

ORDINANCE 2016-12-01

AN ORDINANCE OF THE CITY OF WESTON, COLLIN COUNTY, TEXAS, PROVIDING FOR THE CONTROL OF CONSTRUCTION, ALTERATION, REPLACEMENT, REPAIR, AND LOCATION OF FENCES WITHIN THE CITY LIMITS, PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; PROVIDING PENALTY, CUMULATIVE REPEALER, SEVERABILITY, AND SAVINGS CLAUSES; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WESTON, TEXAS:

SECTION 1 PURPOSE

The purpose of this Ordinance is to regulate the construction, erection, enlargement, alteration and maintenance of all fences within the boundaries of the City in order to allow for privacy and security, maintain the neighborhood appearance and enhance the general welfare of the community, and provide for practical safeguarding of life, health and property from hazards that may arise from improper construction or maintenance of fences.

SECTION 2 ADOPTION

The City Council having heretofore implemented Subchapter C, Chapter 54, Local Government Code, hereby adopts this ordinance.

SECTION 3 LOSS OF VALUE TO ADJACENT PROPERTY

It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the corporate limits of the City, to construct or maintain on said property a fence that has become so deteriorated that its appearance causes a loss of value to adjacent property.

SECTION 4 PENALTY

Any person violating or failing to comply with any provision of his Ordinance, shall be fined, upon conviction, in an amount not more than Five Hundred Dollars (\$500.00), providing however, where a different penalty has been established by state law for such offense the penalty shall be that fixed by state law, and for any offense which is a violation of law that governs fire safety, zoning, or public health and sanitation, including the dumping of refuse, the penalty shall be a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense; and separate offenses shall be deemed committed each day during or on which a violation occurs or continues.

SECTION 5 CUMULATIVE REPEALER CLAUSE

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances, or parts thereof, in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such other Ordinances on the date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect

SECTION 5 SAVINGS CLAUSE

All rights and remedies of the City of Weston, Texas are expressly saved as to any and all violations of the provisions of any other ordinance affecting safety and health hazards which have secured the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the court.

**SECTION 6
SEVERABILITY**

It is hereby declared to be the intention of the City Council that the phrases, clauses, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 7
PUBLICATION**

The City Secretary of the City of Weston is hereby directed to publish in two issues of the Official newspaper of the City of Weston, the exact Caption, Penalty and Effective Date clause of this Ordinance as required by the Texas Local Government Code.

This Ordinance shall be in full force and effect from and after its passage and publication as provided by law, and it is so ordained.

PASSED AND APPROVED by Council this, the 13th day of December, 2016.

APPROVED

Patti Harrington
Patti Harrington, Mayor

ATTEST

Susan M Coffey
Susan Coffey, City Secretary



FENCE REGULATIONS

Section 1 **Permits**

A. Permit required

1. It shall be unlawful for any person to install or cause to be installed or to permit any person to install a fence, or to make any alterations, additions or changes to a fence, without first having procured a permit to do so from the City.
2. The fee for the permit required by this section shall be as listed in the City Fee Schedule and shall be paid prior to the issuance of the permit.
3. The City shall require a plot plan showing the lot size, all improvements on the lot and the proposed location of the fence to be constructed before a permit will be issued under this section.
4. The City may refuse to issue a permit under this section to any person who has been convicted of a violation of any provision of this article.

B. Inspections required

1. When any fence for which a permit has been issued under this Ordinance is completed, it must be inspected by the City for compliance with this Ordinance and all other applicable Ordinances. The City shall be notified upon completion of the fence.
2. The Chief Building Official will certify acceptance by the City if the fence complies with the provisions of this Ordinance or reject the fence if it does not.
3. The owner of the property shall be required to remove any noncompliant fence or replace it with a fence that does comply.

Section 2 **General Standards**

A. Fence materials and types

1. Except as otherwise stated herein, fences may be constructed of stone, masonry, brick, wood, PVC, chain link or other materials of like kind that the chief building official determines have the same quality, appearance and durability.
2. Chain link fences less than five feet in height in residential districts shall have the finished edge of the material on the top of the fence.
3. A fence constructed in such a manner that it may conduct electrical current shall not be permitted in any zoning district except the agricultural zoning district.
4. Barbed wire fences shall not be permitted in any zoning district except on fence arms in industrial or agricultural districts.
5. Fence arms shall not be permitted in any zoning district except industrial districts. Fence arms may be permitted on fences located in industrial districts so long as they do not extend beyond the property line.
6. Any stone, masonry or brick wall or fence constructed of similar materials greater than four feet in height shall be engineered, designed and the plans sealed by a state professional engineer.

