



Town of Rising Sun
How to be Building & Code Compliant

Rev 5-21-18

Fences

The following language is taken from the Zoning Code of the Town Of Rising Sun. This code was amended by ORD 2009-05 which was adopted on November 9, 2009.

Walls and Fences

(a) Definitions

- (1) Building Face - Shall mean that portion of a building or structure nearest a property line, but shall not include items such as open steps, patios decks and walkways without a roof, terraces, cornices chimneys, flues, belt courses, leaders, sills, pilasters, lintels, cornices, eaves, gutters and other ornamental features.
- (2) Dog Kennel - A kennel is the name given to any structure made of a fencing type material, or similar provisions erected or installed to provide shelter or housing for dogs or other domestic animals. For the purposes of this ordinance a doghouse, run, or other small structure in which such animals are kept shall not be subjected to the requirements of this ordinance. All commercially operated Dog Kennels must comply with all other applicable Town codes and standards.
- (3) Fence - Any structure regardless of composition, except a natural living barrier such as a bush or hedge, which is erected or maintained for the purpose of providing enclosures, barriers, or to establish a boundary line or area, or to enclose a piece of land or to divide a piece of land into distinct portions. The term shall include arbors, archways, boundary fences, gates, pergolas, screens, trellises, similar structures and walls as hereby defined.
- (4) Fence Height - The distance measured from the existing grade to the top of the fence, with the existing grade consisting of any areas within 72 inches of the fence. (See diagrams 1 & 2 in appendix D for examples of flat grade and sloped grade measurements below)
- (5) Fence Zones - For the purposes of determining fence height limitations, for both residential and non-residentially zoned properties, the following fence zones shall be created and defined as follows:
 - a. Front Yard Fence Zone: Shall be any area of a property that is bounded by the front property line, and shall extend between the side property lines, to a point

twenty (20) feet from the edge of the front property line. (see area "a" as designated in example 1 of diagram 3, located in appendix D) For property lines that extend out into the street or public way, the zone shall extend between the side property lines to a point twenty (20) feet from the edge of the public way.

- a.(i) Multiple Public Ways (Front Yard Fence Zones): For the purposes of interpreting these requirements, properties bounded by a public way on more than one side, shall have the same number of front yard fence zones as borders bounded by such public ways. All remaining yards shall be considered side yard fence zones.(see area "a" as designated in examples 2 & 3 of diagram 3 located in appendix D)

- b. Side Yard Fence Zone: Shall be any area of a property extending along a side lot line measured from the front yard fence zone to the rear yard fence zone. (see area "b" as shown in example 1 of diagram 3, located in appendix D) In the case of a property with multiple front yards, all remaining yards not classified as a front yard shall be considered side yards. (see area "b" of examples 2& 3 of diagram 3, located in appendix D)

- c. Rear Yard Fence Zone: Shall be any area of a property extending along the full length of the rear lot line between the side lot lines and shall extend to a point:
 - (1) ten (10) feet short of the front building face in any residentially zoned area. (see area "c" as designated in example 1 of diagram 3 located in appendix D); or
 - (2) to within twenty feet of the front property line in any non-residentially zoned area. (see area "c" as designated in example 1 of diagram 4, located in appendix D)
 - (3) *Public Way – Any sidewalk, street, alley, highway, public thoroughfare, or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.*

(4) *Wall - A barrier that is built using stones concrete, dirt, earth, timbers or boards, or pre-engineered systems and is designed and intended to resist lateral pressure or restrain a vertical-faced mass of earth; or stabilize a slope and keep soil from sliding or eroding downhill or provide support for vertical or near-vertical grade changes or support the earth between two or more grade levels; or acts as a berm or barrier to protect a property from light, noise or water.*

(b) **Approval Required** - No Fence, wall or other type of barrier construction shall be erected or installed until an approved Zoning Compliance for Construction Permit is issued by the Zoning Officer.

