

**From:** Kraig Molina  
**Sent:** April-06-19 5:17 PM  
**To:** Clerks  
**Subject:** Encroachment and Various Issues

Dear City Officials,

It has come to my attention that a portion of the boulevard on the 3700 block Godwin Ave, between the 5900 block Woodsworth St, and the lane access, poses an issue in regards to visibility. Another issue affecting the 5900 block Woodsworth St is the general noncompliance of on-street parking regulations. I will touch upon both matters in this letter.

I have not been able to find any bylaw formalizing the practice of landscaping the city-owned grass boulevard adjacent to private property, therefore I am writing to ask for clarification regarding the matter. I have noticed continued landscaping activity on said boulevard, which currently house a number of fencing and gardening structures. As a result, vehicles appear to park closer to the roadway- with larger vehicles even parked on a portion of the roadway, due to the resulting obstruction of the adjacent fencing and structures.

Per the attached informational guide provided by the City, titled "Fences and Retaining Walls", a section under "Encroachments" reads as follows:

*"Construction of fences, walls and retaining walls, and soil deposition or soil removal on City property, rights-of-way and easements are generally prohibited."*

Not only does the obstruction pose a nuisance to the ingress and egress of parked vehicles, it is concerning that any additional fencing or structures will further obstruct the view exiting Woodsworth St and the laneway. The lack of visibility and outward sightlines, particularly at night, are apparent. The limited visibility is only exacerbated by vehicles that park too close to the intersection as well.

Therefore, I would like to suggest an assessment on the current state of the intersections to hopefully minimize or mitigate pedestrian and vehicle safety hazards. May I also suggest the removal of the offending structures, the restoration of the grass boulevard, and additional signage to aid drivers. Please forward my concerns to the Traffic Safety Committee as well.

On the subject of bylaw enforcement, I request that added education and enforcement be provided to the 5900 block Woodsworth St. I am also asking for clarification in regards to the bylaw that restricts parking of greater than 3 hours between 8:00 AM and 6:00 PM. I have received conflicting information in the past and I am wondering if this bylaw remains enforceable. I would also like to point out the issue where residents place objects in the roadway in an attempt to reserve on-street parking spaces. I have addressed these issues to Bylaw Enforcement in the past, who have been of great help, though the continued ignorance of many residents remains an issue.

I request that the City look into these matters, to hopefully educate residents, and provide a solution to the aforementioned issues

Sincerely,

Kraig Molina

# Fences and Retaining Walls

This brochure outlines the height requirements for fences, walls and retaining walls for various types of property in Burnaby.

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*"This information is provided for convenience only and is not in substitution of applicable City Bylaws or Provincial or Federal Codes or laws. You must satisfy yourself that any existing or proposed construction or other works complies with such Bylaws, Codes or other laws."*

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## **Other brochures and documents related to this topic**

- [Burnaby Zoning Bylaw 1965 - No. 4742](#)
- [Soil Deposit Bylaw 1971 - No. 5974](#)
- [Soil Removal Regulation Bylaw 1961 - No. 4251](#)
- [Swimming Pools](#)
- [Board of Variance Appeals for Single and Two Family Dwellings](#)
- [Legal Survey Requirements Single and Two Family Dwellings](#)
- [Encroachments](#)
- [Burnaby Tree Bylaw](#)

## **Retaining Walls in Residential Districts**

A retaining wall is considered to be an "other structure not being a building" in Section 6.14.(1) of the Zoning Bylaw and must comply with the Zoning Bylaw's height requirements specified for fences and walls in Section 6.14.(5). Unlike fences and walls that are used to delineate and enclose spaces, retaining walls also fulfill the important structural function of safely retaining soil. Retaining walls must comply with the following location and height constraints:

