



City of Merrill Recorder's Office

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Fence Policy & Procedure Application Process

Application Type:

Fence Application

Fee:

\$0.00

For Location:

Submit a completed Building Application with Site Plan and Property Line Survey to the City Recorder's Office.

Site Plan:

Include on the Site Plan the locations, dimensions, and descriptions of all existing structures (examples: sheds, telephone poles, etc.) on the property, as well as the distance from the property lines to all structures and locations, a description of all easements, including City of Merrill Right of Ways and fence height. For more information, see Site Plan Requirements on Application.

Call 811 Locate:

Applicant is responsible to call 811 Locate/Oregon Utility Notification Center (OUNC) prior to any digging. Call: 1-800-332-2344 (or 811) or visit the Oregon Utility Notification Center website at www.digsafelyoregon.com

757.557 Underground utility facility operators required to subscribe to center; liability for damage from excavation for nonsubscribers; exemption.

- (1) Every operator of underground facilities shall subscribe to the Oregon Utility Notification Center.
- (2) Any person intending to excavate shall notify the Oregon Utility Notification Center at least two but not more than 10 business days before commencing an excavation. The board of directors shall, by rule, provide an exception to the requirement of advance notice for excavators in cases that involve an immediate danger to life or property, or a customer service outage. The board may adopt additional exceptions as the board, in its discretion, determines necessary.
- (3) Non-subscribing operators of underground facilities shall be responsible to all injured parties for all costs associated with damages to such facilities, loss of product or service or damages that occur as a result of excavation where the facilities damaged are under the control of the non-subscribing operator and proper notice was given to the Oregon Utility Notification Center.
- (4) The provisions of this section shall not apply to operators of underground facilities that are located entirely on private property and that provide services exclusively for the use of residents or owners of the property.

For penalties see the Oregon Utilities Coordinating Council and Oregon Utility Notification Center Oregon 811 Standards Manual Section 757.993 Penalty for violation of utility excavation notification provisions.

Planning Agenda:

The application will be placed on the Planning Commission Agenda for discussion. Unless otherwise specified, planning meetings are held on the first Monday of each month at 5:30 pm.

Planning Discussion:

During a meeting, Planning Commissioners and the Public Works Director will review and discuss all fence applications. Before approval, the Public Works Director and a planning Commissioner will inspect the property for compliance. The Planning commissioner assisting with the inspection shall be decided at the meeting.

Council Approval:

Once the application has been approved by the Planning Commission, the application shall be forwarded to City Council for final approval. Unless otherwise specified, City Council Meetings are the second Wednesday of each month at 5:30 pm.

Application Approval:

City Recorder's Office will contact applicant regarding the status of the application by phone, email or general delivery mail.

Installation:

Before any fence construction commences, approval is required.

Code of Ordinance "Chapter 90 Health and Sanitation; Nuisances-Section 90.23 Fences and Walls" and *Development Code* "Chapter 3 – Community Design Standards" enclosed with application packet. After installation is complete, call for a final inspection.

Code Enforcement Violation:

If application specifications are not complied with a Cease & Desist Order will be issued. Results may include a Code Enforcement Violation with civil penalty. See below *Code of Ordinances* "§ 90.27 Violations; Remedies".

(A) Each day's violation of a provision of this subchapter constitutes a separate offense.

(B) The abatement of a nuisance is not a penalty for violating this subchapter but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance; however, abatement of a nuisance within the due date of notice to abate, or if written protest has been filed, then abatement within time allotted by Council determination that a nuisance exists, will relieve the person responsible for the imposition of any fine under § 90.99 (c) of this code. (*Ord. 183, passed 4-16-1974; Am. Ord. 2027, passed 10-13-2020*) Penalty, see § 90.99

Fence Ordinance

Code of Ordinance

Chapter 90 Health and Sanitation; Nuisances

§ 90.23 Nuisances Affecting Public Safety

(E) *Fences and Walls.*

(1) No owner or person in charge of property shall construct or maintain a barbed-wire fence thereon or permit barbed wire to remain as part of a fence along a sidewalk or public way; except, this type of wire may be placed above the top of other fencing not less than six feet, six inches high.

