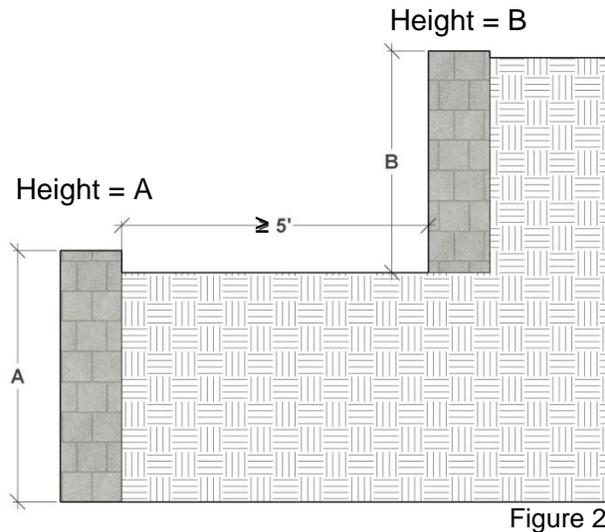


Figure 2

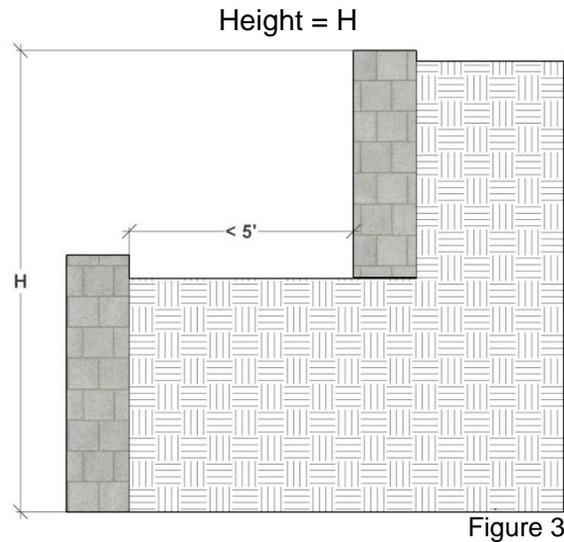


Figure 3

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.

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## Guardrails

Per SBMC §28.87.170.C.5, a guardrail may extend above the maximum height limit for a fence or wall, but only to the minimum extent required for safety by the California Building Code (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 4 through 6, below.

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

Guardrails that are not predominantly transparent (Figure 7) may exceed the allowed 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.



