

ORDINANCE 2003-01

AN ORDINANCE OF THE CITY OF WEST MIAMI, FLORIDA AMENDING THOSE PORTIONS OF ORDINANCE 282 THAT PERTAIN OR REFER TO FENCES WITHIN THE CITY OF WEST MIAMI; REGULATING AND RESTRICTING THE ERECTION, RECONSTRUCTION, OPERATION, LOCATION AND USE OF FENCES; REPEALING ALL OTHER ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, reference to fences in Ordinance 282 of the City of West Miami are observed in multiple sections and pages of said ordinance, and

WHEREAS, having all references, precepts and requirements pertaining to fences in one comprehensive ordinance will make it easier for citizens and City staff alike, to refer to the requirements on fences, and

WHEREAS, it has been found necessary to have all fence requirements set in a uniform manner.

THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF WEST MIAMI, FLORIDA as follows:

Section A. That the City of West Miami shall enact the following Ordinance and all references to fences now dispersed throughout Ordinance 282, which are in conflict with this ordinance, will be repealed.

Section B. Definitions:

Fence means a freestanding structure of metal, masonry, composition, wood or any combination thereof resting on or partially buried in the ground and rising above ground level and used to enclose, partition or screen areas of land. A fence shall further mean anything erected for the purposes of protection of property or separation of land uses, including barriers which are intended to prevent escape or intrusion or to mark a boundary. This includes walls when used as a fence, screen, buffer or retention area between separate or adjoining parcels or lots or along the side of any alley or street (public or private). Particular types of *fences* and definitions pertaining to *fences* are as follows:

- (1) *Louvered fence* means a fence constructed of rock or concrete or concrete block and so spaced to allow air flow.

- (2) *Electric fence* means a fence which is electrified.
- (3) *Height* means the height of a fence measured in inches or feet from finished grade to the uppermost part of the fence.
- (4) *Maintain* includes general servicing and upkeep in a safe and attractive condition.
- (5) *Masonry fence* means a wall built of masonry or rock.
- (6) *Nonconforming fence* means any fence which is in violation of this subpart, but that was erected before the enactment of this Ordinance.
- (7) *Temporary fence* means any fence which is intended to be erected for a limited period of time.
- (8) *Chain Link fence* means a fence made of wire which is woven into a mesh.
- (9) *Wood fence* means a fence constructed of wood and so spaced to allow air flow.
- (11) *Neutral picket fences* means having front set back areas to a maximum of 4' height, (1 x 3) with 3" clearance vertical buffers with members.
- (12) *Hedges* means a row of closely planted shrubs, bushes or trees forming a boundary.

Section C. Walls and fences.

- (1) *Permit required.* No person shall erect, move, add to or structurally alter any fence in the city without first obtaining a permit for such purposes issued by the City Manager and/or his/her designee. Fence permits will be issued only to the owner of the property, or to a licensed or bonded contractor acting as his agent. A permit fee shall be charged in accordance with city ordinance.
- (2) *Plot plan.* The city official shall require a current survey certified by a State licensed surveyor.
- (3) *General regulations.*
 - (a) *Location in right-of-way.* No fence shall be permitted to be erected or maintained on any street right-of-way or easement, except a governmentally installed fence intended for safety or traffic control.
 - (b) *Barbed wire fences.* It shall be unlawful for any person to erect or maintain any barbed wire fence within the City of West Miami.

- (c) *Electric fences.* It shall be unlawful for any person to erect or maintain an electric fence or electric screen fence within the city.
 - (d) *Location outside property line.* No fence or poles supporting a fence shall be erected outside the property line.
 - (e) *Interference with off-street parking or public services.* No fence shall be erected or maintained which blocks required off-street parking or interferes with city or public utility service.
 - (f) *Temporary fences.* The City Manager and/or his/her designee permit temporary fences after review and approval of all required applications. All provisions and regulations governing the erection, maintenance, height, location and relocation of *fences* shall govern temporary fences. A temporary fence permit shall not exceed the expiration date as stated on the permit application and the permit. For cause, the City Manager and/or his/her designee may grant one or more extensions of time. The designee official is authorized to extend the use of a temporary fence for three months after review of a re-submittal of an application for a temporary fence. A temporary fence shall not be permitted for a period of time longer than six (6) months, at which time a new permit may be solicited from the City Manager.
 - (g) *Tennis court enclosures.* Tennis courts shall be enclosed on all open sides by an open chain link fence, ten feet above the existing ground grade.
- (4) *Specific regulations:*

