
Article 9. General Regulations

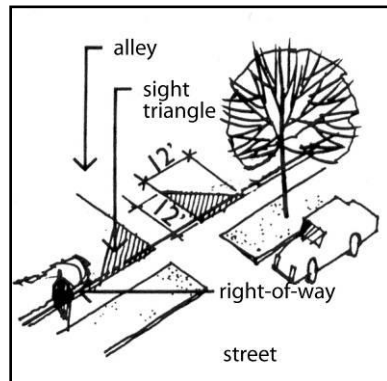
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Section 9.01 Sight Triangles

9.01.01 No fence, wall, sign, landscape material, or other visual obstruction, other than a building, more than 36 inches in height may be installed or allowed to remain within any sight triangle.

9.01.02 A sight triangle is the triangular area bounded as follows:

- A. at the intersection of a street and an alley, by the edges of the alley and the edge of the street right-of-way for a distance of 12 feet from the point of intersection and by a line connecting the ends of the 2 sides; or



- B. at the intersection of 2 or more streets or a street and a railroad for a distance of 30 feet from the point of intersection and by a line connecting the ends of the 2 sides.

9.01.03 No sign, structure, tree, planting, or vegetation or any portion thereof may protrude over or into any street so as to create confusion around, or otherwise interfere with, traffic signs or signals of any kind.

Section 9.02 Fences and Walls

9.02.01 Classification of Fences and Walls

Fences and walls are classified as follows:

- A. Class 1: Masonry walls
- B. Class 2: Ornamental metal, 80% or more open
- C. Class 3: Woven wire, including chain link, 80% or more open
- D. Class 4: Wood or other materials (excluding woven wire and chain link), 50% or more open
- E. Class 5: Wood or other materials less than 50% open, including solid fences
- F. Class 6: Hedges
- G. Class 7: Barbed wire or sharp pointed fences
- H. Class 8: Earthen or concrete walls intended to contain or redirect flooding waters

9.02.02 Conservation and Residential Zones

Fences or walls within the Resource Protection (RP) zone and the Residential (R) zones are subject to the following standards:

Zones	Fence or Wall Class	Maximum Fence Height by Yard/Setback Type (feet)			
		Front Yard	Side Yard	Rear Yard	Sight Triangle [1]
Resource Protection	1	-	8	8	-
	2	8	8	8	3
	3	8	8	8	3
	4	8	8	8	3
	5	-	8	8	-
	6	8	8	8	3
	7	-	5 foot minimum, 2 foot max above primary fence		-
	8	According to engineering requirements			
Residential	1	4	6	7	-
	2 [2]	4 ½	6	7	3
	3	-	6	7	-
	4	4[3]	6[3]	7	3
	5	-	6	7	-
	6	4	6	7	-
	7	-	-	-	-
	8	According to engineering requirements			

	Fence or	Maximum Fence Height by Yard/Setback Type (feet)			
Residential-recreation <i>General purpose recreation areas in Residential Zones</i>	1	8	8	8	-
	2	8	8	8	3
	3 [4]	8	8	8	3
	4	8	8	8	3
	5	8	8	8	-
	6	8	8	8	-
	7 [4]	8	8	8	-
	8	Army Corps of Engineers	Army Corps of Engineers	Army Corps of Engineers	Army Corps of Engineers

[1] Triangular portion at corner, 50 feet from intersection of rights-of-way

[2] Class 2 fence with maximum height of 8 feet is allowed across a former alley or street.

[3] The wooden slats on these fences must be a minimum of 3 inches wide.

[4] Tennis court or baseball fences can be Classes 3 and 7, and be 12 feet in height**

9.02.03 Commercial and Industrial Zones

Fences or walls within all Commercial and Industrial zones are subject to the following standards:

Zones	Fence or Wall Type	Maximum Fence Height by Yard/Setback Type (feet)			
		Front Yard	Side Yard	Rear Yard	Sight Triangle [1]
Commercial	1	4	6	7	-
	2	4	6	7	3
	3	-	6	7	-
	4	4	6	7	3
	5	-	6	7	-
	6	4	6	7	-
	7	-	-	-	-
	8	According to engineering requirements			
Industrial	1 [2]	6	7	7	-
	2 [2]	6	7	7	3
	3 [2]	6	7	7	3
	4 [2]	6	7	7	3
	5 [2]	6	7	7	-
	6 [2]	6	7	7	-
	7	5 foot minimum, 2 foot max above primary fence			
	8	Army Corps of Engineers			

[1] Triangular portion at corner, 50 feet from intersection of rights-of-way

[2] Barbed wire may be placed on top of fence lasses 1-6, as long as such fence is located in an industrial zone and the barbed wire is at least 5 feet above grade, and no higher than 2 feet above other fence

9.02.04 Other Districts

Fences or walls within other zones are subject to the following standards:

A. Linden Gateway District

Zone	Fence or Wall Type	Maximum Fence Height by Yard/Setback Type (feet)			
		Front Yard	Side Yard	Rear Yard	Site Triangle [1]
Linden Gateway District	1	4	6	7	3
	2	4	6	7	3
	3	–	–	–	–
	4	4	6	7	3
	5	–	6	7	–
	6	4	6	7	3
	7	–	–	–	–
	8	According to engineering requirements			

[1] Triangular portion at the corner, 50 feet from the intersection of right-of-ways

9.02.05 Fence and Wall Measurements

- A. All fences or wall heights must be measured from ground level where the fence or wall meets the ground to the highest point of the fence or wall.
- B. Fence post finials are permitted to extend a maximum of 8 inches above the maximum height of any permitted fence.

9.02.06 Barbed Wire or Sharp Pointed Fences

Where permitted, barbed wire or sharp-pointed fences must start a minimum of 60 inches above ground level and may not exceed 2 feet in height above the top of the primary fence or wall. Fences used in conjunction with permitted agriculture uses are exempt from these standards and all other fence and wall height limits.

