

**BRYANT WOODS HOMEOWNERS' ASSOCIATION (BWHOA)
FENCE POLICY**

A. PURPOSE & SCOPE: This document sets forth the policy and procedures for the construction, removal, repair or any other change or modification of design, materials, color or location of fences or other types of property enclosures in the BWHOA on and after the date of approval by the BWHOA Board of Directors (Board). This document applies to all members of the BWHOA.

B. REFERENCES:

1. Oregon Revised Statutes: including ORS Chapter 96;
2. City of Lake Oswego building and construction ordinances and codes, including LOC 50.06.004(2);
3. BWHOA Covenants, Conditions and Restrictions (CC&Rs), including Article III, Sections 3, 4, 5, 6, and 9; and
4. BWHOA Resolution 07-A (Schedule of Fines for non-Compliance with CC&Rs).

Unless otherwise noted, citations below shall refer to the Article and Section (e.g. “Article III, §4) of the CC&Rs.

C. DEFINITIONS:

1. *Fence* - any structure designed to enclose any portion of a member's property. For the purpose of this Policy the term fence shall refer to all types of enclosures including full and partial enclosures.
2. *Enclosure* - any structure not otherwise considered a fence that encloses any portion of a member's property such as retaining walls, plant barriers, rock walls, berms, etc.
3. *Construction* - the building of any new or replacement fence or enclosure or any part thereof.
4. *Removal* - the tearing down of all or any portion of a previously built fence or enclosure.
5. *Repair* - the replacement in kind due to minor damage to fence boards, posts, top rails or other part of a fence or enclosure.
6. *Change/Modification/Alteration* - for purposes of this Policy change, modification and alteration shall have the same meaning and is defined as greater than a 10% replacement of fence materials, or any change to fence design, color or location.
7. *Gate* – An opening in a wall or fence or the door that closes a gate. A gate, for purposes of this policy, is part of a fence.

D. APPROVALS: No fence or enclosure shall be commenced, erected upon any lot, nor shall any change or alteration thereto or exterior painting thereon be made unless approved in writing by the Board or by the architectural committee composed of three or more members appointed by the Board. (Article III, §4). A member requests approval by submitting an Exterior Change Request/Fence form (“Fence form”; see **Appendix A**) to a member of the architectural committee. In the event the architectural committee fails to approve or disapprove the Fence form within thirty days after submittal, approval will not be required and Article III of the CC&Rs shall be deemed complied with. (Article III,

§4). Once a Fence form is approved no changes may be made to the approved proposal without submitting a new Fence form and obtaining approval for the change. Failure to obtain written approval in accordance with this Policy and failure to follow approved plans and specifications can result in fines under BWHOA Resolution 07-A.

E. COMPLIANCE WITH OTHER LAWS: It is the responsibility of the member to obtain any required building/construction permits and to comply with all applicable codes and ordinances. (Article III, §5). This Policy does not preempt the BWHOA CC&Rs or any local, county, or state codes.

F. DESIGN: Any proposed fence, or change/modification/alteration thereto, shall be in harmony of external design and location in relation to surrounding structures and topography. (Article III, §4). Examples of harmonious design include side yard and rear fences 6' tall and less, of "good neighbor" design (both sides of the fence having the same appearance) and fences constructed with the good side facing out and away from the member's home and the unfinished or structural side facing member's home and consistent with City of Lake Oswego building and construction ordinances and codes. All gates must be shown on plan drawing submitted with Fence form. Gates shall include a working latch and, where feasible, shall swing inward onto member's lot. Members planning to install a fence between the front of their house and their curb are encouraged to consult about their design with the architectural committee chair prior to expending significant effort. Examples of approved designs are provided in **Appendix B**.

G. MATERIALS: Unless noted and approved on the Fence form, fences must be constructed and/or repaired with all new materials. (Article III, §5). Used materials may be approved if they are consistent with the standards generally maintained by the neighboring properties and throughout the Bryant Woods neighborhood. (Article III, §9). Staining/sealing of fences is permitted, however, the actual colors and products must be approved in the Fence form. (Article III, §4). Wood is the preferred fence material. Members considering a material other than wood are encouraged to consult with the architectural committee chair prior to expending significant effort.