Walls and fences location:

- (a) *Wire fences* may be erected at the following locations on any premises,
 - (1) On lots that are not corner lots as defined in this ordinance, wire fences may be erected anywhere along boundaries of a rear yard as defined in this ordinance, or within such rear yards; or along side lot lines from the rear lot line to the front line of building extended to the nearest point in the side lot line, provided that a masonry wall or ornamental iron connects such chain link fence with the building if such chain link fence extends farther toward the street than the rear corner of the building closest to the side lot line. Such chain link fence shall not be any higher than six feet (6') from established grade.
 - (2) On lots that are corner lots as defined in this ordinance, chain link fences may be erected along boundaries of rear or side yards within such rear and side yards, provided, however, that such chain link fence shall not be erected

in any yard area where such areas abut upon a street and provided that if such chain link fence extends farther toward the street than the side or rear corner of the building closest to the side or rear lot line, a masonry wall or ornamental iron fence extending from the building to the rear or side lot line shall be connected to such fence. Such fence shall not be any higher than six feet (6") from established grade.

Section D. Walls, fences, shrubbery and hedges; Height; Triangle of Visibility

- (1) All driveway entrances and roadway intersections in or abutting shall be constructed so that:
 - (a) Vehicles can enter and exit from the property without posing substantial danger to themselves, pedestrians, or vehicles traveling in abutting streets; and
 - (b) Interference with the free and convenient flow of traffic from adjacent streets is minimized.
- (2) A triangle of visibility, as defined in Section D3 (a), (b), (c), herein, shall be provided and maintained at all driveway entrances and street intersections, in or abutting. Each triangle of visibility shall be provided and maintained in accordance with the specifications illustrated in the applicable graphic representation (Figures 1, 2, and 3).
- (3) Triangle of visibility shall refer to a triangular area of land occurring at the intersection of a driveway and street or at the intersection of two streets which is maintained free of visual obstructions so as to provide adequate visibility of oncoming pedestrians and vehicles. Nothing shall be erected, placed, parked, planted, or allowed to grow in such a manner within a triangle of visibility so as to materially impede vision between a height of three (3) feet and eight (8) feet above the established grade, measured at the driveway or at the triangle of visibility and intersection.

This triangle of visibility shall be computed in the following manner:

- a) Where a corner lot at a major intersection occurs, a line thirty feet in length from the intersection of the front and side street side of the property occurs. Where these lines intersect with the property lines shall be the limits where this triangle of visibility occurs. On a corner lot within the residential area occurs, the line shall be twenty feet from the intersection line of both front and side street property lines intersect the property line shall be the limits of such triangle of visibility.
- b) In an inside lot property, a line from the intersection of the driveway and front property line or sidewalk occurs, fifteen feet on both lines, the driveway and the sidewalk shall be the boundaries of such triangle of visibility occurs.
- c) If a neighbor's property driveway occurs within those fifteen feet, the same

rule shall be applied.

- (4) Deviation from the requirements and standards set forth by this Section may be allowed by variance only, and shall be considered on a case-by-case basis. Applicants shall provide all professional studies and supporting materials necessary to demonstrate that the level of safety achieved will be comparable to the provisions contained herein.
- (5) All exceptions to the requirements contained within this subsection which were in existence and in compliance with Code requirements upon passage of this ordinance, shall be exempt from these standards, unless costs of improvements and/or modifications to the property after that date exceed fifty (50) percent of the assessed value of the property, at which time such triangle of visibility shall be provided.
- (6) No other wall, fence, gate or gate feature shall be permitted over six (6') feet high from the actual ground level at such wall, fence, gate or gate feature, whichever is higher, except in the following cases:
 - (a) Wing walls, hereby defined as a wall or walls which extend from a building to or towards the property line, parallel to and in line with the front of said building, may not exceed six (6') feet in height, provided the design and height thereof shall first be approved by the City Manager and/or his/her designee.
 - (b) Ornamental wrought iron, cast iron and/or aluminum fences, including picket fences, may be erected to a maximum height of five (5) feet subject to the location and design thereof being approved by the City Manager and/or his/her designee.
 - (c) Ornamental wrought iron, cast iron and/or aluminum fences, including picket fences, may be erected on top of a masonry wall provided that the height of the masonry wall shall not exceed three (3') feet and the maximum height of the wrought iron, cast iron, aluminum and masonry wall shall not exceed five (5) feet and provided that the location and design thereof shall be approved by the City Manager and/or his/her designee.
 - (d) Where residential and commercial use districts adjoin each other, a six (6') foot high wall shall be constructed along the property line between the commercial and residential properties. The wall shall be constructed and maintained by the commercial property owner, however, the abutting residential property owner may construct and maintain the wall.
- (7) Wire fences may be constructed of the following materials:
 - (a) Aluminum chain link

