
To: Mayor and City Council

From: Irene T. Borba, Director of Planning & Building

Reviewed By: Beth Pollard, Interim City Manager

Subject: Formation of a deer fencing task force committee

Recommended Motion/Item Description

Create a joint task force committee comprised of members of the City Council, Planning Commission, and the public to review and make recommendations on regulations and procedures for fences installed to deter deer from entering properties within the City.

Background

In 2016, the topic of deer management was considered by the City Council at six of its regular meetings. In addition, on October 2016, the City hosted a two-hour community forum in which a panel of speakers with knowledge about deer presented information on deer behavior, coexistence, and procedures to reduce the size of the deer population. Previously, the City Council heard a presentation from the Marin Sonoma Mosquito & Vector Control District (MSMVCD) on Lyme disease and tick bite ecology in Marin.

During a regular meeting agenda item on deer management, on November 14, 2016, the City Council raised questions and suggestions about deer, deer management and options. Former City Manager Mary Neilan contacted the community forum panelists to obtain their responses to those questions and suggestions; those responses were provided to the Council as an attachment with a staff report for the March 13, 2017 Council meeting. At that meeting, the Council heard public comment from nineteen (19) speakers, and took the following actions:

1. To decline to invite Dr. Anthony DeNicola of White Buffalo, Inc., to make a presentation to the community,
2. To direct staff to continue researching City participation in PZP deer immunocontraception permit programs through the CA Department of Fish & Wildlife and United States Humane Society;
3. To work on prioritizing re-landscaping of City open spaces with deer resistant plantings, with the assistance of the Parks & Open Space Committee.

4. To revisit the City's fencing policies with a joint task force of the City Council and the Planning Commission; staff was to report back at the meeting of April 11 with a specific action item to form the task force.

Purpose of the Deer Fencing Task Force Committee

The Belvedere Municipal Code (BMC) defines a fence as “any structural device forming a physical barrier which divides or partitions open space by means of wood, mesh, metal, chain, stake, plastic or other similar material, and includes a solid wall or hedge as defined in Section 8.28.020 of this Code, or any combination thereof used as a fence.” The code currently does not provide a definition of a “deer” fence.

Fences are regulated through Section 19.48.190 of the BMC (included in Attachments). Pursuant to the Code, fences are permitted in any yard and are permitted to up to a height of six (6') feet. The Code also allows for decorative elements on fencing for an additional six inches (6") in height at reasonable intervals. Fences are measured from existing grade.

In the R-1L and R-2 zoning districts, fences may exceed six feet (6') in height to a maximum height of eight feet (8') from existing grade, with decorative elements permitted up to six inches higher at reasonable intervals, with design review approval, and based on consideration of certain factors (BMC Section 19.48.190(A)(6)a-e).

Several years ago, the City developed an exemption specifically for deer fencing. The information for the deer fence exemption is contained in a brochure; “Deer Fence Exemption Guidelines,” included in the Attachments. The brochure for deer fencing provides for temporary deer fencing that conform to the guidelines to be exempt from design review. This exemption applies to new temporary fences that are installed specifically to preserve landscaping from deer. There are certain specifications in terms of design and height for the deer fencing to be exempt from design review as well as other criteria such as neighbor approval and that the fences are to be removed after two (2) years.

Public comments about fencing to discourage deer away from private property have included concerns about blocking views of vegetation and creating a “walled” effect on roadways as well as suggestions about other options such as angled fencing or invisible fencing with sonic devices.

The purpose of the Deer Fencing Task Force would be to review and evaluate the current fencing regulations contained within the Belvedere Municipal Code, consider alternatives, review and evaluate the exemption for deer fencing, develop design criteria & standards for deer fencing, and provide a permitting process for deer fencing.

Deer Fencing Task Force Committee Membership

Staff suggests that the Committee consist of up to seven (7) members, comprised of up to two members from the City Council, up to two members from the Planning Commission, and up to three members from the public. Since the Parks & Open Space Committee is working on the related

subject of deer resistant landscaping recommendations, staff recommends that the two Committees take steps to be aware of each other's issues and progress. Staff further suggests that staff attend the Committee meetings; this helps insure that the Committee has full information on staff processes, and staff has more complete understanding of Committee considerations and intent if/when recommendation move into implementation.

A committee that is composed of members of both the City Council and the Planning Commission will be subject to the open meeting requirements of the state Brown Act; therefore agendas will be publicly posted in advance of the meetings, and the meetings will be open to the public.

Fiscal Impact

No fiscal impact other than staff time from the creation of a Deer Fencing Task Force Committee.