B. Fence heights

1. Within industrial districts, fences may be constructed to a maximum height of ten feet.
2. Front yard setback area fence requirements shall be as follows:
 - a. No fence over 4 feet in height shall be permitted from the front building line to the street right-of-way line;
 - b. All fences shall have a minimum of 50 percent through vision in any front yard; and
 - c. All wire fences are prohibited in front yards in uses other than industrial.
3. Side yard setback area fence requirements shall be as follows: fences may be constructed to a maximum height of 8½ feet on any side property line up to the building line of the building proper.
4. Rear yard setback area fence requirements shall be as follows: fences may be constructed to a maximum height of 8½ feet along the rear property line. Within a historic district, the height shall not exceed six feet eight inches.

5. Corner lot fence requirements
 - a. On all corner lots in residential districts which have opposing rear lot lines, whether directly or across an alley, fences may be constructed to a maximum height of 8½ feet along the side and rear yard lines, as shown in figures 1 and 2. Fences may be constructed to the normally permitted height elsewhere on the property.
 - b. On all corner lots in residential districts where the side lot line is immediately adjacent to the front yard of the adjacent lot (or immediately across an alley from the front yard of the adjacent lot), fences may be constructed to a maximum height of 2½ feet between the side yard setback line and the property line adjacent to the street, as shown in figures 3 and 4, except that wrought iron fences may be constructed up to six feet in height if it does not create a sight distance issue or safety concern in the opinion of the chief building official or city engineer. Fences may be constructed to the normally permitted height elsewhere on the property.
6. No fence adjacent to a required subdivision screening wall, whether parallel or perpendicular to the wall, may be constructed higher than the height of the subdivision screening wall unless granted a special exception by the board of adjustment as provided for in the City's Zoning Regulations.
7. Fences around tennis courts, regardless of the district in which they are located, shall be constructed between ten and 12 feet in height. Such fences shall be chain link or other open view material so as to minimize the visual impact of the fence. Fence arms shall not be allowed on tennis court fences.

C. Other fence standards.

1. Sight visibility at intersections. No fence shall be constructed in the triangle formed by measuring 20 feet back from the intersection of two streets or 15 feet back from the intersection of a street and an alley. The city engineer may require additional sight distances to be maintained where specific conditions render such provisions necessary to provide for the public health and safety.
2. Construction within drainage easements. No fence shall be constructed within any drainage easement in the corporate limits of the city unless the city engineer shall have first determined and advised the chief building official, in writing, that he believes such fence shall, in all probability, not interfere with or impair the natural flow of water across the drainage easement.
3. On or over city property. No privately owned fence or guy wires, braces or any other part of a privately owned fence shall be constructed upon or caused to protrude over property owned by the city.
4. Gate required. Every fenced enclosure constructed under the provisions of this article shall have at least one gate in its perimeter.

Section 3
Swimming Pool Enclosures

A. All swimming pools shall comply with the following:

1. Residential pools shall conform with the International Residential Code for pool fencing standards
2. Public pools, including homeowners association and apartment complex pools, shall conform to the Texas Health and Safety Code Chapter 757.
3. Every swimming pool, or excavation designed or intended to ultimately become a swimming pool, while under construction as well as after completion, shall be continuously protected by an enclosure surrounding the pool or excavated area in such a manner as to make such pool or excavated area reasonably inaccessible to small children or animals. This provision shall not apply to:
 - a. Bodies of water other than swimming pools that are owned or controlled by the federal government, state, county or any agency, subdivision or department thereof.
 - b. Bodies of water located in natural drainageways.
4. All plans submitted to the city for swimming pools to be constructed shall show compliance with the requirements of this section, and the final inspection and approval of all pools constructed shall be withheld until all requirements of this section have been complied with by the owner, purchaser under contract, lessee, tenant or licensee.