Figure 4

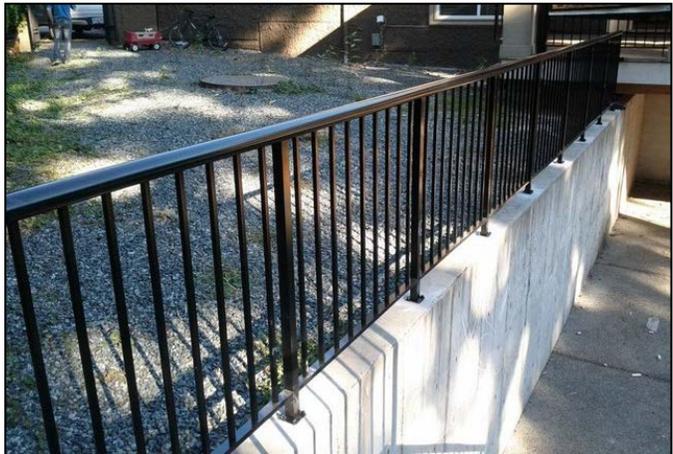


Figure 5

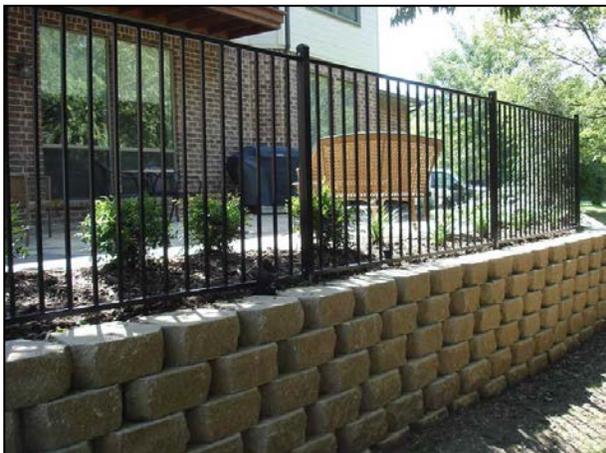


Figure 6



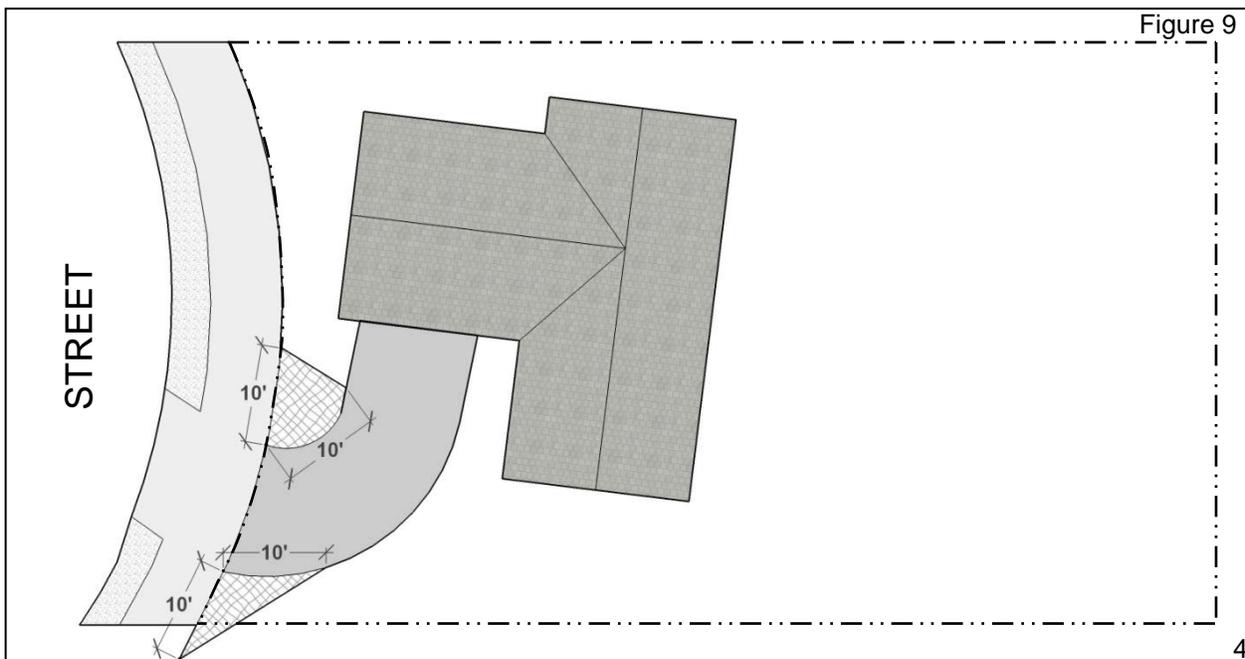
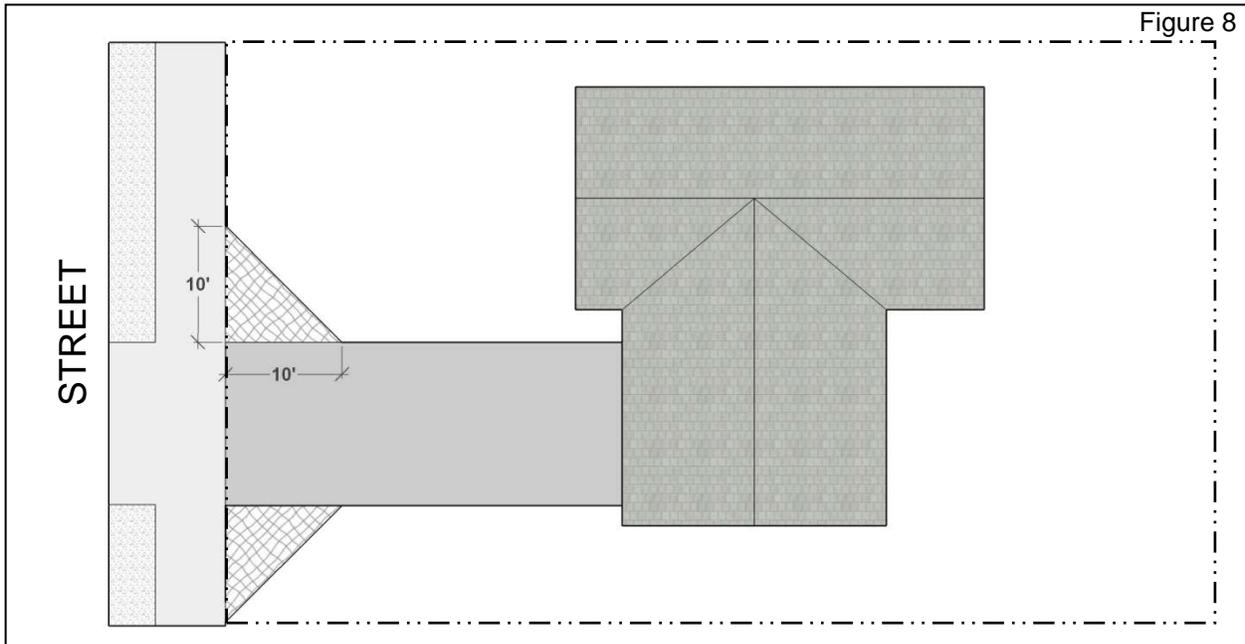
Figure 7

