



Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: (503) 373-0050

Fax: (503) 378-5518

www.oregon.gov/LCD



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: February 18, 2015
Jurisdiction: City of Brownsville
Local file no.: None
DLCD file no.: 001-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 02/17/2015. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 36 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR chapter 661, division 10).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE

File No.: 001-14 {22476}

Received: 2/17/2015

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Brownsville, Oregon

Local file no.:

Date of adoption: 01.27.2015

Date sent: 9/21/2014

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): See Above

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

Council added deer fence language to the ordinance. Council also allowed more types of fencing than originally proposed.

Local contact (name and title): S. Scott McDowell & Elizabeth Coleman

Phone: 541.466.5880

E-mail: admin@ci.brownsville.or.us

Street address: 255 N. Main Street

City: Brownsville

Zip: 97327-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

- Change from _____ to _____ acres. A goal exception was required for this change.
- Change from _____ to _____ acres. A goal exception was required for this change.
- Change from _____ to _____ acres. A goal exception was required for this change.
- Change from _____ to _____ acres. A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

Title 15.75.030; III. Definitions - Council added a definition for deer fencing. Council also allowed chain link fencing in front yards with no limitations.

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
---------------------------	--------------	----------------

Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts: City of Brownsville, Oregon.

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.



ORDINANCE NO. 748

AN ORDINANCE AMENDING TITLE 15, UNIFORM DEVELOPMENT CODE, 15.15.020 DEFINITIONS, 15.15.035 CONSTRUCTION PERMIT REQUIRED, 15.45.020 SPECIFICATIONS FOR IMPROVEMENTS, 15.75.010 ADMINISTRATION, 15.75.030 BUILDING PERMIT APPROVAL, 15.80.045 MINIMUM SETBACK CHART & FENCING VISION DIAGRAMS AND 15.85.060 VISION CLEARANCE TO THE MUNICIPAL CODE OF THE CITY OF BROWNSVILLE, OREGON;

WHEREAS, Title 15 of the Brownsville Municipal Code (BMC) defines Uniform Development within the City of Brownsville; and,

WHEREAS, Council has filed the appropriate notice to the Department of Land Conservation & Development in accordance with State law; and,

WHEREAS, the Council desires to establish Public Works Standards and design criteria to provide a clear process for the construction of public improvements and improvements affecting public infrastructure; and,

WHEREAS, the Council desires to create a clear process and system for the construction of accessory structures; and,

WHEREAS, the Council desires to create a clear process for the construction and installation of fences; and,

WHEREAS, the Council desires to create necessary definitions in accordance with these processes and applications; and,

NOW THEREFORE, the City of Brownsville ordains the following additions to the Brownsville Municipal Code as follows:

SECTION I. 15.45.020 Specifications for improvements.

E. Public Standards and design criteria pertaining to all developments and improvements to the public infrastructure within the City of Brownsville are hereby accepted and approved by the Planning Commission and Council and can be found under Appendices, Appendix F., in the Brownsville Municipal Code.

SECTION II. 15.75.010 Administration.

The City Administrator or designee shall be responsible for administering Public Works Standards and design criteria, the proper placement and execution of accessory structures and fences, as these are common development components of property within the City of Brownsville.

Fence requirements can be found in Appendices, Appendix G., in the Brownsville Municipal Code.



ORDINANCE NO. 748

SECTION III. 15.75.030 Building Permit Approval.

The City Administrator or designee shall have the authority to review and approve all accessory structure permits and fence permits as required by the Brownsville Municipal Code. The City Administrator shall also ensure that the Public Works Standards and design criteria are properly applied and enforced in coordination with the Public Works Superintendent and the City Engineer. Each of the reviews and approvals shall be both prior and subsequent to construction.

Fence requirements can be found in Appendices, Appendix G., in the Brownsville Municipal Code.

Modify the following definition to read as follows:

SECTION IV. 15.85.060 Vision Clearance.

"Vision Clearance" means the area near intersections of right-of-ways, curb cuts and other roadway entry points where a clear field of vision is necessary for traffic safety. Vision clearance shall be determined by the City Administrator or designee using City Standards, State or Federal traffic guidelines. The City Engineer may be used for vision clearance review at the property owner's and/or applicant's expense.

SECTION V. 15.15.020 Definitions.