(c) **Application for Permit** - Any person or persons, corporation, firm or association intending to erect a fence or wall shall, before any work is commenced, make application for a Zoning Compliance for Construction Permit. Application shall be accompanied by a plan or sketch showing the proposed location of any fence, the material proposed to be used, which must be in accordance with this Ordinance, and be accompanied by an appropriate fee. Upon approval by the Zoning Officer, a Zoning Compliance for Construction permit shall be issued and the applicant shall have 6 months from date of issuance to start the project and 12 months to complete. Failure to do so will render the approval null and void.

c1. Dog Kennels over 6' in height must secure a Zoning Compliance for Construction permit and must comply with the accessory structure requirements of the zoning code.

(d) **Height & Location Restrictions** - Any newly constructed fence, walls or similar type barriers may be installed up to a property line, unless there is an existing fence in the vicinity of the shared property line, in which case the proposed fence must comply with sub note e(2) below. All fences shall comply with the following height limitations as defined herewith in:

(1) **Rear Yard Fence Zones** - No fence, walls or similar type barriers located in a rear yard fence zone, shall be more than seventy-two (72) inches high in any residentially zoned district, and no more than eighty-four (84) inches high in any non-residentially zoned district. (See diagram 5 located in appendix D) In residential districts, rear yard fences, walls and similar type barriers may extend along the side yard to point not less than ten (10) feet from the front face of the

existing building. (see area "c" as designated in example 1 of diagram 3 located in appendix D). In non-residential zones, rear yard fences may extend to within twenty (20) feet of the street or public way. (see area "c" as designated in example 1 of diagram 4, located in appendix D)

- (2) Side Yard Fence Zones - No fence, walls or similar type barriers located in a side yard fence zones, shall be more than forty-eight (48) inches high when located in a residentially zoned district. (see diagram 6 located in appendix D) However, all side yard fences, walls or barrier shall be reduced to a height of no more than forty-two inches (42) high(see diagram 7 located in appendix D) for any portion located within twenty (20) feet of the street or roadway edge. (see area "b" as designated in the three (3) examples of diagram 3 above). Side yard fences located in non-residentially zoned districts shall be permitted to be no more than eighty-four (84) inches high (See diagram 5, located in appendix D), however such fences shall be reduced to a height of no more than forty-two inches (42) high (see diagram 7, located in appendix D) for any portion located within twenty (20) feet of the street or roadway edge. (see area "b" as designated in the three (3) examples of diagram 4, located in appendix D).
- (3) Front Yard Fence Zones - As depicted by area "a" in all examples of diagrams 3 & 4, located in appendix D, no fence, wall or similar type barrier located in a front yard fence zone shall exceed forty-two (42) inches high. (see diagram 7, located in appendix D) In addition, in the absence of a public sidewalk, no fence, walls or similar type barrier shall be located any closer than five (5) feet from the edge of any public roadway, alley or passageway; nor shall they reduce the width of any existing public sidewalk or designated walking area to less than 5 feet, regardless of actual width of existing walkway area. No fence shall be located in any road or highway right-of-ways. Furthermore, and only in the case of properties located in a non-residentially zoned area, a fence, wall or similar barrier may be installed higher than forty-two (42) inches, upon granting of a variance by the Board of Zoning Appeals prior to installation, but in no case may they be constructed of a solid material, that would limit visibility to or from the public way.

- (4) Town House Developments (as defined in the general definitions of the zoning code - Shall be regulated as follows:
- (a) No front yard fences are allowed in townhouse projects unless approved by the Planning and Zoning Board as part of an overall design concept for the project that specifies height, materials, et., and how fences will be maintained.
 - (b) All fences or walls erected within a rear or side yard setback, that results in the complete enclosure of the rear property of any building that is part of a series of 3 or more independently accessed yet connected buildings; shall be provided with a minimum forty-eight (48) inch unobstructed emergency personnel access way that shall run along the rear property line. A gate shall be installed to provide a minimum thirty-six (36) inch wide by seventy-two (72) inch high access way between each enclosed property and the emergency personnel access way. Property owners shall be responsible for maintaining their portion of the emergency personnel access way.
- (5) Covenants and Deed Restrictions - All fences must comply with any deeds and or covenants regulating such applications as specifically spelled out in such legal documents.
- (e) **Existing Installations** - Properties with existing installations, or adjacent to properties with existing installations shall comply with the following:
- (1) **Repair or Replacement**: Any existing non-compliant fence, wall or similar barrier in place at the time of this ordinance adoption shall be permitted to continue in non-compliance with this code, however if such fence is damaged or replaced, it must be replaced or repaired in the same location, at the same heights and must use the same materials, otherwise any such repairs or replacement must be brought into compliance with this code.
 - (2) **Shared Property Line Installations**: Property owners shall have the right to install a fence along a shared property line. However, in an effort to avoid areas that are too narrow to maintain the growth of vegetation and the collection of trash and debris, a fence that is proposed to be installed in the

