

Section 4.113. Standards Applying To Residential Developments In Any Zone.**(.01) Outdoor Recreational Area in Residential Developments.**

A. Purpose. The purposes of the following standards for outdoor recreational area are to provide adequate light, air, open space and usable recreational facilities to occupants of each residential development. Outdoor recreational area shall be:

1. Designed with a reasonable amount of privacy balanced between indoor and outdoor living areas. Such outdoor recreational area shall be provided consistent with the requirements of this Section.
2. Recreational areas shall be provided in keeping with the needs of the prospective tenants and shall not be located in required yards, parking, or maneuvering areas, or areas that are inaccessible. Standards for outdoor recreational areas may be waived by the Development Review Board upon finding that the recreational needs of the residents will be adequately met through the use of other recreational facilities that are available in the area.
3. In mixed-use developments containing residential uses, the Development Review Board shall establish appropriate requirements for outdoor recreational area, consistent with this Section.
4. The Development Review Board may establish conditions of approval to alter the amount of required outdoor recreation area, based on findings of projected need for the development. Multi-family developments shall provide at least the following minimum recreational area:
 - a. For ten (10) or fewer dwelling units, 1000 square feet of usable recreation area;
 - b. For eleven (11) through nineteen (19) units, 200 square feet per unit;
 - c. For twenty (20) or more units, 300 square feet per unit.
5. Outdoor recreational area shall be considered to be part of the open space required in the following subsection.

(.02) Open Space Area shall be provided in the following manner:

A. In all residential subdivisions including subdivision portions of mixed use developments where (1) the majority of the developed square footage is to be in residential use or (2) the density of residential units is equal or greater than 3 units per acre, at least twenty-five percent (25%) of the area shall be in open space

excluding streets and private drives. Open space must include, as a minimum natural areas that are preserved under the City's SROZ regulations and usable open space such as public park area, tot lots, swimming and wading pools, grass area for picnics and recreational play, walking paths, and other like space. For subdivisions with less than 25% SROZ lands and those with no SROZ lands, the minimum requirement shall be $\frac{1}{4}$ acre of usable park area for 50 or less lots, $\frac{1}{2}$ acre of usable park area for 51 to 100 lots, and pro rata amounts based on this formula for subdivisions exceeding 100 lots. Front, side and rear yards of individual residential lots shall not be counted towards the 25% open space.

Provided, however, where SROZ is greater than 25% of the developable area for any development, the development must also provide $\frac{1}{4}$ acre of usable park area for a development of less than 100 lots, and $\frac{1}{2}$ acre of usable park area for a development of 100 lots, and pro rata amounts based on this formula for subdivisions exceeding 100 lots. The Development Review Board may waive the usable open space requirement if there is substantial evidence in the record to support a finding that the intent and purpose of the requirement will be met in alternative ways. Irrespective of the amount of SROZ, a development may not use phasing to avoid the minimum usable space requirement.

Multi-family developments shall provide a minimum of 25% open space excluding streets and private drives. Open space must include, as a minimum natural areas that are preserved under the City's SROZ regulations, and outdoor recreational area as provided in 4.113(.01)(A)(1) through (5) [Amended by Ord. 589 8/15/05, Ord. 682, 9/9/10]

- B. Open space area required by this Section may, at the discretion of the Development Review Board, be protected by a conservation easement or dedicated to the City, either rights in fee or easement, without altering the density or other development standards of the proposed development. Provided that, if the dedication is for public park purposes, the size and amount of the proposed dedication shall meet the criteria of the City parks standards. The square footage of any land, whether dedicated or not, which is used for open space shall be deemed a part of the development site for the purpose of computing density or allowable lot coverage.
- C. The Development Review Board may specify the method of assuring the long-term protection and maintenance of open space and/or recreational areas. Where such protection or maintenance

are the responsibility of a private party or homeowners' association, the City Attorney shall review any pertinent bylaws, covenants, or agreements prior to recordation.