Recommendation

Create a joint task force committee comprised of members of the City Council, Planning Commission, and the public to review and make recommendations on regulations and procedures for fences installed to deter deer from entering properties within the City.

Attachments

- Belvedere Municipal Code Section 19.48.190
- City of Belvedere Deer Fence Exemption Guidelines

BELVEDERE MUNICIPAL CODE SECTION 19.48.190

19.48.190 Residential zones—Certain facilities and structures permitted in yards. All facilities and structures permitted in yards are subject to Design Review, unless explicitly exempted pursuant to Chapter 20.04.015. Maximum heights for facilities and structures in yards shall only be allowed where there is no significant view blockage. Provided that adequate access for public health and safety is maintained, the following structures and facilities are permitted in required yards in residential zones, subject to the limitations herein:

- A. Fences. Fences are permitted in any yard as follows:
1. Fences shall be permitted to a maximum height of six feet above grade with decorative elements permitted up to a height of six feet--six inches at reasonable intervals.
 2. Fences shall be located at least two feet from the adjacent curb or pavement edge.
 3. Where a yard abuts water, a fence parallel to the water shall be limited to four feet in height above Existing Grade.
 4. A trellis or arch over an opening in a fence is permitted to a maximum height of nine feet.
 5. Subject to the provisions of Chapter 8.28 of this Title, a hedge, as defined in Section 8.28.020, may exceed the height limit for fences where the extra height is agreed upon by all immediately adjacent neighbors.
 6. Fences in the R-1L and R-2 zoning districts may exceed six feet in height (6') to a maximum height of eight feet (8') from Existing Grade, with decorative elements permitted up to six inches higher at reasonable interval, with design review approval, and based on consideration of the following factors:
 - a. The degree to which a higher fence is necessary and reasonable to provide privacy for adjoining properties, or to screen certain features from neighbors or public view;
 - b. Whether consent of neighbors whose properties adjoin the proposed fence has been obtained;
 - c. The degree to which a higher fence is appropriate due to the relative heights of buildings and building features on adjoining properties, such as floorplate heights, window heights, and overall building heights;
 - d. The degree to which a higher fence is appropriate due to variations in terrain, including steep or irregular topography, that may render a lower fence aesthetically or functionally impractical or undesirable;
 - e. Where it is unreasonable to achieve the benefits that would be gained from a higher fence by landscaping alone.
 7. Fences or walls exceeding six feet in height pursuant to Section 19.48.190(A)(6) above shall be measured as follows:
 - a. The height of a fence or wall is measured using the plumb vertical distance between the Existing Grade at the base of the fence or wall to the uppermost part of the fence or wall.
 - b. The height of a fence or wall is measured on both sides of the structures, with the taller of the two measurements defined as the actual height of the fence or wall.

c. Fences built upon a retaining wall must be setback one foot (1') from the edge of the retaining wall for the fence height to be measured from the top of the retaining wall, not the lower ground level below.

B. Cisterns, steps, walks, ramps, retaining walls, paving slabs, and decks are permitted in yards provided that no such cistern, step, walk, ramp, retaining wall, paving slab, or deck exceeds four feet above grade at its highest point. Handrails and guardrails on steps, walks, ramps, and decks may exceed height limitation.

C. Driveways and retaining walls required to support driveways are permitted in front yards.

D. Where a rear yard abuts water, boat davits under six feet in height (as measured from the surface of the adjacent dock) and one dock and/or one float are permitted, subject to limitations established in Section 20.06 of this Title.

E. A platform for off-street parking or an elevated driveway is permitted provided that:

1. No part of a parking platform is closer than three feet from the improved street line.
2. No parking platform or elevated driveway has a roof.
3. No wall, fence, guardrail, handrail or trellis be constructed on a parking platform or elevated driveway in excess of forty-eight inches in height and no trash enclosure greater than forty-six inches in height as measured from the adjacent platform or driveway surface.

F. In the R-1C and R-15 zones, where the average lot slope within the first forty feet of the front property line (across the entire width of the lot) exceeds twenty percent, the setback for a residential carport or garage may be reduced to a distance of zero feet, provided that the nearest point of the residential carport or garage is at least three feet from the improved street line, and provided the residential carport or garage is still twenty feet distant at all points from the opposite improved curb or improved street line. The Planning Commission's approval of such reduced setback shall be based upon the existing streetscape, the degree to which the proposed structure does not block existing views from the street, the width of the street at the site, and the ability of the applicant to provide off-street parking within the usual setbacks. If any living spaces exist or are proposed under or above such garage or carport, the garage or carport shall be required to meet the setback requirements for houses and other structures unless such living spaces are located entirely below the elevation of the street at the lot frontage.