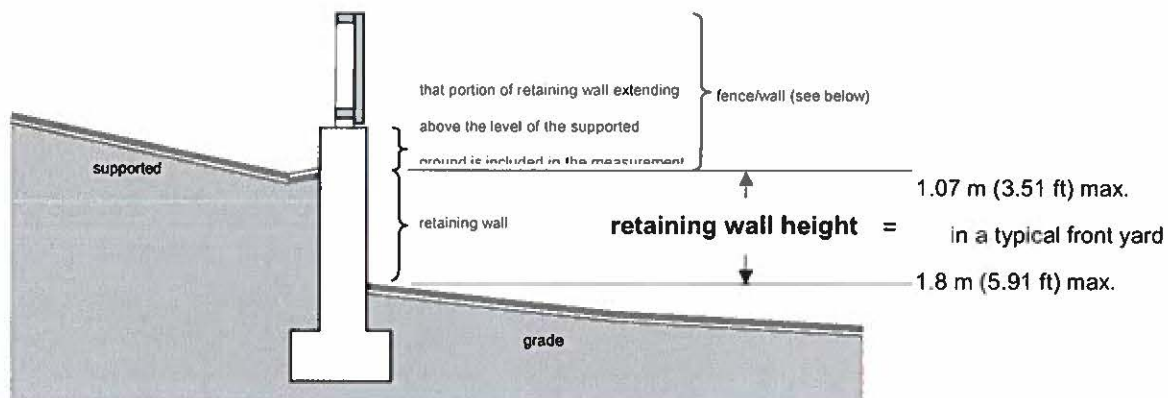
- Retaining walls not greater than 1.07 m (3.51 ft.) in height may be located anywhere on a lot.
- Retaining walls not greater than 1.8 m (5.91 ft.) in height may be located on any lot to the rear of a required front yard.
- Where the rear line of a lot abuts the side line of another lot, the height of retaining walls on such rear lot line shall be not greater than the height permitted on the side line of the adjoining lot at that point.
- In R8 Districts (townhouses), retaining walls not greater than 1.8 m (5.91 ft.) in height may be located anywhere on a lot.

- For properties zoned R10 the following special provisions apply:
  - a retaining wall not higher than 1.8 m (5.91 ft.) may be located to the rear of the face of the principal building facing the front yard, and
  - retaining walls are not permitted in the area between the front lot line and the face of the building, except on a lot abutting Willingdon Avenue or Parker Street where a retaining wall not higher than 1.0 m (3.3 ft.) is allowed.

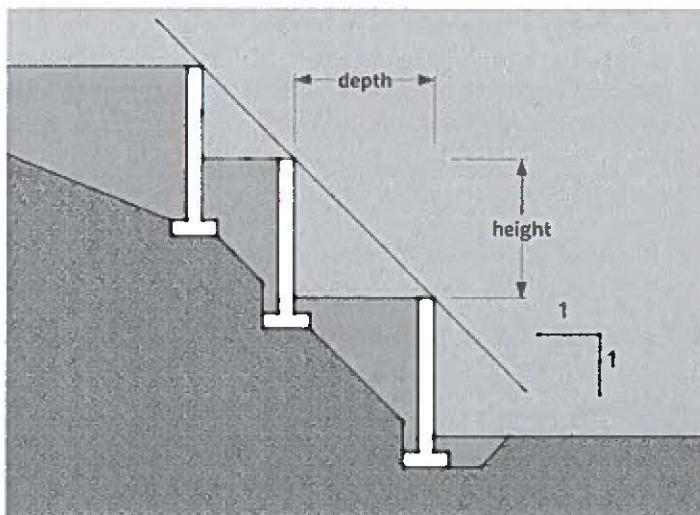
## Measuring Retaining Wall Heights

The height of a retaining wall may vary along its length, but at any point along its length the height of a retaining wall is measured from the elevation of the ground at the toe of the retaining wall to the elevation of the ground being retained.

That portion of a retaining wall projecting above the level of the ground it supports is not included in the height of the retaining wall; it is included in the height of the fence or wall as described elsewhere in this brochure.



Where necessary, suitably engineered retaining walls may be combined to terrace a site. Multiple retaining walls must step back no more steeply than at a one-to-one rise to run.



### Examples:

Typically in a front yard the **height** of a retaining wall is limited to the lesser of 1.07 m (3.51 ft.) or the **depth** of the terrace upon which it sits.

Typically in a side or rear yard the **height** of a retaining wall is limited to the lesser of 1.8 m (5.91 ft.) or the **depth** of the terrace upon which it sits.

