

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK  
AMENDING VARIOUS SECTIONS OF CHAPTER 31 OF THE  
BURBANK MUNICIPAL CODE RELATING TO FENCES.

City Attorney's Synopsis

This Ordinance establishes new residential, commercial and industrial fence, walls and hedges standards. Current law allows such improvements to be no higher than three feet in a front yard. This Ordinance raises that standard to four (4) feet, provides a procedure for permitting taller fences, and provides [for new rules as to allowances for](#) hedges, arbors, pergolas, statues, fountains, and other ornamentation.

THE COUNCIL OF THE CITY OF BURBANK FINDS:

A. The Burbank Municipal Code until 1967 allowed fences, walls and hedges to have a maximum height of four (4) feet above the grade of the sidewalk within the front setback and up to eight feet outside the front setback area.

B. In October 1967, the City Council adopted Ordinance No. 2064 which reduced the maximum height of fences, walls, and hedges to three (3) feet in the front yard and street side yard areas (typically 25 feet and 10 feet respectively). The eight (8) foot maximum height for fences, walls, and hedges was retained for areas outside of these yard areas. The ordinance also established the corner cutoff requirements for intersections of property lines with streets and alleys. While minor modifications have been made the fence ordinance since 1967, the standards developed at that time are fundamentally the same that exist today.

C. Thousands of residential properties across the City are improved with fences, walls, and hedges that are inconsistent with the requirements adopted in 1967. This has resulted in inconsistent development patterns in the City's residential neighborhoods. Further, the three-foot (3') height limitation for front and street side yards is overly restrictive for the types of improvements that homeowners wish to erect in their yards. Additional flexibility is needed to allow homeowners greater flexibility in improving their yards. However, height restrictions and other requirements are still needed to ensure a consistent development pattern and community character and for safety purposes.

D. The large number of fences, walls, and hedges that do not comply with current requirements presents an enforcement concern for the City. It is appropriate to hold in abeyance enforcement action against established fences, walls, and hedges that

do not pose a safety hazard and are not of an excessive height so as to pose additional aesthetic concerns.

E. Fences, walls, and hedges that are too tall or improperly placed present a potential safety hazard by obstructing the views of motorists at intersections and exiting driveways, and by limiting the ability of emergency personnel to view and access properties. Corner cutoff provisions are necessary for new fences, walls, and hedges to ensure that this issue is addressed. Enforcement action against existing non-conforming fences, walls, and hedges is necessary, except where the fence, wall, or hedge can be deemed safe and does not pose a hazard, including through the obstruction of views.

F. The Planning Board held a duly noticed public hearing on June 13, 2005 on the proposed amendments to the authorized height for fences, walls, and hedges, and adopted Resolution No. 2988 recommending approval of the proposed amendments which would increase the maximum heights of fences and walls within the front yards to four feet, among other changes.

G. The Council held a duly noticed public hearings on August 16, 2005 and February 28, 2006.

H. The code amendments were examined in a Negative Declaration. In Resolution No. \_\_\_\_\_ the Council adopted and approved the Negative Declaration in accordance with the California Environmental Quality Act ("CEQA").

THE COUNCIL OF THE CITY OF BURBANK ORDAINS:

1. Section 31-603 (A) of the Burbank Municipal Code is amended to read as follows:

**Standards table.** All land uses and structures, and alterations to existing land uses and structures, in the R-1 and R-1-H zones must be designed, constructed, and established consistent with the requirements in Table 31-603(A) and all other applicable provisions of this Division and this Code. Where the last column in the table includes a section number, the referenced section includes additional requirements related to the development standard.

**Table 31-603(A)  
Development Standards in the R-1 and R-1-H Zones**

<i>Development Standards</i>	<i>R-1 and R-1-H</i>	<i>Additional or Related Standards</i>
<b>Density</b>		
Minimum lot area	6,000 square feet	
Minimum lot width	50 feet	
Minimum lot depth	100 feet	
Minimum lot area per primary dwelling	6,000 square feet	

<b>Development Standards</b>	<b>R-1 and R-1-H</b>	<b>Additional or Related Standards</b>
unit		
Minimum lot area per additional dwelling unit above first 6,000 square feet subject to CUP approval	5,750 square feet	
Minimum dwelling unit size	850 square feet	
Minimum dwelling unit width <sup>(1)</sup>	20 feet	
<b>Maximum height</b> <sup>(H) (2)</sup>		
To top plate	23 feet	31-603(C)
To top of roof and architectural features <sup>(3)</sup>	30 feet	31-603(C)
To top plate for accessory structures <sup>(4)</sup>	19 feet	31-603(C)
To top of roof and architectural features for accessory structures <sup>(4)</sup>	26 feet	31-603(C)
<b>Maximum number of stories for all structures</b> <sup>(H)</sup>	2	31-603(C)
<b>Maximum floor area ratio</b> <sup>(H)</sup>	0.4 - 0.45 <sup>(5)</sup>	31-603(D)
<b>Maximum lot coverage</b>	50% <sup>(6)</sup>	31-603(E)
<b>Minimum yard setbacks</b> <sup>(H)</sup>		
Front	25 feet	31-603(F)
Rear	15 feet	31-603(F)
Interior side	10% of lot width but no less than 3 feet and no more than 10 feet <sup>(7)</sup>	31-603(F)
Street-facing side	20% of lot width but no less than 6 feet and no more than 20 feet <sup>(7)</sup>	31-603(F)
<b>Maximum fence, wall, and hedge heights</b>		
Within front yard or street-facing side yard set back area	4 feet <sup>(8)</sup>	31-603(G)
Outside of front yard or street-facing side yard setback area	8 feet	31-603(G)
<b>Minimum number of off-street parking spaces</b> <sup>(H)</sup>		
When main dwelling has a gross floor area of 3,400 square feet or less	2 <sup>(9)</sup>	31-603(H)
When main dwelling has a gross floor area of more than 3,400 square feet	3 <sup>(9)</sup>	31-603(H)

