



Oregon

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Department of Land Conservation and Development

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NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: June 02, 2015
Jurisdiction: City of Molalla
Local file no.: None
DLCD file no.: 001-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 05/28/2015. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 65 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR chapter 661, division 10).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE
File No.: 001-15 {23595}
Received: 5/28/2015

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Molalla

Local file no.: **P17-2015**

Date of adoption: 5/13/15

Date sent: 5/28/2015

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 2/2/15

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

The City Council added uses protected by the 1000 ft buffer, and further defined the type of property which is protected to include all 'real property' used by schools and daycares.

Local contact (name and title): Nicolas Lennartz - Community Planner

Phone: 503-998-7048

E-mail: communityplanner@cityofmolalla.com

Street address: 117 N. Molalla Ave

City: Molalla

Zip: 97038-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

- Change from _____ to _____ acres. A goal exception was required for this change.
- Change from _____ to _____ acres. A goal exception was required for this change.
- Change from _____ to _____ acres. A goal exception was required for this change.
- Change from _____ to _____ acres. A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

16.12.030

Title 16: Introduction to Development Code
Section 12: Definitions
Subsection 030: Definitions

17.12.020

Title 17: Land Use Districts
Section 12: Commercial Districts
Subsection 020: Land uses and development standards

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts: City of Molalla

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the

City of Molalla

ORDINANCE NO. 2015-02

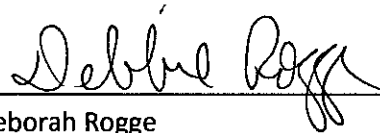
AN ORDINANCE AMENDING THE MOLALLA LAND USE AND DEVELOPMENT CODE TO IMPOSE REASONABLE REGULATIONS ON THE PLACEMENT OF MEDICAL MARIJUANA DISPENSARIES IN THE CITY AND DECLARING AN EMERGENCY

- WHEREAS:** The Oregon Legislature enacted House Bill 3460 that created a medical marijuana dispensary registration system and which purported to allow medical marijuana facilities to be located in areas of the City zoned for commercial, industrial, or mixed use; and
- WHEREAS:** The Molalla Land Use and Development Code does not currently expressly allow medical marijuana facilities to be located in any areas of the City; and
- WHEREAS:** The Oregon Legislature also enacted Senate Bill 1531, which permits Molalla to impose reasonable regulations on medical marijuana dispensaries in the City, including reasonable limitations on where medical marijuana facilities may be located within the City; and
- WHEREAS:** The City Council desires to utilize its home rule authority and the authority granted to it by Senate Bill 1531 to adopt this proposed ordinance, which expressly sets forth those areas of the City in which a medical marijuana dispensary may be located thereby prohibits the location of medical marijuana dispensaries in other areas of the City; and
- WHEREAS:** Consistent with the terms of Senate Bill 1531, the City imposed a moratorium on medical marijuana dispensaries locating within the City, which will expire on May 1, 2015; and
- WHEREAS:** The City Council finds that it is necessary for the immediate preservation of the public peace, health and safety to have in place and effective before May 1, 2015 reasonable regulations on where medical marijuana dispensaries may be located within the City; and
- WHEREAS:** At its meeting of March 4, 2015, the Molalla Planning Commission held a hearing as required by section 19.04.050 of the Molalla Municipal Code on this proposed ordinance, received public testimony, discussed the issues, and recommended approval of this proposed ordinance to the City Council; and
- WHEREAS:** At its meeting of April 8, 2015, the Molalla City Council held a hearing as required by section 19.04.050 of the Molalla Municipal Code on this proposed ordinance, received public testimony, discussed the issues, and considered the Planning Commission recommendation.

NOW, THEREFORE, THE CITY OF MOLALLA ORDAINS as follows:

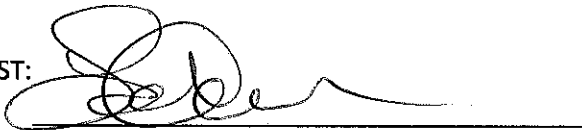
- Section 1.** On the basis of the facts contained in the record, the City Council finds there is sufficient justification and need to accept the Planning Commission recommendation and hereby adopts as its own the Findings of Fact of the Planning Commission which are included herein by this reference.
- Section 2.** The Land Use and Development Code is hereby amended as set forth in Exhibit 1, which is attached hereto and incorporated herein by this reference as if it were set forth verbatim in full.
- Section 3.** This Ordinance is necessary for the immediate preservation of the public peace, health and safety, and, pursuant to section 18 of the Molalla City Charter, an emergency is declared to exist, and this Ordinance takes effect upon its passage.