9.02.07 Height of Fences Atop Retaining Walls

A combination fence and retaining wall may be erected. The retaining wall portion may be erected up to a level no higher than the highest finished grade. The fence portion must be of the class and height permitted within the subject zone.

9.02.08 Electrified Fences

Fences carrying an electrical charge are permitted only when used in conjunction with an agriculture use. Such fence must be set back at least 5 feet from all adjacent property lines.

9.02.09 Permit Required for Erection of Fences

No fence may be erected, except as exempted or specified within this chapter, until all required fees have been paid to the proper authorities or their agents and the necessary permits have been issued in accordance with Section 12.10.

9.02.10 Structural Elements of Fences

Fences must be constructed so that all structural members must be located on the inside of the fence. The inside must be the side which faces the property owned by the person building the fence.

9.02.11 Liability

The construction of walls or fences in accordance with this zoning ordinance does not release the property owner from liability related to the construction or to injuries that occur as a result of the wall and/or fence.

9.02.12 Pools

Private in-ground and above-ground swimming pools must be enclosed by a class 1, 3, or 5-type fence or wall. The fence or wall must be at least 4 feet in height, but no more than 7 feet in height. All gates or doors in the fence or wall must be self-latching.

9.02.13 Fences on Vacant Properties

The construction of walls or fences is allowed on a property with no principal structure provided that a principal structure or principal use with the same ownership as the vacant property abuts the vacant property (without a street or alley separating). The fence constructed must meet all regulations of Section 9.02. No accessory structure other than a fence may be constructed on a vacant property.

- A. Fence material must be consistent all the way around the property.
- B. Chain-link fences are prohibited on vacant properties in all Residential and Commercial Districts.

Section 9.03 Excavation and Grading

9.03.01 No governmental entity or other person or entity may strip, excavate, fill, remove existing structures or otherwise move soil, trees, or other vegetation except for minor changes such as the filling of small depressions, or the removal of vegetation that is diseased or endangering the public safety (activities collectively referred to as “excavation and grading”), without first ensuring that all requirements of this section and any applicable subdivision regulations have been fulfilled.

9.03.02 All persons or other entities proposing to conduct excavation or grading must submit an erosion and sedimentation control plan demonstrating compliance with the following:

- A. The smallest practical area of land must be exposed at any one time during excavation and grading.

- B. When land is exposed during excavation and grading, the exposure must be limited to the shortest practical period of time.
- C. Temporary vegetation, mulching, and erosion control fencing must be used to protect critical areas exposed during excavation and grading.
- D. Sediment basins (debris basins or silt traps) may be installed and maintained to remove sediment from run-off waters from land undergoing excavation and grading.
- E. Provisions must be made on-site to accommodate increased stormwater runoff caused by changed soil and surface conditions during and after excavation and grading, and sites of one acre or more are subject to the stormwater management regulations of Sanitation District No. 1.
- F. The development and attendant excavation and grading must be fitted to the topography and soils so as to create the least erosion potential.
- G. Wherever feasible, natural vegetation must be retained and protected.
- H. Permanent final vegetation and structures must be installed as soon as practical in disturbed areas after excavation and grading. For any sites to be developed within 6 months of the issuance of an excavation and grading permit, a landscape plan must be submitted pursuant to Article 8. Any subsequent change to the landscape plan approved pursuant to this requirement will require re-review and approval.

9.03.03 The Building Inspector may issue the required permit after determining that the resulting change in grade or removal of trees and other vegetation in the affected area will be in conformance with all applicable provisions of this chapter. The provisions of this section may not be construed to prohibit normal excavation or grading incidental to the construction or alteration of a building on the premises for which a building permit has been granted as required otherwise in this chapter.

Section 9.04 Outdoor Storage/Display

9.04.01 Outdoor Display

Outdoor retail sales and display areas must comply with the following standards:

- A. **Location of Sales Area**

Outdoor sales areas must be contiguous, located entirely on private property, and outside of any required setback, unless otherwise specified below. In zones without required setbacks, outdoor sales areas may not be located within 10 feet of any street-facing lot line.
- B. **Maximum Size**

Except for vehicle-sales uses, outdoor sales areas may not exceed 15 percent of the floor area of the uses they serve, unless otherwise expressly stated in this zoning ordinance.
- C. **Location of Merchandise**

Merchandise may not be displayed where it will encroach upon parking areas, driveways, walkways, sidewalks, or landscaped areas, unless otherwise specified below. Merchandise may not obstruct sight distance or otherwise create hazards for vehicular or pedestrian traffic.
- D. **Height of Merchandise**

Individual items displayed may not exceed 10 feet in height above grade. Stacked items may not exceed a total of 6 feet in height above grade.
- E. **Litter**

A permanent trash receptacle must be installed at each entrance and exit to an outdoor sales area.
- F. **Screening**

All outdoor sales areas must be screened from adjacent public streets by decorative solid walls, fences, or landscaped berms that are at least 3 feet in height and located in a landscaped area at least 10 feet in width adjacent to a street property line, unless otherwise expressly stated in this zoning ordinance.
- G. **Exceptions**

Only merchandise for sale may be permitted to encroach in the sidewalks within the following zoning designations:

Central Business District (CBD), Commercial-General with a “P” Designation (CG-P), and Commercial-Tourist (CT) per City of Covington Code of Ordinances 96.01 with the following restrictions:

1. Displays are limited to the area directly in front of a commercial establishment offering the items for sale.
2. Merchandise and supporting structures shall not project more than 4 feet from the front of the structure housing the retail operation.
3. Displays shall not block ingress or egress to any entrances or exits of the retail business structure or adjoining buildings or properties.
4. Merchandise may not be displayed more than one-half hour prior to opening of the business and must be removed within one-half hour after closing the business each day. Notwithstanding the above, no merchandise can be displayed before 6 a.m. or after 10 p.m.
5. No such displays shall engage the use of electricity, nor shall such displays be animated or use lights or noise-making devices.
6. Placement of merchandise must be in compliance with the Americans with Disabilities Act and any other law. A walking space of at least 4 feet wide shall be provided.
7. Merchandise displays may not contain vending machines, liquor, beer, wine, or any other alcoholic beverages, tobacco, fireworks, any item which a minor is prohibited from purchasing, or any other item restricted by a fire code or other law. No merchandise requiring a separate permit or license shall be displayed unless the permit or license is in place.