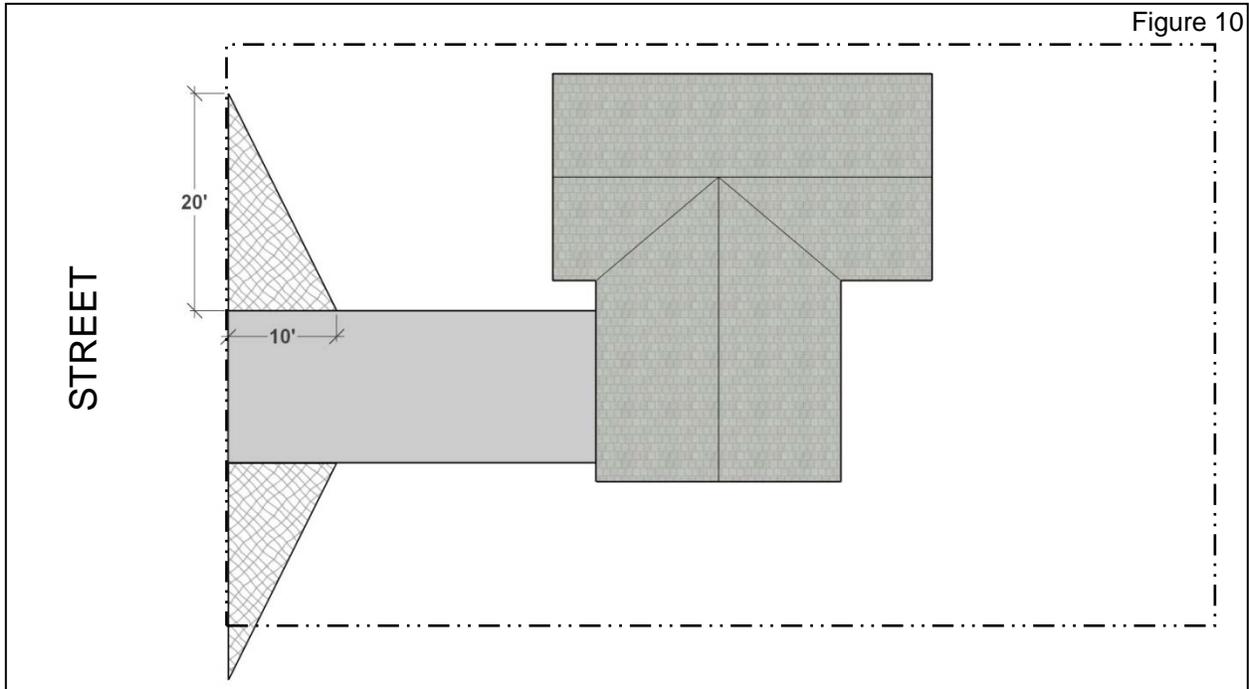
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## Driveways

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 follows:

- a. 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 8]. Figure 9 depicts an example of a driveway not aligned perpendicularly to the street.
- b. When a driveway directly abuts a portion of a street without a sidewalk and 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 10]



