

Requirements for Fence Permits and Fence Construction In Residential Areas

The Overland Park City Council has adopted regulations that govern the construction of fences and their location, size and design. The majority of these requirements are contained in the Unified Development Ordinance Section 18.390.140 C and in the 1996 BOCA National Building Code Section 421.0. The purpose of this document is to summarize and illustrate the requirements so that they can be more easily understood by anyone wanting to build or replace a fence or wall. This summary is oriented toward fences in traditional single-family and two-family developments. Additional requirements may apply to a fence on commercial property or on property that is contained in one of the City's planned zoning districts. If you have a question regarding the fence requirements, please contact the Planner of the Day at City Hall (895-6217). If you have questions regarding the process for obtaining a fence permit, please contact the Plans Examiner of the Day (895-6225).

The term "fence" is defined as meaning a freestanding structure intended to provide privacy, prevent escape or intrusion or to redirect a person's direction of travel. This definition includes fences or walls made from posts, wires, boards, wrought iron, stone, brick or other standard building materials. Specifically excluded from the definition are fence segments that are less than 16 feet in length, less than 4 feet in height, unattached to any other fence and used as a decorative landscape element.

Some property may be subject to deed restrictions or homes association rules that can affect fence location or design. It is best to check for these restrictions, if any, prior to applying for a fence permit.

Obtaining a Fence Permit

Fence permits are issued by the Building Safety Division of the Planning & Development Services Department at City Hall (8500 Santa Fe Drive - 2nd Floor) and must be obtained prior to beginning construction. A permit is required when:

1. A new fence is being constructed;
2. An existing fence is being extended;
3. An existing fence is being replaced with a new fence that is a different size, at a different location, or of a different design (e.g. a chain link fence being replaced by a wood privacy fence); or
4. More than 50 percent of the linear length of an existing fence is being replaced.

A fence permit is not required if less than 50 percent of the length of an existing fence is being replaced and no changes are made to the fence size or materials. If less than 50 percent of an existing fence is being replaced, then the replacement fence must either be in compliance with

the location and design requirements listed below or be identical to the existing fence (i.e., the same location, the same size and design, and constructed of the same materials). In addition, a fence cannot be replaced if it is located near a street intersection and impedes visibility in the sight distance triangle as defined in U.D.O. Section 18.420.060.

To obtain a fence permit, an application form and a plot plan (site plan) must be submitted to the Building Safety desk at City Hall. The plot plan must show: (1) where the new fencing is to be installed in relationship to the property lines or existing buildings; and (2) where there is existing fencing on or adjacent to the property that is to remain in place. In addition, a note should be placed on the plot plan indicating the height of the proposed fence and the type of fence construction. Typically, a plot plan is based on the type of property survey drawing that is usually done when a new house is built or property is sold or mortgaged. If no such drawing is available, contact the Building Safety Division at 895-6205 to determine if a plot plan for the property is on file with the City or if one can be created from City records. Once all the required information is submitted, it will be reviewed for compliance with Code requirements. If the permit can be issued, a plan review and permit fee will be charged based on the estimated cost of the fence construction (the minimum fee is currently \$30).

All fences must be installed in compliance with the City's fence requirements (see the summary below) and with the information shown on the plot plan and fence permit application form. A fence inspection will automatically be scheduled for 30 to 45 days following the issuance of the permit, and periodically thereafter until the fence construction is completed. An inspection may be specifically requested by calling 895-6220. If the inspector determines that the fence is constructed in accordance with the ordinance requirements and the approved fence permit, a Certificate of Compliance will be mailed to the property owner. If the fence does not pass the inspection, an inspection report detailing the deficiencies will be left on the property or mailed to the applicant.

Fence Location

Fences must be located on private property and must be built with the consent of the property owner. It is the responsibility of the fence installer and/or property owner to correctly locate property boundaries. Where the location of a property line is unclear, please check with neighboring property owners before beginning construction or have the property surveyed. The following rules apply in most cases, but please read the "Exceptions" section for rules that apply in certain situations.

Front Yard. Fences may not be located in the front yard or be positioned any closer to the front property line than the front surface of the residence.