9.04.02 Outdoor Storage

Outdoor storage is allowed only in IP, I1 and I2 zones, and is subject to the standards of Sec. 3.06.02, C.

Section 9.05 Swimming Pools

9.05.01 Private Swimming Pools

All private swimming pools must comply with the following requirements:

- A. Except as herein provided, no swimming pool or associated equipment is permitted within any required setback or within any public utility right-of-way easement.
- B. Swimming pools, whether constructed in-ground or above ground, must have a fence or wall, including a self-closing or self-latching door or gate, with the latches placed at least 4 feet above ground, around the pool or the property on which the pool is located. Such fence or wall must be at least 4 feet, but not more than 6 feet in height. Such fences or walls must be constructed in such a manner that any openings do not allow the passage of a 4-inch diameter sphere.
- C. The side or wall of an above-ground pool may serve as the wall or fence referenced in this section, provided that the side or wall is at least 4 feet in height above the surrounding ground level. Any access to above-ground pools by means of a ladder or stairway must be provided with a self-closing or self-latching door or gate, or some other device that would prevent a small child from gaining access to the pool by means of a ladder.
- D. Glare from lights used to illuminate the swimming pool area must be directed away from adjacent properties.
- E. All swimming pools and associated equipment must be constructed and erected in accordance with all applicable codes, ordinances, and regulations of the legislative body. Water used in the swimming pool that is obtained from other than a public source must be approved by the Northern Kentucky District Health Department.
- F. All existing swimming pools that are unprotected by a surrounding fence or wall, including gates or doors, as regulated herein, must immediately be brought into compliance with the provisions of this zoning ordinance.
- G. No swimming pool shall be located forward of the principal structure, or in the front yard of any lot.

9.05.02 Public Swimming Pools

All public, semi-public, and commercial swimming pools must be regulated according to the following requirements:

- A. Except as herein provided, no swimming pool and associated equipment is permitted within any required setbacks or within the limits of any public utility right-of-way easement.
- B. The swimming pool or the property on which the pool is located must be surrounded by a fence or wall, including a self-closing and self-latching door or gate (only Classes 1, 3, and 5 fences are permitted, as regulated by Section 9.01 and Section 9.02). Such fence or wall must be at least 5 feet in height, but not exceeding the height as permitted herein, and of such construction that a small child may not reach the pool from the street or from adjacent property without climbing the wall or fence or opening a door or gate.
- C. Glare from lights used to illuminate the swimming pool area must be directed away from adjacent properties.
- D. All swimming pools and associated equipment of the swimming pool must be constructed and erected in accordance with all applicable codes, ordinances and regulations of the legislative body. Water used in the operation of the swimming pool which is obtained from other than a public source must be approved of by the Northern Kentucky District Health Department.
- E. No mechanical device for the reproduction or amplification of sounds use in connection with swimming pools may create a nuisance to adjacent residential properties.

Section 9.06 Water and Sanitary Sewer Service

9.06.01 No building may be constructed in any zone except the RR-40 zone unless such building is connected to a public water and sanitary sewer system of adequate capacity and design, and approved by the proper authorities, or unless the building is constructed on a single lot of record existing on October 2, 1984, that meets the minimum lot area and width requirements of the RR-40 zone. In the case of the RR-40 zone or construction on single-lot parcels of record meeting the requirements of the RR-40 zone, private sewage disposal systems are permitted, provided they are approved in accordance with the requirements of the Northern Kentucky District Board of Health.

9.06.02 Where existing buildings are presently unserved by a public sanitary sewer system and a sanitary sewer line is extended to the location of these buildings, as determined by the legislative body or the Northern Kentucky District Board of Health, the building is required to connect with the public sanitary sewer system and a private sewage disposal system is prohibited.

Section 9.07 Public Improvements

Any proposed development requiring the construction of streets (including curb and gutters), sidewalks, sewers (sanitary and storm), water lines, or other improvements, which does not constitute a subdivision, as herein defined, must be designed and constructed in accordance with the applicable subchapters and sections of the subdivision regulations, unless specifically waived. In downtown business district, public improvements must be constructed in accordance with the adopted Streetscape Master Plan, and in urban redevelopment areas, public improvements must be constructed in accordance with design guidelines adopted in connection with redevelopment plans approved by the City.

Section 9.08 Measurements and Exceptions

9.08.01 Lot Area

- A. Measurement
Lot area includes the total land area contained in the property lines of a lot.
- B. Exceptions for Nonconforming Lots of Record
Nonconforming lots of record may be exempt from lot area requirements. See Section 14.02 for rules regarding nonconforming lots of record.

9.08.02 Lot Area per Dwelling Unit (non-Cluster Development)

- A. Measurement
For residential development outside of approved cluster developments, dwelling unit density is controlled through a minimum lot-area-per-dwelling-unit standard. Lot area per unit refers to the total land area contained in the property lines of a lot divided by the total number of dwelling units on the property.
- B. Rounding
When the number of dwelling units yielded by the density calculation results in a fraction, the fraction must be rounded down to the previous whole number. For example, if a minimum lot-area-per-unit standard of 1,000 square feet is applied to 3,125 square foot lot, a maximum of 3 dwelling units would be allowed on the property.

