

# FENCE POLICY

## PUBLIC WORKS DEPARTMENT

### Effective September 1, 2005

#### BACKGROUND

PAMC Section 12.12.010, *Building on Public Easement – Encroachment Permit*, administered by the Public Works Department, authorizes, by issuance of an encroachment permit, the placement of private infrastructure, including fences, on or in the City right-of-way (ROW) or other public easement when it has been determined that the infrastructure will not interfere with existing or planned City facilities in the ROW or easement and is not otherwise detrimental to the City's best interests and responsibilities.

PAMC Chapter 16.24, *Fences*, administered by the Planning Division, regulates architectural, materials, height, and safety (sightline) issues for fences.

In many residential and commercial areas, the property line is a few feet (distance varies throughout the City) behind the sidewalk. The area between the sidewalk and the property line is, in most cases, ROW or public utility easement (PUE) and is used by the City for sidewalk installation and maintenance; the installation and servicing of utility lines, junction boxes, valves and meters; and street tree maintenance. Many residents have installed fences at the back-of-sidewalk without obtaining an encroachment permit, potentially not realizing that the fence is in City ROW or PUE and may block or hinder access to existing or planned City facilities and generally be detrimental to the City's best interests and responsibilities.

#### OLD POLICY

##### **Fences in the City Right-of-Way (Front Yard)**

During private development plan review, if an applicant proposed a fence in the ROW or PUE next to the sidewalk or street, Public Works staff commented that the fence is not allowed under the assumption that it could potentially interfere with the City's current or future ability to use the ROW for the installation, maintenance and/or servicing of City facilities and, therefore, is not in the City's best interest.

If a complaint was received about a fence being located in the ROW or PUE next to the sidewalk or street, Public Works investigated and, if confirmed, required the property owner to remove the fence within a prescribed time or face a minimum administrative penalty of \$1,000.

##### **Fences in Public Utility Easements (Back/Side Yards)**

During private development plan review, if an applicant proposed a wood fence on a PUE along the back or side of the property, staff generally allowed this, contingent upon the applicant applying for and receiving an encroachment permit. This permit was issued only when it was determined the proposed fence would not generally impede access to

overhead or underground utilities. If the PUE was for underground utilities, then Public Works and Utilities would generally allow an encroachment permit for wood fences, but not for more permanent, substantial construction, like a brick wall, because it is more difficult and costly to remove these facilities should the need arise to install or maintain underground infrastructure. The encroachment permits did include conditions providing that if the City needs access to the PUE, the property owner is responsible for removing the fence upon the City's request and for reinstalling it, if they so choose, once the City has completed the work.

### NEW POLICY

The new policy will treat fences in the front ROW or PUE the same as fences in the side or back PUE.

Public Works will allow fences constructed of wood or similar easily removed material in the front ROW or PUE and side or back PUE providing they do not appear to interfere with the City's ability to access, install, operate or maintain existing or planned City facilities; they meet the provisions of the PAMC Chapter 16.24, *Fences*, and; the applicant applies for and receives an approved encroachment permit. Fences that are proposed to be constructed of more substantial materials that are not easily removed, such as wrought iron, steel, brick, masonry or concrete block, will not be permitted to be installed in the ROW or PUE even if there is no current conflict with a City facility on the assumption that they could be detrimental to the City's future ability to utilize these areas.

### **Fence Encroachments Proposed in Development Plan Review**

During private development plan review, if fences of wood or similar easily removed material are proposed in the ROW or in a PUE, Public Works staff will provide the comment that the applicant must remove the fence, relocate the fence onto private property outside of the ROW or PUE, or obtain an encroachment permit prior to installing the fence. If the property owner chooses to pursue a permit, Public Works staff will route the permit application to the appropriate following groups for review to determine whether there are conflicts between the proposed fence and existing or future city facilities in the ROW or PUE that would be detrimental to the City's best interests or responsibilities:

- PWE Inspector<sup>1</sup>
- PWE Storm Drain Engineer<sup>2</sup>
- PW Ops Sidewalk Supervisor<sup>1</sup>
- PW Ops Arborist<sup>1</sup>
- Utilities Engineering - WG<sup>1,2</sup>
- Utilities Engineering - Electric<sup>1,2</sup>
- Planning Division Current Planning<sup>1,2</sup>
- Planning Division Arborist<sup>1,2</sup>

<sup>1</sup> Fences in ROW

<sup>2</sup> Fences in PUE

If all plan reviewers report that there are no existing or known future facility conflicts or other reasons to not permit the fence, an encroachment permit will be approved and issued. If any one of the plan reviewers identifies a conflict that cannot be avoided with permit conditions, or other reasons to not permit the fence, the property owner will be informed that the encroachment permit has not been approved and that the fence may not be installed as proposed.

### **Complaints Regarding Existing Encroaching Fences**

When a complaint is received about a fence being located in the City ROW or PUE, Public Works will investigate and take the following actions:

- If Public Works determines that there is not an existing encroachment permit for the fence and that the fence is constructed of materials other than wood or similar easily removed materials, and/or the fence is blocking or hindering access to City facilities, and/or it does not meet the provisions of the PAMC Chapter 16.24, the owner will be issued an administrative warning to remove the fence within a prescribed time. If the fence is not removed within this time, a minimum \$1,000 administrative penalty fine may be assessed.
- If Public Works determines that there is not an existing encroachment permit for the fence, but that the fence is constructed of wood or similar easily removed materials, and the fence does not appear to interfere with existing or planned City facilities, and it also appears to meet the provisions of the PAMC Chapter 16.24, Public Works will inform the property owner that they need to remove the fence or apply for an encroachment permit. If an encroachment permit is applied for, Public Works will route the application to the appropriate review staff as described above. If the review staff approves the fence, an encroachment permit will be issued. If the review staff does not approve the fence, the property owner will be issued an administrative warning to remove the fence within a prescribed time. If the fence is not removed within this time, a minimum \$1,000 administrative penalty fine may be assessed.