H. LOCATION:

1. BWHOA Member to Member Fences: The BWHOA does not approve location of member to member fences. Members are encouraged to familiarize themselves with state laws pertaining to boundary fence location and to discuss their intentions with abutting members.

2. BWHOA Member to Common Area Fences: The approved Fence form demonstrates the intent of the BWHOA and member to locate the new (or replacement) fence on or within the member's platted property boundary line(s) unless otherwise noted in the form, and further demonstrates that there is no intent to claim any land owned by the other. The member constructing the fence has the responsibility to determine the platted property boundary line(s) and is solely responsible for the costs to make this determination. This determination shall be done with a property boundary line survey or the physical location and confirmation of original or previous survey monument markers.

3. BWFOA External Neighbor to Common Area Fences: Unless otherwise stated in the approved Fence form, it is the intent of the BWFOA to locate fences between external neighbors (e.g. non-members abutting BWFOA land) and the Common Area on the platted property boundary line. Should a fence be constructed by an external neighbor, the BWFOA shall determine to its satisfaction that the fence is located on the platted property boundary line or on the external neighbor's property. The property line may be determined by a boundary line survey or the location and confirmation of previous survey monument markers. Fences constructed by the BWFOA shall be located using these same procedures. If the BWFOA determines that the fence encroaches onto BWFOA common property, the Board shall take appropriate action to protect the interests of the BWFOA.

4. Location Variance: Variances to the above location requirements may be granted by the Board or architectural committee to adjust for surrounding structures and topography as mutually agreed to by the affected parties. Such variances shall be in writing and noted on the approved Fence form. (Article III, §4).

5. Location Record: The method used to determine the location of the fence shall be documented in writing and noted on the Fence form.

I. REMOVAL: The removal of a fence between BWFOA members shall not require the approval of the BWFOA; however, members are encouraged to consult with their affected neighbors prior to any removal. The removal of any fence between a BWFOA member and the Common Area requires the approval of the BWFOA. If removal of a fence or enclosure creates a nuisance to the neighborhood or the immediate neighbors, or detracts from the value of the neighborhood as a high-class residential district, member may be in violation of Article III, Sections 3 and 9 of the CC&Rs.

J. CONSTRUCTION TIME AND DEBRIS: Approval granted under this Policy shall expire if the work is not completed in one year. Construction shall be prosecuted with reasonable diligence continuously from the time of commencement until fully completed. (Article III, §5). Every attempt should be made to complete the work within 60 days of the start date subject to extension of time for good cause. The member building the fence is responsible for the disposal of all construction debris. Debris shall not be dumped in the Common Area or placed in the trash at the annual BWFOA trash pick up.

K. MAINTENANCE. It is the member's responsibility to maintain his/her fence in a state of good order and repair. (Article III, §9).

L. INSPECTIONS: The BWFOA may perform progress inspections of fence construction projects to ensure the fences are being constructed according to the approved Fence form. Permission will be obtained if access to member's property is required.

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M. RESPONSIBILITY: The architectural committee chairperson has the responsibility to administer, enforce, update and maintain this Policy, and to archive all approved Fence forms in the permanent records of the BWHOA.

N. EXCEPTIONS: The BWHOA Board of Directors may at its discretion make exceptions to any provision of this Policy to the extent that a fence encloses the BWHOA pools (even though there may be a common property line with a member). Exceptions may also be made for fences enclosing Common Area property not bordering a member's property or for fences between the Common Area and non-BWHOA residences (e.g. between Friendship Park and Bryant Elementary School).

O. RIGHT TO APPEAL: Members may submit a written request for a hearing before the Board to appeal a disapproval from the architectural committee. The Board will hear a member's appeal (either in person or in writing) within 30 days and shall render its decision within 10 days thereafter.

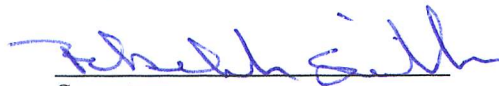
APPENDICES: Appendix A - Exterior Change Request/Fence Form
 Appendix B - Approved Fence Designs
 Appendix C - Change Page

Submitted to BWHOA members for comment on February 21, 2015.

Approved by the BWHOA Board of Directors on March 9, 2015.



President



Secretary