



The Corporation of the District of North Cowichan
Zoning Amendment Bylaw (Retaining Walls & Fences)
Bylaw 3891

The Council of The Corporation of The District of North Cowichan enacts in open meeting assembled as follows:

Title

- 1 This Bylaw may be cited as *"Zoning Amendment Bylaw No. 3891, 2022"*.

Amendment

- 2 Zoning Bylaw No. 2950, Part 3, Section 12 [Definitions] is hereby amended by striking out the following definitions:

"fence" means a free-standing structure used to enclose or screen around all or part of a lot or site and does not include hedges and similar landscaping;

"retaining wall" means a wall erected to hold back water, or support a bank of earth;

"structure" means any construction fixed to, supported by, or sunk into land or water but excludes concrete slabs on finished or natural grade, and retaining walls or decks on grade which are less than 0.61 m (2') in height;"

And inserting the following in its place:

"fence" means a free-standing structure used to enclose all or part of a lot. It can include retaining walls but does not include hedges or similar landscaping;

"retaining wall" means a structure erected to hold back, stabilize or support water or land. It involves the alteration of land and is used to stabilize or modify slopes, level sites, and correct grade differences. Retaining walls may also form a system containing one or more terraced retaining walls;

"structure" means any construction fixed to, supported by, or sunk into land or water but excludes concrete slabs on finished or natural grade, and decks on grade which are less than 0.61 m in height;"

- 3 Zoning Bylaw No. 2950, Part 3, Section 12 [Definitions] is hereby amended by inserting, in alphabetical order, the following definition:

"guardrail" means a barrier such as a bar or a rail placed along the edge of something such as a retaining wall or staircase so as to improve safety and prevent falls."

- 4 Zoning Bylaw No. 2950, Part 4, Section 37 [Fences] is hereby amended by renaming the section title "Fences" to "Fences & Retaining Walls".
- 5 Zoning Bylaw No. 2950, Part 4, Section 37 [Fences] is hereby amended by striking out the following two subsections:

"(1) There is no maximum height for fences unless otherwise specified in a zone as set out in this Bylaw.

(2) Fence height shall be determined measuring vertically from the average natural grade level within 1 m (3.28') of both sides of the fence to the highest part of the fence."

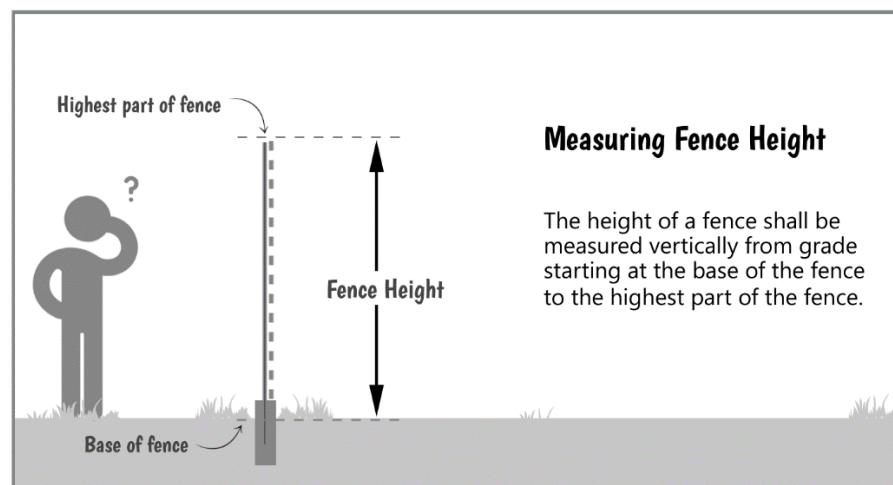
- 6 Zoning Bylaw No. 2950, Part 4, Section 37 [Fences] is hereby amended by adding sections 37.1 and 37.2 as follows:

"37.1 Fence height determined by zone

- (1) There is no maximum height for fences unless otherwise specified in a zone as set out in this Bylaw and summarized in subsection 37.1 (8).

Measuring height

- (2) The height of a fence shall be measured vertically from grade starting at the base of the fence to the highest part of the fence.



Fence additions

- (3) Fence additions (e.g. barbed wire or ornamentation) shall be included in the calculation of total fence height.
- (4) For the purpose of calculating fence height, any arch, arbor, trellis or pergola affixed to or supported by a fence shall be deemed part of the fence.

Front yard fence

- (5) Where a fence on the side of a property is also located within the setback of the front lot line, the "front" fence height restriction shall take precedence for that portion of the side fence.

Vision clearance

- (6) Fences are subject to vision clearance provisions of section 36.

Fences located near retaining walls

- (7) Fence height for any fence located within 1.2 m of a retaining wall is regulated under subsection 37.2 (4), except where such retaining wall is authorized in an accepted grading plan within the subdivision process.