Notes/Additional Requirements:

(H) For items marked with an (H), the hillside development standards apply if the property is located within the hillside area as defined in Section 31-606(A).

(1) The minimum dwelling unit width does not apply when a narrower dwelling width is necessary to maintain the minimum required side yard setbacks.

(2) On lots where 50 percent or more of the R-1 or R-1-H zoned lots within a 300-foot radius contain homes that were legally built taller than the maximum allowed roof height, the maximum top plate and roof heights may be exceeded with approval of a single family special development permit per Section 31-607.

- (3) Unless otherwise permitted by state or federal law, the maximum 30-foot height limit also applies to free-standing structures other than buildings including but not limited to antennas, satellite dishes, and flagpoles.
- (4) Accessory structures include enclosed and non-enclosed structures that are detached from the main dwelling unit, including but not limited to detached garages, gazebos, workshops, storage sheds and buildings, pool houses, stables, corrals, and tack rooms. Second dwelling units, whether attached to the main dwelling unit or detached, and additional dwelling units authorized by conditional use permit, are not considered accessory structures.
- (5) (a) The maximum floor area ratio is 0.4. (b) On lots of 6,000 square feet or more, the 0.4 floor area ratio may be exceeded, up to a maximum of 0.45, per Section 31-603(D)(6). (c) On lots smaller than 6,000 square feet, the 0.4 and 0.45 floor area ratios may be exceeded with approval of a single family special development permit per Section 31-607 without complying with Section 31-603(D)(6). (d) On lots where 50 percent or more of the R-1 or R-1-H zoned lots within a 300-foot radius contain homes that were legally built larger than would be permitted under the 0.45 floor area ratio, the 0.4 and 0.45 floor area ratios may be exceeded with approval of a single family special development permit per Section 31-607 without complying with Section 31-603(D)(6). (e) In the hillside area as defined in Section 31-606(A), the floor area ratio may be reduced through conditions placed upon a hillside development permit per Section 31-606(C).
- (6) The 50 percent maximum lot coverage may be exceeded with approval of a single family special development permit per Section 31-607 when either of the following apply: (a) the lot is smaller than 6,000 square feet; or (b) 50 percent or more of the R-1 or R-1-H zoned lots within a 300-foot radius contain homes that were legally built with lot coverage greater than 50 percent.
- (7) On lots that have an irregular shape or a varying width, the average lot width as determined by the Community Development Director is used to calculate the side yard setbacks.
- (8) Within a front yard or street-facing side yard, any portion of a fence or wall exceeding three feet in height must utilize an open design. Open design means that for each one-foot section of fence or wall, at least 50 percent of the surface area is open and provides direct views through the fence or wall.
- (9) The first two required parking spaces may not be tandem spaces. The third parking space may be a tandem space.

2. Section 31-603(G) of the Burbank Municipal Code is amended in its entirety to read as follows:

## **G. Fences, walls, ~~hedges,~~ and other yard features.**

### ~~1. Applicability and enforcement.~~

- ~~a. The requirements of this Subsection G apply to all yard features established on or after April 11, 2006 and all such conforming yard features established prior to April 11, 2006. For the purposes of this Subsection G, yard features include: fences, walls, and gates; vegetation; natural features such as rocks; structural features such as arbors, pergolas, fountains, reflecting pools, art works, screens, light poles, and benches; and other items included within the definition of Landscaping per Section 31-203. Yard features do not include building structures or portions thereof that are addressed in Section 31-603(F).~~
- ~~b. All nonconforming yard features established prior to April 11, 2006 are not subject to the requirements of this Subsection, and are instead subject to the requirements of Section 31-19202.~~

2.1. Fences and walls.

- a. The maximum allowed height of fences and walls is as specified in Table 31-603(A).
- b. The height of a fence or wall is measured from the highest abutting finished ground surface of the property upon which the fence or wall is located.
- c. The height of a fence or wall erected on a slope is measured at the horizontal center. Portions of such a fence or wall may exceed the maximum height for the purpose of providing a stair-step design, but no portion of the fence or wall may exceed the maximum height by more than eight inches.
- d. Within a required street-facing side yard, fences and walls must comply with the same standards as in a front yard. Except that for the portion of the street-facing side yard between the rear of the main dwelling structure and the rear property line, the maximum allowed height of a fence or wall is six feet so long as the lot is not a reverse corner lot.
- e. Ornamentation on top of fences and walls, including but not limited to light fixtures and statues, may exceed the maximum allowed height for fences and walls ~~but may not extend above the top of the fence or wall to which it is attached by more than one foot. Such features must be no wider than one foot and must have a minimum separation of eight feet on center.~~
- f. All fences and walls must comply with the corner cutoff provisions of Section 31-1303.
- g. Gates are subject to the same requirements as fences and walls.
- h. Enforcement of nonconforming fences and walls established prior to April 11, 2006 may be subject to abeyance pursuant to Section 31-19202.