9.08.03 Density of Cluster Developments

A. Measurement

For residential development in approved cluster developments, dwelling unit density is controlled by a maximum density standard. Density refers to the number of dwelling units allowed per net acre of site area, after subtracting public and private streets and rights-of-way.

B. Calculation

To calculate the maximum number of dwelling units allowed on a site, first subtract public and private streets and rights-of-way from the gross area of the parcel (in acres), then multiply the resulting figure by the subject zone's maximum density standard. For example, a 27.5-acre parcel in the RS-7.5 zone would be allowed a maximum of 159 dwelling units [$27.5 \times 5.8 = 159$].

C. Rounding

When the number of dwelling units yielded by the density calculation results in a fraction, the fraction must be rounded down to the previous whole number.

9.08.04 Floor Area Ratio

A. Measurement

For the purpose of calculating floor area ratios, the floor area of the building is the sum of the gross horizontal areas of all floors in the building measured from the exterior faces of the exterior walls or from the center line of walls separating 2 buildings. Floor area expressly includes all of the following:

1. floor area of any floor located below grade or partially below grade that is not a basement;
2. elevator shafts and stairwells on each floor;
3. floor area used for mechanical equipment;
4. attic space having clear height (head-room) of 6 feet 9 inches or more;
5. mezzanines;
6. porches that are enclosed by walls on 3 or more sides; and
7. floor area within the principal structure that is occupied by accessory uses.

B. Calculation

The floor area ratio standards of Section 3.04 establish the maximum ratio of building floor area to lot area. The maximum floor area permitted on a lot is calculated by multiplying the applicable floor area ratio standard by the area of the lot upon which the building is located.

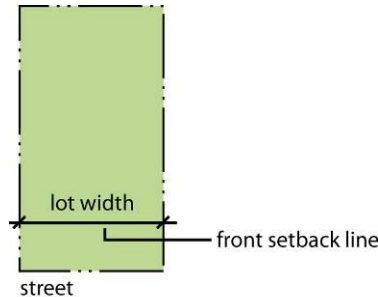
C. Exceptions

For the purpose of calculating floor area ratios, enclosed floor area devoted to required parking and the drive aisles and circulation area associated with such parking are not to be counted as floor area. The enclosed floor area of non-required parking spaces will be counted as floor area for the purpose of calculating floor area ratios.

9.08.05 Lot Width

A. Measurement

Lot width is measured between side property lines at the point of the required front setback.



B. Exceptions for Lots of Record

Nonconforming lots of record may be exempt from lot width requirements. See Section 14.02 for rules regarding nonconforming lots of record.

9.08.06 Front Setback

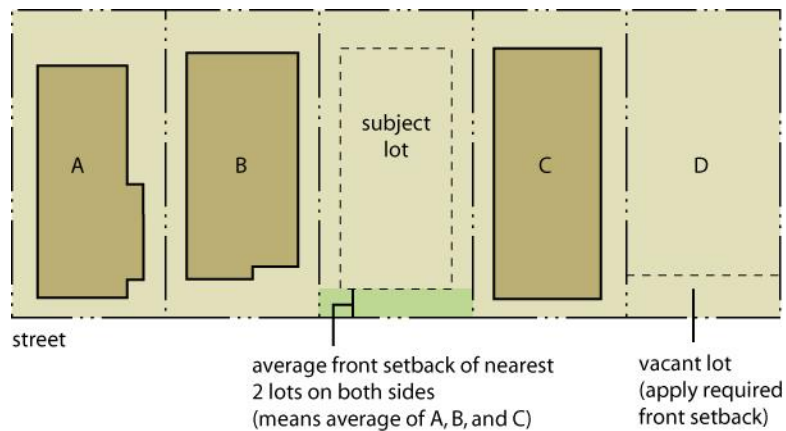
A. Measurement and Use

1. Measurements of required front setbacks and existing front yards are to be taken from the front property line to the furthestmost projection of the structure, not including those projections and features allowed in such setback pursuant to Sec. 9.08.09.

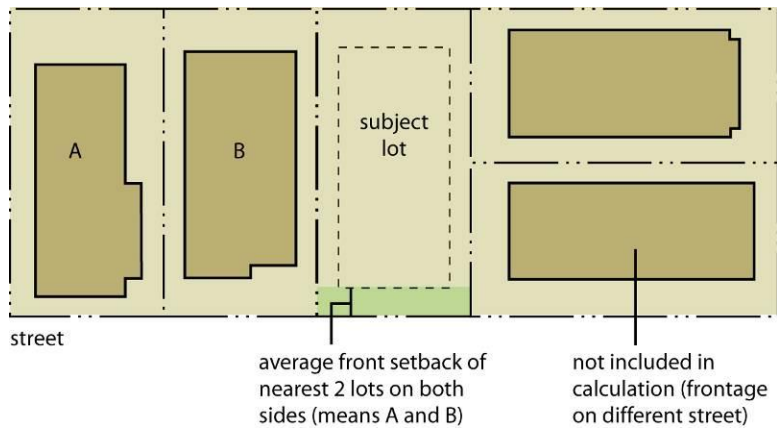
2. Front setbacks and front yard areas may be used for parking and may not be paved except for permitted driveways, provided that such areas are set back a minimum of one (1) foot from adjoining property lines. Required setbacks must be unobstructed and unoccupied from the ground to the sky except as expressly allowed in Sec. 9.08.09.