Section 4
Special Exceptions

- A. The Board of Adjustment may grant a special exception that will allow a fence up to a maximum height of 8½ feet for a fence that is adjacent to a required subdivision wall; provided that the board finds that:

1. The lot has unusual topographical conditions that distinguish it from other similarly sized and shaped lots, and where such conditions create a hardship that renders privacy inadequate without such relief; and
 2. The following required provisions have all been met:
 - a. The lot shall have an existing residential structure on it or a building permit to construct a residential structure has been issued;
 - b. The subject property shall not be located within the historic overlay district;
 - c. The subject fence shall not be a corner lot fence; and
 - d. Such fences shall be constructed of either:
 - 1) Stained wood, board-on-board construction or double-sided construction, with a stained trim cap and steel posts; or
 - 2) An engineered brick, stone or masonry wall in a color and style that is consistent with and compatible with the surrounding vicinity.
- B. A special exception is only appropriate for those sides of a fence that meet the requirements set out herein above. A hardship may be found regardless of when the unusual condition was created.

Section 5
Maintenance

All fences constructed under the provisions of this article shall be maintained so as to comply with the requirements of this article at all times. The chief building official may order the repair or removal of a fence if it is more than five percent damaged or leaning ten degrees from the vertical. Fences shall be repaired in compliance with the provisions of this article.

Section 6
Appeals

Any appeal from an interpretation of the chief building official of the provisions of this article shall be made to the board of adjustment.

