Sec. 29.40.030. Fences, walls, gates, gateways, entry arbors, and hedges.

(Ord. No. 2286, § I, 8-6-19)

Ord. No. 2286, § I, adopted Aug. 6, 2019, repealed § 29.40.030 and enacted new provisions as §§ 29.40.030—29.40.0330, to read as herein set out. Former § 29.40.030 pertained to similar subject matter and derived from Ord. No. 1316, § 4.10.020, adopted June 7, 1976; Ord. No. 1493, adopted March 17, 1981; Ord. No. 1873, § I, adopted Oct. 7, 1991; Ord. No. 2049, § I, adopted Oct. 5, 1998; Ord. No. 2062, § I, adopted June 21, 1999; and Ord. No. 2278, § II, adopted Dec. 18, 2018.

Sec. 29.40.0305. Intent.

The intent of these fence regulations, as defined in section 29.40.0310, is to preserve the natural beauty of the Town of Los Gatos, the natural movement of wildlife, and to protect traffic view areas while acknowledging that residents have the right to fence their properties to protect children, contain their animals, protect garden or agricultural areas, and maintain privacy. Specifically, within the hillside area, the intent of these fence regulations is to allow for the movement of wildlife. Unless specified otherwise, these fence regulations are applicable Town-wide. These fence regulations incorporate portions of the Hillside Development Standards and Guidelines related to fencing.

(Ord. No. 2286, § I, 8-6-19)

Sec. 29.40.0310. Definitions.

The following words, terms, and phrases, when used in these fence regulations, shall have the meanings ascribed to them in this section:

Buck and rail fence means a fence constructed with wood rails where the posts are arranged to form a triangle to provide the vertical structure of the fence. The horizontal rails are then attached to the triangle support posts.

Corner sight triangle means a triangular area at street intersections having sides thirty (30) feet in length, as measured from intersecting property lines.

Double fence means two (2) fences spaced a few feet apart regardless of height and material.

Driveway view area means a triangular area at the intersection of driveways and sidewalks and street intersections having sides ten (10) feet in length, as measured along the driveway's path of travel from the back of the sidewalk or street.

Fence means a structure constructed of posts, rails, wire, and/or barrier panels, used to define a boundary or as a means of protection, confinement, or visual obstruction.

Fence regulations means sections 29.40.030 through 29.40.0330.

Hillside area means all properties located within the area defined by the Hillside Area Map as contained in the Town of Los Gatos Hillside Development Standards and Guidelines.

Open view fence means a fence constructed in such a way so that no more than twenty (20) percent of the surface area of the fence obstructs a view through the fence from a position perpendicular to the fence.

Perimeter fence means a fence located on the property line of a lot.

Riparian corridor means an area comprised of habitat strongly influenced and delineated by the presence of perennial or intermittent streams.

Solid fence means a fence constructed in such a way so that more than twenty (20) percent of the surface area of the fence obstructs a view through the fence from a position perpendicular to the fence.

Traffic view area means the area which is within fifteen (15) feet of a street and within two hundred (200) feet of the right-of-way line of an intersection.

Wildlife-friendly fence means a fence that allows any animal, regardless of size, to climb under, pass through, or jump over, with a maximum height of forty-two (42) inches and a minimum distance between the bottom rail and the ground of eighteen (18) inches.

(Ord. No. 2286, § I, 8-6-19)

Sec. 29.40.0315. Height, materials and design, and location.

(a) *Height.*

(1) Fences, walls, gates, or hedges may not exceed six (6) feet in height, with one (1) foot of lattice on top (seven (7) feet high in total); except as provided in subsections (2), (3), and (4) below.

(2) In the hillside area:

a. Fences, walls, gates, or hedges may not exceed six (6) feet.

b. On properties one (1) acre or greater, perimeter fencing shall be a wildlife-friendly fence as defined in section 29.40.0310.