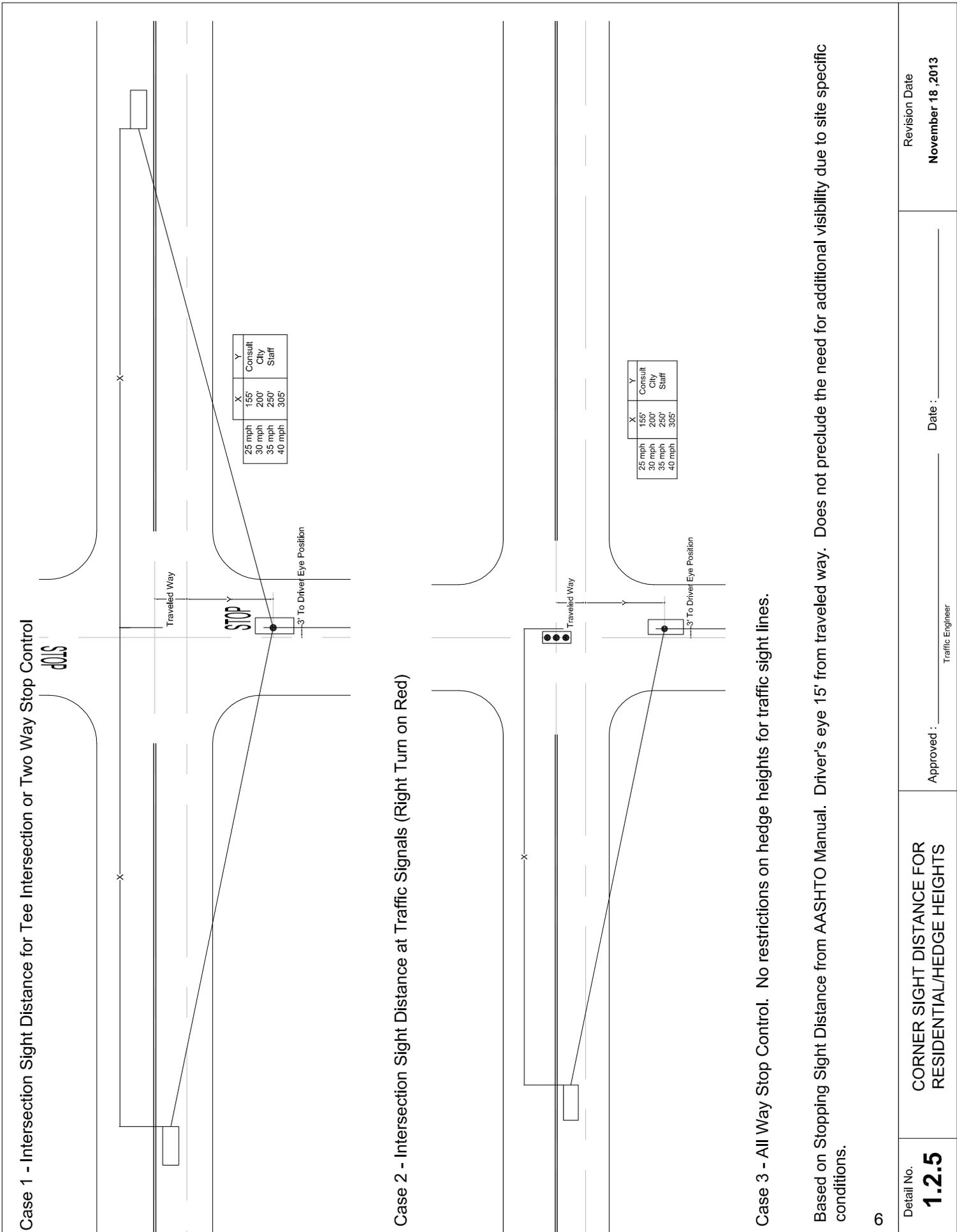


**Corner Lots**

Per SBMC §28.87.170.C.4, on residentially-zoned parcels, the height and location of fences, screens, walls, or hedges located within the required “Intersection Sight Distance” [see Figure 11, next page] shall be evaluated by Public Works Staff on a case-by-case basis. The required sight distance is established based on allowed 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. [see Figure 11, next page]

Figure 11



Detail No.  
**1.2.5**

CORNER SIGHT DISTANCE FOR RESIDENTIAL/HEDGE HEIGHTS

Approved : \_\_\_\_\_ Date : \_\_\_\_\_

Revision Date  
November 18 ,2013

# DRAFT

## Entryway Arbor

An entryway arbor is intended to provide a decorative gateway to the property and define the pedestrian entrance from the street. Per 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 Figure 12.

