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(A) Permits required.

(1) No fence or wall shall be erected without the prior issuance of a permit from the Town. ('75 Code, § 9-2.207)

(2) A building permit and/or a fence permit shall be required for all fences, walls, gates, pylons, and berms. All vehicular gates and entry features require review by the Architectural and Site Review Board.

(B) Residential zoning districts. The following regulations and design guidelines were created to preserve the beauty and rural quality of the Town and ensure the safety of all residents. Open fencing and gates are strongly encouraged to maintain the rural atmosphere of the Town. In all residential and open space zones the following regulations and design standards shall apply to all fences, walls, gates, pylons, and berms.

(1) Open fences, which meet all of the provisions of divisions (4) through (13) below, may be approved by the Planning Director, without review by the Architectural and Site Review Board.

(2) Fences and walls located greater than 50 feet (30 feet in the R-1 zone) from the right-of-way of adjacent roadways and which meet all of the provisions of divisions (4) through (13) below, may be approved by the Planning Director unless an adjacent property owner requests review by the Architectural and Site Review Board. At least ten days prior to the decision, notice of the pending decision shall be provided to any owner of property adjacent to the proposed fence, including lots located across an abutting public or private roadway.

(3) All other fences, walls, gates, and berms which meet the provisions of divisions (4) through (13) below may be approved by the Planning Director after review and recommendation of the Architectural and Site Review Board. Exceptions to the standards set forth in this section may be granted by the Planning Director upon a finding by the Architectural and Site Review Board that such fence, wall, gate, pylon, or berm would be consistent with the rural character of Woodside and with the existing fencing of the subject lot and neighboring properties. No exception may be granted, however, which allows a fence, wall, or berm to exceed six feet in height.

(4) The design of all fences, walls, gates, pylons, and berms shall be rural in character and shall emphasize the use of natural materials and colors. Open fencing is highly preferred. Open gates are required. Unpainted or stained white, brown or gray wood; welded or woven wire and wood posts; natural stone and/or brick construction are preferred. Chain link fencing, except for athletic sport fencing, is not permitted within 50 feet of the right-of-way of an adjacent roadway, unless specifically approved by the Architectural and Site Review Board.

(5)(a) All fences, walls, gates, and pylons shall meet the standards in the following chart. The maximum overall height limit for fencing and gates is six feet, except athletic court

fencing, which may be 12 feet in height. Fences, walls, gates, and pylons may not be located in the public or private right-of-way or within any trail easement or other easement precluding their construction.

<b>Fencing Style</b>	<b>Minimum setback from edge of adjacent driving surface (public)</b>	<b>Minimum setback from edge of adjacent driving surface (private)</b>
Open fences, less than 4 feet tall	10 feet	5 feet
Open fences, between 4 feet and 6 feet tall	20 feet	10 feet
Solid fences and walls, less than 4 feet tall	10 feet	5 feet
Solid fences and walls, between 4 feet and 6 feet tall	50 feet (30 feet in R-1 zoning)	50 feet (30 feet in R-1 zoning)
Vehicular gates	25 feet, with gates in the open position	25 feet, with gates in the open position
Athletic court fencing, where allowed	50 feet	50 feet

(b) BERMS. Berms shall vary in height and width to create a natural appearance, consistent with surrounding natural contours, and must be planted with native drought tolerant plants. The top of the berm shall slope gradually to approximate natural slopes and to accommodate planting of vegetation. The slope of the berm must not exceed two feet horizontal to one foot vertical and fills in excess of three feet require certification of design by a civil engineer.

(6) Notwithstanding the standard set forth above, all fences, walls, gates, pylons or berms shall be located to accommodate existing equestrian trail usage such that a minimum of 15 feet of usable trail width remains, unless the Trails Committee concurs that a lesser width is adequate for safe equestrian movement.

(7) The vertical dimension of any fence or wall shall be measured from the average elevation of the finished lot grade on both sides of any such fence or wall. The maximum height at any point on a stepped fence shall not exceed the limitations contained in this section.

(8) Screen plantings required as a condition of approval for any fence or wall shall be maintained by the property owner in good condition.