For the purpose of this ordinance, the following terms shall mean:

1. "**Construction Permit**" means an application obtained from the City to construct a primary structure.
2. "**Accessory Structure Permit**" means an application obtained from the City to place a structure that is incidental or subordinate to the primary use of the property.
3. "**Fence Permit**" means an application obtained from the City to place a fence on private property.

These definitions shall be added to Titles 13.05.010 & 15.70.030.

SECTION VI. 15.15.035 Construction Permit Required

The City of Brownsville requires a construction permit for primary structures, accessory structures and fences. Permit costs shall be set by resolution and periodically reviewed by Council.

"Accessory Structure" means a structure incidental and subordinate to the primary use of the property in accordance with the Zoning Code, and which is located on
Ordinance 748 Title 15 Proposed Changes (Final)



ORDINANCE NO. 748

the same lot with the primary use. Accessory structures include, but are not limited to, a storage shed, carport, greenhouse, pole building/shop, detached garage, or farm animal enclosures. All subject to the setback requirements and lot coverage requirements of the Zoning Code.

SECTION VII. 15.80.045 Minimum Setback Chart & Fencing Vision Diagrams

CITY OF BROWNSVILLE ZONING SETBACK CHART

Zone	Front Yard Minimum Setbacks	Corner Lot (Street Side) Minimum Setbacks	Interior Lot (Total of both side yards) Minimum Setbacks	Side Yard (Not on a Street) Minimum Setbacks	Rear Yard Minimum Setbacks	Garage/Carport Minimum Setback from the Street	Max. Bld. Height*	Max. Bld. Coverage/ Impervious Surface
Primary Structures								
Low Density Residential	20'	20'	15'	5'	15'	20'	35'	30% / 40%
Medium Density Residential	15'	15'	15'	5'	15'	20'	35'	40% / 55%
High Density Residential	10'	10'	15'	5'	5'	20'	35'	50% / 80%
Old Town Commercial	Zero	Zero	Zero	Zero	Zero	Zero	n/a	n/a
Volume Commercial ^(M)	20'	20'	15'	5'	10'	n/a	35'	50% / 90%
Light Industrial ^(M)	20'	20'	15'	5'	10'		45'	0% / 80%
Heavy Industrial	20'	10'	15'	n/a	n/a	n/a	45'	0% / 85%
Special Development ^(V)								
Public ^(M)							35'	50% / 80%
Accessory Structures								
Low Density Residential				5'	5'		22'	
Medium Density Residential				5'	5'		18'	
High Density Residential				5'	5'		18'	
Public ^(M)								
Volume Commercial ^(M)							22'	

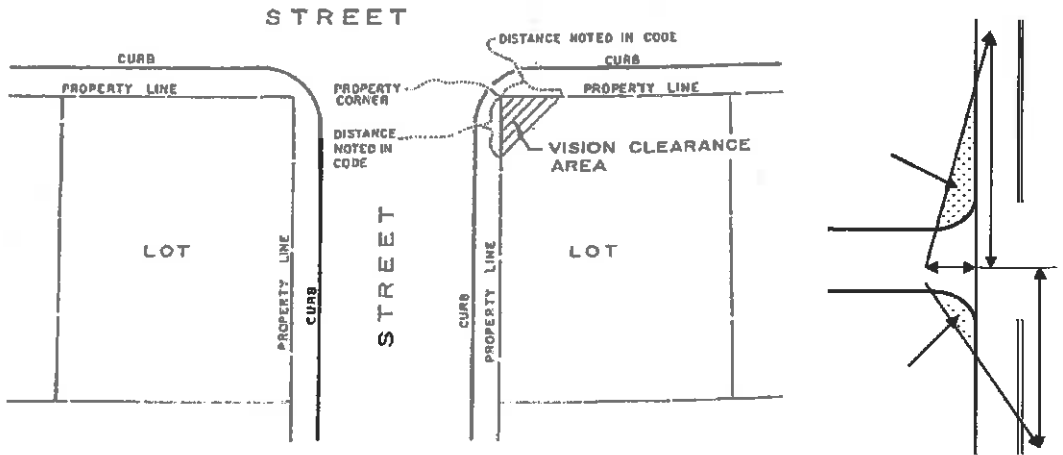
- I. Height of the Principal Building only.
- II. Structures built along Highway 228 shall follow setback requirements as established by the Oregon Department of Transportation.
- III. Yard requirements for the Public Zone may be determined on an individual basis, guided by the prevailing yard requirements in the immediate vicinity.
- IV. An accessory structure or use shall comply with the setback requirements of the applicable zoning district, and shall not be closer to the street than the primary structure.
- V. No accessory structure or use will be permitted on any lot without an established principle use.
- VI. Setbacks in Special Development Zones shall go through Administrative Review for determination.