Adopted this 13 day of May, 2015.



Deborah Rogge
Mayor

ATTEST:



Sadie Cramer
City Recorder

Exhibit 1

Section 16.12.030 of the Molalla Municipal Code is hereby amended by adding a definition for the term, "Medical Marijuana Dispensary" as follows:

MEDICAL MARIJUANA DISPENSARY: Any facility or operation designed, intended or used for purposes of delivering, dispensing, or transferring marijuana to Oregon medical marijuana registry identification card holders pursuant to ORS 475.300-475.346.

Section 17.12.020 of the Molalla Municipal Code is hereby amended by adding a Medical Marijuana Dispensary as a permitted use in the Central Business District and in the C-2 General Commercial District as follows (new language in **bold/italics**):

17.12.020 Land uses and development standards.

CBD, CENTRAL BUSINESS DISTRICT

Development Standards

- A. None - Minimum lot area (sq ft) *Development must conform to lot width, depth, yard setback and coverage standards
- B. 50 ft - Minimum lot width
- C. 100 ft - Minimum lot depth
- D. 45 ft - Maximum building height
- E. Yes - Building height transition
- F. 100% - Maximum lot coverage
- G. 5% - Minimum landscape area (% of site)
- H. Minimum Setback (ft)¹

Front	Side	Street Side	Rear	Along Arterials
0	0	0	0	See TSP

I. Fences and Gardening/Retaining Walls²

Max Height - Front	Max Height - Side	Max Height - Street Side	Max Height - Rear
42 in	6 ft	6 ft	6 ft

J. Permitted Uses

- 1. Basic utilities
- 2. Brewery
- 3. Commercial indoor recreation (under 25,000 sq ft)
- 4. Community service

5. Daycare (adult or child)
6. Educational services, not a school (e.g., tutoring or similar services)
7. Governmental buildings
8. Hotel or motel
9. Indoor recreation facilities (under 25,000 sq ft)
10. Laundromat not including dry cleaning on site
11. Medical centers
12. ***Medical Marijuana Dispensary***¹⁷
13. Mortuary (not crematory)
14. Offices
 - a. Cafeterias
 - b. Health facilities
 - c. Other facilities primarily for the use of employees of the firm or business
15. Parks and open space
16. Private club, lodge, convent, social or recreational building or community assembly hall
17. Public park, playground, or recreational area, and buildings used in connection therewith
18. Quick vehicle servicing or vehicle repair (see also drive-up/drive-in/drive-through uses, per Section 17.12.090) - fully enclosed
19. Religious institutions and houses of worship
20. Restaurants (not including drive-through)
21. Retail sales and service (see also drive-up uses)
22. Small animal veterinary office or hospital
23. Studios including music, dancing, art, photography, or health
24. Television and radio studios
25. Temporary uses (limited to "P" and "CU" uses)
26. Theater, except drive-in
27. Transportation facilities (operation, maintenance, preservation, and construction)
28. Use customarily incidental and subordinate to a PRINCIPLE use permitted outright

K. Accessory Uses

1. Accessory structures (with a permitted use)
2. Accessory uses for retail sales
 - a. Manufacturing or repackaging of goods for on-site sales
 - b. Parking
 - c. Storage of goods
3. Signs (subject to requirements of Chapter 18.32)

L. Conditional Uses

1. Bars and taverns³
2. Bed and breakfast inns
3. Buildings and structures exceeding the height limits in Table 17.12.2
4. Bus depot but not a bus garage or storage yard
5. Colleges and schools
6. Commercial indoor recreation (25,000 sq ft or greater)
7. Commercial outdoor recreation
8. Commercial parking
9. Condominium developments (commercial)
10. Drive-up/drive-in/drive-through (drive-up windows, kiosks, ATMs, similar uses/facilities) per Section 17.12.090
11. Entertainment, in a major event
12. Motion picture production studios and allied services
13. Multifamily (4 or more) residential⁴
14. Private nursery school, kindergarten, or daycare center⁵
15. Quick vehicle servicing or vehicle repair (see also drive-up/drive-in/drive-through uses, per Section 17.12.090) - not enclosed
16. Public utility and communication facilities, such as a branch telephone exchange, static transformer, booster station, or pumping station
17. Radio frequency transmission facilities
18. Rail lines and corridors
19. Residential uses above and behind storefronts
20. Senior housing
21. Swimming pools
22. Telecommunication facilities
23. Uses operating between 10:00 p.m. and 6:00 a.m.