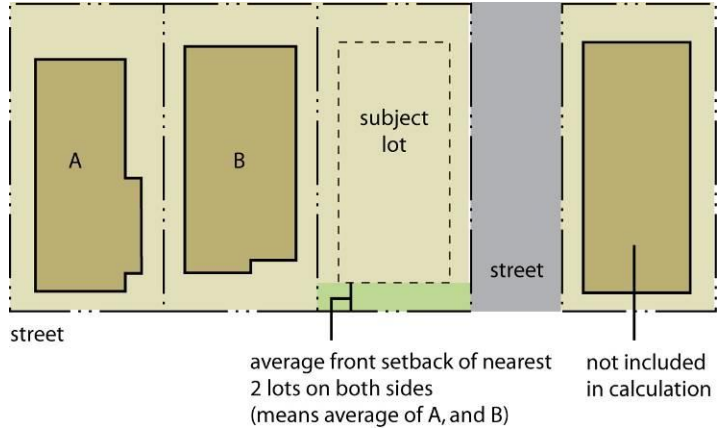
B. Contextual Front Setbacks

1. The contextual front setbacks of this section may be used whenever buildings exist on one or more abutting lots.
2. Contextual front setbacks must be at least as deep as the average front setback that exists on the 2 lots on both sides of the subject lot, in accordance with the following rules:

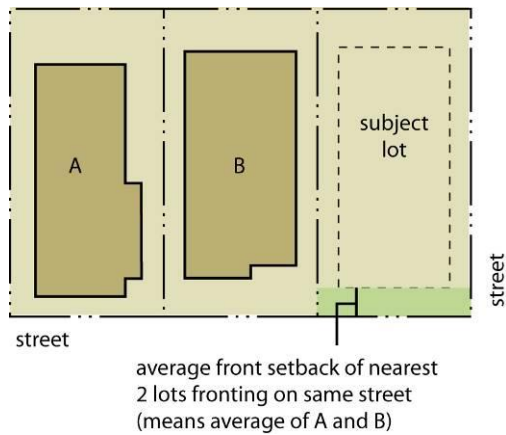


- (a) lots that front on a different street than the subject lot or that are separated from the subject lot by a street may not be used in computing the average;

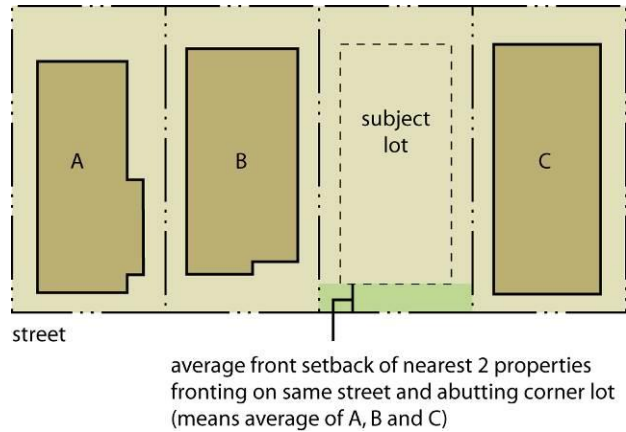




- (b) when the subject lot is a corner lot, the average setback will be computed on the basis of the 2 nearest developed lots that front on the same street as the subject lot;



- (c) when the subject lot abuts a corner lot fronting on the same street, the average setback will be computed on the basis of the abutting corner lot and the nearest 2 lots that front on the same street as the subject lot; and



- (d) the setback of vacant lots is assumed to be the front setback required by Sec. 2.03.01.

9.08.07 Rear Setback

A. Measurement and Use

1. Required rear setbacks are to be measured from the rear property line of the lot on which such structure is located to the furthestmost projection of the structure, not including those projections and features allowed in such setback pursuant to Sec. 9.08.09.
2. Required setbacks must be unobstructed and unoccupied from the ground to the sky except as expressly allowed in Sec. 9.08.09.

B. Through Lots

On through lots both (opposing) street lines are considered front property lines and front setback standards apply. Rear setback standards do not apply. Accessory structures on through lots may be located anywhere outside of required front or side setbacks.

9.08.08 Side Setback

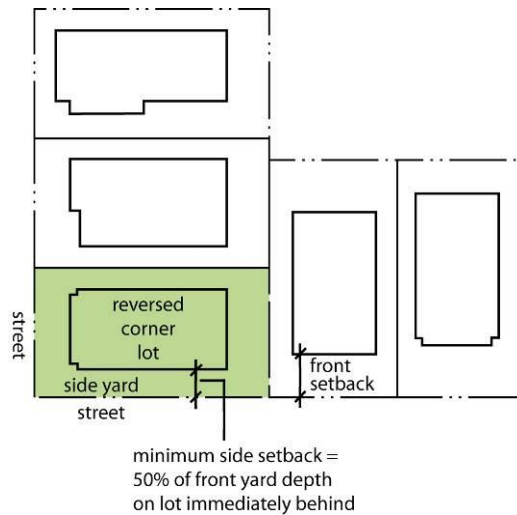
A. Measurement and Use

1. Required side setbacks are to be measured from the side property line of the lot on which such structure is located to the furthestmost projection of the structure, not including those projections and features allowed in such setback pursuant to Sec. 9.08.09.

2. Required setbacks must be unobstructed and unoccupied from the ground to the sky except as expressly allowed in Sec. 9.08.09.

B. Reversed Corner Lot Setback Standards

In all RR, RS, and RU zones, the minimum side setback on a reversed corner lot must be equal to at least 50 percent of the front setback area that exists on the lot abutting the rear of the reversed corner lot. If the abutting lot to the rear is vacant, no special reversed corner lot standards applies.