3.2. Hedges ~~and trees.~~

- a. For the purposes of this Subsection, hedges are defined as any vegetation that is grown or maintained in a manner that creates a physical or visual barrier or otherwise functions in a manner consistent with a fence or wall.
- b. All H~~h~~edges must comply with the corner cutoff provisions of Section 31-1303.~~located within 10 feet of a public right-of-way are subject to all standards applicable to fences and walls. When a fence or wall of open design is required, a hedge is not considered to be of open design, regardless of how it is manicured or maintained.~~
- c. ~~Trees planted within 10 feet of a public right-of-way must have a minimum separation of eight feet on center.~~Hedges and all other

vegetation are not otherwise subject to the height limitations applicable to fences and walls.

- d. Enforcement of hedges established prior to April 11, 2006 and located within a corner cutoff area may be subject to abeyance pursuant to Section 31-19202.

4.3. Other yard features.

- a. Other yard features, including but not limited to natural features such as rocks; structural features such as arbors, pergolas, fountains, reflecting pools, art works, screens, light poles, benches, and other items included within the definition of Landscaping per Section 31-203 must comply with the corner cutoff provisions of Section 31-1303.
- b. Other yard features are otherwise exempt from height restrictions applicable to fences and walls.
- c. Enforcement of yard features established prior to April 11, 2006 and located within a corner cutoff area may be subject to abeyance pursuant to Section 31-19202.

~~Yard features other than fences, walls, gates, and hedges are exempt from height restrictions applicable to fences and walls. The requirements of this Subsection apply to such features.~~

- ~~b. Within front and street-facing side yards, such features are limited to the following maximum dimensions:~~

<u>Structure/Object</u>	<u>Arbors, pergolas, and similar structures</u>	<u>Other yard features including fountains, art works, and light poles</u>
<u>Maximum height</u>	<u>8 feet</u>	<u>8 feet</u>
<u>Maximum width</u>	<u>5 feet</u>	<u>5 feet</u>
<u>Maximum depth</u>	<u>2 feet</u>	<u>5 feet</u>

~~c. Arbors, pergolas, and similar structures are limited to a maximum of one per street frontage.~~

~~d. Other yard features are limited to a maximum of two per street frontage. Such features that are less than two feet in height do not count toward this limitation.~~

5.4. Retaining walls.

- a. Retaining walls located within front yard areas are limited to a maximum height of four feet per wall.
- b. Additional retaining walls must be setback a distance equivalent to the height of the retaining wall below.
- c. Fences or walls that are placed on top of a retaining wall within a front or street-facing side yard are limited to a maximum height of three feet

from the abutting finished ground surface and must be of an open design. Open design means that for each one-foot section of fence or wall, at least 50 percent of the surface area is open and provides direct views through the fence or wall.

d. Enforcement of nonconforming retaining walls established prior to April 11, 2006 may be subject to abeyance pursuant to Section 31-19202.

6.5. Exceptions. Exceptions from the requirements of this Subsection G (including the applicable requirements of Section 31-1303 referenced herein) may be granted through approval of a fence exception permit as follows.

- a. Any exceptions from the requirements of this Subsection G to allow a yard feature fence or wall with a height of six feet or less as measured from the abutting finished ground surface, or to allow a hedge or any other yard feature of any height to encroach into a corner cutoff area, may be granted through approval of a minor fence exception permit per Section 31-19200.
- b. Any exceptions from the requirements of this Subsection G to allow a yard feature fence or wall with a height of greater than six feet as measured from the abutting finished ground surface may be granted through approval of a major fence exception permit per Section 31-19201.

3. Section 31-628(A) of the Burbank Municipal Code is amended to read as follows:

A. **Standards table.** All land uses and structures and alterations to existing land uses and structures in the Multiple Family Residential Zones must be designed, constructed, and established in compliance with the requirements in Table 31-628(A) and all other applicable provisions of this Division and this Code. Where the last column in the table includes a section number, the referenced section includes additional requirements related to the development standard.

**Table 31-628(A)  
Development Standards in the Multiple Family Residential Zones**

<i>Development Standards</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4/R-5</i>	<i>Additional or Related Standards</i>
<b>Density/minimum gross square footage of lot area per dwelling unit <sup>(1)</sup></b>				
On lots less than 12,000 square feet	1 unit per 3,000 square feet	1 unit per 2,400 square feet	1 unit per 2,000 square feet	
On lots from 12,000 square feet to 23,999 square feet		1 unit per 2,000 square feet	1 unit per 1,400 square feet	
On lots 24,000 square feet		1 unit per	1 unit per	