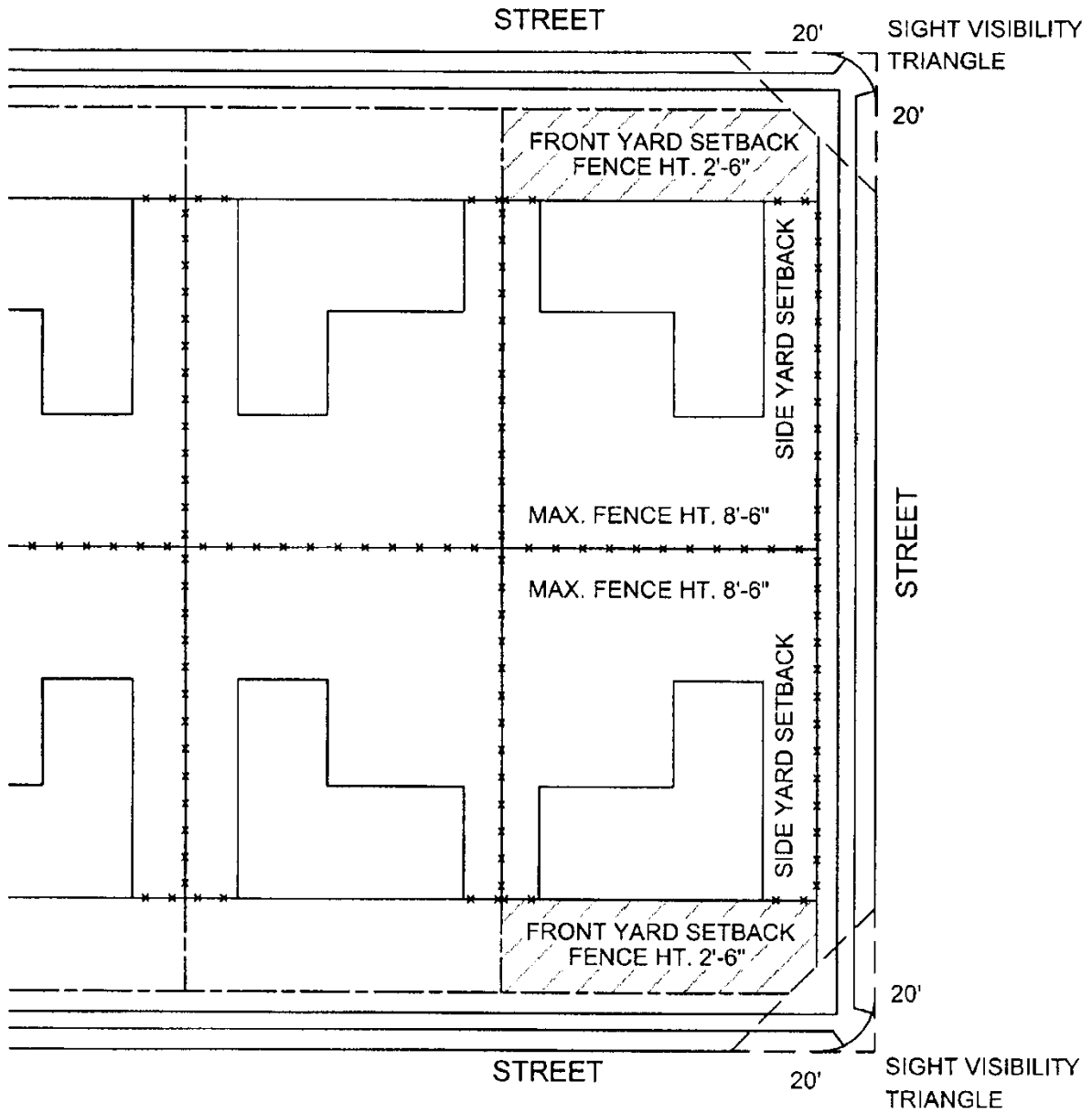


Figure 1