vicinity of the property line of which there is an existing fence from a neighboring property, must

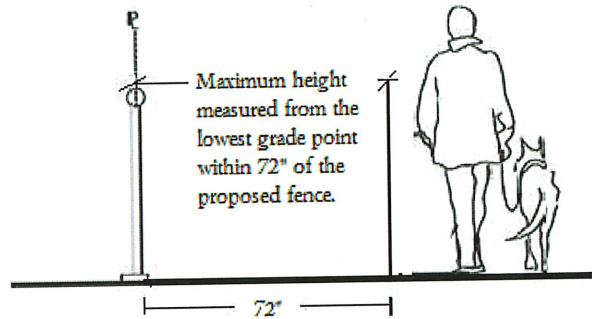
- (a) abut or connect to the existing fence that is already installed on the property line (see diagram 8 below); or
- (b) if item (a) above is not possible due to existing setbacks from the property line or desirable, the proposed fence must be installed at least eighteen (18) inches away from the property line, regardless of whether the existing fence is on the property line or not. (see diagrams 9 & 10, listed in appendix D)

(f) **Materials and Composition**

- (1) Any fence, wall or similar structure, which may cause a nuisance, a fire hazard or a dangerous condition or an obstruction affecting the public safety is prohibited. Further, no fence shall be erected in a front yard in a residential district or along a public right-of-way unless the fence is uniformly less than fifty percent (50%) solid.
- (2) The following fences and fencing materials are specifically prohibited:
 - (i) Barbed or razor wire.
 - (ii) Pointed fences less than three (3) feet in height.
 - (iii) Canvas fences.
 - (iv) Cloth fences.
 - (v) Electrically charged fences.
 - (vi) Poultry fences.
 - (vii) Turkey wire.
 - (viii) Temporary fences such as snow fences.
 - (ix) Expandable fences and collapsible fences, except during construction of a building.
 - (x) Chain link fencing is not permitted to be used as border fencing in any residential applications, unless rubberized or coated material is used.
- (3) Fences facing a public way shall be placed with the smooth or finished side facing the public way. The side without the horizontal supports is considered the smooth or finished side.
- (4) All rubberized, coated or chain link fences erected shall be erected with the closed loop at the top of the fence.
- (5) All entrances or gates shall open into the property.