<b>Development Standards</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4/R-5</b>	<b>Additional or Related Standards</b>
or greater		1,600 square feet	1,000 square feet	
<b>Lot size and dimensions</b>				
Minimum lot area	6,000 square feet			
Minimum lot width	50 feet			
Minimum lot depth	100 feet			
<b>Maximum lot coverage</b>				
On lots located within 500 feet of single family zoned property	60%			31-628(C)
On lots located greater than 500 feet from single family zoned property	70%			31-628(C)
<b>Maximum height <sup>(2)</sup></b>				
On lots located within 500 feet of single family zoned property	27 feet to top plate 35 feet to top of roof and architectural features			31-628(D)
On lots located greater than 500 feet from single family zoned property	35 feet to top plate 50 feet to top of roof and architectural features			31-628(D)
<b>Maximum number of stories for all structures</b>				
On lots located within 500 feet of single family zoned property	2			31-628(D)
On lots located greater than 500 feet from single family zoned property	3			31-628(D)
<b>Minimum and average yard setbacks</b>				
Front minimum	25 feet		15 feet <sup>(3)</sup>	31-628(E)
Front average	27 feet		17 feet <sup>(3)</sup>	31-628(G)
Rear minimum	5 feet <sup>(4)</sup>			31-628(E)
Rear average	7 feet <sup>(4)</sup>			31-628(G)
Interior side minimum	5 feet <sup>(4)</sup>			31-628(E)
Interior side average	7 feet <sup>(4)</sup>			31-628(G)
Street-facing side minimum	10 feet <sup>(4)</sup>			31-628(E)
Street-facing side average	12 feet <sup>(4) (5)</sup>			31-628(G)
Upper story setback for any yard abutting or adjacent to single family zoned property	5 additional feet <sup>(6)</sup>			31-628(E) 31-628(G)
Buffer yard area for side or rear yard abutting or adjacent to single family zoned property	20 feet <sup>(7)</sup>			31-628(F)
<b>Maximum fence, wall, and hedge heights</b>				
Within front yard or street-facing side yard set back	5 feet above abutting finished ground surface <sup>(8)</sup>			31-628(H)



<b>Development Standards</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4/R-5</b>	<b>Additional or Related Standards</b>
area	4 feet above average grade			
Outside of front yard or street-facing side yard setback area	10 feet above abutting finished ground surface 8 feet above average grade			31-628(H)
<b>Parking</b>				
Minimum number of off-street tenant parking spaces <sup>(9)</sup>	2 spaces per unit	1.25 spaces per efficiency unit (studio unit that is 500 square feet or less) <sup>(10)</sup> 1.75 spaces per 1-bedroom unit or studio unit greater than 500 square feet <sup>(10)</sup> 2 spaces per unit with 2 or more bedrooms <sup>(10)</sup>		31-628(I) 31-628(J)
Minimum number of off-street guest parking spaces <sup>(11)</sup>	1 guest space per 5 units			31-628(I) 31-628(J)
Minimum number of off-street bicycle parking spaces <sup>(12)</sup>	5% of the total number of required off-street vehicle parking spaces, including guest spaces			31-628(I)
<b>Open space and landscaping</b>				
Minimum common open space area per unit	150 square feet <sup>(13)</sup>			31-628(K)
Minimum common open space dimensions	10 feet by 10 feet for projects of 5 units or less 15 feet by 20 feet for projects with 6 to 15 units 30 feet by 30 feet for projects with 16 or more units			31-628(K)
Minimum private open space area per unit	50 square feet <sup>(13)</sup>			31-628(K)
Minimum private open space dimensions	No dimension less than 5 feet			31-628(K)
Minimum percentage of lot area that must be landscaped	25	15		31-628(N)
Minimum percentage of common open space area that must be landscaped	20	15		31-628(N)

Notes/Additional Requirements:

- (1) For dwelling unit calculations, the number of allowed dwelling units is determined by rounding down to the nearest whole number even when the fraction is 0.5 or greater.
- (2) Unless otherwise permitted by state or federal law, the maximum top-of-roof height limits also apply to free-standing structures other than buildings including antennas, satellite dishes, and flagpoles.
- (3) The minimum and average front yard setbacks in the R-4 zone are 25 feet and 27 feet respectively, if the R-4 lot abuts single family zoned property on either side.
- (4) The minimum and average setbacks for the rear, interior side, and street-facing side yards are each increased by one foot for a three-story project. Except that when the lot abuts an alley on the side or rear yard, the additional one foot setback does not apply for that yard.
- (5) The minimum and average street-facing side yard setbacks are increased by five feet when the street-facing side yard abuts the front yard of a single family zoned property (reversed corner lot).
- (6) The upper stories along each elevation that abuts or is adjacent to single family zoned property must provide a minimum setback and average setback that are five feet greater than the minimum and average setbacks otherwise required for that elevation. Balconies may project no more than two feet into the additional five foot minimum setback.
- (7) Public alleys and streets may be included in the 20-foot buffer distance.
- (8) Within a front yard or street-facing side yard, any portion of a fence or wall exceeding three feet in height above the abutting finished ground surface must utilize an open design. Open design means that for each one-foot section of fence or wall, at least 50 percent of the surface area is open and provides direct views through the fence or wall.
- (9) The number of required parking spaces for all units, including fractions of a space, is added together before rounding. The sum total is subject to normal rounding procedures (where a fraction of 0.5 or greater counts as an additional space). For the purpose of determining the required number of parking spaces, bedrooms are those rooms within the unit identified as bedrooms by Section 31-203 and the Building Official.
- (10) Parking requirements are different for projects that are built as condominiums or converted from apartments to condominiums. See Section 31-629.
- (11) The number of guest parking spaces is calculated separately from the number of required tenant spaces and is subject to normal rounding procedures. No guest spaces are required for a multifamily project with two dwelling units.
- (12) Bicycle parking is required only for projects with 20 or more dwelling units. The number of required spaces is subject to normal rounding procedures.
- (13) For projects with five or fewer units, 200 square feet of private open space per unit may be provided in lieu of providing separate common and private open space. Such private open space must comply with private open space requirements and need not comply with common open space requirements.

