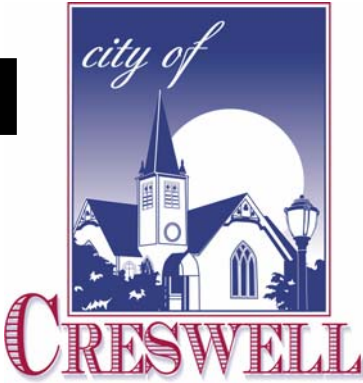


Supplemental Form: RESIDENTIAL FENCE PERMIT



Submittal Requirements: Complete all supplemental application requirements listed below. A complete application includes a Development Application Form and this Supplemental Form with all required supplemental materials as listed below. A residential fence permit shall be issued along with a residential building permit or for fences constructed independent of a structure, the Creswell Planning Director will administer the permit. A variance from the adopted standards may be granted by the Planning Director if the applicant meets the criteria set forth in Section 7 of the fence ordinance. The entire fence ordinance, including Section 7, is attached

Please draw your proposed fence in the following box OR use the template provided on the following page. Please include the following information A through E. See also the following pages for additional Creswell Development Code requirements, including allowable locations, heights, materials, etc.

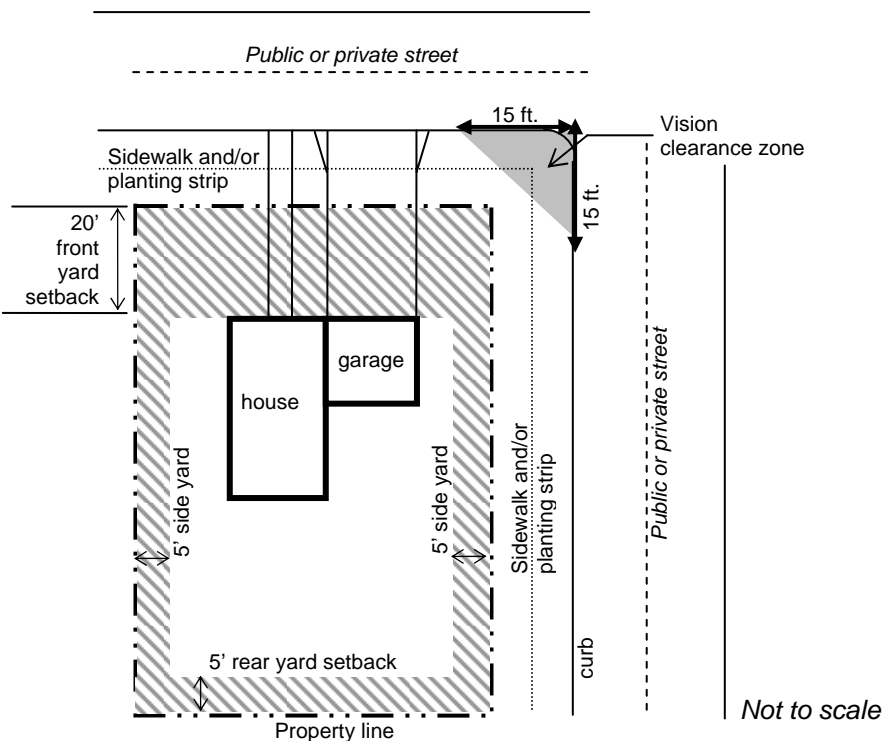
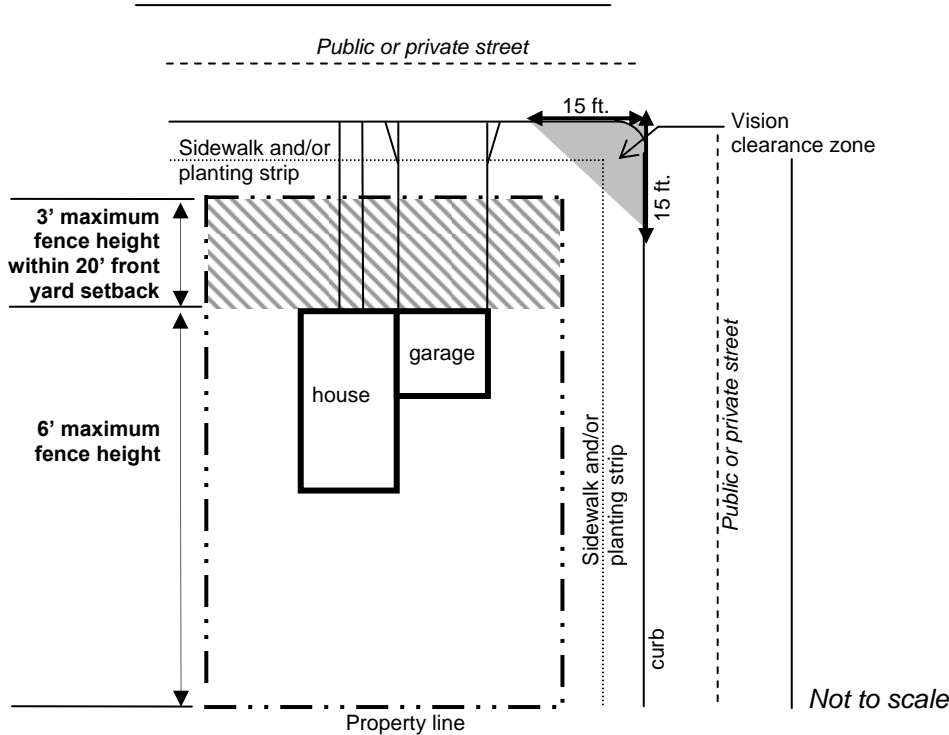
- A. Fence location and dimensions
- B. Fence height on each sides (i.e., indicate if the height changes from 6' to 3')
- C. Construction materials (i.e., wood, concrete block, etc.)
- D. The orientation of your residence (i.e., the direction of the front door, driveway, and garage face, which will determine front, side and rear yard)
- E. North arrow