## Fences and Walls in Residential Districts

Fences and walls must comply with the following location and size constraints:

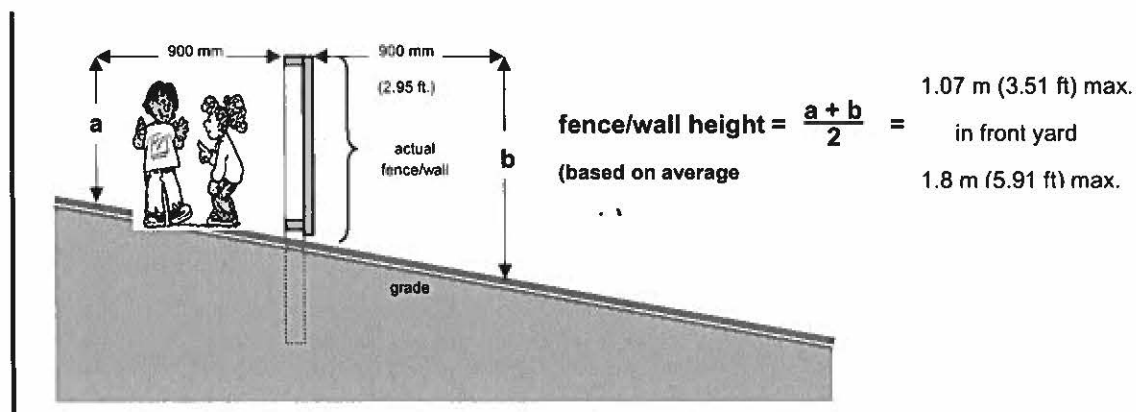
- Fences or walls not greater than 1.07 m (3.51 ft.) in height may be located anywhere on a lot.
- Fences or walls not greater than 1.8 m (5.91 ft.) in height may be located on any lot to the rear of a required front yard.
- Where the rear line of a lot meets the side line of another lot, the height of fences or walls on rear lot line shall be not greater than the height permitted on the side line at that point.
- In R8 Districts (townhouses), fences or walls not greater than 1.8 m (5.91 ft.) in height may be located anywhere on a lot.
- Where a child care facility or family child care centre is operated as a home occupation, a fence or wall 1.8 m (5.91 ft.) in height shall be provided along the rear boundary of the required front yard setback.

### Measuring Fence and Wall Heights

Section 6.14 of the Burnaby Zoning Bylaw is the principal set of regulations concerning calculation of fence and wall heights.

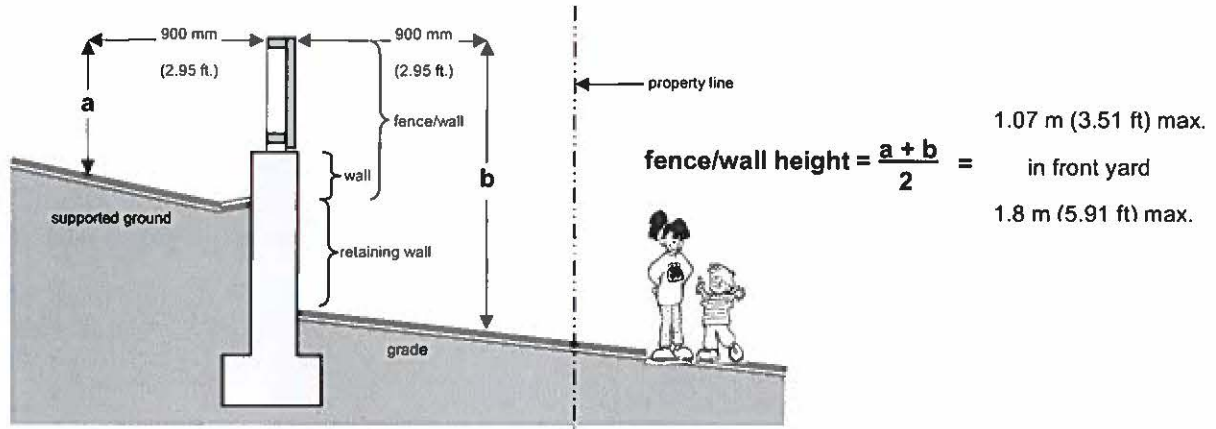
If the fence or wall is built on level ground, measure the height from the bottom to the top of the fence.