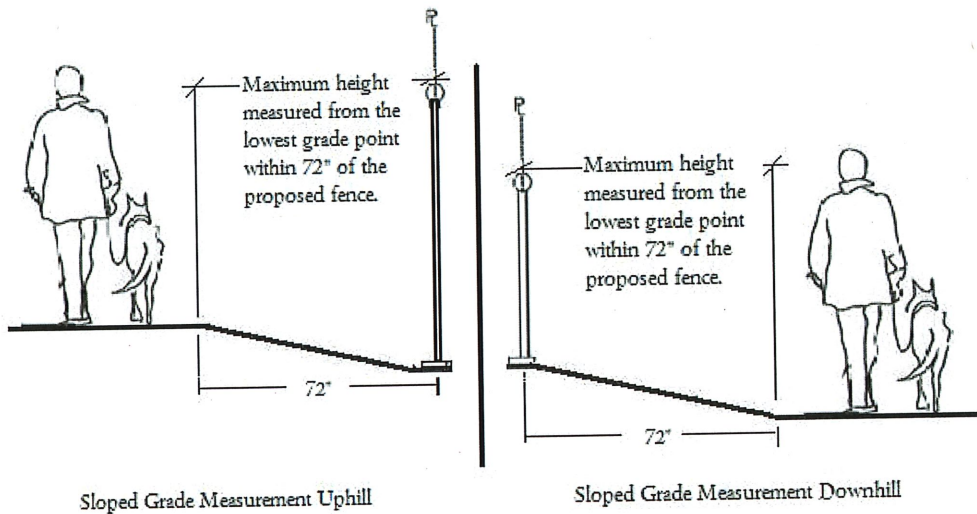
- (6) A permit may be issued for the construction of a security fence for commercial and industrial properties, upon application.
- (7) All fences or walls must be erected so as not to encroach upon a public right-of-way or easements unless a waiver is granted by the Town Commissioners of Rising Sun with the stipulation that the fence be removed or relocated upon request by appropriate town officials. All fences or walls must be erected on or within the property line, and none shall be erected so as to interfere with vehicular or pedestrian traffic or interfere with visibility on corner lots and/or other structures or vehicles, whether stationary or transitory, on public or private property.
- (8) Fences may be located within a required buffer yard.
- (g) **Powers and Duties of the Zoning Inspector** - In the case of a dispute over a fence proposed to be located along a property line, the Zoning Officer shall have the authority to require the applicant to secure a survey of all property boundaries, prior to granting any approvals of the project and shall further have the right to suspend any project if same dispute arises after the start of the project, but prior to final Town approval and completion of said project. The Zoning Inspector shall have the authority to direct, in writing, the removal or modification of any fence, wall, hedge or other structure on private or public property wherever the same shall interfere with adequate visibility of operators of motor vehicles at street intersections or curbs. Any person who shall refuse or neglect to comply with the written direction of the Zoning Inspector shall be guilty of a violation of this Ordinance and shall be subject to its penalties.
- (h) **Violation and Penalties** - Any violator of any of this provision of this chapter shall be guilty of a municipal infraction and shall be punished as provided herein. The Town is entitled to seek equity enforcement for the correction and abatement of any violations.