C-2, GENERAL COMMERCIAL DISTRICT

Development Standards

- A. 10,000 sq ft - Minimum lot area (sq ft) *Development must conform to lot width, depth, yard setback and coverage standards
- B. 60 ft - Minimum lot width
- C. 120 ft - Minimum lot depth
- D. 45 ft - Maximum building height
- E. Yes - Building height transition
- F. 80% - Maximum lot coverage
- G. 15% - Minimum landscape area (% of site)

H. Minimum Setback (ft)⁶

Front	Side	Street Side	Rear	Along Arterials
10 ft	10 ft	20 ft	10 ft	See TSP

I. Fences and Gardening/Retaining Walls⁷

Max Height - Front	Max Height - Side	Max Height - Street Side	Max Height - Rear
42 in	6 ft	6 ft	6 ft

J. Permitted Uses

1. Basic utilities
2. Brewery
3. Commercial indoor recreation (under 25,000 sq ft)
4. Community service
5. Daycare (adult or child)
6. Drive-through restaurant
7. Drive-up/drive-in/drive-through (drive-up windows, kiosks, ATMs, similar uses/facilities) per Section 17.12.090
8. Educational services, not a school (e.g., tutoring or similar services)
9. Hotel or motel
10. Indoor recreation facilities (under 25,000 sq ft)
11. Laundromat not including dry cleaning on site
12. Medical centers
13. ***Medical Marijuana Dispensary***¹⁷
14. Mortuary (not crematory)
15. Motion picture production studios and allied services
16. Offices
 - a. Cafeterias
 - b. Health facilities
 - c. Other facilities primarily for the use of employees of the firm or business
17. Parks and open space
18. Public park, playground, or recreational area, and buildings used in connection therewith
19. Quick vehicle servicing or vehicle repair (see also drive-up/drive-in/drive-through uses, per Section 17.12.090) - fully enclosed
20. Recreational vehicle camping parks

21. Religious institutions and houses of worship
22. Restaurants (not including drive-through)
23. Retail sales and service (see also drive-up uses)
24. Self service storage
25. Small animal veterinary office or hospital
26. Studios including music, dancing, art, photography, or health
27. Temporary uses (limited to "P" and "CU" uses)
28. Theater, except drive-in
29. Transportation facilities (operation, maintenance, preservation, and construction)
30. Vehicle repair⁸
31. Vehicle sales⁹
32. Use customarily incidental and subordinate to a PRINCIPLE use permitted outright

K. Accessory Uses

1. Accessory structures (with a permitted use)
2. Accessory uses for retail sales
 - a. Gasoline, parts, tire sales and vehicle washing when accessory to vehicle sales or repair
 - b. Manufacturing or repackaging of goods for on-site sales
 - c. Parking
 - d. Storage of goods
3. Signs (subject to requirements of Chapter 18.32)

L. Conditional Uses

1. Bars and taverns¹⁰
2. Buildings and structures exceeding the height limits in Table 17.12.2
3. Bus depot but not a bus garage or storage yard, except as provided in subsection (L)(21) of this section
4. Cemetery
5. Colleges and schools
6. Commercial indoor recreation (25,000 sq ft or greater)
7. Commercial outdoor recreation
8. Commercial parking
9. Condominium developments (commercial)
10. Drive-in movie theatre
11. Entertainment, major event
12. Governmental buildings
13. Indoor recreation facilities greater than 25,000 sq ft

14. Laundromat, including dry cleaning on-site
15. Private club, lodge, convent, social or recreational building or community assembly hall
16. Public utility and communication facilities, such as a branch telephone exchange, static transformer, booster station, or pumping station
17. Quick vehicle servicing or vehicle repair (see also drive-up/drive-in/drive-through uses, per Section 17.12.090) - not enclosed
18. Radio frequency transmission facilities
19. Rail lines and corridors
20. Telecommunication facilities
21. Television and radio stations
22. Uses operating between 10:00 p.m. and 6:00 a.m.
23. Senior housing

Table 17.12.1 identifies the land uses that are allowed in the Commercial Districts. The specific land use categories are described and uses are defined in Title 16.