- (b) Galvanized steel chain link
- (c) Vinyl coated galvanized steel chain link in the following colors only:
Green or Black
- (d) Aluminum or galvanized steel single or double looped ornamental type fence.

7.1 The construction of such wire fences shall meet the following specifications:

- (a) The wire used in construction of such fences shall be of not less than eleven (11) gauge or equal, except that one (1) inch chain link fences may be twelve and one-half (12 ½) gauge.
 - (b) Terminal posts shall be aluminum or galvanized steel pipe of not less than two (2) inches outside diameter or reinforced masonry columns of not less than four (4) inches square.
 - (c) Aluminum or galvanized steel angles may be used as intermediate supports.
 - (d) All terminal posts and intermediate supports shall be set in concrete, and all terminal posts shall be properly braced when installing any ornamental type fence.
 - (e) Top rail, if used, shall be aluminum or galvanized steel pipe not less than one and three-eighths (1 3/8) inches outside diameter and where top rail is not used, terminal posts shall be properly braced with aluminum or galvanized steel pipe.
- (8) Ornamental wrought iron, ornamental aluminum cast iron or cast aluminum fences shall be permitted provided the City Manager and/or his/her designee thereof shall first approve the design.

Section E. Walls and fences in public utility

Every permit for the erection of a wall or fence in any public utility easement of record shall provide that it is subject to revocation. Each such wall or fence shall be constructed subject to the conditions that the said wall or fence shall be removed by the owner at any time on request of utility company requiring the use of the space for utility purposes, and that if the owner of such property fails to so remove such wall or fence after request and notice, the utility company or the City may remove such wall or fence at the property owner's expense.

- (1) *Nonconforming fences.*
 - (a) *Intent* It is the intent of this subsection to encourage the eventual elimination,

as expeditiously as is reasonable, of existing fences that are not in conformity with the provisions of this chapter.

- (b) *Continuance.* A nonconforming fence may be continued, provided that it has not been determined detrimental to the public health, safety and welfare. It shall then be maintained in good condition, but it shall not be:
 - 1. Enlarged or changed to any other nonconforming structure.
 - 2. Structurally altered so as to prolong the life of the fence.
 - 3. Re-erected if removed.
 - 4. Re erected after damage or destruction

- (c) *Determination by the City Manager and/or his/her designee* to determine whether or not a nonconforming fence is in the interest of public health, safety and welfare.

- (d) *Maximum height on residential property.* Except as otherwise provided in this section, fences located within the required minimum yard area shall not exceed a height of five (5) feet above the existing ground grade. Fences located within the building area shall not exceed a height of six feet above the existing ground grade.

- (e) *Maximum height in commercial, conservation, recreation/open space and public/semipublic districts.* Fences located within a building area shall not exceed a height of six (6) feet above the existing ground grade, except that such fence, if located within a required yard area, shall not exceed the height of four feet above the existing ground grade.

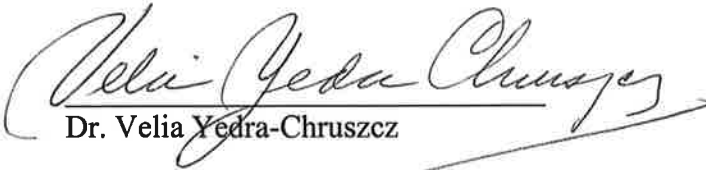
- (2) *Swimming pool enclosures.* Swimming pools, if located within the building area and if not within a screened cage, shall be enclosed on all open sides by a fence of a minimum of four feet above the existing ground grade and a maximum of six feet above the existing ground grade. Pools located within the required yard area shall be enclosed on all open sides by a fence of a height of four feet above the existing ground grade. All pool fences must have gates with self closers and self locking devices.