NOTE: For minimum setbacks in a Manufactured Home Park, please contact City Hall.



ORDINANCE NO. 748

Vision Clearance Diagram:



PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR this 27th day of January, 2015.

City Administrator S. Scott McDowell

Mayor Don Ware



TITLE 15.75.030
Fence Standards

- I. Purpose.
- II. Scope.
- III. Definitions.
- IV. Permitted fences.
- V. Similar fences.
- VI. Corner or through lot.
- VII. Maintenance.
- VIII. Permit.
- IX. Inspection.

I. PURPOSE.

The purpose of this chapter is to establish regulations controlling the use of fences, hedges, and walls; whereby the lot owner may have the privilege of privacy and landscape design within his or her own lot with due consideration to the environment of his or her neighbor, the safety of the public, the individual and the general appearance of the community.

II. SCOPE.

This chapter shall apply to all zoning districts. The fence regulations herein shall not apply to any permanent fence erected prior to the effective date of this adoption.

III. DEFINITIONS.

"Fence" means any structure composed of wood, iron, steel, shrubbery, hedges or other material erected in such a manner and position as to enclose or partially enclose all or any part of any premises. Trellises or other structures supporting or for the purpose of supporting vines, flowers and other vegetation when erected in such position as to enclose all or any part of any premises shall be included within the definition of the word "fence".

"Deer Fence" means a structure erected to allow light and air for the proper growth of gardens or other plant life with the purpose of keeping animals out of a defined area. The structure may be as high as eight feet (8') and materials may include polypropylene netting, taut wires and woven wire mesh that are adequate at keeping animals such as deer out.

"Property Line Verification" means the City will use GIS and other means to determine the general location of property lines, plus or minus one or two feet. An official, certified survey document completed by a surveyor licensed in the State of Oregon may be used by an applicant or required in certain situations. All costs for any official survey shall be the sole responsibility of the applicant and/or the property owner.

"Measurements" shall mean the required yard setbacks will be measured from the actual property line or closest proximity and not from the paved portion of the right-of-way.

"Right-of-way" means a City owned street, alley, easement, or through way, and/or utility owned easements. City owned right-of-ways vary in width but are always wider than the paved portion that exists within said right-of-ways. Paved portions of right-of-ways are not always centered in any given right-of-way.



"Fence Height" is the vertical distance measured from the natural grade to the highest point of the fence including structural supports.

"Vision Clearance" means the area near intersections of right-of-ways, curb cuts and other roadway entry points where a clear field of vision is necessary for traffic safety. Vision clearance shall be determined by the City Administrator or designee using City Standards, State or Federal traffic guidelines. The City Engineer may be used for vision clearance review at the property owner's and/or applicant's expense.