Table 17.12.1 - Commercial Districts—Allowed Land Uses

Uses	Status of Use in District	
	C-1	C-2
Accessory structures (with a permitted use)	AU	AU
Bars and taverns ¹¹	CU	CU
Basic utilities	P	P
Bed and breakfast inn	CU	N
Brewery	P	P
Buildings and structures exceeding the height limits in Table 17.12.2	CU	CU
Bus depot but not a bus garage or storage yard	CU	CU
Colleges and schools	CU	CU
Commercial indoor recreation (under 25,000 sq ft)	P	P
Commercial indoor recreation (25,000 sq ft and over)	CU	CU
Commercial outdoor recreation	CU	CU
Commercial parking	CU	CU
Community service	P	P
Condominium developments (commercial)	CU	CU
Daycare (adult or child)	P	P
Drive-in movie theatre	N	CU

Drive-up/drive-in/drive-through (drive-up windows, kiosks, ATMs, similar uses/facilities) per Section 17.12.090	CU	P
Educational services, not a school (e.g., tutoring or similar services)	P	P
Entertainment, major event	CU	CU
Governmental buildings	P	CU
Hotel or motel	P	P
Indoor recreation facilities	P	P
Laundromat, including dry cleaning on-site	N	CU
Laundromat, not including dry cleaning on-site	P	P
Medical centers	P	P
<i>Medical Marijuana Dispensary</i>	<i>P¹⁷</i>	<i>P¹⁷</i>
Mortuary (not crematory)	P	P
Motion picture production studios and allied services	CU	P
Multifamily (4 or more units)	P	N
Offices	P	P
Cafeterias	AU	AU
Health facilities	AU	AU
Other facilities primarily for the use of the employees of the firm or business	AU	AU
Parks and open space	P	P
Private club, lodge, convent, social or recreational building or community assembly hall	P	CU
Private nursery school, kindergarten, or daycare center ¹²	CU	N
Public park, playground, or recreational area, and buildings used in connection therewith	P	P
Public utility and communication facilities, such as a branch telephone exchange, static transformer, booster station, or pumping station	CU	CU
Quick Vehicle Servicing or Vehicle Repair (See also Drive-Up/Drive-In/Drive-Through Uses, per Section 17.12.090)		
Fully enclosed	P	P
Not enclosed	CU	CU
Radio frequency transmission facilities	CU	CU
Rail lines and corridors	CU	CU
Recreational vehicle camping parks	N	P
Religious institutions and houses of worship	P	P
Residential uses above and behind storefronts	CU	N

Restaurants (not including drive-through)	P	P
Retail sales and service (see also drive-up uses)	P	P
Accessory Uses for Retail Sales		
Gasoline, parts, tire sales and vehicle washing when accessory to vehicle sales or repair	N	AU
Manufacturing or repackaging of goods for on-site sales	AU	AU
Parking	AU	AU
Storage of goods	AU	AU
Self service storage	N	P
Senior housing	CU	CU
Signs (subject to requirements of Chapter 18.32)	AU	AU
Small animal veterinary office or hospital	P	P
Studios including music, dancing, art, photography, or health	P	P
Swimming pools	CU	N
Telecommunication facilities	CU	CU
Television and radio studios	P	CU
Temporary uses (limited to "P" and "CU" uses)	P	P
Theater, except drive-in	P	P
Transportation facilities (operation, maintenance, preservation, and construction)	P	P
Use customarily incidental and subordinate to a PRINCIPLE use permitted outright	P	P
Uses operating between 10:00 p.m. and 6:00 a.m.	CU	CU
Vehicle repair ¹³	N	P
Vehicle sales ¹⁴	N	P

Key:

P = Permitted, subject to site/development review

CU = Conditional Use Permit required

N = Not permitted

AU = Accessory Uses

The development standards in Table 17.12.2 apply to all new structures, buildings, and development, and major remodels, in the Commercial Districts.