4. Section 31-628(H) of the Burbank Municipal Code is amended in its entirety to read as follows:

#### **H. Fences, walls, hedges and other yard features.**

##### ~~1. Applicability and enforcement.~~

~~a. The requirements of this Subsection H apply to all yard features established on or after April 11, 2006 and all such conforming features established prior to April 11, 2006. For the purposes of this Subsection H, yard features include: fences, walls, and gates; vegetation; natural features such as rocks; structural features such as arbors, pergolas, fountains, reflecting pools, art works, screens, light poles, and benches; and other items included within the definition of Landscaping per Section 31-203.~~

~~Yard features do not include building structures or portions thereof that are addressed in Section 31-628(E).~~

~~b. All nonconforming yard features established prior to April 11, 2006 are not subject to the requirements of this Subsection, and are instead subject to the requirements of Section 31-19202.~~

### 2.1. Fences and walls.

- a. The maximum allowed height of fences and walls is as specified in Table 31-628(A).
- b. The height of a fence or wall is measured both from the highest abutting finished ground surface of the property upon which the fence or wall is located, and from the average grade of the property. A fence or wall must satisfy both height limitations specified in Table 31-628(A).
- c. Ornamentation on top of fences and walls, including but not limited to light fixtures and statues, may exceed the maximum allowed height for fences and walls ~~but may not extend above the top of the fence or wall to which it is attached by more than one foot. Such features must be no wider than one foot and must have a minimum separation of eight feet on center.~~
- d. All fences and walls must comply with the corner cutoff provisions of Section 31-1303.
- e. Gates are subject to the same requirements as fences and walls.
- f. Enforcement of nonconforming fences and walls established prior to April 11, 2006 may be subject to abeyance pursuant to Section 31-19202.

### 3.2. Hedges ~~and trees.~~

- a. For the purposes of this Subsection, hedges are defined as any vegetation that is grown or maintained in a manner that creates a physical or visual barrier or otherwise functions in a manner consistent with a fence or wall.
- b. All Hhedges must comply with the corner cutoff provisions of Section 31-1303. ~~located within 10 feet of a public right-of-way are subject to all standards applicable to fences and walls. When a fence or wall of open design is required, a hedge is not considered to be of open design, regardless of how it is manicured or maintained.~~
- c. ~~Trees planted within 10 feet of a public right-of-way must have a minimum separation of eight feet on center.~~ Hedges and all other vegetation are not otherwise subject to the height limitations applicable to fences and walls.
- d. Enforcement of hedges established prior to April 11, 2006 and located within a corner cutoff area may be subject to abeyance pursuant to Section 31-19202.

4.3. Other yard features.

- a. ~~Yard features other than fences, walls, gates, and hedges~~Other yard features, including but not limited to natural features such as rocks; structural features such as arbors, pergolas, fountains, reflecting pools, art works, screens, light poles, benches, and other items included within the definition of Landscaping per Section 31-203 must comply with the corner cutoff provisions of Section 31-1303.
- b. Other yard features are otherwise exempt from height restrictions applicable to fences and walls. The requirements of this Subsection apply to such features.
- c. Enforcement of yard features established prior to April 11, 2006 and located within a corner cutoff area may be subject to abeyance pursuant to Section 31-19202.
- a. ~~Within front and street-facing side yards, such features are limited to the following maximum dimensions:~~

Structure/Object	Arbors, pergolas, and similar structures	Other yard features including fountains, art works, and light poles
Maximum height	8 feet	8 feet
Maximum width	5 feet	5 feet
Maximum depth	2 feet	5 feet

- b. ~~Arbors, pergolas, and similar structures are limited to a maximum of one per street frontage.~~
- c. ~~Other yard features are limited to a maximum of two per street frontage. Such features that are less than two feet in height do not count toward this limitation.~~

5.4. Retaining walls.

- a. Retaining walls located within front yard areas are limited to a maximum height of four feet per wall.
- b. Additional retaining walls must be setback a distance equivalent to the height of the retaining wall below.
- c. Fences or walls that are placed on top of a retaining wall within a front or street-facing side yard are limited to a maximum height of three feet from the abutting finished ground surface and must be of an open design. Open design means that for each one-foot section of fence or wall, at least 50 percent of the surface area is open and provides direct views through the fence or wall.
- d. Enforcement of nonconforming retaining walls established prior to April 11, 2006 may be subject to abeyance pursuant to Section 31-19202.

6-5. Exceptions. Exceptions from the requirements of this Subsection H (including the applicable requirements of Section 31-1303 referenced herein) may be granted through approval of a fence exception permit as follows.

- a. Any exceptions from the requirements of this Subsection H to allow a ~~yard feature~~fence or wall with a height of six feet or less as measured from the abutting finished ground surface, or to allow a hedge or any other yard feature of any height to encroach into a corner cutoff area, may be granted through approval of a minor fence exception permit per Section 31-19200.
- b. Any exceptions from the requirements of this Subsection H to allow a ~~yard feature~~fence or wall with a height of greater than six feet as measured from the abutting finished ground surface may be granted through approval of a major fence exception permit per Section 31-19201.