(.03) Building Setbacks (for Fence Setbacks, see subsection .08)

- A. For lots over 10,000 square feet:
 1. Minimum front yard setback: Twenty (20) feet.
 2. Minimum side yard setback: Ten (10) feet. In the case of a corner lot less than one hundred (100) feet in width, abutting more than one street or tract with a private drive, the side yard on the street or private drive side of such lot shall be not less than twenty percent (20%) of the width of the lot, but not less than ten (10) feet.
 3. In the case of a key lot, the front setback shall equal one-half (1/2) the sum of depth of the required yard on the adjacent corner lot along the street or tract with a private drive upon which the key lot faces and the setback required on the adjacent interior lot.
 4. No structure shall be erected within the required setback for any future street shown within the City's adopted Transportation Master Plan or Transportation Systems Plan.
 5. Minimum setback to garage door or carport entry: Twenty (20) feet. Except, however, in the case of an alley where garages or carports may be located no less than four (4) feet from the property line adjoining the alley.
 6. Minimum rear yard setback: Twenty (20) feet. Accessory buildings on corner lots must observe the same rear setbacks as the required side yard of the abutting lot.
- B. For lots not exceeding 10,000 square feet:
 1. Minimum front yard setback: Fifteen (15) feet, with open porches allowed to extend to within ten (10) feet of the property line.
 2. Minimum side yard setback: One story: five (5) feet; Two or more stories: seven (7) feet. In the case of a corner lot, abutting more than one street or tract with a private drive, the side yard on the street side of such lot shall be not less than ten (10) feet.
 3. In the case of a key lot, the front setback shall equal one-half (1/2) the sum of depth of the required yard on the adjacent corner lot along the street or tract with a private drive upon which the key lot faces and the setback required on the adjacent interior lot.

4. No structure shall be erected within the required setback for any future street shown within the City's adopted Transportation Master Plan or Transportation Systems Plan.
5. Minimum setback to garage door or carport entry: Twenty (20) feet. Wall above the garage door may project to within fifteen (15) feet of property line, provided that clearance to garage door is maintained. Where access is taken from an alley, garages or carports may be located no less than four (4) feet from the property line adjoining the alley.
6. Minimum rear yard setback: One story: fifteen (15) feet. Two or more stories: Twenty (20) feet. Accessory buildings on corner lots must observe the same rear setbacks as the required side yard of the abutting lot.

[Section 4.113(.03) amended by Ord. 682, 9/9/10]

- (.04) Height Guidelines: The Development Review Board may regulate heights as follows:
- A. Restrict or regulate the height or building design consistent with adequate provision of fire protection and fire-fighting apparatus height limitations.
 - B. To provide buffering of low density developments by requiring the placement of buildings more than two (2) stories in height away from the property lines abutting a low density zone.
 - C. To regulate building height or design to protect scenic vistas of Mt. Hood or the Willamette River from greater encroachments than would occur if developed conventionally.
- (.05) Residential uses for treatment or training.
- A. Residential Homes, as defined in Section 4.001, shall be permitted in any location where a single-family dwelling is permitted.
 - B. Residential Facilities, as defined in Section 4.001, shall be permitted in any location where multiple-family dwelling units are permitted.
- (.06) Off Street Parking: Off-street parking shall be provided as specified in Section 4.155.
- (.07) Signs: Signs shall be governed by the provisions of Sections 4.156.01 – 4.156.11.
- (.08) Fences:
- A. The maximum height of a sight-obscuring fence located in the required front yard of a residential development shall not exceed four (4) feet.

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- B. The maximum height of a sight-obscuring fence located in the side yard of a residential lot shall not exceed four (4) feet forward of the building line and shall not exceed six (6) feet in height in the rear yard, except as approved by the Development Review Board. Except, however, that a fence in the side yard of residential corner lot may be up to six (6) feet in height, unless a greater restriction is imposed by the Development Review Board acting on an application. A fence of up to six (6) feet in height may be constructed with no setback along the side, the rear, and in the front yard of a residential lot adjoining the rear of a corner lot as shown in the attached Figure.
- C. Notwithstanding the provisions of Section 4.122(10)(a) and (b), the Development Review Board may require such fencing as shall be deemed necessary to promote and provide traffic safety, noise mitigation, and nuisance abatement, and the compatibility of different uses permitted on adjacent lots of the same zone and on adjacent lots of different zones.
- D. Fences in residential zones shall not include barbed wire, razor wire, electrically charged wire, or be constructed of sheathing material such as plywood or flakeboard.