(9) Corral and pasture fences shall not be less than four feet in height, unless other requirements are prescribed by Chapter 115 of this Code, relating to stables, or any other Town law applicable to the keeping of livestock, in which case such other height requirements shall prevail.

(10) No fence, wall, gate, pylon or berm shall be permitted where, in the opinion of the Town Engineer, the additional height would obstruct the sight distance or create a potential public safety hazard. Additionally, the Town Engineer may require that fences, walls, gates, pylons, or berms erected or planted prior to the effective date of this chapter be reduced in height or removed where the Town Engineer determines that a public safety hazard exists.

(11) No fence, wall, gate, pylon, or berm shall be constructed within a stream corridor, as defined in § 153.206, unless the Town Engineer finds that such fencing will not impede drainage flow and the Planning Director finds that adequate provision is made for the passage of wildlife.

(12) (a) Fences, gates, pylons, and berms shall not be constructed within any public right-of-way. Retaining walls may be constructed in a public right-of-way only if each of the following three conditions are met:

1. The wall is necessary for the construction and maintenance of the road, trails, paths, drainage, or public utilities, or the entire wall will be located below the driving surface of the adjacent roadway, or the wall is necessary for slope stability or to access a property; and

2. The Town Engineer finds that the wall will not negatively impact the safety and functionality of the right-of-way, recognizing that the purpose of the public right-of-way is for both travel and for utilities; and

3. Prior to issuance of a permit for the requested improvement, an encroachment agreement shall be recorded. The agreement shall contain language requiring the property owner benefiting from the improvement to indemnify and defend the Town from any claim that may arise in connection with the encroachment. The agreement shall also include language that authorizes the Town to require removal of the improvement at the benefiting property owner's sole cost and expense.

(b) Fences, walls and berms shall not be constructed within any private road right-of-way. Gates, pylons, and appurtenances, that run from such gates and pylons to the edge of private right-of-way, may be constructed in a private right-of-way provided a use permit is granted by the Planning Commission according to §§ 153.245 through 153.255, and provided the following findings are made (in addition to the findings required by § 153.251):

1. The private road right-of-way is not a through road;

2. The private road right-of-way does not serve more than ten residential lots;

3. An adequate turnaround will be provided;

4. The gate and/or gate appurtenances will not constitute a traffic safety hazard;

5. The private road right-of-way is privately owned by property owners adjacent to it,

6. All property owners who have the right to use the private road right-of-way have given their written consent to the use permit application;

7. Access will be provided for emergency vehicles;
8. The proposed gate and its appurtenances conform to applicable Town codes;
9. Maintenance of the gate and its appurtenances is provided for in a road maintenance agreement executed and recorded by all property owners who have joined in the use permit application; and
10. The gate apparatus will be operable from vehicles by handicapped persons.

(13) Notwithstanding other provisions of this chapter, replacement of existing fences or walls shall be permitted if the replacement is of a like material, no greater in height, and no closer to adjacent property lines than the existing fence or wall, or if replaced by an "open" fence meeting all of the provisions of this section, except that replacement with chain link fencing is subject to all provisions of this section. Repair of short sections (less than 100 feet, not to exceed 50% of that segment of fencing over a 12-month period) of existing fences and walls does not require a permit. Replacement of existing gates, pylons, and berms shall require a fence and/or building permit and are subject to all review provisions of this section, as are fences and walls which are replaced other than as specified above. Replacement of any of the above, however, shall be prohibited if the Town Engineer determines that a public safety hazard exists.

('75 Code, § 9-2.208)

(C) Community Commercial District. In the CC District fences and walls exceeding six feet in height shall be regarded as structures and shall not be erected without first obtaining the approval of the Planning Director and the issuance of a building permit from the Town. ('75 Code, § 9-2.209)

(Ord. 1980-291, effective 9-11-80; Am. Ord. 1986-334, effective 5-8-86; Am. Ord. 1989-391, effective 9-14-89; Am. Ord. 1992-454, effective 3-13-92; Am. Ord. 1999-494, effective 3-25-99; Am. Ord. 2006-530, effective 6-8-06; Am. Ord. 2012-554, effective 8-23-12)

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