5. Section 31-1113.1 of the Burbank Municipal Code is amended to read as follows:

### **Sec. 31-1113.1. Commercial and Industrial Design Standards.**

#### (a) ROOF DESIGN.

(1) All parapets shall have returns equal to the height of the parapet. Parapets used for fire separation purposes should be visually integrated into the building.

(2) All mansards shall be continuous on all sides of a building visible from neighboring properties and public rights-of-way, including those elevations facing a street, alley, yard, setback or open space. All mansards on all other elevations which are not exposed or visible to neighboring properties and public rights-of-way, shall have a return at least equal to the height of the mansard.

(3) All roof mounted equipment shall be screened from view through the use of architectural screening systems which are visually integrated into building design with respect to color, material and form.

#### (b) WINDOW TREATMENT.

Those buildings on lots with 75 feet or less of street frontage which are built to the street property line shall have a minimum 25 percent of the building facade on the ground floor devoted to window treatment.

#### (c) BUILDING MATERIALS.

All facades visible to the public and surrounding neighbors must be designed, treated and finished in a manner compatible with the other visible sides of the building.

#### (d) VARIATION ON PLANE.

All building elevations fronting public streets or residentially zoned lots shall contain elements designed for the purpose of providing visual variation including expressed floor or surface breaks, balconies, projections, recesses, awnings and horizontal setbacks.

#### (e) ENTRIES.

Pedestrian entrances on exposed elevations shall be recessed and architecturally highlighted.

#### (f) APPENDAGES, AWNINGS AND MARQUEES.

All appendages, awnings and marquees shall be flame resistant or erected with non-combustible materials and meet Uniform Fire Code requirements, and shall not protrude far enough to obstruct a ladder placed at ground level at a 70 degree angle to the building openings above the appendage, awnings or marquees.

(g) EXTERIOR STAIRWAYS.

Enclosures or landscape barriers must be provided wherever there is less than seven (7) feet vertical clearance below stairs.

Front entry stair rails should be integrated into the overall building and site design. Thin section wrought iron and stair rails that have minimal form, mass or color reference to the design elements within the facades are discouraged.

Open risers are prohibited.

(h) LOCATION AND SCREENING OF TRASH BINS.

Trash bins shall not be located in any required front or street side yard, but may be permitted within the required interior side and rear yards.

Trash enclosures shall be recessed or within the structure, or enclosed by a six-foot high masonry wall on 3 sides and have a solid permanent metal gate(s).

Doors and gates of trash enclosures cannot swing out into any public right-of-way.

If the lot abuts an alley, the trash bin must be directly accessible from the alley.

(i) This section deleted by Ord. No. 3548, eff. 9/2/00.

(j) FENCES AND WALLS

(1) Height - Except as otherwise provided for property located at an intersection, the height of walls, fences and hedges may not exceed:

(A) Three feet above the finished grade of the lot within any required front yard and within the required side yard on the street side of a corner or reverse corner lot; provided, however, that where a parking lot abuts or is across the street from a residential zone, a six foot high masonry wall may be constructed within the required front yard and within the required side yard on the street side of a corner or reverse corner lot to the extent specified in Article 14, Division 4 of this Chapter or in a conditional use permit granted by the Board or the Council.

(B) Eight feet above the finished grade of the lot within any yard area behind the required front yard or required side yard on the street side of a corner or reverse corner lot except cutoff area.

Where topographic features or other conditions create an unnecessary hardship the Building Director may permit these height limits to be exceeded, provided the modification will not have a detrimental effect upon adjacent properties or conflict with architectural characteristics of the surrounding neighborhoods.

(2) All fences and walls must comply with the corner cutoff provisions of Section 31-1303.

(3) The requirements of this Subsection do not apply to security fencing maintained by a governmental entity.

6. Section 31-1302 is deleted in its entirety.

7. Section 31-1303 of the Burbank Municipal Code is amended to read as follows:

### Sec. 31-1303. Corner Cutoff.

No structure, object, or feature, including but not limited to fences, walls, and hedges, may be erected or maintained in any zone below a height of 10 feet and above a height of four feet above the finished ground surface within a corner cutoff area. The corner cutoff area is defined by a horizontal plane making an angle of 45 degrees with the front, side, or rear property lines as the case may be, and passing through points as follows:

(a) **STREETS.**

At intersecting streets, 10 feet from the intersection at the corner of a front or side property line.

(b) **ALLEYS.**

At the intersection of an alley with a street or another alley, 10 feet from the edges of the alley where it intersects the street or alley right-of-way.

(c) **DRIVEWAYS**

At the intersection of a driveway with a street or alley, five feet from the edges of the driveway where it intersects the street or alley right-of-way.