9.08.09 Features Allowed to Encroach in Setbacks

Required setbacks must be unobstructed and unoccupied from the ground to the sky except that certain building features and structures are allowed to encroach into required setbacks to the extent expressly indicated in this section:

Encroachment into Required Setback	Front	Side	Rear
Accessory buildings and structures	No	No	Yes[1]
Air conditioning units	Yes[5]	Yes[2]	Yes[2]
Arbors	Yes	Yes	Yes
Awnings and canopies	Yes[6]	Yes[2][4]	Yes[2][4]
Bay windows	Yes[5]	Yes[5]	Yes[5]
Bird baths	Yes	Yes	Yes
Chimneys	Yes[4]	Yes[4]	Yes[4]
Driveways	Yes[7]	Yes[7]	Yes[7]
Eaves and gutters	Yes[5]	Yes[3]	Yes[5]
Fences and walls	[8]	[8]	[8]
Fire escapes	Yes[4]	Yes[4]	Yes[4]
Flagpoles	Yes	Yes	Yes
Furniture, Outdoor	Yes	Yes	Yes
Parking spaces, unenclosed if provided for in Section 7.07	[9]	[9]	[9]

Encroachment into Required Setback	Front	Side	Rear
Patios, uncovered	No	No	Yes
Porches, decks and balconies	No	No	Yes[10]
Recreational equipment (e.g., swing sets and playhouses)	No	No	Yes
Satellite dish antennas	Yes[11]	Yes[11]	Yes[12]
Sills, belt courses, cornices, buttresses and other architectural features	Yes[5]	Yes[5]	Yes[5]
Stoops and steps	Yes[13]	Yes[13]	Yes[13]
Trees, plants and landscaping	Yes	Yes	Yes
Trellises	Yes	Yes	Yes
Utility poles and wires	Yes	Yes	Yes
Wheelchair lifts and ramps	Yes[14]	Yes[14]	Yes[14]

[1] Must be set back at least 1 foot from property line; detached garages and carports must be set back at least 5 feet from rear property lines abutting alleys

[2] Must be set back at least 3 feet from property line

[3] May not encroach more than 18 inches into required setback

[4] May not encroach more than 30 inches into required setback

[5] May not encroach more than 3 feet into required setback

[6] May not encroach more than 6 feet into required setback

[7] Must be set back at least 1 foot from property lines to which they run approximately parallel; common driveways serving 2 or more lots are not required to be set back from property line

[8] Fences and walls are subject to the regulations of 0

[9] See Section 7.07 for rules governing parking location.

[10] May be no more than 3 feet above grade and must be uncovered and open on at least 3 sides

[11] Maximum diameter: 1 meter (39.4 inches)

[12] Maximum diameter: 3 meters (118.2 inches)

[13] May not be more than 4 feet above grade and may not project more than 4 feet into the required setback

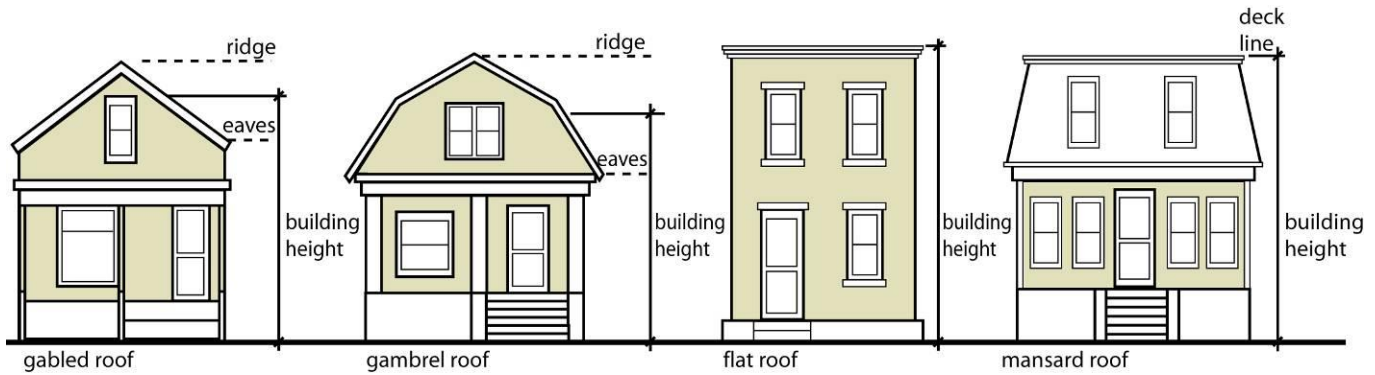
[14] Must comply with federal, state, and local accessibility standards

9.08.10 Building Height

A. Measurement

Building height is to be measured as the vertical distance measured from average elevation of the finished grade adjoining the building at the front of the building to

1. the average height level between eaves and ridge for gable, hip, and gambrel roofs.
2. the highest point of the roof surface for a flat roof; and
3. the deck line of a mansard roof.



B. Exceptions to Maximum Height Standards

1. The height limitations of this zoning ordinance do not apply to mechanical equipment and electrical penthouses, church spires, towers, smoke stacks, and other similar features, provided they comply with all other applicable city standards and FAA regulations.
2. In residential zones, mechanical equipment, electrical penthouses, stairway enclosures, and elevator penthouses that exceed maximum building height standards must:
 - (a) be set back at least 20 feet from the front of the building, and
 - (b) not exceed 9 feet in overall height or extend more than 5 feet above the building parapet, whichever results in a lesser height.

9.08.11 Exception to area and yard regulations

- A. Where existing or proposed development within a residential (non-cluster development), commercial, or industrial zone is to be subdivided, the minimum area and yard requirements may be less than required by this chapter provided that:
1. The maximum density of the zone is not exceeded or the minimum site for the total development must not be less than that required by the respective zone.
 2. A community association or other responsible entity is established prior to the approval by the Planning Commission of any subdivision of land. The association shall be obligated and empowered to own and maintain all common areas including such items as open spaces, recreational facilities, access drives, parking areas,

- pedestrian walkways, and all improvements constructed thereon.
3. A development plan, as regulated by Section 12.06, including the proposed area and yard requirements for the development is submitted for review and approval by the Planning Commission.
- B. The Planning Commission may waive the requirement that all lots abut a minimum frontage along a dedicated right-of-way provided that those lots that do not abut a dedicated right-of-way are assured an unencumbered and maintained accessway by the association to a dedicated right-of-way.