ORDINANCE 2003-01

AN ORDINANCE OF THE CITY OF WEST MIAMI, FLORIDA AMENDING THOSE PORTIONS OF ORDINANCE 282 THAT PERTAIN OR REFER TO FENCES WITHIN THE CITY OF WEST MIAMI; REGULATING AND RESTRICTING THE ERECTION, RECONSTRUCTION, OPERATION, LOCATION AND USE OF FENCES; REPEALING ALL OTHER ORDINANCES IN CONFLICT HERewith; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

PASSED AND ADOPTED this 5 day of March, 2003.

APPROVED:


Dr. Velia Yedra-Chruszcz

ATTEST:


Felix Diaz, City Clerk

Approved as to form and sufficiency

CITY ATTORNEY

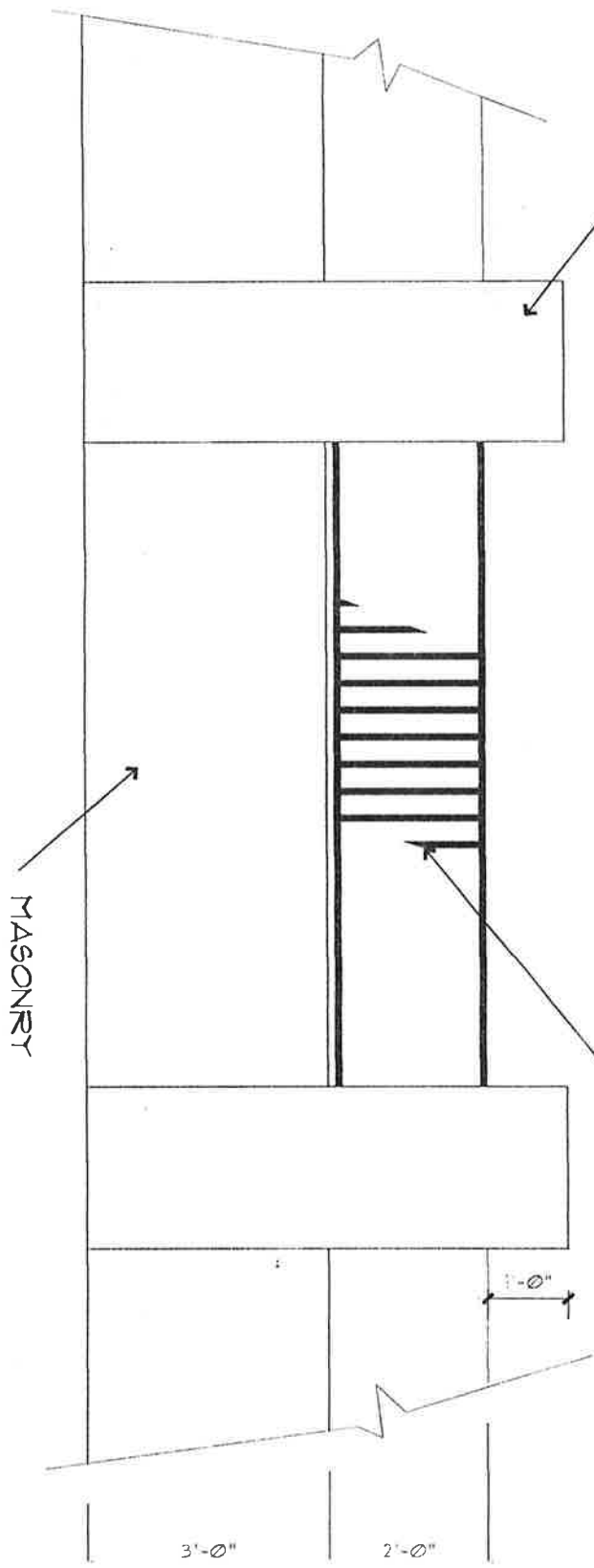
Roll Call Vote:

Mayor Velia Yedra-Chruszcz	<u>Y</u>
Vice Mayor Luciano Suarez	<u>Y</u>
Commissioner Juan Blanes	<u>Y</u>
Commissioner Eduardo Muhina	<u>Y</u>
Commissioner Cesar Carasa	<u>Y</u>

MASONRY COLUMN
MAX. 24" #

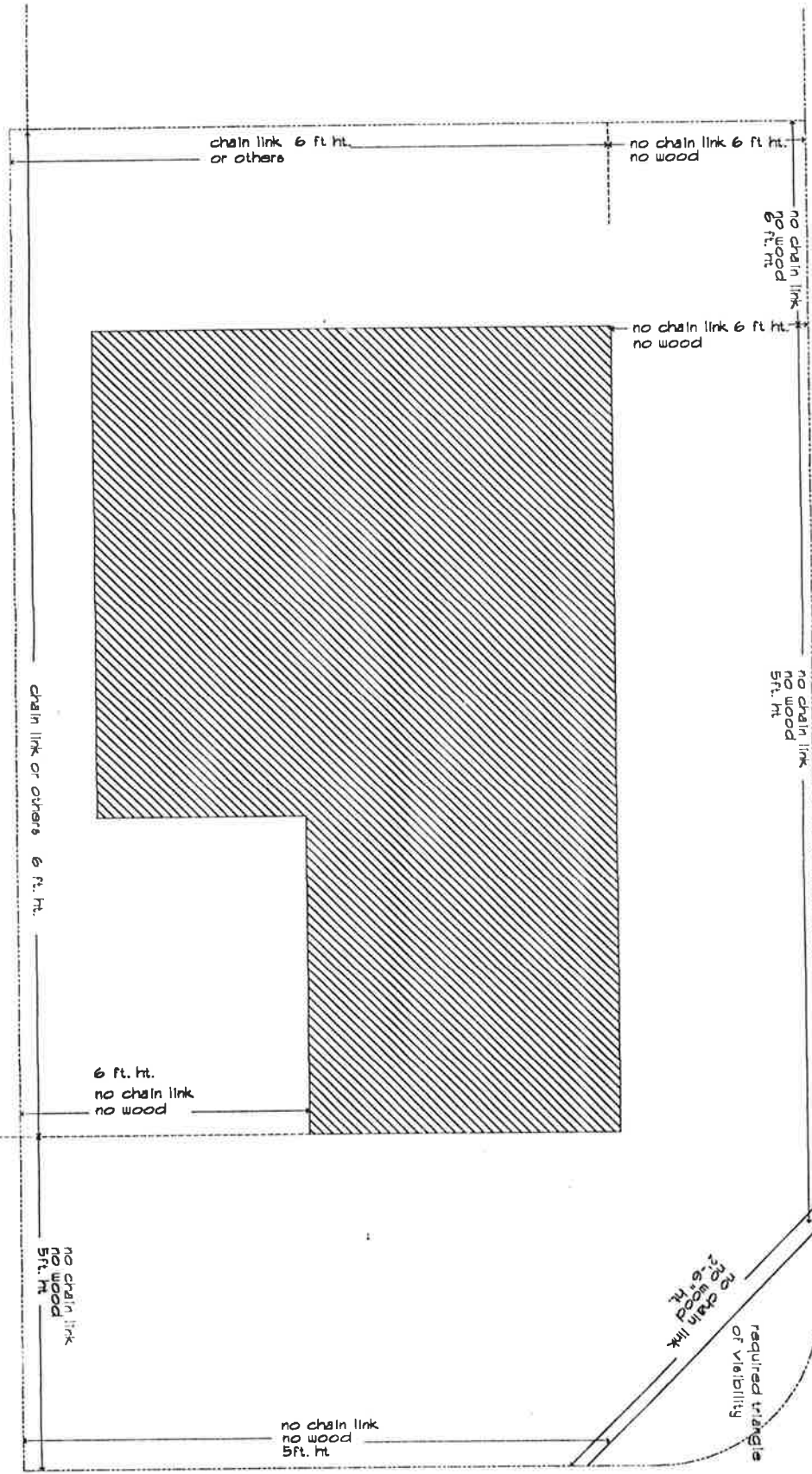
MINIMUM SPACE (EXCEPT AT OPNGS.)
3'-0"

METAL (MIN 4" OPENINGS)



MASONRY WALL DETAIL (AT 5 FT. HT. LOCATIONS)
(CAN BE MASONRY UP TO 6 FT HT AT PERMITTED LOC.)