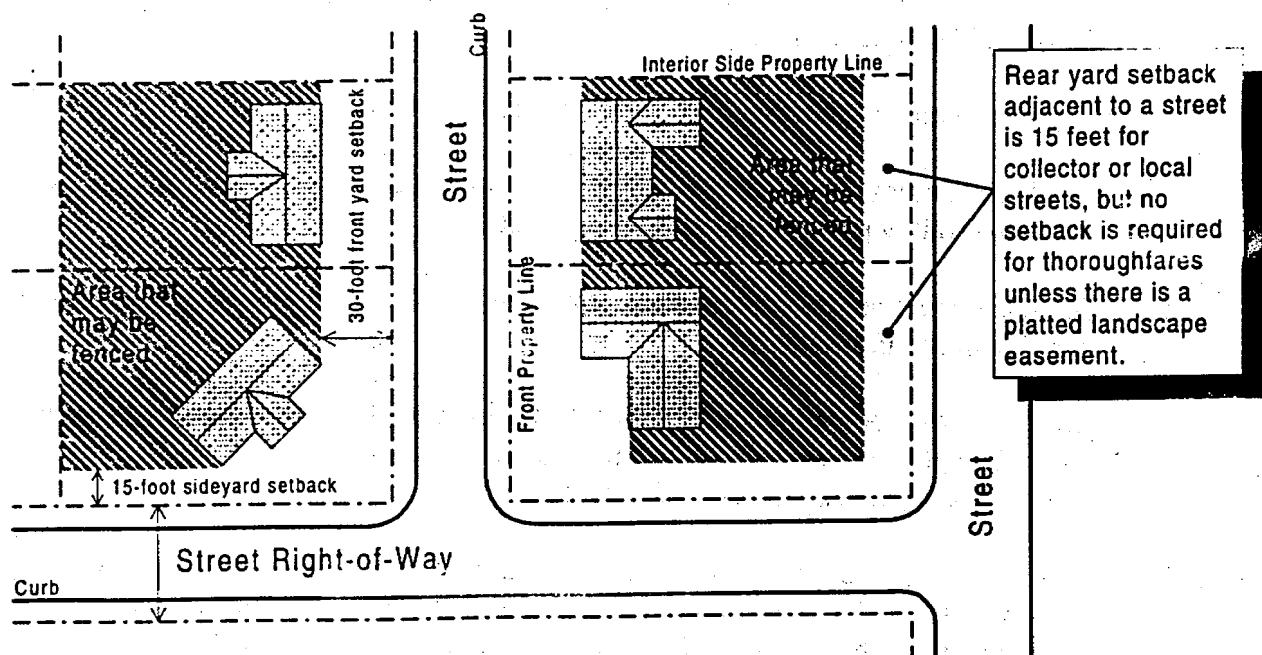
Rear Yard. Fences can generally be located anywhere in the rear yard, except that fences cannot be located closer than 15 feet to any collector street or local street right-of-way. In addition, fences are not permitted in any platted landscape easement except when they are approved by the Planning Commission as part of a landscape/screening plan for a subdivision (note: landscape easements are typically found in newer subdivisions adjacent to thoroughfare streets).

Side Yard. Fences can generally be located anywhere in the side yard, except that a fence cannot extend in front of the front surface of the residence and cannot be located closer than 15 feet to any collector street or local street right-of-way. In addition, fences are not permitted in any platted landscape easement except when they are approved by the Planning Commission as part of a landscape/screening plan for a subdivision.

Easements. The City does not prohibit construction of fences in utility easements, but the fence installer and/or property owner assumes some risk by doing so. Call 1-800-DIG-SAFE for information on utility line locations. In addition, make sure that any fence in or adjacent to a storm drainage easement or swale does not impede the normal flow of storm water.

When a fence is required to be a certain distance back from a street, be sure to **measure from the edge of the street right-of-way, not from the curb or the edge of the pavement.** Along nearly every street, there is an unpaved, publicly-owned area on both sides of the pavement that is used for sidewalks and utility lines. The edge of this street right-of-way (and the beginning of privately owned property) is typically 10 to 12 feet back from the curb. Thus, a fence with a 15-foot setback requirement typically will need to be 25 to 27 feet back from the curb. If you are unclear where the street right-of-way ends and your property begins, please check with the Planner of the Day at City Hall (895-6217).