Official Use

- A
- B
- C
- D
- E

Information on Residential Fences

When your application is reviewed, the City Administrator will check to make sure that all relevant criteria listed in the Creswell Development Code have been met. The following diagrams show allowable fence height, and front, side and rear yard setbacks. They do not show street yard setbacks. Fences are allowed along property lines provided they meet height regulations as described below and on the last page of this handout.



CITY OF CRESWELL FENCE ORDINANCE INFORMATION

Section 1. Definitions.

A. **Fence.** The term “fence” means a barrier erected for the purpose of enclosing space or separating parcels of land, which includes vegetation serving this purpose.

B. **Lot Line.**

(i) **Front.** The lot line abutting a street; for corner lots, the front line shall be that with the narrowest street frontage, and for double frontage lots, the lot front line shall be that lot line having frontage on a street that is so designated by the subdivider and approved by the Planning Commission.

(ii) **Rear.** A property line that is opposite and most distant from the front lot line. In the case of a triangular shaped lot, the rear lot line for building purposes shall be assumed to be a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line.

(iii) **Side.** Any property line that is not a front or rear lot line.

C. **Setback.** The minimum allowable horizontal distance from a given point or line of reference to the nearest vertical wall or other element of a principal building or structure. The point of line of reference will be the lot line.

D. **Yard.** An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

(i) **Yard, Front.** An area lying between side lot lines, the depth of which is a specified horizontal distance between the front property line and a line parallel thereto on the lot.

(ii) **Yard, Rear.** An area lying between side lot lines, the depth of which is a specified horizontal distance between the rear property line and a line parallel thereto on the lot.

(iii) **Yard, Side.** An area adjacent to any side lot line, the depth of which is a specified horizontal distance measured at right angles to the side lot lines and being parallel with said lot line.

(iv) **Yard, Street Side Yard.** An area adjacent to any side lot line and street where vehicular access to the street abutting the side yard is available. If no access is available due to a permanently placed wall, the side yard need not be considered a street side yard.

Section 2. Permit Required. All fences located anywhere on any residential parcel of private property within the City are subject to the provisions of this Ordinance and require either a development permit as part of construction pursuant to the Creswell Development Code, or, for fences constructed independent of a structure, a permit from the City Planning Director pursuant to this Ordinance prior to construction or modification. The associated permit fee shall be established by Council resolution. A residential fence permit application is available from the City Planning Department.

Section 3. General Standards.

A. Clear Vision Areas. A clear vision area of a minimum of 15 feet in both directions must be maintained at each access to a public street and on each corner of property at intersections of two streets or a street and a railroad. (See Figure 3.A.1). This area may be increased by the Planning Director upon a finding that more site distance is required (i.e. due to traffic speeds, roadway alignment, etc.). No new fence over three (3) feet in height shall be placed in “vision clearance areas” (as shown in Figure 3.A.2). For public safety reasons, no variance from this vision clearance standard shall be permitted.

B. Materials.

(i) Allowed Materials. Fences may be constructed of wood, masonry, wire, or similar materials employed by standard building practice.

(ii) Prohibited Materials. Fences and walls shall not be constructed or contain any material that will do bodily harm, such as electric or barbed wire, broken glass, spikes, or any other hazardous or dangerous materials. Fences shall not be made of barbed wire, tires, or other salvage materials not originally designed as structural components of fences.

(iii) All fences not in compliance with this Section regarding Prohibited Materials shall, within ten (10) days of notification by the City, be removed by the owner or, upon failure to remove the fence, are subject to abatement as set forth in Section 6 of this Ordinance.