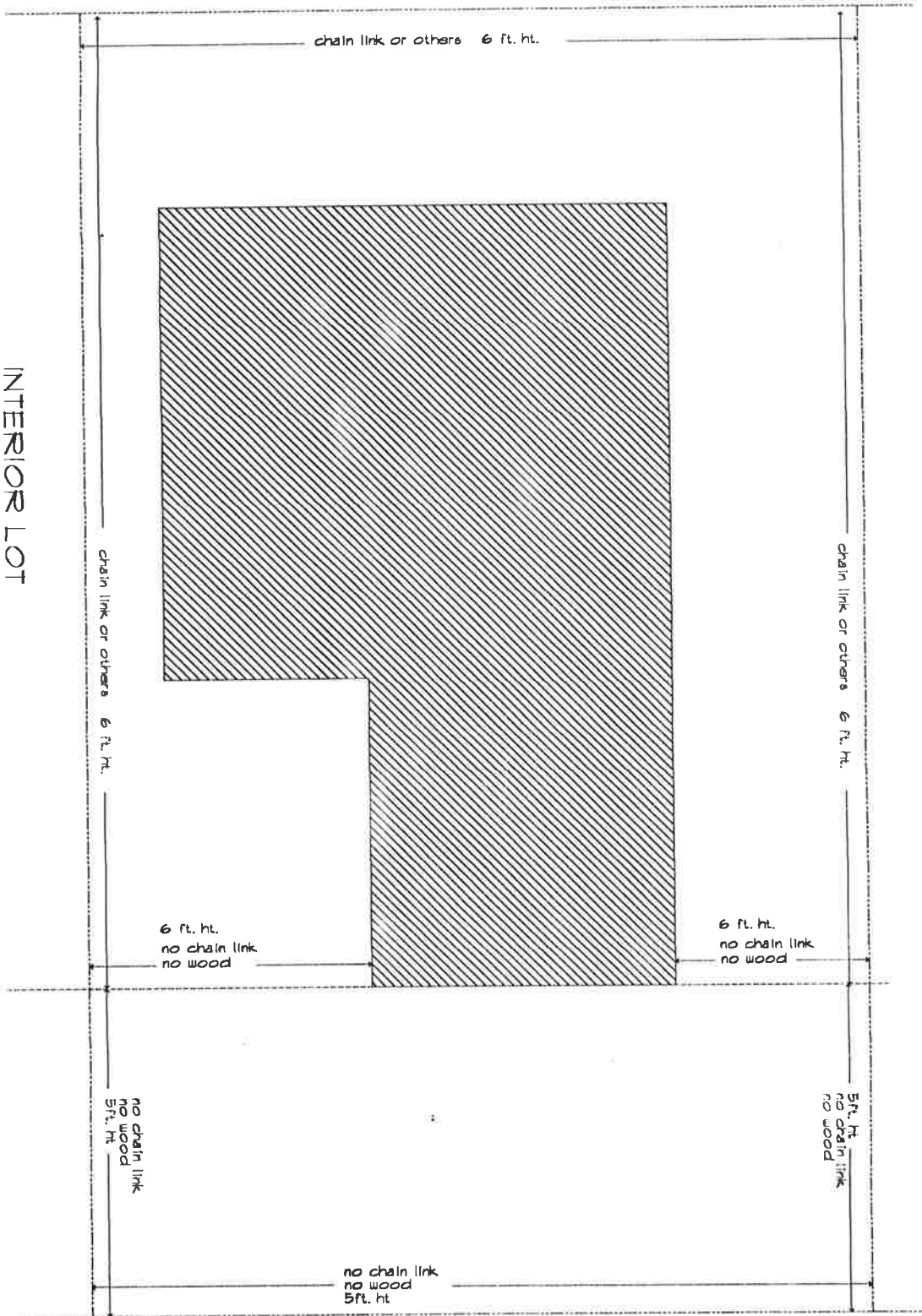
CORNER LOT



STREET

STREET

INTERIOR LOT



chain link or others 6 ft. ht.

chain link or others 6 ft. ht.

chain link or others 6 ft. ht.