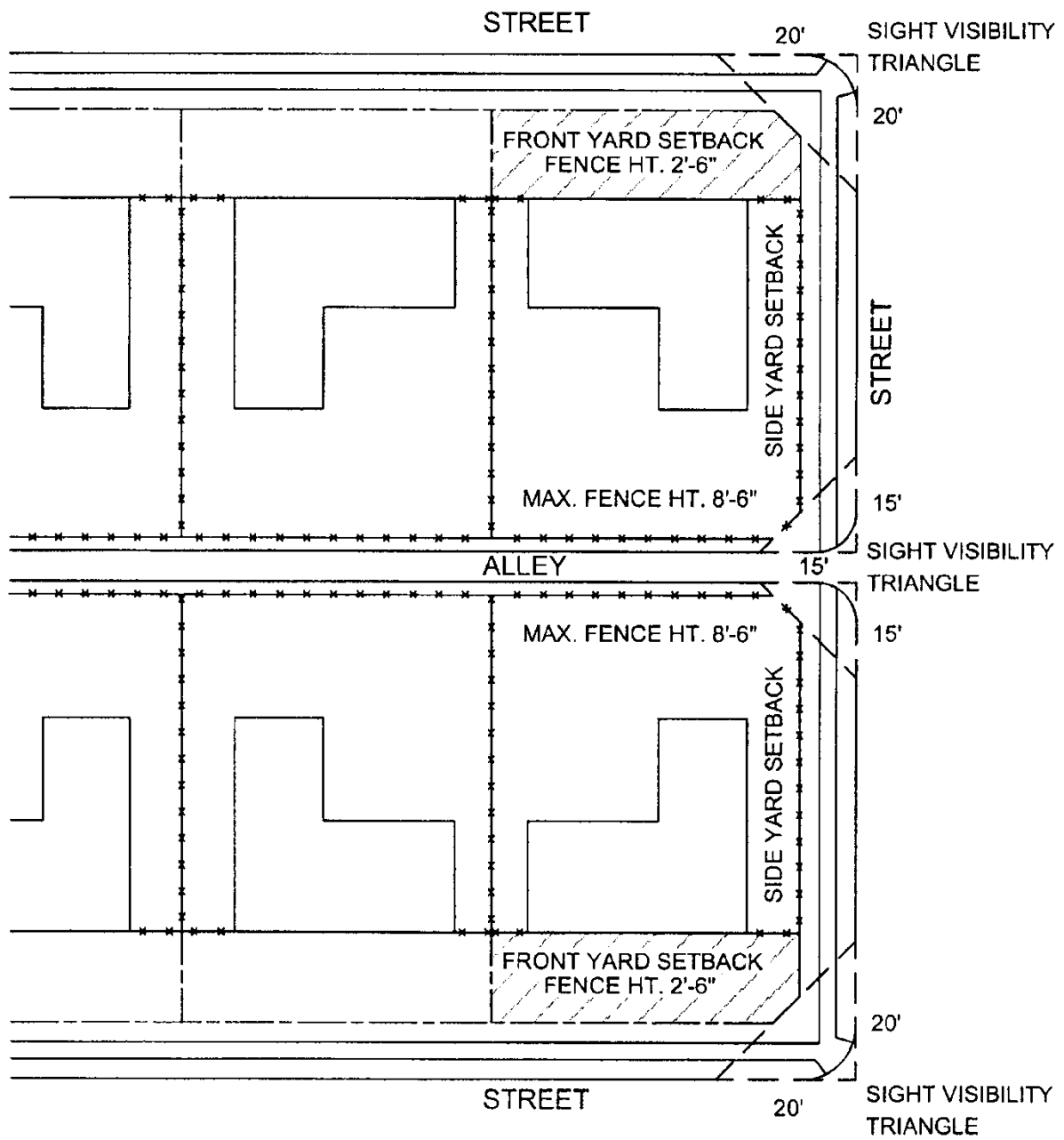


Figure 2

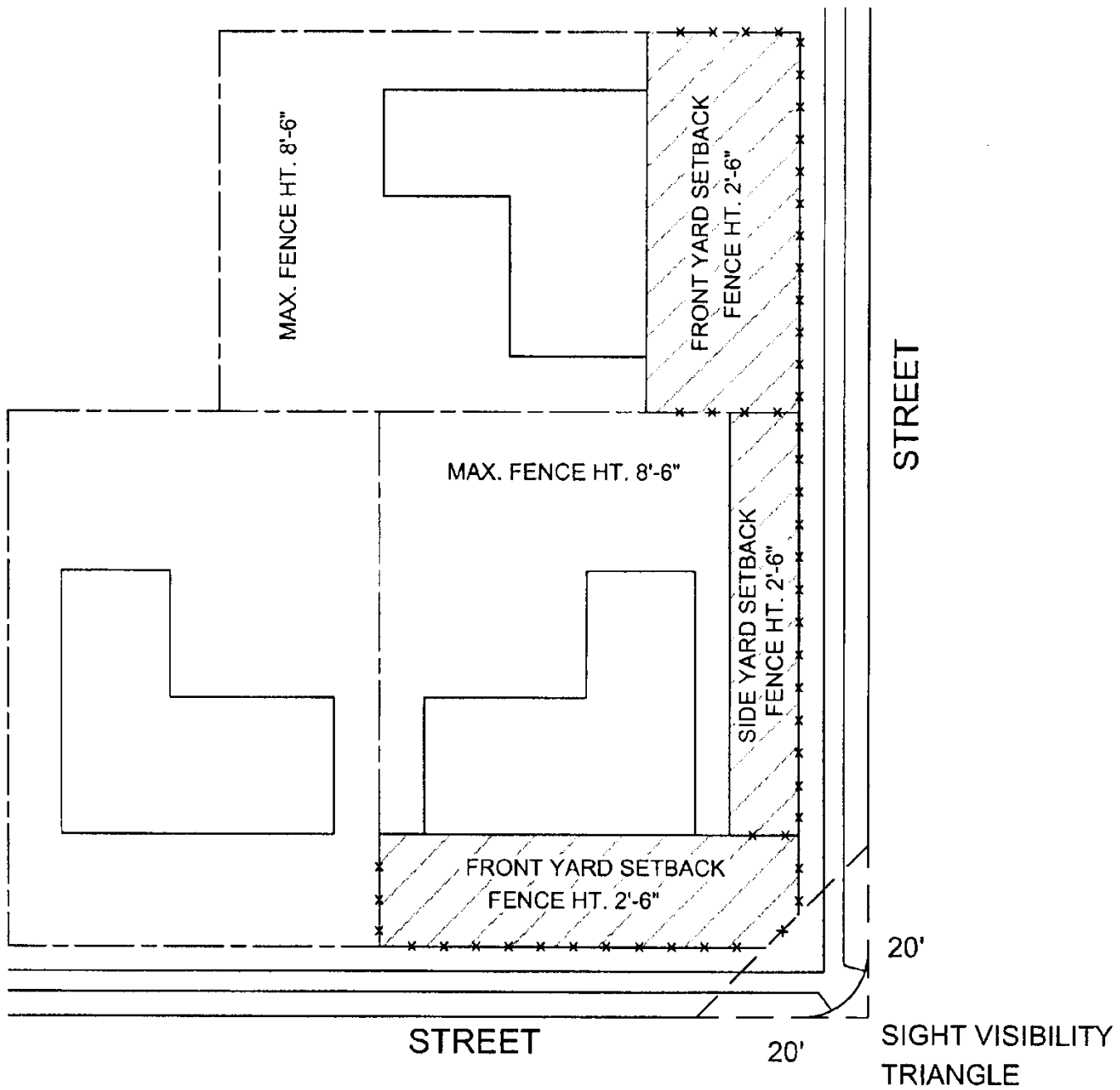