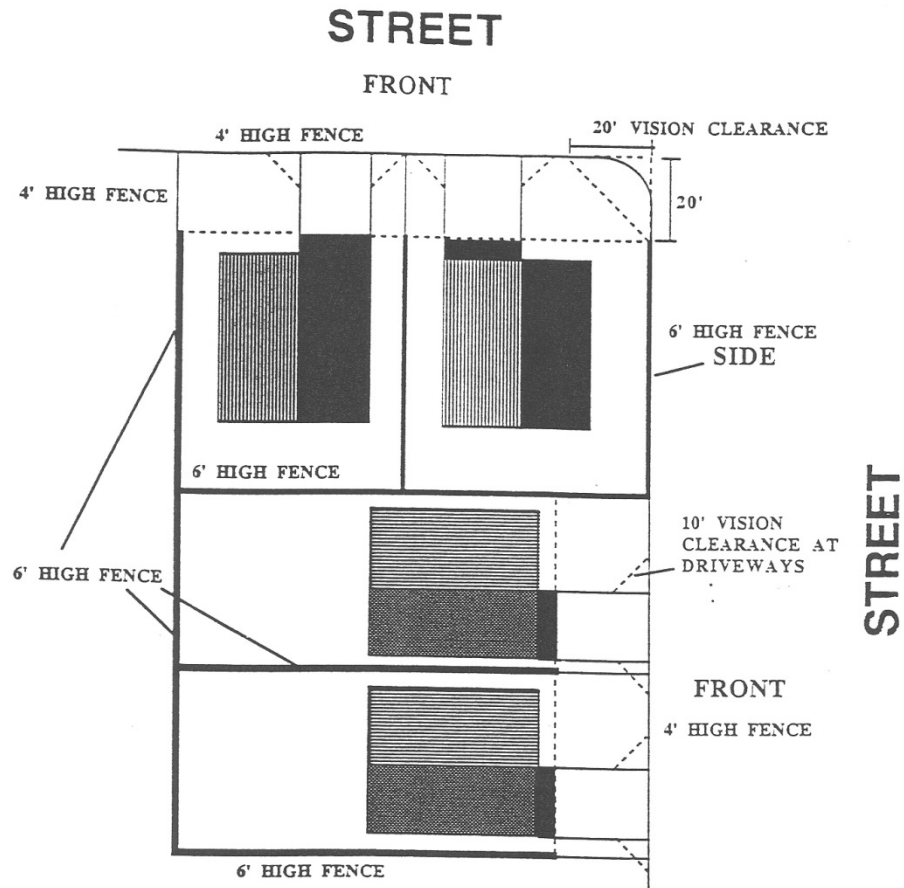


Figure 1 Fence Standards for Residential Development

(.09) Corner Vision: Vision clearance shall be provided as specified in Section 4.177, or such additional requirements as specified by the City Engineer.

(.10) Prohibited Uses:

- A. Uses of structures and land not specifically permitted in the applicable zoning districts.
- B. The use of a trailer, travel trailer or mobile coach as a residence, except as specifically permitted in an approved RV park.
- C. Outdoor advertising displays, advertising signs, or advertising structures except as provided in Sections 4.156.05, 4.156.07, 4.156.09, and 4.156.10.

(.11) Accessory Dwelling Units.

- A. Accessory Dwelling Units, developed on the same lot as the detached or attached single-family dwelling to which it is accessory, shall be permitted outright, subject to the standards and requirements of this Section.
- B. Standards
 - 1. One Accessory Dwelling Unit per lot shall be no greater than 800 square feet with not more than two bedrooms, unless the size and density of ADUs are otherwise provided in an adopted Neighborhood Plan or Stage II Development Plans. Larger units shall be subject to standards applied to duplex housing.
 - 2. Accessory Dwelling Units may be either attached or detached, but are subject to all zone standards for setbacks, height, and lot coverage, unless those requirements are specifically waived through the Planned Development waiver or Variance approval processes.
 - 3. This Section applies to residential developments in PD-R, R, RA-H, or Village zones.
 - 4. Where an Accessory Dwelling Unit is proposed to be added to an existing residence and no discretionary land use approval is being sought (e.g., Planned Development approval, Conditional Use Permit approval, etc.) the application shall require the approval of a Class I Administrative Review permit. Application for duplex construction shall be subject to the density standards of the zone in which it is located, or as otherwise provided in a Neighborhood Plan or Stage II/Final Development Plan.
 - 5. Authorization to develop Accessory Dwelling Units does not waive Building Code requirements. Increased firewalls or