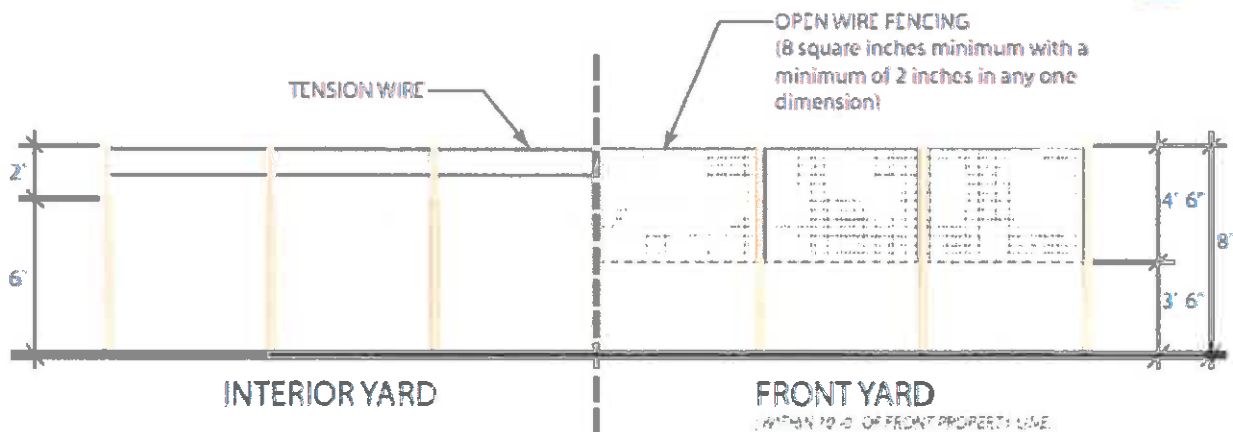
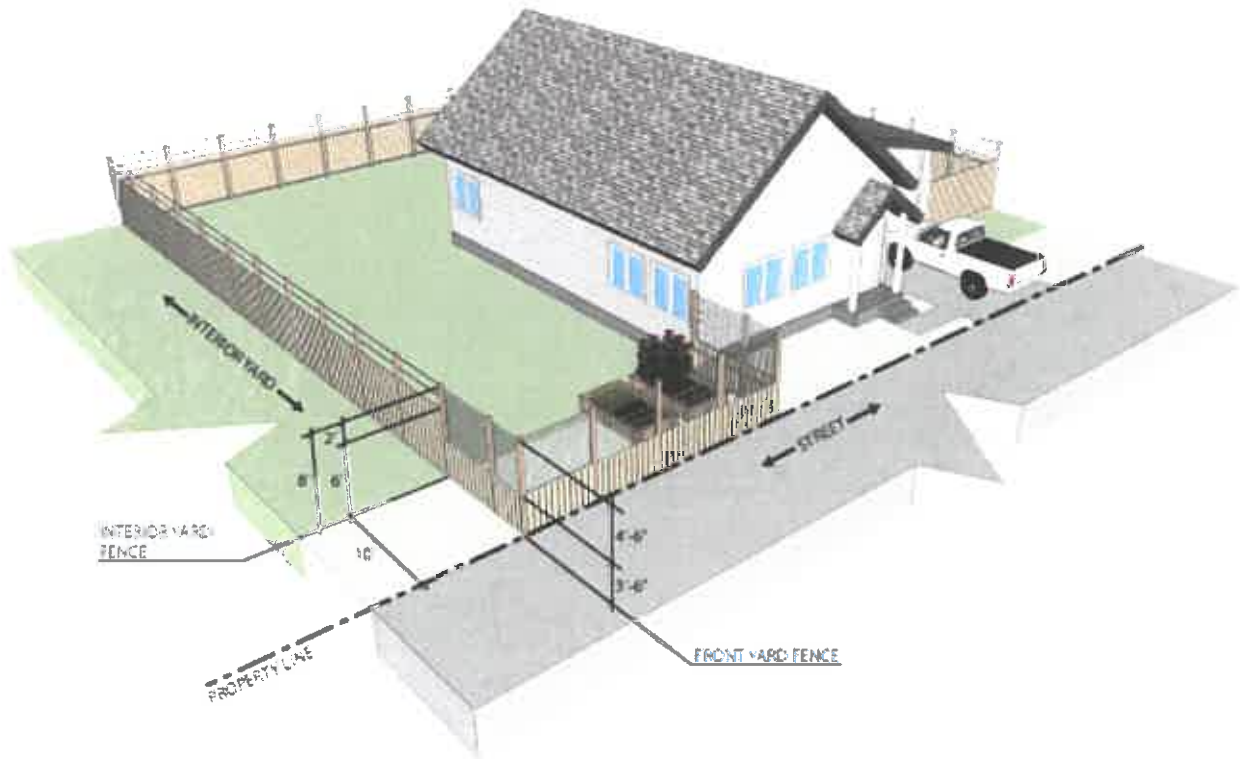
IV. PERMITTED FENCES.