APPENDIX D FENCE ZONES, HEIGHTS AND STANDARDS



Flat Grade Measurement

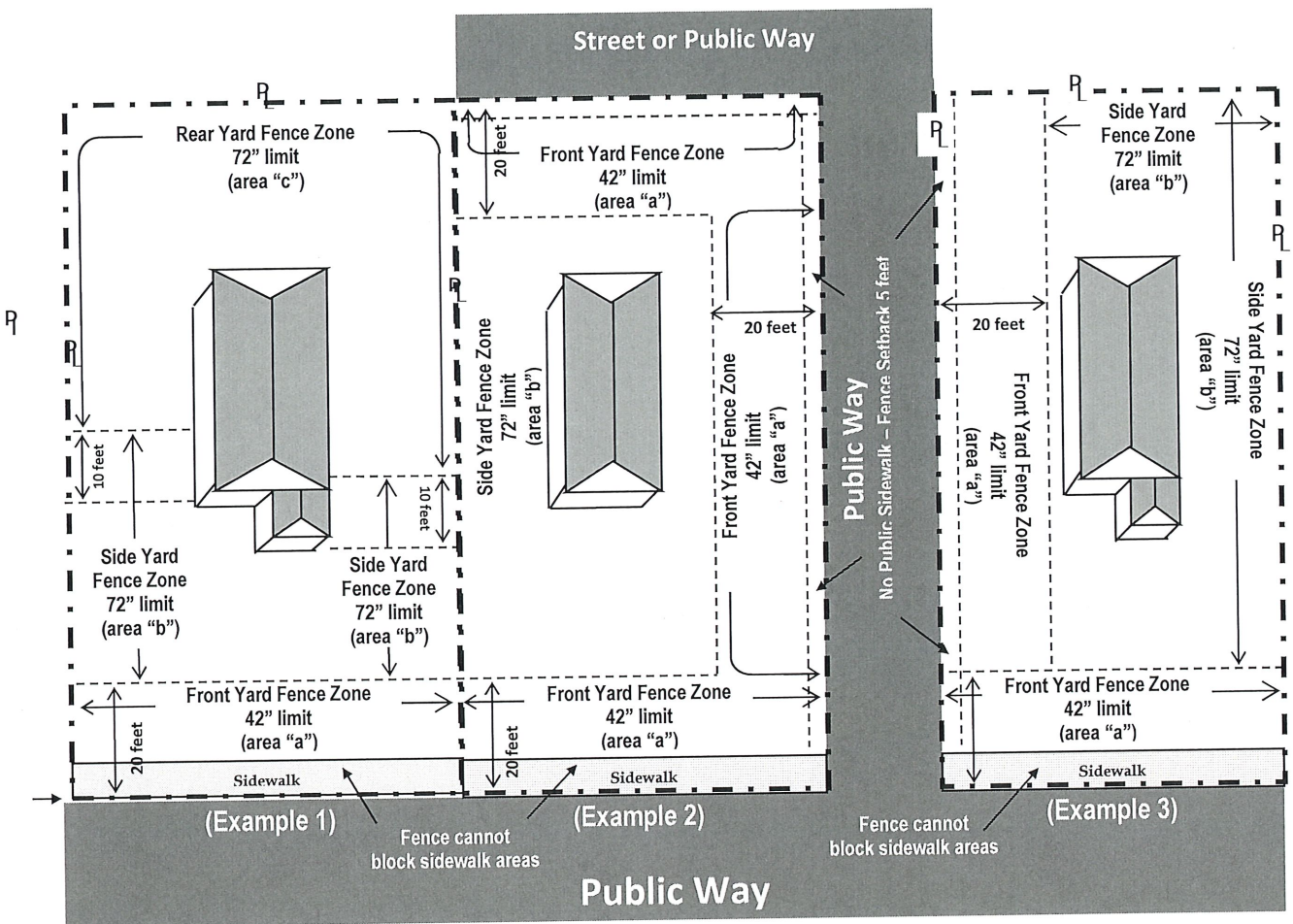
(Diagram 1)