8. Section 31-1304 is deleted in its entirety.

9. Division 11 and Sections 31-19200 through 31-19202 inclusive, are added to Article 19 of Chapter 31 of the Municipal Code to read as follows:

### **Division 11. Fence Exception Permits and Enforcement.**

#### **Sec. 31-19200. Minor Fence Exception Permit.**

- A. Intent and purpose.** The intent and purpose of the minor fence exception permit is to allow exceptions to the standards for fences, walls, and hedges, and other yard features (as that term is defined in Sections 31-603(G) and 31-628(H)) in the single and multiple family residential zones. The minor exception permit allows for administrative exceptions to the standards where the yard feature fence or wall is six feet or less in height or where the requested exception and would therefore otherwise be expected to have a lesser visual impact on surrounding properties and the neighborhood and not pose the same potential safety concern than a feature taller than six feet.
- B. Process and public notice.** Minor fence exception permits must be processed and approved or denied in the same manner as an administrative use permit per Division 4.1 of Article 19 of this Chapter, including public notice of decision, appeals, and hearings; except that notice of the decision must be mailed to all property owners and occupants within a 150-foot radius of the property rather than a 1,000-foot radius and that applicants are not required to pay a fee when appealing a denial of a minor fence exception permit.
- C. Conditions.** The Director, or Planning Board or City Council if appealed, is authorized to attach conditions to the approval of a minor fence exception permit.

Such conditions may include, but are not limited to, conditions requiring physical changes to the proposed structure or object. All conditions imposed must be for the purpose of satisfying the required findings, mitigating environmental or other impacts, and/or protecting the public health, safety, convenience, or welfare.

**D. Required findings.** In lieu of the findings required by Section 31-1956, the Director, or Planning Board or Council if appealed, may not approve a minor fence exception permit unless the following findings are made: An applicant may propose measures to mitigate or abate any safety concerns for the purpose of making the required findings.

1. The feature does not obstruct the visibility of motorists at a street or alley intersection or exiting a driveway or otherwise affect a motorist's ability to safely operate their vehicle.

2. The feature is not constructed of any materials that may pose a danger to motorists, pedestrians, or other persons.

3. The feature is structurally sound and is adequately maintained.

4. The feature does not affect the ability of emergency personnel to respond to an emergency on the property or to adequately view the property and structures upon it from the public right-of-way.

~~5. The feature does not threaten the health, safety, or welfare of any person, including but not limited to nearby residents, motorists, pedestrians, and bicyclists.~~

~~6.5.~~ The feature is compatible in size, scale, proportion, and location with other yard features in the neighborhood, or is otherwise consistent with the prevailing neighborhood character.

~~7.6.~~ The scale and proportion of the feature are consistent and compatible with structures on the same property and neighboring properties in the general area.

~~8.7.~~ The feature does not encroach upon neighboring properties or structures in a visual or aesthetic manner through its size, location, orientation, setbacks, or height.

~~9.8.~~ The feature does not impose detrimental impacts on neighboring properties or structures, including but not limited to impacts related to light and glare, sunlight exposure, air circulation, privacy, scenic views, or aesthetics.

### **Sec. 31-19201. Major Fence Exception Permit.**

**A. Intent and purpose.** The intent and purpose of the major fence exception permit is to allow exceptions to the standards for fences and, walls, ~~hedges, and other yard features (as that term is defined in Sections 31-603(G) and 31-628(H))~~ in the single and multiple family residential zones that could not otherwise be approved through the minor fence exception permit process. The major exception permit allows for additional public notice and Planning Board review of requested exceptions to the standards where the fence, or wall, hedge, or other feature is more than six feet in height and therefore may have a noticeable



impact on surrounding properties and the neighborhood and may pose a greater potential safety concern.

- B. Process and public notice.** ~~Minor-Major~~ fence exception permits must be processed and approved or denied in the same manner as a variance per Division 3 of Article 19 of this Chapter, including public notice, appeals, and hearings; except that notice of the public hearing must be mailed to all property owners and occupants within a 300-foot radius of the property rather than a 1,000-foot radius and that applicants are not required to pay a fee when appealing a denial of a major fence exception permit.
- C. Conditions.** The Planning Board, or City Council if appealed, is authorized to attach conditions to the approval of a minor fence exception permit. Such conditions may include, but are not limited to, conditions requiring physical changes to the proposed structure or object. All conditions imposed must be for the purpose of satisfying the required findings, mitigating environmental or other impacts, and/or protecting the public health, safety, convenience, or welfare.
- D. Required findings.** In lieu of the findings required by Section 31-1917, the Director, or Planning Board or Council if appealed, may not approve a minor fence exception permit unless the following findings are made.: An applicant may propose measures to mitigate or abate any safety concerns for the purpose of making the required findings.
1. The feature does not obstruct the visibility of motorists at a street or alley intersection or exiting a driveway or otherwise affect a motorist's ability to safely operate their vehicle.
  2. The feature is not constructed of any materials that may pose a danger to motorists, pedestrians, or other persons.
  3. The feature is structurally sound and is adequately maintained.
  4. The feature does not affect the ability of emergency personnel to respond to an emergency on the property or to adequately view the property and structures upon it from the public right-of-way.
  - ~~5. The feature does not threaten the health, safety, or welfare of any person, including but not limited to nearby residents, motorists, pedestrians, and bicyclists.~~
  - 6.5. The feature is compatible in size, scale, proportion, and location with other yard features in the neighborhood, or is otherwise consistent with the prevailing neighborhood character.
  - 7.6. The scale and proportion of the feature are consistent and compatible with structures on the same property and neighboring properties in the general area.
  - 8.7. The feature does not encroach upon neighboring properties or structures in a visual or aesthetic manner through its size, location, orientation, setbacks, or height.
  - 9.8. The feature does not impose detrimental impacts on neighboring properties or structures, including but not limited to impacts related to light

and glare, sunlight exposure, air circulation, privacy, scenic views, or aesthetics.