C. Height. Fences are limited to no more than six (6) feet in height, except that in the front yard setback area (including side yard fences in the front yard area), fences shall be no more than three (3) feet in height.

D. Setbacks. Fence setbacks shall be no less than the following:

Front yard	20 feet
Rear yard	5 feet, unless abutting an alley, then 1 foot
Side yard/street side yard without vehicular access	5 feet on each side
Street side yard	10 feet, except carports and garages shall be 20 feet

E. Placement. Fences shall be built on private property and not on public right-of-way. It shall be the property owner's responsibility and obligation to identify the property line when proposing to construct a fence upon said property line. A property survey may be required.

F. Condition. All fences and retaining walls shall be constructed and maintained in a structurally sound manner. Fences and retaining walls which are structurally unsound shall be replaced by owner, or are subject to abatement as set forth in Section 6 of this Ordinance.

G. Swimming pools: All swimming pools shall be enclosed by a fence which shall be at least four (4) feet in height and which shall be the type not readily climbed by children. The gate shall be a self-closing and latching type, with the latch on the inside of the gate not readily available for children to open.

Section 4. Retaining Wall.

A. Any free-standing property perimeter wall which is not a retaining wall shall be considered a fence and is subject to the above standards. Retaining walls may be constructed to the height necessary to protect a cut-fill type needed grade, but shall be a maximum of nine inches (9") above finished grade along the fill side of the wall.

B. Where a retaining wall is located on a line separating the lots, the retaining wall may be topped by a fence. The height of the fence shall be determined by measuring from the finished grade on the fill side of the wall to the top of the fence.

Section 5. Earthen Berms. Where an earthen berm is used as a barrier in lieu of a fence, the height restrictions of this Ordinance shall apply and shall be measured from the ground to the highest finished grade of berm or to the top of any fence atop the berm.

Section 6. Abatement. Within twenty-five (25) days of notification from the City, all fences constructed or modified without the requisite permit, or which violate the standards herein, after the date of this Ordinance, shall be brought into compliance by the owner, or, upon failure to remedy the violation, the Planning Director or the Director's designee is empowered to cause the removal of the fence, the cost of which shall be billed to the owner of the property, and may be recorded as a lien on the property.

Section 7. Fence Variances. Variances from the standards provided in this Ordinance may only be granted by the Planning Director or the Director's designee pursuant to the following procedures, if the criteria set forth below is met.

A. **Approval Criteria.** A fence variance may be granted if the applicant demonstrates compliance with all of the following criteria:

- (i) The variance requested is required due to the lot configuration or other conditions of the site.
- (ii) The variance does not result in the removal of trees or it is proposed in order to preserve trees on the property.
- (iii) The requested variance would not impair public health, safety, and welfare;
- (iv) The variance is justified by property location, dwelling orientation and conformance with overall City policy.

B. **Fence Variance Procedures.**

(i) **Pre-Application Conference.** A pre-application conference is recommended for fence variance applications.

(ii) **Application Requirements.**

(a) **Application Form.** Fence variance applications shall be made on forms provided by the Planning Director.

(b) **Submittal Information.** The application shall:

- 1) Include the information requested on the application;

2) Include a narrative statement that explains how the application satisfied each and all of the relevant criteria and standards in sufficient detail for review and decision-making;

3) Be accompanied by the required fee, as set by Council resolution.

(iii) Notice of application for fence variance decisions.

(a) Before making a fence variance decision, the Planning Director shall mail notice to:

1) All owners of record of real property within 100 feet of the subject site;

2) All City-recognized neighborhood groups or associations whose boundaries include the site.

3) Any person who submits a written request to receive a notice.

4) Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies, as appropriate, for review of the application.

(b) The purpose of the notice is to give nearby property owners and other interested people the opportunity to submit written comments about the application, before the fence variance decision is made. The goal of this notice is to invite people to participate early in the decision-making process;

(c) Notice of a pending fence variance decision shall:

1) Provide a 14-day period for submitting written comments before a decision is made on the permit.

2) List the relevant approval criteria by name and number of code subsections.

3) State the place, date and time the comments are due, and the person to whom the comments should be addressed.

4) Include the name and telephone number of a contact person regarding the decision.

5) Identify the specific permits or approvals requested.

6) Describe the street address or other easily understandable reference to the location of the site.

7) State that if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant approval criteria are considered relevant evidence.

8) State that all evidence relied upon by the Planning Director to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City.

9) State that after the comment period closes, the Planning Director shall issue a fence variance decision. The decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.

10) Contain the following notice: "Notice to mortgagee, lienholder, vendor, or seller: The City of Creswell Ordinance No. _____ requires that if you receive this notice it shall be promptly forwarded to the purchaser."

(d) Decision Requirements. The Planning Director shall make written decisions addressing all of the relevant approval criteria and standards. Based upon the criteria and standards, and the facts contained within the record, the Planning Director shall approve, approve with conditions, or deny the requested permit or action.