(3) Fences, walls, gates, and hedges may not exceed three (3) feet in height when located within a required front or side yard abutting a street (as required by the zone), driveway view area, traffic view area, or corner sight triangle unless an exception is granted by the Town Engineer and Community Development Director. Trees, hedges, and vegetation within a corner sight triangle shall meet the requirements of section 26.10.065.

(4) Pedestrian gateways or entryway arbors may be up to eight (8) feet high. No more than one (1) gateway or entryway arbor per street frontage is allowed.

(b) *Materials and design.*

(1) The following fence types and materials are prohibited:

a. Any fence with bare lengths of wire stretched between posts.

b. Electric fences, including any fence designed to produce an electric shock.

c. Barbed or razor wire fences, including any fence with attached barbs, sharp points, or razors.

d. Transparent fences such as barriers of glass or clear plastic.

(2) In the hillside area:

a. Fences located within twenty (20) feet of a property line adjacent to a street shall be open view fencing as defined in section 29.40.0310.

b. On properties one (1) acre or greater, perimeter fencing shall be a wildlife-friendly fence as defined in section 29.40.0310.

c. Chainlink, welded wire, wire mesh, or similar material shall be coated with green, brown, or black vinyl or finish and shall be supported by a wood frame.

d. Buck and rail, double, and solid fences are prohibited.

(3) In the Landmark and Historic Preservation Overlay:

a. Plastic fencing is prohibited.

b. Fences located in a required front yard shall be open view.

(4) Pedestrian gateways or entryway arbors shall be open view. A gateway or entryway arbor shall have a maximum width of six (6) feet and a maximum depth of four (4) feet.

(c) *Location.*

(1) No fence, wall, or gate shall be located within emergency egress easements.

(2) No fence, wall, or gate shall be located within twenty (20) feet of a riparian corridor as defined in section 29.40.0310.

(3) Vehicular gates shall be set back from the edge of the adjacent street a minimum of eighteen (18) feet as measured along the centerline of the driveway. A greater setback may be required when a gated entrance serves more than one (1) house.

(Ord. No. 2286, § I, 8-6-19)

Sec. 29.40.0320. Exceptions.

An exception to any of these fence regulations may be granted by the Community Development Director. A fence exception application and fee shall be filed with the Community Development Department and shall provide written justification that demonstrates one (1) of the following conditions exist:

(a) Adjacent to commercial property, perimeter fences or walls may be eight (8) feet if requested or agreed upon by a majority of the adjacent residential property owners.

(b) On interior lots, side yard and rear yard fences, walls, gates, gateways, entry arbors, or hedges, behind the front yard setback, may be a maximum of eight (8) feet high provided the property owner can provide written justification that either:

(1) A special privacy concern exists that cannot be practically addressed by additional landscaping or tree screening; or

(2) A special wildlife/animal problem affects the property that cannot be practically addressed through alternatives. Documented instances of wildlife grazing on gardens or ornamental landscaping may be an example of such a problem.

(c) At public utility facilities, critical infrastructure, and emergency access locations, exceptions may be granted where strict enforcement of these regulations will result in a security or safety concern.

(d) A special security concern exists that cannot be practically addressed through alternatives.

(e) A special circumstance exists, including lot size or configuration, where strict enforcement of these regulations would result in undue hardship.

(Ord. No. 2286, § I, 8-6-19)

Sec. 29.40.0325. Exemptions.

All fences, hedges, gates, and walls existing on the effective date of this ordinance [from which this section derives] that do not meet the regulations contained herein are nonconforming and are exempt from these regulations. Existing nonconforming fences may be maintained and/or replaced in kind, including historic stone or river rock walls.

(Ord. No. 2286, § I, 8-6-19)

Sec. 29.40.0330. Penalties.

A property owner who has unlawfully constructed any fence, wall, gate, gateway, entry arbor, or hedge is subject to applicable enforcement and penalties as described in sections 29.20.930 through 29.20.965 of the Town Code.

(Ord. No. 2286, § I, 8-6-19)