Figure 1. Typical Fence Location Requirements



Location Exceptions

There are three notable exceptions to the fence location requirements listed above.

Landscape Easements. Many subdivisions developed within the past 20 years included a landscape easement on the plat for those lots that are adjacent to a thoroughfare street. Along with each easement, the Planning Commission approved a landscaping/screening plan that was intended to provide a buffer between the traffic on the street and the homes in the subdivision. The landscape easement also provides the subdivision with an attractive external appearance. Developers have the option of including a berm, a fence or entry markers in the easement but those items are not required. Where a landscape easement is provided, private fences for an individual residence are not permitted within the easement. They can, however, be located parallel to the easement on the easement line. Access to the easement for maintenance purposes must be provided via an opening or a gate unless the homes association for the subdivision will state in writing that they provide the maintenance of the easement in lieu of each individual resident along the easement.

Decorative Entry Fences. Although fences are generally not permitted in the front yard, there is an exception for "decorative entry fences" provided they meet the following conditions:

1. The fence must extend no further than 12 feet in front of the front surface of the home and cannot be closer than 15 feet to any street right-of-way;
2. The fence must be located in front of the main entry to the home and cannot extend beyond either side of the home;
3. The fence cannot connect with any other fence on the property;
4. The fence cannot exceed 3 feet in height and must be constructed of brick, stone, split rail, wood rail, wrought iron or spaced pickets.
5. The fence must not define an enclosed area without an ungated opening to the yard at least 36 inches in width; and
6. The fence must be maintained in good condition such that painted areas have no chipped or peeling paint, broken or missing elements are repaired or replaced promptly, and the base of the fence is kept neat.

Model Home Fences. A model home complex operated in conjunction with a residential sales office for a new subdivision may include a decorative fence in the front yard enclosing or defining the extent of the complex. Such fence must have a surface that is 50 percent open, cannot be constructed of chain link or other wire materials, and cannot exceed 4 feet in height. In addition, model home fences cannot be located in any portion of the street right-of-way and must be removed upon the termination of the sales office.

Design Standards

The following design standards apply to any new fence or wall, or the replacement of any fence where the length of the replacement fence exceeds 50 percent of the length of the existing fence (i.e., any fence requiring a permit).

Height: The maximum height of any fence is eight feet above average grade.

Design: All fences and walls shall be constructed with a finished surface facing outward from the property. Any posts or support beams shall be inside the finished surface or designed to be an integral part of the finished surface.

Gates: All fence segments abutting a thoroughfare, except for corner lots, must provide one gate opening per lot to allow access to the area between the fence and the street pavement for maintenance and mowing. An exception may be granted if the City receives a letter from the Homes Association stating that this area is maintained by the Homes Association and not by individual homeowners.

Sight Distance Triangles: Fences or walls constructed near street intersections are required to stay clear of an area known as the "sight distance triangle" in order to provide a reasonable degree of traffic visibility. See Section 18.420.060 of the Unified Development Ordinance for more information.

Pools and Spas

Outdoor pools, spas and hot tubs are required to be protected by an enclosure designed to restrict access by children. If a fence is intended to serve as the required enclosure, it must meet the following requirements in addition to those that apply to all fences.

Height: The minimum height of the fence enclosure must be at least 48 inches. The maximum clearance between the bottom of the fence and the ground is 2 inches.

Gates: All gates in the enclosing fence must swing away from the pool/spa area and be designed to be self-closing and self-latching. If the latch or latch-release hardware is on the outside of the fence, it must be at least 54 inches above the ground. If the latch hardware is on the inside of the fence, it must be at least 3 inches below the top of the fence and there cannot be any openings more than ½ inch in width within 18 inches of the latch.

Gates more than 5 feet in width and designed for equipment access to the fenced area are not required to be self-closing or self-latching provided they are locked at all times except when needed for equipment access.

Design: The fence shall be designed so that there are no openings large enough to allow the passage of a 4-inch diameter sphere and so that no "ladder effect" is created on the outside. If a chain link fence material is used, the maximum size of the openings (i.e., the distance between parallel wires) shall not exceed 1-¼ inches.