Fences shall be permitted in required yards as follows:

- a) Fences. Shall be permitted in public facilities and all zoning districts.
 1. **Front yards**. Fences may be erected in front yards parallel to the building line to a height not exceeding three and one-half feet.
 2. **Side and rear yards**. Fences may be erected in side and rear yards as described herein and shall be at least one foot (1') from the property line, unless a certified survey (property line verification) is obtained or existing property pins have been located.
- b) Chain Link Fences. Shall be permitted in all zoning districts.
- c) Privacy Fences. Shall be permitted in all zoning districts in rear and side yards. Fences shall not exceed six feet in height above the natural grade unless a building permit is obtained.
- d) Shrubbery or Hedges. Shall be permitted in public facilities and all zoning districts provided they do not encroach upon the abutting property. Responsible owner shall maintain shrubbery and grass on both sides of the vegetation.
- e) Barbed Wire or Stockade Fences. Shall be permitted in the light & heavy industrial zones only in rear and side yards. Said fences may be to a height not exceeding six feet unless a building permit is obtained.
- f) Deer Fencing
 1. Deer fencing may be stand alone or be attached to a permitted front, side or rear yard fence(s) provided the area is not in excess of the maximum allowable fence heights. Fences shall be designed and constructed to provide a clear view through the fence.
 - a. Within required front yards, at least eighty-five percent (85%) of the surface shall be unobstructed to both light and air when viewed perpendicular to the place of the fence.
 - b. Within required side and rear yards at least eighty percent (80%), of the surface shall be unobstructed to both light and air when viewed perpendicular to the place of the fence.



2. Deer fencing shall have a minimum height of six and one half feet (6 1/2') and shall not exceed eight feet (8') above grade.
3. Permitted deer fencing materials may include, woven wire fencing, field fence, "hog panels", wire strand of polypropylene mesh net that is open and visible through the material. Within front yards all mesh material shall have a minimum open diameter of one and a half (1 1/2") square inches.
4. Deer fencing shall be supported by structural supports, or tension wires, that run along the top of the fence to prevent sagging.
5. Chain link fences shall not be considered to be deer fences under this section even if they meet the criteria above.





- g) **General.** Any and all fences shall comply with vision clearance distances as described herein. All fences must be constructed of wood, chain link, stone, rock, concrete block, masonry brick, brick, decorative wrought iron, or other material(s) which are similar in durability. Unacceptable fence materials include cast-off, secondhand, and other items not originally intended to be fencing, (examples include plywood less than 5/8 inch thick, low-grade plywood, particle board, paper, visqueen plastic, plastic tarp and similar materials, razor wire and other dangerous materials, sheet metal, roll metal, and corrugated metal.)

All applicants shall ensure that they have obtained the proper permission from any abutting utility or Franchisee. Fences may not cross any non-exclusive ingress/egress easements. The following utilities or Franchises may be contacted regarding easements:

- ▶ Electrical – Pacific Power Company
- ▶ Natural Gas – Northwest Natural Gas
- ▶ Water, Sewer or Drainage – City of Brownsville
- ▶ Telephone – CenturyLink

No fence shall extend beyond the property line.

V. SIMILAR FENCES.

The City Administrator or designee may permit other fences which are similar in character, design and materials to one or more of the fences permitted by this chapter.

VI. CORNER OR THROUGH LOT.

Where any part of a fence either in a front, rear or side yard abuts a street or other public right-of-ways, fences shall provide adequate vision clearance which may require review from the City Engineer at the owner's expense. Vision clearance shall be determined by the City Administrator or designee using City Standards, State or Federal traffic guidelines.

VII. MAINTENANCE.

Such permitted fences shall be maintained in good condition and be structurally sound. Fences shall also not be overgrown with vines and weeds.

VIII. PERMIT.

Any fence which may be permitted shall require the issuance of a permit and approval by the City prior to its erection. Prior to the construction of any fence, an application to construct the fence must be obtained from the City of Brownsville, together with a plot plan showing the location and dimensions of the property to be fenced and the location of the proposed fence, as well as the permit fee as adopted by resolution of Council.

IX. INSPECTION.

It shall be the duty of each property owner to determine property lines and to ascertain that the fence thus constructed does not deviate from the plans as approved by the City. The City shall furnish such inspection as is deemed necessary to determine that said fence is constructed in accordance with plans submitted per the permit application. The issuance of any fence permit by the City shall not be construed as to mean the City has determined said fence is not encroaching upon another lot, nor shall it relieve the property owner of the duty imposed herein.