G. In the R-2 zone, front and side yards for residential carports or garages shall be zero feet for existing structures. For new residential carports or garages, and for additions to existing carports or garages, front and side yards shall be five feet.

H. Where a building wall is not parallel to a parcel line, or where a building wall does not follow a continuous unbroken alignment, a portion of the roof overhang may project into a required yard provided that:

1. The average depth of the setback is at least equal to the required setback otherwise required for the parcel, and
2. The setback is never less than seventy percent of the required setback otherwise required for the parcel.

I. In-ground swimming pools and spas, where no portion of the pool, spa, pool or spa equipment, or decking exceeds four feet above grade, are permitted in the rear yard setback, provided that no portion is closer to the rear property line than three feet and that equipment complies with Chapter 8.10 of this Title and with the General Plan Noise Element.

J. New construction involving vertical or horizontal extension(s) of four feet or less of preexisting building encroachment(s) into required side and rear yards and vertical extension(s) of four feet or less of preexisting building encroachment(s) into required front yards, so long as the requested extension(s) will not, under the particular circumstances, increase the encroachment or be detrimental to the health, safety, morals, comfort, convenience and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be injurious or detrimental to the property and improvements in the neighborhood of such proposed use, or to the general welfare of the City.

K. Air conditioners, condensing units, pumps, and compressors are permitted in side yard setbacks provided that:

1. They do not exceed four feet above grade at their highest point, and
2. They are not closer than five feet from the property line in the R-15 zone and not closer than three feet from the nearest property line in all other residential zones, and
3. They comply with Chapter 8.10 of this Title and with the General Plan Noise Element.

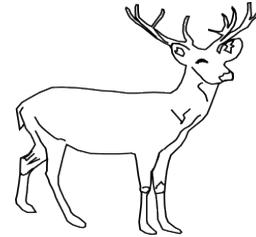
L. Emergency generators are permitted in front yard setbacks under parking decks and driveways provided that:

1. The average lot slope within the first forty feet of the front property line (across the entire width of the lot) exceeds thirty percent.
2. They comply with Chapter 8.10 of this Code and with the General Plan Noise Element.
3. They are natural gas powered.

M. Mailboxes are permitted in all yards and are subject to United States Postal Service mailbox regulations for height, location, etc. (Ord. 2016-2 § 3, 2016; Ord. 2009-1 § 2, 2009; Ord. 2007-2 § 2, 2007; Ord. 2005-1 § 3, 2005; Ord. 98-8 § 3, 1998; Ord. 92-8 § 13, 1992; Ord. 91-4 § 3, 1991; Ord. 89-1 § 1(part), 1989.)

Checklist

- Design Review Exemption Form
- Neighbor Noticing Memo
- Site Plan Indicating Fence Location(s) and Property Lines
- Photos of Existing Conditions
- Color And Materials Samples



For more information contact:

City of Belvedere
Planning Department
450 San Rafael Avenue
Belvedere, CA 94920

415-435-3838

www.cityofbelvedere.org



Deer Fence Exemption Guidelines

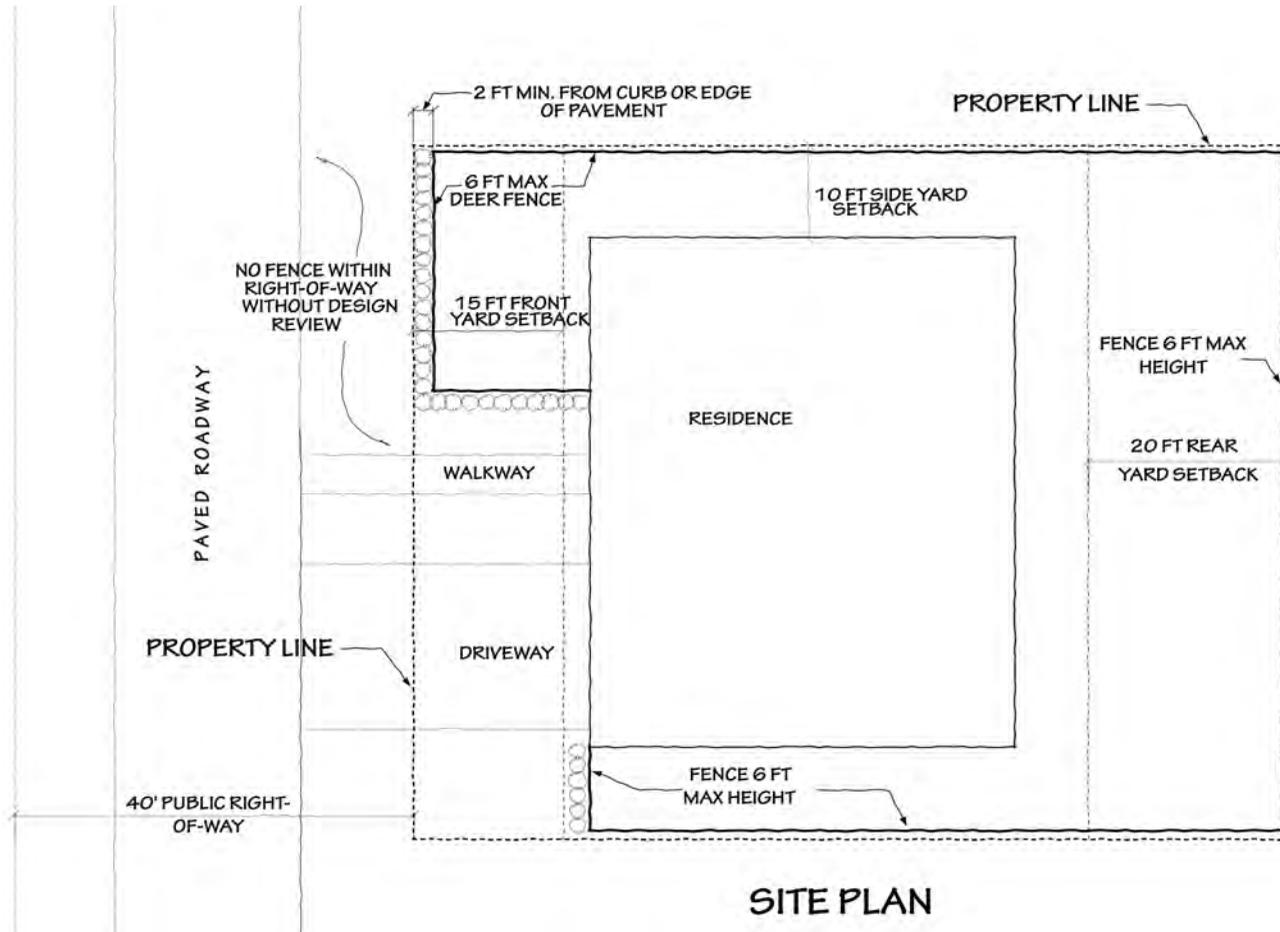
Temporary deer fences that conform to the guidelines contained in this brochure will be Exempt from Design Review.

This exemption applies to new temporary fences that are installed specifically to preserve landscaping from deer.

To be considered a “temporary deer fence,” the site plan and/or project description must state that the fence will be removed within 2 years of the exemption date.

Every effort must be made to preserve existing landscaping. Any trees that are to be removed must be indicated on the site plan and, depending on tree size, may require further, separate Design Review approval.

Fences must be 24 inches from any adjacent curb or pavement.



A site plan and photographs of existing conditions will be required as part of the application.

The proposed fence must be located on or within private property lines. Fences enclosing public land will not be exempt.

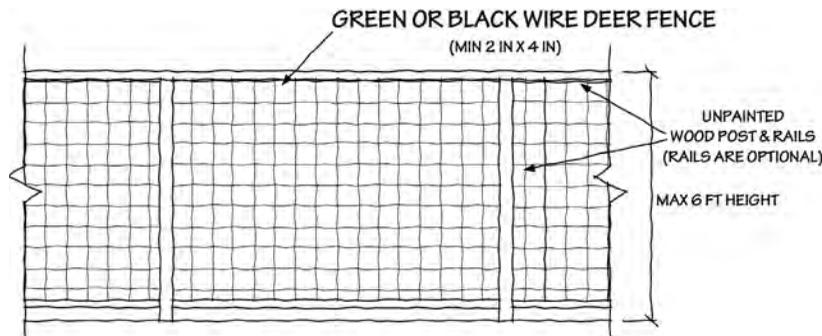
Neighbor Noticing Memos are required for fences proposed on shared property lines.

Within setbacks, fences shall be no greater than 6-feet high as measured from existing grade. (See Drawings)

An Exemption Form with complete documentation will be reviewed within one to two business days. Please include photos or sample of fencing materials.

There are no filing fees. Additional information and forms may be obtained from City Hall and the website.

EXEMPT DEER FENCE COLOR & MATERIALS



HOW TO MEASURE HEIGHT