Table 17.12.2 - Commercial Districts—Development Standards

Standard	C-1	C-2
Minimum Lot Area (sq ft) *Development must conform to lot width, depth, yard setback and coverage standards	None	10,000
Minimum Lot Width (ft)	50	60

Minimum Lot Depth (ft)	100	120
Maximum Building Height (ft)	45	45
Building Height Transition	Yes	Yes
Maximum Lot Coverage (%)	100	80
Minimum Landscape Area (% of site)	5	15
Minimum Setback (ft)¹⁵		
Front	0	10
Side	0	10
Street Side	0	20
Rear	0	10
Setbacks Along Arterials	See TSP	See TSP
Fences and Gardening/Retaining Walls¹⁶		
Max Height - Front	42 in	42 in
Max Height - Side	6 ft	6 ft
Max Height - Street Side	6 ft	6 ft
Max Height - Rear	6 ft	6 ft

Notes:

- 1 No balconies may extend into the public right-of-way.
- 2 See also Sections 18.04.020 Vision Clearance and 18.08.050 Fences and Walls.
- 3 Bars and taverns established after the effective date of this Code shall not be located within 500 feet of another use classified as a bar or tavern.
- 4 Setbacks for multifamily development in this district shall comply with the standards of Section 17.08.030 through Section 17.08.100 as well as to meet the development standards of Section 17.08.020.
- 5 On lots having a minimum of 10,000 sq ft, provided there is established in connection therewith, a play lot having a minimum area of 400 sq ft plus an additional 40 sq ft for each child in excess of 10, which play lot is separated from adjoining properties by a sight-obscuring security fence.
- 6 No balconies may extend into the public right-of-way.
- 7 See also Sections 18.04.020 Vision Clearance and 18.08.050 Fences and Walls.
- 8 Includes passenger vehicle, light and medium truck, motorcycle, boat and recreational vehicle sales and repair in an enclosed building, quick lubrication services, transmission or muffler services, auto body services, detailing and upholstery shops. Does not include junking, wrecking, storage, towing, or salvaging operations.
- 9 Does not include junking, wrecking, storage, towing, or salvaging operations.
- 10 Bars and taverns established after the effective date of this Code shall not be located within 500 feet of another use classified as a bar or tavern.
- 11 Bars and taverns established after the effective date of this Code shall not be located within 500 feet of another use classified as a bar or tavern.
- 12 On lots having a minimum of 10,000 sq ft, provided there is established in connection therewith a play lot having a minimum area of 400 sq ft plus an additional 40 sq ft for each child in excess of 10, which play lot is separated from adjoining properties by a sight-obscuring security fence.
- 13 Includes passenger vehicle, light and medium truck, motorcycle, boat and recreational vehicle sales and repair in an enclosed building, quick lubrication services, transmission or muffler services, auto body services, detailing and upholstery shops. Does not include junking, wrecking, storage, towing, or salvaging operations.
- 14 Does not include junking, wrecking, storage, towing, or salvaging operations.
- 15 No balconies may extend into the public right-of-way.
- 16 See also Sections 18.04.020 Vision Clearance and 18.08.050 Fences and Walls.

17 Location shall not be within 1000 feet of the real property comprising another medicinal marijuana dispensary, school, pre-school, religious institution, residential-care facility or licensed daycare; or within 1000 feet of the real property regularly used by a school, pre-school, or licensed daycare for officially sponsored events such as sports fields and tennis courts; 500 feet from any property zoned PSP or 200 feet from any property zoned Residential (R-1, R-2, R-3 & R-5) except when an arterial street lies between a dispensary and Residential or PSP zoned property. In addition, any and all Medical Marijuana Dispensaries must be registered with the Oregon Health Authority under ORD 475.314 and comply with all OHA rules.

All new developments shall:

1. Always avoid utility easements when building is near property lines;
2. Porches, balconies, and patios must be less than 50 percent enclosed on side elevations;
3. On street side fences, retaining/garden walls the six-foot height may be expanded to eight feet with approval through a building permit. (Ord. 2011-04; Ord. 2010-15 §1; Ord. 2010-04 §1)