Section 9.09 Hillside Protection Regulations

9.09.01 Purpose

The Hillside Protection Regulations are intended to protect and enhance the City of Covington's unique natural heritage. Hillside areas are places of special character that affect and are affected by their surroundings. Standards and guidelines that take into consideration the natural constraints of a site will result in a development that is sensitive to the environment, incorporates safeguards to maximize public health, safety, and general welfare, and minimize changes to the visual quality of the hillside.

9.09.02 Site Plan Review

- A. Site plan review and approval by the City Engineer is required before the issuance of any zoning, building or grading permits, or the commencement of any construction or enlargement of any building or structure.
- B. The site plan and other information required in this section must be reviewed by the City Engineer, to determine to the best of his personal knowledge and based on the information that has been provided by the permittee, what effect, if any, the proposed development may have on hillside slippage, soil erosion, water quality and water quantity related to storm water runoff, and riparian corridors.
- C. Within 30 days of the time that all required plans have been submitted by the permittee, the City Engineer shall advise the Zoning Administrator of his/her findings, and the Zoning Administrator may authorize use of the site in accordance with the submitted plans.

- D. If, after review of the plans required by this section, the City Engineer determines that the proposed plan is likely to cause hillside slippage, the Zoning Administrator is authorized to deny the permit for development.

9.09.03 Standards

- A. The standards of this section are intended to ensure, when development is proposed in those areas of the city that have physical characteristics limiting development (Developmentally Sensitive Areas (DSA)) and hillside slopes of 20% or greater, that development occurs in a manner that minimizes the adverse environmental and visual problems associated with drainage, erosion, earth movement, vegetation removal, and adverse environmental and visual impacts.
- B. Areas of land considered physically restrictive, including hillside slopes of 20% or greater, are subject to the following requirements:
1. Development proposed on land areas identified on the Comprehensive Plan as Developmentally Sensitive Areas (DSA) and any other areas that have slopes of 20% or greater require approval before development may occur. In those areas which are identified in the Comprehensive Plan as DSA and containing slopes less than 20%, the requirements contained herein may be waived if, after review of the proposed site plan by the City Engineer, it is determined that the development will not result in any significant hillside slippage or soil erosion.
 2. No excavation, removal, or placement of any soil, foundation placement, or construction of buildings or structures of any nature within the area identified as Developmentally Sensitive Area, or the cutting of trees more than eight (8) inches in diameter at Diameter Breast Height (DBH) may occur within areas designated as DSA, including hillside slopes 20% or greater, until plans and specifications for such work have been submitted in the form of a site plan and without first ensuring that all requirements of this Section and Section 9.03, Excavation and Grading, have been fulfilled. (DBH is the diameter of a tree 4-1/2 feet above average ground level.)

Note: The basis for review of a development plan related to the preservation of trees is to protect and

preserve the greatest number of trees as is reasonable and practical. Individual trees should be removed only as necessary to carry out permitted development under the approved zoning of the site, to achieve the objectives of the Comprehensive Plan, to provide continuity in the design of collector streets, stormwater facilities, or similar infrastructure elements.

In addition to site plan requirements, the following must also be submitted:

- (a) Plans showing existing topography and the proposed physical changes necessary for construction, indicating grading (cutting and filling), compaction, erosion sedimentation basins, areas to be cleared of trees and other vegetation, and any other pertinent information that will change the natural physical features of the site or general area.
- (b) Information defining results of subsurface investigation of the area under consideration, including test borings, laboratory tests, engineering tests, and a geological analysis. Such investigation must be made by a qualified registered geotechnical civil engineer (not the City Engineer) indicating that any structural or physical changes proposed in the area will be completed in a manner that will minimize hillside slippage or soil erosion. The City Engineer will rely on the information, documentation, and opinion submitted by the person submitting the proposed development plan, and the geotechnical civil engineer. The permittee shall assume all liability for damages, personal injury, or property damage resulting from any work performed by the permittee, or his or her agent under the permit, or resulting from failure of the permittee to perform each obligation under the permit. If any claim of liability is made against the City of Covington, its officers, employees or agents, the permittee shall defend, indemnify, and hold them and each of them harmless from such claim.
- (c) Plans that show the approximate location, species, and size of all trees more than eight (8) inches in diameter at DBH that are within the area to be affected by the proposed development. These plans

shall further designate between trees that will remain and those that will be removed due to construction.

Note: This tree inventory plan shall be used to guide Section 9.09.04, D.

9.09.04 Guidelines

The guidelines contained in this section shall apply to all developments that fall under Section 9.09.03 (B) (1). Applicants must make every reasonable effort to comply with these guidelines.

A. General

1. The design of developments must address the following elements:
 - (a) preservation of existing topography;
 - (b) vehicular circulation and how it relates to existing contours; and
 - (c) preservation of existing vegetation.
2. Disturbance to existing topographical features and vegetation must be minimized. Development must be designed to fit into the hillside rather than altering existing topography to create a “flat land” type of development.
3. Roads and driveways must be sited and constructed to be sensitive to existing contours.

Note: Removal of non-native invasive vegetation (such as bush honeysuckle) is allowed.

B. Construction Techniques (Earthwork)

Grading must minimize disturbance to natural landforms; not destroy visual quality; and not create conditions that may result in landslides, slope failures, excessive erosion or drainage, or flooding or erosion. All earthwork required for proposed developments must comply with the following guidelines:

1. Grading
 - (a) “Contour grading” techniques must be employed where feasible. “Contour grading” means grading that creates artificial slopes with curves and varying slope ratios in the horizontal plane designed to

simulate the appearance of the surrounding natural terrain.