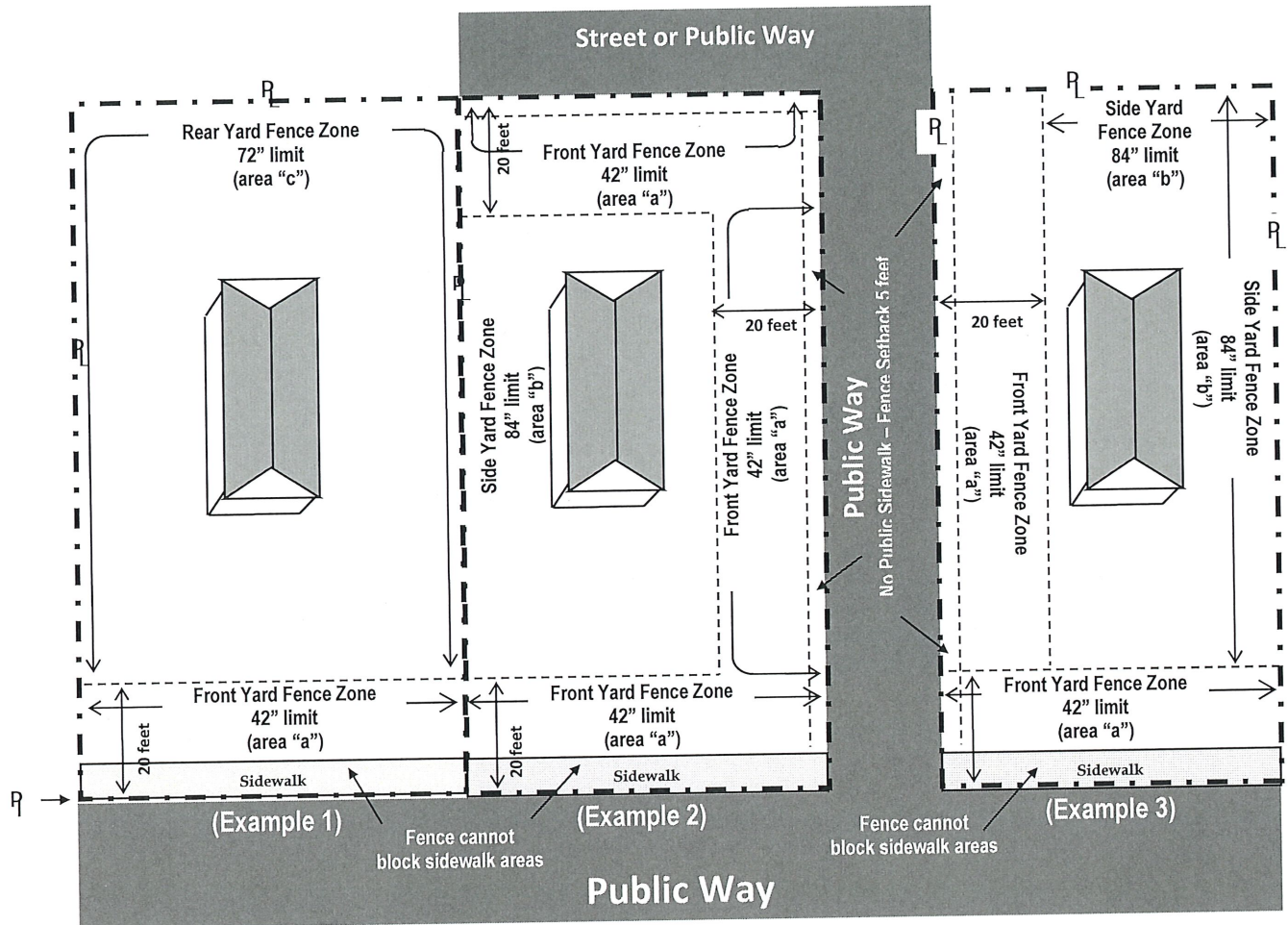
Sloped Grade Measurement Uphill

Sloped Grade Measurement Downhill

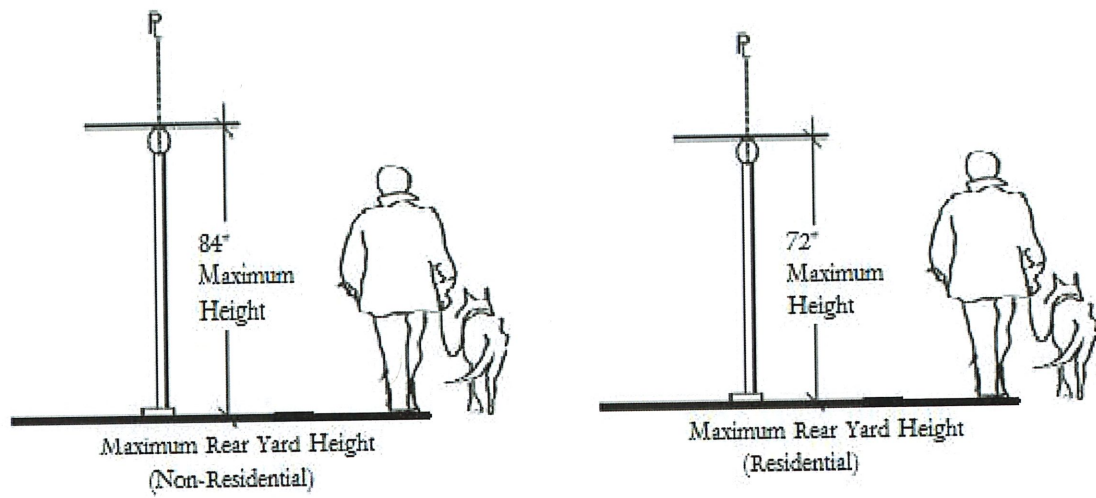
(Diagram 2)