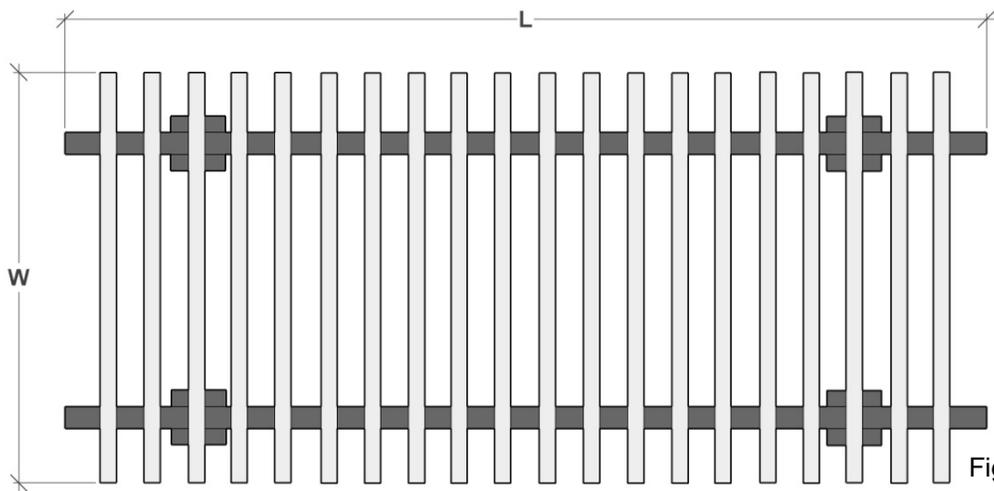


Figure 12

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.

# DRAFT

## ADMINISTRATIVE REVIEW AND APPROVAL OF MINOR EXCEPTIONS

Pursuant to SBMC §28.87.170.D, the following minor exceptions to the subject regulations may be considered for approval as a ministerial action 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 height measurement may be warranted to allow an improvement similar to that enjoyed by other properties in the neighborhood. In all cases, the necessary sight lines for driveways and street corners must be met. Some examples of where flexibility may be considered include, but are not limited to:

- Along a front property line, the maximum height of a fence, screen, wall or hedge may be measured from the elevation of the nearest adjacent sidewalk or curb (where no sidewalk or curb exists, the elevation of the right-of-way surface nearest to the fence, screen, wall or hedge) rather than the lowest point of contact with the ground. 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 and not the public. [Figures 13 and 14]

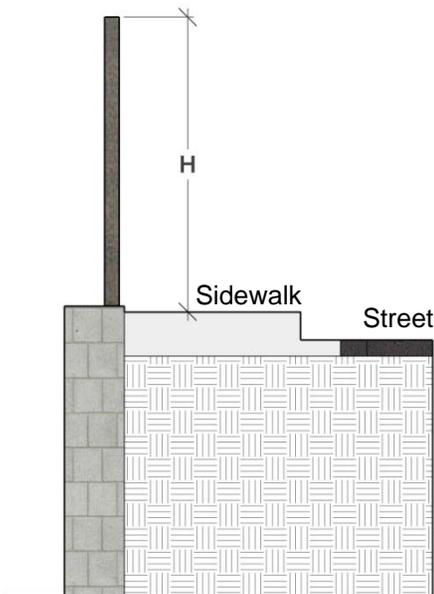


Figure 13

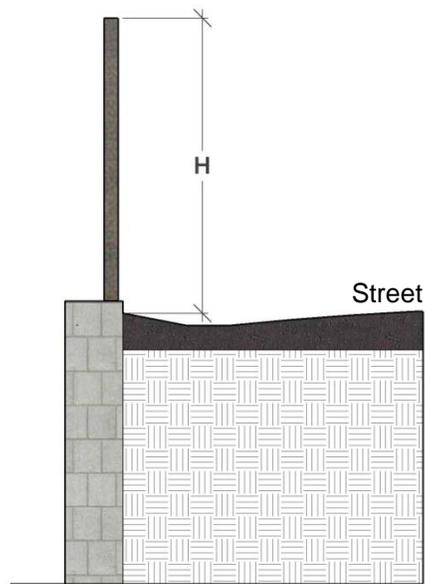


Figure 14

- In any location, a fence, screen, wall or hedge may, upon granting Administrative approval, exceed the height limit by no more than four feet (4'). This will typically, but not exclusively, apply due to the following:
  - A difference in elevation on either side of the fence, screen, wall or hedge
  - The presence of a retaining wall

## DRAFT

- Incorporation of visually transparent elements (e.g., wrought iron, forged steel tubing, glass)
- A need to secure a secondary front yard
- A need to buffer noise from a busy street
- A desire for additional privacy, with the permission of the directly-affected neighbor

### 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 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. Some 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;
- Posts that are six inches (6") by six inches (6") wide and that exceed the height limit by six inches (6") and are spaced four feet (4') apart; and
- Pilasters that are fifteen inches (15") by fifteen inches (15") wide and that exceed the height limit by four inches (4") and are spaced eight feet (8') apart.