- (b) Long linear slopes must be avoided, except in cases where the natural slope configuration displays this type of form. When appropriate, cut-and-fill slopes must have curved configurations that reflect the surrounding topographical context. The toe and top of slope must be “rounded” to avoid angular forms at the convergence of manufactured and natural slopes.
- (c) Varied cut-and-fill banks and drainage terraces to alleviate monotony and allow for “naturalistic” landscaping are encouraged.
- (d) Berms at the top of slopes and other locations used to screen, vary profile, and insure drainage away from slopes are encouraged.

2. Retaining Structures

The use of retaining structures when they will significantly reduce grading and land disturbance is encouraged.

C. Roads and Driveways

Design of roadways, driveways, and other circulation elements must comply with the following guidelines:

1. Contours

- (a) Roadways and driveways must be aligned to follow natural contours where feasible. Long stretches of straight road should be avoided by using gentle horizontal and vertical curves where feasible.
- (b) Roadways should not be parallel to one another to avoid a “shelving” effect on hillsides.

2. Grading

- (a) The use of cul-de-sacs, loop streets, and common driveways is encouraged if grading is reduced significantly by their use. Cul-de-sacs must incorporate adequate turning radii to accommodate emergency vehicles.
- (b) Development should be kept as close as possible to the street serving it to minimize the need for long driveways.
- (c) A reduction in roadway width is encouraged if such a design minimizes the amount of necessary

earthwork. Approval of the Zoning Administrator must be obtained.

3. Parking

- (a) Whenever possible, parking should be provided within structures. When this is not feasible, lots and streets must be planned to maximize parking that is located on the uphill side of buildings.
- (b) Parking areas located on existing flat portions of the site are encouraged.

D. Vegetation

Existing vegetation must be preserved to the maximum extent reasonably practicable and disturbed areas revegetated in conformance with the following guidelines:

Note: Removal of non-native invasive vegetation (such as bush honeysuckle) is allowed.

1. Tree Protection

- (a) Development often necessitates the removal of trees to accommodate roads, parking, buildings, and other facilities. Every effort must be made through the design, layout, and construction of development to incorporate and preserve as many trees as possible. Special attention must be directed towards preserving trees with a diameter of eight (8) inches or greater at DBH.
- (b) Cutting of trees eight (8) inches or greater at DBH is prohibited until: (1) the site review process, as set forth in Section 9.09.02 is completed; and (2) the standards requirements, as set forth in Section 9.09.03 are completed; and (3) that all requirements of Section 9.03, Excavation and Grading, have been fulfilled; and (4) the development is approved by the Zoning Administrator. Clear-cutting of trees pursuant to an approved development plan will require the planting of replacement trees. Clear-cutting of trees means the cutting of more than 50% of the trees that are eight (8) inches or greater at DBH on the site. No person may cut or clear land for the sole purpose of offering land for sale.
- (c) Considerable damage to or the death of trees may result if more than four (4) inches of soil is added around the base of a tree, if more than 30 percent of

circumferential bark is removed, or more than 30 percent of the root system is removed. In addition, asphalt paving, building construction, and soil compaction within the drip line of a tree may cause their destruction. Accordingly, the potential loss of vegetation due to these conditions must be minimized through appropriate site planning and construction practices.

- (d) Trees with a diameter of eight (8) inches or greater at DBH and designated for preservation must be marked with bright ribbons encircling the tree trunk at a height of four (4) feet above the ground, and must be surrounded by tree protection barriers, which are barricades at least four (4) feet in height around the critical root zone (CRZ) line installed prior to the commencement of construction. Tree protection barriers can be typical orange construction fencing, continuous rope or flagging, or other barriers approved by the Covington Urban Forester, or in his or her absence, the City Engineer. All tree protection barriers must be accompanied by "Tree Save Area" signage placed upon the barriers not more than every 20 feet.

- (1) Critical root zone (CRZ) means the minimum area beneath a tree that must be left undisturbed to preserve a sufficient root mass to give a tree a reasonable chance of survival. The CRZ will typically be represented by a concentric circle centering on the tree's trunk with a radius equal in feet to one and one-half times the number of inches of the trunk diameter at the diameter breast height (DBH). DBH is the diameter of the tree four and one-half feet above the average ground level.

- (e) All trees to be saved outside the buildable area of a development shall be conspicuously designated with suitable protective tree barriers as pursuant to the following guidelines.

- (1) The use of tree protection zones is encouraged rather than the protection of individual trees.

- (2) Construction site activities, including, but not limited to, material storage, parking, or concrete washout shall not encroach into any tree protection zone without the prior approval of a Certified Arborist, or in his or her absence, the City Engineer, or his/her designee. Any tree irreparably damaged or killed within a tree protection zone, as a result of construction activity, shall be removed and replaced by the owner and/or the developer at a rate of two trees for every tree irreparably damaged or killed. Tree replacement plans must be approved by the City Engineer.

2. Slopes

- (a) After construction is finished, slopes that are not vegetated must be landscaped to mitigate adverse impacts, such as hillside instability and uninteresting landscapes.
- (b) When land is terraced, the areas between terraces must be planted with dense plantings of trees, shrubs, and ground cover. Natural landscaping is desired, using native trees, shrubs, and ground cover.

3. Landscaping and Tree Planting

- (a) Trees should be planted in random clusters, not in rows, to complement the natural tree distribution. Row planting of trees along property lines and roads is discouraged.
- (b) To minimize the visual obtrusiveness of buildings, plantings that screen building edges and foundations are encouraged.
- (c) Existing vegetation should be taken into consideration when landscaping the developed area. New landscaping should be compatible with existing vegetation and the scenic character of the surrounding area.
- (d) When new development occurs near the crest of a hill, the crest's natural appearance should be maintained by tree planting and other landscape measures.

Note: The City of Covington has an Urban Forestry Board that has been given responsibility through Covington's Urban Forestry Ordinance. The Ordinance calls for review of development and landscape plans by Covington's Urban Forester or Urban Forestry Board.