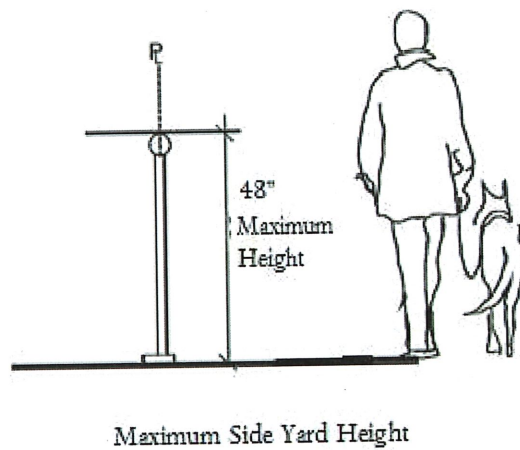
Residential Zoned Areas
(Diagram 3)



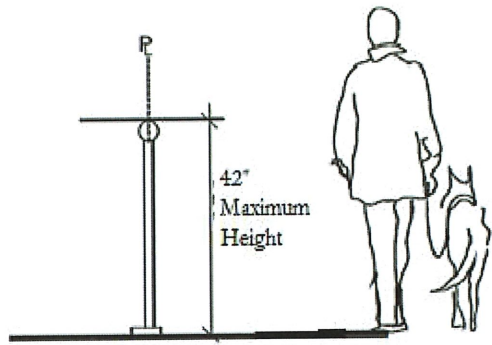
**Non- Residential Zoned Areas
(Diagram 4)**



(Diagram 5)

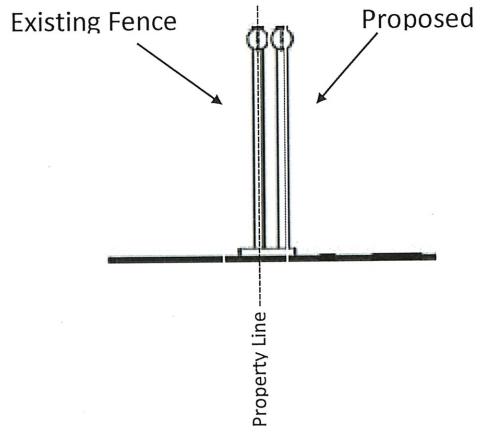


(Diagram 6)

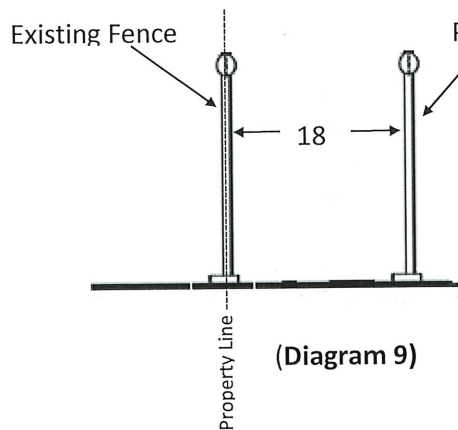


Maximum Front Yard Height

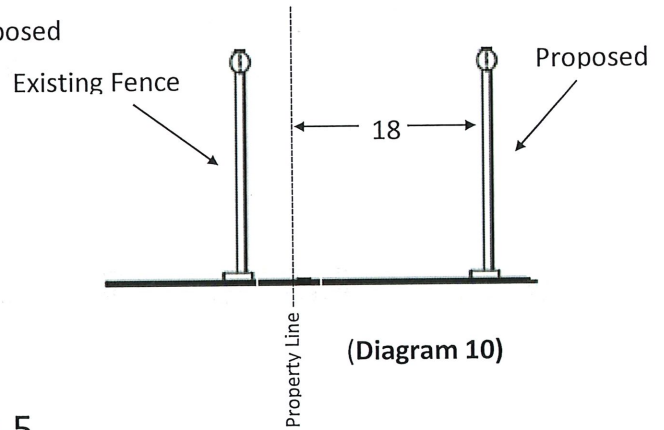
(Diagram 7)



(Diagram 8)



(Diagram 9)



(Diagram 10)