(2) No owner or person in charge of property shall construct, maintain, or operate an electric fence along a sidewalk or public way or along the adjoining property line of another person.

(3) The landowner and /or contractor shall request a utility located before construction or excavation.

(4) All new fences and walls or replacement of existing fences and wall shall not enclose encroach upon the City right-of-way.

(5) All new fences and walls or replacement of existing fences and walls shall not enclose property where a utility easement exist, such as telephone poles.

(6) During a Type 1a Land Use Review for all new fences and walls or replacement of existing fences and walls, the property owner shall provide a survey of property and/or have a licensed and bonded contractor perform the construction.

(Ord. 2051; passed 2-8-2022)

Development Code

Chapter 3 – Community Design Standards

Section 3.3 – Landscaping, Street Trees, Fences and Walls

3.3.400 Fences and Walls

Construction and fences and walls shall conform to all of the following requirements:

A. General Requirements: All fences and walls shall comply with the height limitations of the respective zoning district (Chapter 2) and the standards of this subsection. The City may require installation of walls and/or fences as a condition of development approval, in accordance with land division approval (e.g., flag lots), approval of conditional use permit, or site design review approval. If not part of a prior land use approval, new fences and walls require Land Use review (Type 1) approval; if greater than 6 feet height, a building permit is also required. (See also, Subsection 3.3.200 for landscape screening wall requirements.)

1. The landowner and /or contractor shall request a utility located before construction or excavation.
2. All new fences and walls or replacement of existing fences and wall shall not enclose encroach upon the City right-of-way.
3. All new fences and walls or replacement of existing fences and walls shall not enclose property where a utility easement exist, such as telephone poles.
4. During a Type 1a Land Use Review for all new fences and walls or replacement of existing fences and walls, the property owner shall provide a survey of property and/or have a licensed and bonded contractor perform the construction.

(Ordinance No. 2050; Passed February 8, 2022)

B. Dimensions:

1. Except as provided under subsections 2 and 3 below, the height of fences and walls within a front yard setback shall not exceed 4 feet as measured by the grade closest to the street right-of-way.
2. A retaining wall exceeding 4 feet in height within a front yard setback, which is necessary for site grading and development, may be approved through a land division or site development review.
3. One arbor, gate, or similar garden structure not exceeding 8 feet in height and 4 feet in width is allowed within the front yard, provided that it is not within a clear vision triangle.
4. Walls and Fences to be built for required buffers shall comply with Subsection 3.3.400
5. Fences and walls shall comply with the vision clearance standards of Subsection 3.2.200

C. Maintenance: For safety and for compliance with the purpose of this Section, walls and fences required as a condition of development approval shall be maintained in good condition, or otherwise replaced by the property owner.

D. Materials:

1. Permitted fence and wall materials: wood; metal; bricks, stone; stucco; or similar masonry, and non-prohibited evergreen plants.
2. Prohibited fence and wall materials: concrete blocks; straw bales; barbed or razor wire; scrap lumber, metal or other scrap materials; hedges higher than 8 feet.
3. Fences and walls constructed of brick and masonry exceeding 4 feet in height shall be subject to review and approval by the City Engineer. Those that are taller than 6 feet also require a building permit.

For Residential, Commercial and Industrial Zone Fence Heights:

2.2.120 General Residential Zone, R-1 – Development Standards

Maximum Height-Fences, Retaining/Garden Walls:

Front Yard	4 FT
All Other Yard	6 FT
Rear Yard	6 FT
Street Side of Reverse Frontage Lot	4 FT (or 6 FT. with 5 FT. landscape buffer)

2.3.120 Downtown Commercial Zone, C-1 – Development Standards &

2.3.220 Highway Commercial Zone, C-2 – Development Standards

Maximum Height - Fences, Retaining/Garden Walls:

Front Yard	4 FT
Interior side yard	6 FT
Rear Yard	6 FT
Street side of reverse frontage Lot	4 FT (or 6 FT. with 5 FT. landscape buffer)

2.4.120 General Industrial, M Zone – Development Standards

Maximum Height – Fence and Retaining Wall:

Front Yard	4 FT
Interior side yard	6 FT
Rear Yard	6 FT
Street side of reverse frontage Lot	4 FT (or 6 FT. with 5 FT. landscape buffer)