Figure 3

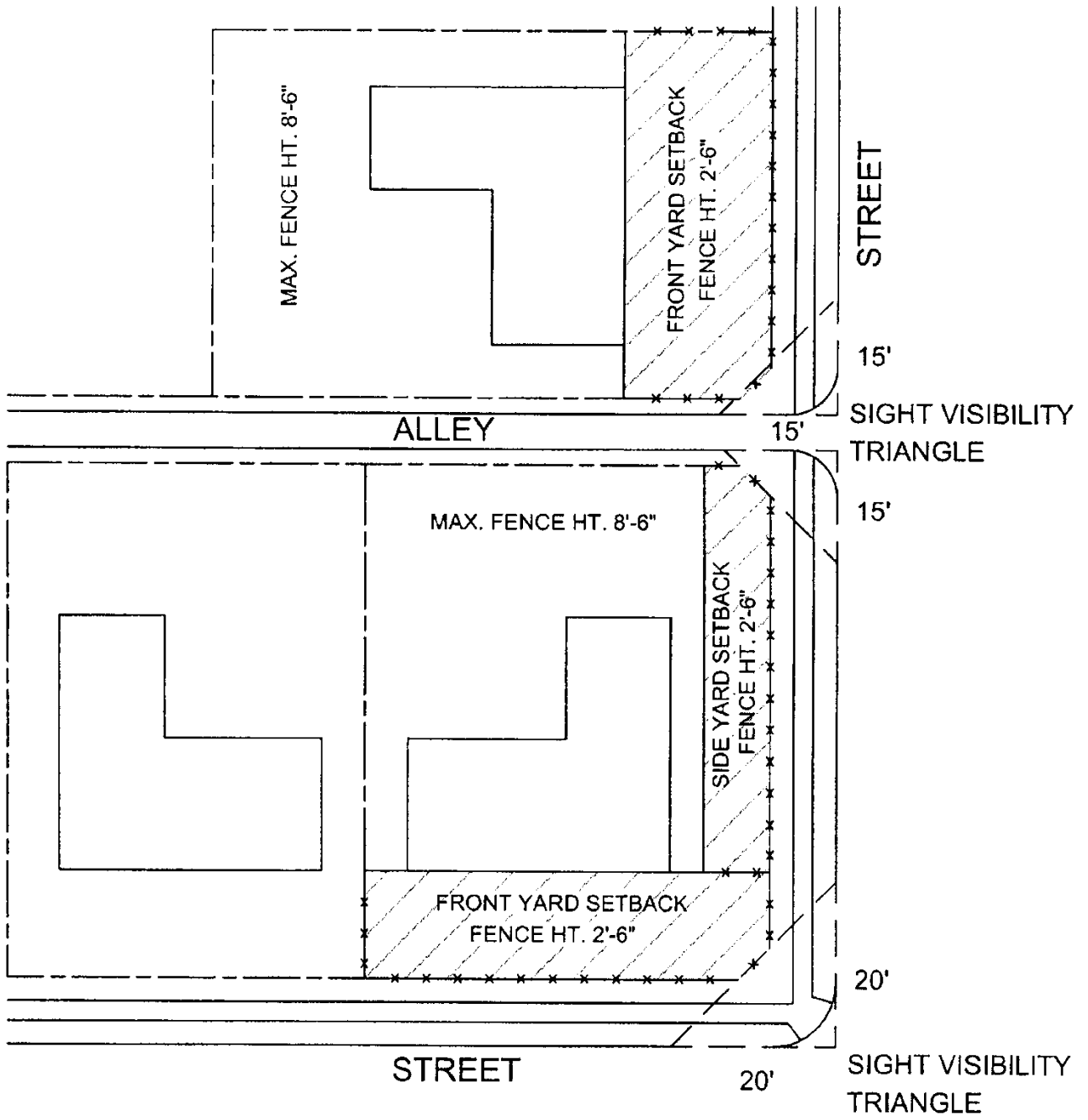


Figure 4