10.9. The feature is reasonable and appropriate to mitigate demonstrated impacts related to noise, light or glare, dust, or privacy resulting from special circumstances or conditions that apply to the individual property and/or the surrounding neighborhood that could not be adequately mitigated with a feature permitted by the applicable zoning regulations or through the minor fence exception permit process. Such special circumstances or conditions are related to one or more of the following:

- a. Location of the property on or in proximity to a major or secondary arterial street
- b. Location of the property in proximity to a non-residential use or property or a multiple family residential use or property in the case of single family property
- c. The shape, size, configuration, or topography of the property
- d. The location or configuration of structures upon the property

## **Sec. 31-19202. Enforcement Abeyance Provisions in Lieu of Fence Permits.**

### **A. Applicability.**

1. This Section provides provisions for holding in abeyance enforcement actions against nonconforming fences, walls, hedges, and other yard features ~~(as that term is defined in Sections 31-603(G) and 31-628(H))~~ established prior to April 11, 2006 in single and multiple family residential zones. This Section does not require or direct enforcement action for legal nonconforming yard features.
2. When enforcement action is taken against a nonconforming yard feature established prior to April 11, 2006, the feature is subject to the requirements of this Section in lieu of the otherwise applicable requirements of the zone in which it is located.
3. In order to qualify for the enforcement provisions of this Section, such yard feature must have been erected, installed, constructed, or grown to maturity prior to April 11, 2006, and not modified or grown on or after April 11, 2006 in a manner that increased its non-conformity with the otherwise applicable requirements of the zone in which it is located.

### **B. Enforcement abeyance for features-fences and walls six (6) feet or less and other yard features of any height.**

1. This Subsection provides for holding in abeyance enforcement actions against nonconforming yard features-fences and walls with a height of six feet or less as measured from the abutting finished ground surface of the property

on which the feature is located, and for other yard features and established mature vegetation~~trees~~ of any height.

2. If the Community Development Director is able to make the following findings as related to the nonconforming yard feature, enforcement action against the nonconforming feature will be held in abeyance until such time that the provisions of this Section are repealed. An applicant may propose measures to mitigate or abate any safety concerns for the purpose of making the findings.
  - a. The feature does not obstruct the visibility of motorists at a street or alley intersection or exiting a driveway or otherwise affect a motorist's ability to safely operate their vehicle.
  - b. The feature is not constructed of any materials that may pose a danger to motorists, pedestrians, or other persons.
  - c. The feature is structurally sound and is adequately maintained.
  - d. The feature does not affect the ability of emergency personnel to respond to an emergency on the property or to adequately view the property and structures upon it from the public right-of-way.
  - ~~e. The feature does not threaten the health, safety, or welfare of any person, including but not limited to nearby residents, motorists, pedestrians, and bicyclists.~~
3. A finding by the Director per Subsection 2 to hold in abeyance an enforcement action does not change the nonconforming status of the yard feature and does not provide legal rights to maintain the yard feature. The nonconforming provisions of Article 18 of this Chapter continue to apply to the feature.
4. If the Director is unable to make the findings in Subsection 2, the yard feature may be modified in a manner determined by the Director such that the Director is able to the make the required findings.
5. If the Director is unable to the make the findings in Subsection 2 with or without modification per Subsection 4, the property owner may nevertheless apply for an exception through the minor fence exception permit process permit per Section 31-19200.

**C. Enforcement provisions for features-fences and walls taller than six (6) feet.**

1. This Subsection provides enforcement provisions for nonconforming yard features-fences and walls with a height of more than six feet as measured from the abutting finished ground surface of the property on which the structure or feature is located, ~~except for established mature trees.~~

2. Enforcement action against such features will be held in abeyance only if the ~~features are fence or wall~~ modified so as to have a height of six feet or less and the ~~feature fence or wall~~ satisfies the requirements of Subsection B.
3. Alternatively, a property owner may apply for an exception through the major fence exception permit per Section 31-19201.

10. The Council establishes a new fee for minor fence exception permits per Section 31-19200 and a new fee for major fence exception permits per Section 31-19201, pursuant to the Fee Resolution of the City Council as may be adjusted from time to time.

11. If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance, and this City Council hereby declares that it would have passed the remainder of this Ordinance, if such invalid portion thereof has been deleted.

12. The City Clerk shall certify to the passage of this Ordinance and cause the City Attorney Synopsis of this Ordinance to be published once in a newspaper of general circulation, published and circulated in the City of Burbank, California.

13. This Ordinance shall become effective at 12:01 a.m. of the thirty-first day after publication.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Jef Vander Borgh  
Mayor of the City of Burbank

Attest:

\_\_\_\_\_  
Margarita Campos, CMC, City Clerk

Approved as to Form and Legal Content  
Dennis A Barlow, City Attorney

By: \_\_\_\_\_  
Joseph H. McDougall, Asst. City Attorney

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES    ) ss.  
CITY OF BURBANK                )

I, Margarita Campos, CMC, City Clerk of the City of Burbank, do hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was duly and regularly passed and adopted by the Council of the City of Burbank at its regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2006, by the following vote:

AYES:

NOES:

ABSENT:

I further certify that said Synopsis was published as required by law in a newspaper of general circulation in the City of Burbank, California on the \_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Margarita Campos, CMC, City Clerk