If the ground is higher on one side of the fence or wall than the other, measure the height from the ground level at the average grade level within 900 mm (2.95 ft.) of both sides the fence or wall. The sketch below gives an example of how to determine the height of a fence or a wall.

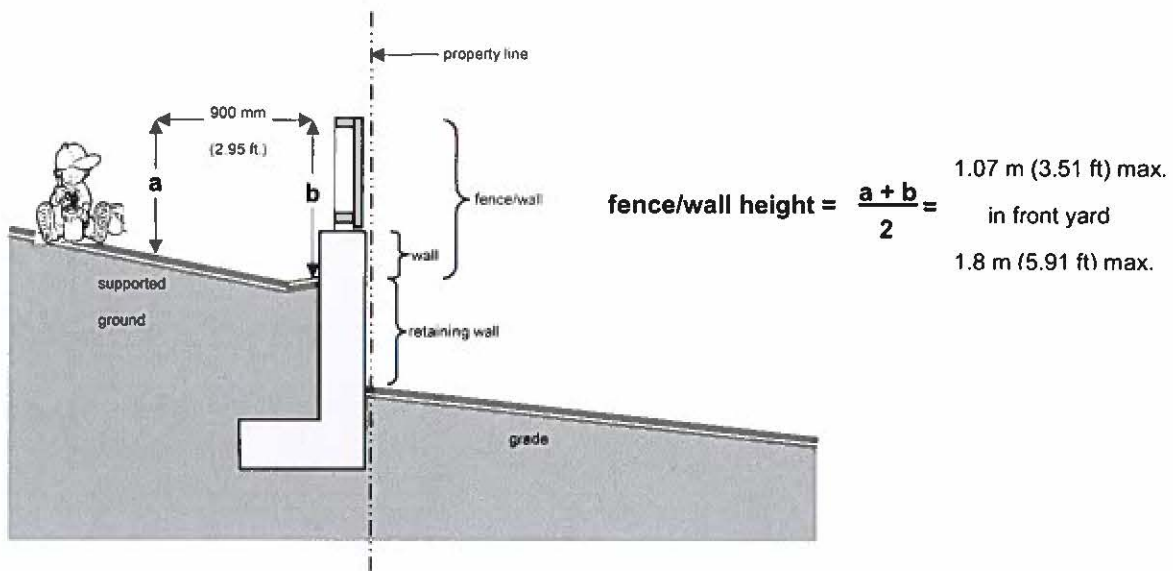




If a wall or fence has been constructed on a retaining wall, measure from the ground level at the average grade level within 900 mm (2.95 ft.) of both sides the fence or wall. See below.



However, if a retaining wall has been constructed **on a property line**, the height of a fence or wall shall be determined by measurement from the surface of the ground that the retaining wall supports at the average grade level within 900 mm (2.95 ft.) of such retaining wall. See below.

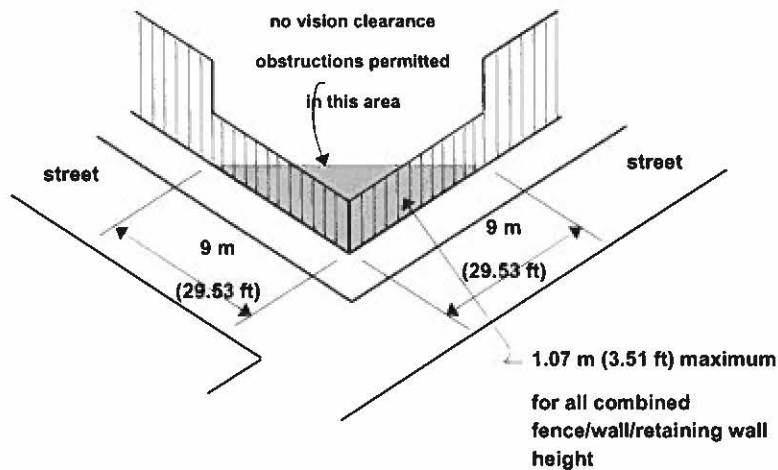


## Vision Clearance

On corner lots, vision clearance regulations apply in order to maintain sightlines for vehicles at intersections. The total height of fences, walls or structures, including retaining walls, adjacent to street and lane intersections are limited as follows:

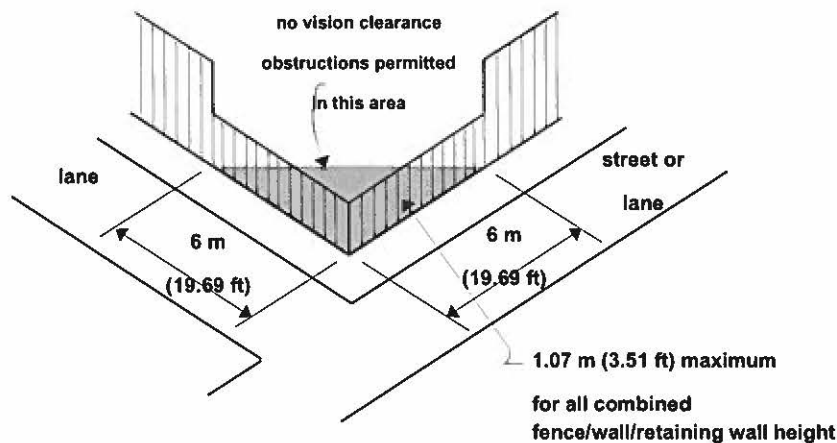
- No higher than 1 m (3.51 ft.) within 9.0 m (29.53 ft.) of the point of intersection of any street/street corner.

### STREET CORNER



- At lane corners (the intersection of a lane with another lane or with a street), no higher than 1 m (3.51 ft.) within 6.0 m (19.69 ft.) from the point of intersection of the two lanes or a lane and a street.

### LANE CORNER



- No hedge, shrub, tree, or other growth shall be maintained or allowed to grow so as to obstruct vision clearance.

## Swimming Pool Barriers

A swimming pool is any privately owned man made pool or other structure which is designed to contain water, is intended to be used for swimming, bathing, wading or diving, has a surface area equal to or exceeding 14 m<sup>2</sup> (150.70 sq. ft.) and a depth at any point equal to or exceeding 0.5 m (1.64 ft.), and includes, without limitation, in-ground swimming pools, above-ground swimming pools, wading pools, hot tubs and spas.

Burnaby's Swimming Pool Enclosure Bylaw states that:

- Every swimming pool shall be completely enclosed by a sturdy non-climbable barrier having height of not less than 1.5 m (4.92 ft.)
- Except in the case of a building wall, no opening greater than 100 mm (4 in.) wide at its least dimension;
- No member or attachment located between 100 mm (4 in.) and 900 mm (2.95 ft.) above the ground level at the base of the barrier that could facilitate climbing; and
- Except in the case of a building wall, no access through the barrier except by way of one or more self-closing, self-latching and lockable gates, with the latch and lock located on the swimming pool side of the gate at a height of not less than 1 m (3.28 ft.) above the ground level at the base of the gate.

Every barrier enclosing a swimming pool shall be maintained at all times in a state of good repair.

Please refer to our brochure, [Swimming Pools](#), for further information.

## Fences and Walls in Commercial and Industrial Districts

In C4 and M Districts, fences or walls not greater than 2.4 m (7.87 ft.) in height may be located on any lot to the rear of a required front yard.

- Open mesh or chain link type fences erected on cemetery, public playground, park, play field, elementary or high school areas, and in M Districts cannot exceed a height of 3.5 m. (11.48 ft).
- Visitor parking at buildings four storeys or more shall not be limited in its use by security gates or fencing.
- Screening (a continuous fence, wall, compact evergreen hedge or combination thereof, supplemented with landscape planting, that would effectively screen the property which it encloses, and is broken only by access drives and walks) is required in a number of situations. Here are some examples:
  - In A, C4 and M Districts, any part of a lot used or intended to be used as an outside storage area must be enclosed by screening on any side not facing directly upon the principal building on the lot.
  - On properties zoned P1 and P5 playgrounds or play lots must also be enclosed by fencing or screening on any side not facing the principal building on the lot. Such fencing or screening shall be constructed barring access to children except at those points specifically provided for access.