C. Notice of Decision.

(i) Within five (5) days after the Planning Director signs the decision, a Notice of Decision shall be sent by mail to:

The applicant and all owners or contract purchasers of record of the site which is the subject of the application.

Any person who submits a written request to receive notice, or provides comments during the application review period.

Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the City, and other agencies which were notified or provided comments during the application review period.

D. The Planning Director shall cause an affidavit of mailing of the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and shall demonstrate that the notice was mailed to the people within the time required by law.

E. The Fence Variance Notice of Decision shall contain:

(i) A description of the applicant's proposal and the City's decision on the proposal (i.e., may be a summary).

(ii) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area, where applicable.

(iii) A statement of where the City's decision can be obtained.

(iv) The date the decision shall become final, unless appealed.

(v) A statement that all persons entitled to notice or who are otherwise adversely affected or aggrieved by the decision may appeal the decision.

(vi) A statement briefly explaining how an appeal can be filed, the deadline for filing an appeal, and where further information can be obtained concerning the appeal process.

(vii) A statement that unless appellant (the person who files the appeal) is the applicant, the hearing on the appeal shall be limited to the specific issues identified in the written comments submitted during the comment period.

F. Final Decision and Effective Date. A fence variance decision is final for purposes of appeal, when it is mailed by the City. The decision is effective on the day after the appeal period expires. If an appeal is filed, the decision is effective when the appeal is decided.

G. Appeal. A fence variance decision may be appealed to the Planning Commission.

(i) Who may appeal. The following people have legal standing to appeal a fence variance decision:

- 1) The applicant.
- 2) Any other person who participated in the proceeding by submitting written comments.

H. Appeal procedure.

(i) Notice of appeal. Any person with standing to appeal, as provided in section 7(G), above, may appeal a fence variance decision to the City Council by filing a Notice of Appeal according to the following procedures;

- 1) Time for filing. A Notice of Appeal shall be filed with the Planning Department within 14 days of the date the Notice of Decision was mailed.
- 2) Content of notice of appeal. The Notice of Appeal shall contain:
 - A) An identification of the decision being appealed, including the date of the decision.
 - B) A statement demonstrating the person filing the Notice of Appeal has standing to appeal.
 - C) A statement explaining the specific issues raised on appeal.
 - D) If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period.
 - E) Filing fee.

The amount of the filing fee shall be established by Council resolution. The maximum fee for an initial hearing shall be the City's cost for preparing for and conducting the hearing, or the statutory maximum, whichever is less.

(ii) Scope of appeal. The appeal of a fence variance decision by a person with standing shall be limited to the specific issues raised during the written comment period, unless the City Council allows additional evidence or testimony concerning any other relevant issue. The City Council may allow such additional evidence if it determines that such evidence is necessary to resolve the case. The purpose of this requirement is to limit the scope of a fence variance appeal by encouraging persons with standing to submit their specific concerns in writing during the comment period. Only in extraordinary circumstances should new issues be considered by the hearings body on appeal.

(iii) Appeal procedures. As established in the Creswell Development Code 3.2.3.A.3, notice and hearing procedures shall be used for all fence variance appeals.

I. Final Decision. The decision of the City Council regarding an appeal of a fence variance decision is the final decision of the City.

FIGURE 3.A.1

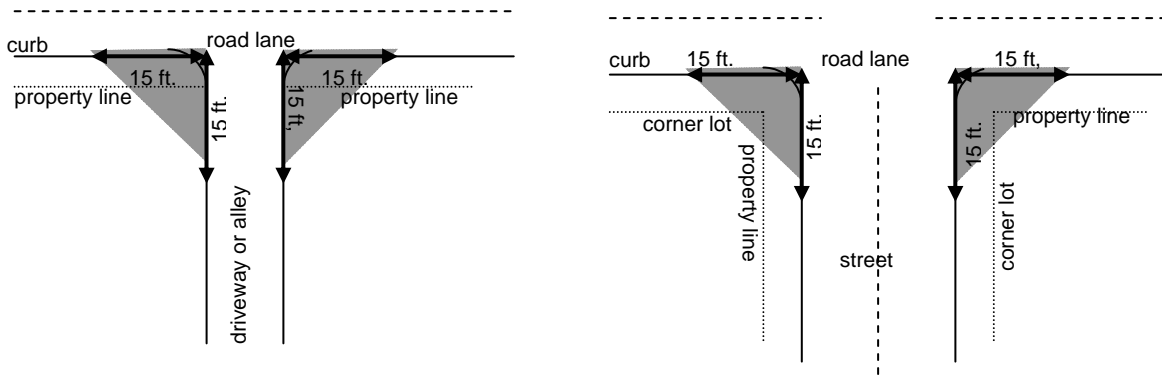


FIGURE 3.A.2