6 ft. ht.
no chain link
no wood

6 ft. ht.
no chain link
no wood

no chain link
no wood
5 ft. ht.

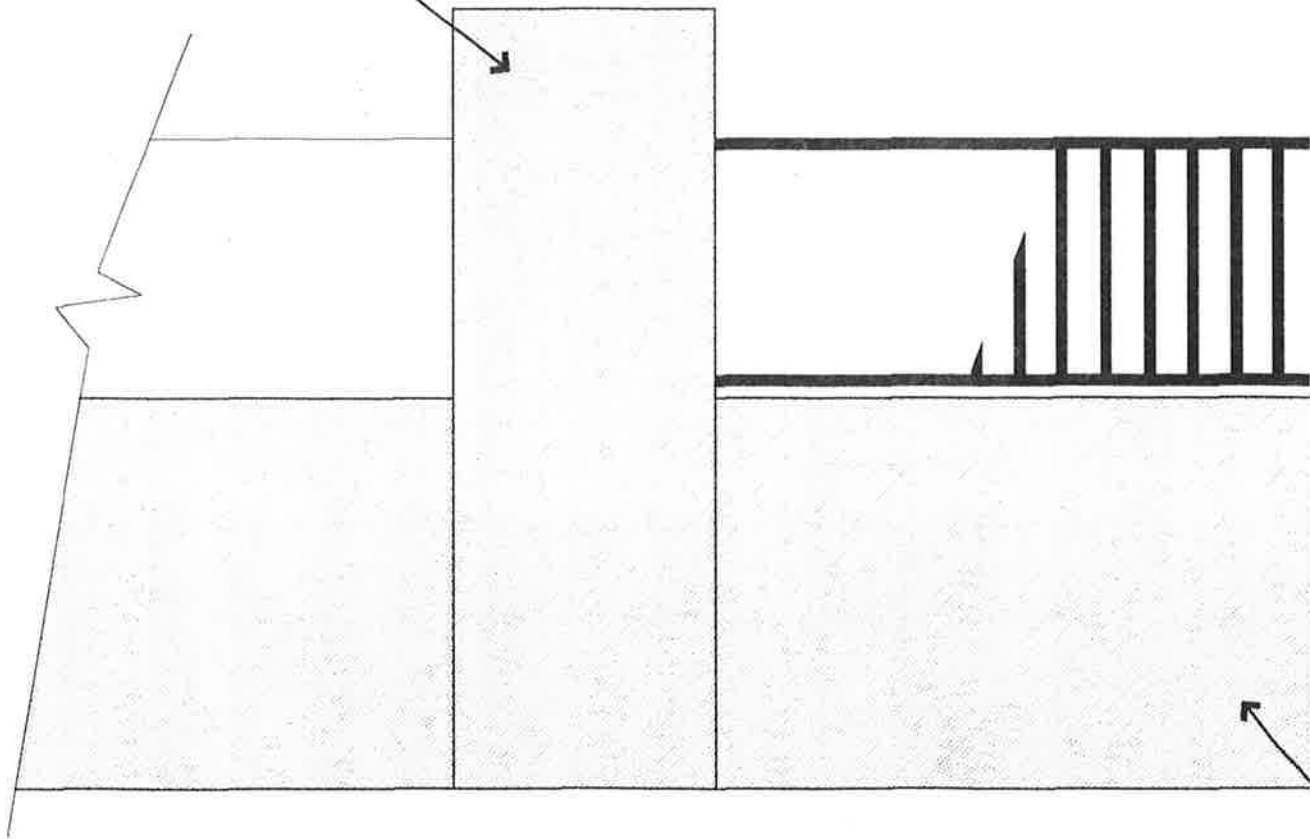
5 ft. ht.
no chain link
no wood

no chain link
no wood
5 ft. ht.

STREET

MASONRY COLUMN
MAX. 24" #

8'-0"
MINIMUM SPACE (EXC



MASONRY WALL DETAIL (AT 5'
(CAN BE MASONRY UP TO 6 F'