- Screening consisting of a chain link fence in combination with a compact evergreen hedge or solid fence or wall of not less than 1.8 m (5.9 ft.) in height must be provided for mini-warehouses in the M Districts.
- Screen is also required for business such as service stations, drive-in restaurants, neighbourhood public houses and marinas.
- Any vehicle impound lot must also be protected by a fence not less than 1.8 m (5.91 ft.) in height.
- Dog and cat kennels also require a solid fence at least 1.8 m (5.91 ft.) in height constructed of wood, masonry, stone or concrete placed around that portion of the property used for kennel purposes.

On corner lots the vision clearance regulations described earlier also apply.

## Other Considerations

### Board of Variance

The requirements of the Zoning Bylaw are written to address development on all properties in the City. It is recognized that there are properties where conformance with the requirements of the bylaw can be challenging, particularly when it comes to designing retaining walls.

If compliance with bylaw requirements in single and two family districts would cause undue hardship a person may apply to the Board of Variance for variances of the Zoning Bylaw respecting the siting and dimensions of a building or structure. The granting or denial of an application rests solely with the Board. Please refer to our brochure, Board of Variance Appeals for Single and Two Family Dwellings, for additional information. For Board of Variance appeals other than single and two family dwellings please contact the Planning Department at 604-294-7400.

The height of retaining walls in other districts may be varied through the Comprehensive Development rezoning process.

### Permitting

Building permits are generally not required for the construction of retaining walls. Retaining walls incorporated into a more extensive development such as the construction of a new home or alteration or addition to an existing home is permitted as a part of the permit processing. In such cases retaining walls must be fully engineered and detailed on the permit drawings. Accurate topographical information is crucial for the proper design and documentation of retaining walls. Please refer to our brochure, Legal Survey Requirements Single and Two Family Dwellings, for additional information.

A plumbing permit will be required for any drainage system associated with a retaining wall if its design requires connection for discharge into the City's storm sewer system.

Deposition of soil and removal of soil are regulated under the Soil Deposit Bylaw 1971 - No. 5974 and the Soil Removal Regulation Bylaw 1961 - No. 4251 respectively. Permits under these bylaws are administered by the City's Engineering Department and Owners should discuss their development plans with that Department by calling 604-294-7460.



## Encroachments

Construction of fences, walls and retaining walls, and soil deposition or soil removal on City property, rights-of-way, and easements are generally prohibited. Minor exceptions may be made at the discretion of the Engineering Department, and are subject to formal encroachment agreements.

Retaining walls, including the foundations or buried base(s), built near or along property lines should be configured to avoid encroaching on or disturbing your neighbor's property both during construction and upon completion of the structure. Only a BC Land Surveyor can tell you accurately where the property line is, and the cost of the survey will be your responsibility. The City will not initiate or pay for such surveys. Disagreements over fences, walls, and retaining walls constructed in the vicinity of a property line can be expensive. Cooperation with your neighbours is often the best strategy.

## Materials and Design

The City does not regulate the materials used for a retaining wall, fence, or wall. Materials used for retaining walls should be selected not only for aesthetic and cost reasons, but also for durability and ease of maintenance.

Because retaining walls fulfill a structural function in retaining the weight of earth behind them, you should engage the service of a registered professional engineer to undertake the design and detailing of these structures. Your professional engineer may advise you on the need for drainage and the proper backfilling for your retaining wall.

While the City does not prohibit the use of barbed wire or razor wire for fencing, the City does not encourage or recommend the use of these types of material. Anyone using such materials should be aware that they could be responsible for any injury or damage resulting from their use.

## Construction Sites

Article 8.2.1.3 of the British Columbia Building Code states:

*When a construction or demolition activity may constitute a hazard to the public and is located 2 m or more from a public way, a strongly constructed fence, boarding or barricade not less than 1.8 m high shall be erected between the site and the public way or open sides of a construction site.*

It goes on to say that:

- Barricades shall have a reasonably smooth surface facing the public way and shall be without openings, except those required for access,
- Access openings through barricades shall be equipped with gates which shall be kept closed and locked when the site is unattended, and
- Maintained in place until completion of the construction or demolition activity.

The Burnaby Tree Bylaw also requires protective fences around trees on a construction site. For details see our [Burnaby Tree Bylaw](#) page.

## Further Information

Aside from the criteria noted above, the City does not participate in disputes over fences, walls or retaining walls between neighbours. Non-compliance with the City's bylaws is enforced on complaint basis.

If you have any further questions please call the Building Department at (604) 294-7130.

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