building separation may be required as a means of assuring adequate fire separation from one unit to the next. Applicants are encouraged to contact, and work closely with, the Building Division of the City's Community Development Department to assure that Building Code requirements are adequately addressed.

6. The Accessory Dwelling Unit must be of substantially the same exterior design and architecture (i.e. siding, windows, doors and roofing materials) as the primary dwelling unit on the property.
7. Parking:
 - a. Each Accessory Dwelling Unit shall have one standard sized parking space on the same lot.
 - b. Where an off-street parking space is not available to serve the ADU, on-street parking may be considered to satisfy this requirement if all of the following are present:
 - i. On-street parking exists along the frontage of the lot, or within 100' of the front lot line of the lot.
 - ii. No more than 25% of the lots in a block will have ADUs.
8. Each Accessory Dwelling Unit shall provide complete, independent permanent facilities for living, sleeping, eating, cooking, bathing and sanitation purposes, and shall have its own separate secure entrance.
9. Each Accessory Dwelling Unit must be accessible by street or driveway to fire and emergency vehicles, and for trash pick-up.

C. Neighborhood Density and Size Standards.

1. Canyon Creek Estates – up to 12 ADUs as per Resolution No. 95PC16.

[Section 4.133(11) amended by Ord. 677, 3/1/10]

(.12) Reduced Setback Agreements. The following procedure has been created to allow the owners of contiguous residential properties to reduce the building setbacks that would typically be required between those properties, or to allow for neighbors to voluntarily waive the solar access provisions of Section 4.137. Setbacks can be reduced to zero through the procedures outlined in this subsection.

A. Examples

1. First example: the owner of one house is allowed to build to the sideyard property line, with no setback, provided that the owner of the neighboring property agrees and that the agreements of both owners are recorded with the deed records for those properties.

2. Second example: the owner of one property is allowed to build a structure, or grow trees that are not solar friendly, shading an adjoining property beyond the amount that is permitted in Section 4.137.

B. Standards

1. The use of the Reduced Setback Agreement procedure does not waive Building Code requirements. The Building Code may require increased firewall standards or increased setbacks on one property as a means of assuring adequate fire separation from the adjoining property. Applicants are advised to work with the Building Division of the Community Development Department prior to filing for approval of a Reduced Setback Agreement.
2. The Reduced Setback Agreement procedure may be used to allow for the construction of common wall units.
3. Property owners using the Reduced Setback Agreement procedure have responsibility for notifying lien holders of the changes, for meeting all requirements of utility providers, and for avoiding conflicts with established easements.
4. The Reduced Setback Agreement procedure shall require the approval of a Class I Administrative Review permit.
5. Owners must provide accurate metes and bounds descriptions of all areas to be covered by non-construction easements.
6. Nothing in this Section shall abrogate any easements or utility locations existing on the subject properties. The property owners are responsible for assuring that easements and utilities are not adversely affected by any construction that is anticipated.

(.13) Bed and Breakfasts.

- A. Purpose. The purpose of this subsection is to provide standards for the establishment of bed and breakfast facilities. These regulations are intended to allow for a more efficient use of large, older houses in residential areas where the neighborhood character is preserved to maintain both the residential neighborhood experience and the bed and breakfast experience. These regulations enable owners to maintain large residential structures in a manner that keeps them primarily in residential use. The proprietor can take advantage of the scale and often the architectural and historical significance of a residence. The regulations also provide an alternative form of lodging for visitors who prefer a residential setting.

B. Description

1. **Bed and Breakfast Home.** An operation conducted by the owner-occupant of a dwelling in an RA-H, R, or PDR zone, or of a one- or other district permitting residential uses, that provides not more than five (5) rooms for paying guests on an overnight basis. Guest occupancy periods shall not exceed fourteen (14) consecutive days. The occupancy of such a bed and breakfast home is limited to two (2) persons or one (1) family per lodging unit or guest room.
 2. Operations that would otherwise meet the standards listed above for Bed and Breakfast Homes, but which exceed either the number of rooms available or the length of stay allowed, shall be subject to the same standards as hotels or motels, listed elsewhere in this Code.
- C. **Where These Regulations Apply.** The regulations of Section 4.113(13) apply to bed and breakfast facilities in PDR, R, and RA-H zones.
- D. **Conditional Use Review.** Bed and breakfast facilities require a conditional use review, as specified in Section 4.184.
- E. **Use-Related Regulations.**
1. **Accessory Use.** A bed and breakfast facility must be accessory to a household living use on the site. This means that the individual or family who operate the facility must occupy the house as their primary residence.
 2. **Maximum size.** Bed and Breakfast facilities are limited to a maximum of five (5) bedrooms for guests and a maximum of six (6) guests per night. In PDR-1, PDR-2, PDR-3, AND PDR-4 zones, bed and breakfast facilities over these size limits are prohibited.
 3. **Services to guests.**
 - a. Food services may only be provided to overnight guests of a bed and breakfast facility.
 - b. Serving alcohol to overnight guests is allowed. The proprietor may need Oregon Liquor Control Commission approval to serve alcohol at a bed and breakfast facility.
 4. **Meetings and Social Gatherings.**
 - a. **Commercial meetings.** Activities including luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation, are prohibited at a bed and breakfast facility.
 - b. **Private social gatherings.** The residents of bed and breakfast facilities are allowed to have only four (4) private

social gatherings, parties, or meetings per year, for more than four (4) guests. The private social gatherings must be hosted by and for the enjoyment of the residents. The bed and breakfast operator must log the dates these social gatherings are held. Private social gatherings for four (4) or fewer guests are allowed without limit as part of a normal household living use at the site. All participants in the social gathering are counted as guests except for residents.

F. Site-Related Standards.

1. Development Standards. Bed and breakfast facilities must comply with the development standards of the base zone, overlay zones, and plan districts, if applicable.
2. Appearance. Bed and breakfast homes or inns in residential zones must be compatible with the surrounding residential neighborhood. No alterations to the exterior of the house shall be for the purpose of establishing a more commercial building appearance shall be permitted except for routine maintenance, alterations not requiring a building permit, restoration or requirements related to safety or handicapped accessibility. There shall be no exterior indication of a business except for the one (1) permitted sign.
3. No cooking facilities are permitted in the individual guest rooms.
4. Food service shall only be provided to guests taking lodging in the bed and breakfast home or inn.
5. In PDR-1, PDR-2, PDR-3 or PDR-4 zones, no bed and breakfast home may be located on a lot closer than five hundred (500) feet from any other lot containing a bed and breakfast home, with only one (1) such establishment permitted per block face.
6. There shall be no more than one (1) sign. Such sign shall not be self-illuminated and shall not exceed six (6) square feet in area. Additional sign requirements described in Sections 4.156.02 through 4.156.10 of this Code shall be met.
7. Each such use must obtain a Certificate of Occupancy from the Building Official before it commences.
8. Bed and Breakfast facilities must comply with the off-street parking standards for commercial development found in Section 4.155.
9. Bed and Breakfast facilities must comply with the landscaping standards for commercial development found in Section 4.176.

- (.14) The Planning Director and Development Review Board shall, in making their determination of compliance in attaching conditions, consider

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the effects of this action on the availability and cost of needed housing. The provisions of this section shall not be used in such a manner that additional conditions, either singularly or cumulatively, have the effect of unnecessarily increasing the cost of housing or effectively excluding a needed housing type. However, consideration of these factors shall not prevent the Board or Planning Director from imposing conditions of approval necessary to meet the minimum requirements of the Comprehensive Plan and Code.

[Section 4.113 amended by Ord. No. 704, 6/18/12]