Fence Height Restrictions by zone and yard location

- (8) The maximum fence heights in each zone are as follows:

ZONE	NAME	MAXIMUM FENCE HEIGHT RESTRICTIONS		
		YARD, FRONT	YARD, SIDE	YARD, REAR
A1	Agriculture	No restrictions		
A2	Rural	No restrictions		
A3	Rural Restricted	1.2 m	2.0 m	2.0 m
A4	Rural Resources	No restrictions		
A5	Rural Residential	1.2 m	2.0 m	2.0 m
A6	Rural Market	No restrictions		
R1	Residential Rural	1.2 m	2.0 m	2.0 m
R2	Residential Restricted	1.2 m	2.0 m	2.0 m
R2-A	Residential Restricted Properties	1.2 m	2.0 m	2.0 m
R3	Residential One and Two Family	1.2 m	2.0 m	2.0 m
R3-S	Residential Small Lot Single Family	1.2 m	2.0 m	2.0 m
R3-CH	Residential Two-Family Detached	1.2 m	1.8 m	1.2 m
R3-MF	Residential Medium Density Multi-Family	1.2 m	1.8 m	1.2 m
R4	Residential Small Lot Mobile Home	1.2 m	2.0 m	2.0 m
		Conditions as per Section 39.1		
R5	Residential Mobile Home Park	<u>Subject to "Mobile Home Park Bylaw 1978", No. 1775.</u>		
		Conditions as per Section 39.1		
R6	Residential Townhouse	1.2 m	2.0 m	2.0 m
		Conditions as per Section 39.1		
R7	Residential Multi-Family	1.2 m	2.0 m	2.0 m
		Conditions as per Section 39.1		
R7-A	Residential Ground-Oriented Multi-Family	1.2 m	2.0 m	2.0 m
		Conditions as per Section 39.1		

R8	Residential Multi-Family Apartment	1.2 m	2.0 m	2.0 m
		Conditions as per Section 39.1		
W1	Private Residence Water Lot	No restrictions		
W2	Light Commercial Water Lot	No restrictions		
W3	Mixed Use Commercial Water Lot	No restrictions		
MA1	Upland Tourist Commercial Marine	No restrictions		
MA2	Upland Tourist Commercial/Residential Marine	No restrictions		
C1	Commercial Local	Conditions as per Section 39.2		
C2	Commercial General	Conditions as per Section 39.2		
C3	Commercial Service	Conditions as per Section 39.2		
C4	Commercial Recreational	Conditions as per Section 39.2		
C6	Commercial Professional	Conditions as per Section 39.2		
C7	Commercial Rural Hospitality	Conditions as per Section 39.2		
C8	Commercial Rural Recreation	Conditions as per Section 39.2		
C9	Chemainus Commercial	Conditions as per Section 39.2		
I1	Industrial Light	Conditions as per Section 39.3		
I2	Industrial Heavy	Conditions as per Section 39.3		
PI	Private Institutional	No restrictions		
PU	Public Use	No restrictions		
PC	Public Conservation	No restrictions		
CD1	Cliffs CDZ	1.2 m	2.0 m	2.0 m
CD2	Chemainus Quay CDZ	No restrictions		
CD4	CDZ – Mixed Family	1.2 m	2.0 m	2.0 m
CD5	CDZ - Low Density Family	1.2 m	2.0 m	2.0 m
CD6	Chemainus Artisan Village CDZ - Areas 1 and 2	1.2 m	1.2 m	2.0 m
CD6	Chemainus Artisan Village CDZ - Area 3	1.2 m	1.2 m	1.5 m
CD7	Stonehill CDZ	1.2 m	1.2 m	1.8 m
CD8	Maple Bay School Site CDZ	No restrictions		
CD9	Multi-Family CDZ	1.2 m	2.0 m	2.0 m
CD10	Urban Medium Density CDZ	No fences over 1.2 m in any yard that abuts public property, a highway or lane		
		No fences over 1.8 m in any other yard		
CD11	Community Services (Health Care) CDZ	No restrictions		
CD12	Residential Two-Family CDZ	1.2 m	1.8 m	1.2 m
CD13	Ground-Oriented Urban Residential CDZ	1.2 m	2.0 m	2.0 m
CD14	University Village Mid-Rise Residential CDZ	1.2 m	2.0 m	2.0 m
CD15	Mixed Use Residential	1.2 m	2.0 m	2.0 m
CD16	Mixed Use Commercial Core	No restrictions		
CD17	Congregate Housing CDZ	1.2 m	1.2 m	2.0 m
		Fencing along Friendship Trail must not exceed 2.0 m		
CD18	Kingsview CDZ	1.2 m	2.0 m	2.0 m
CD19	University Village	No restrictions		
CD20	The Commons CDZ	1.2 m	2.0 m	2.0 m
CD21	Motorsport Circuit CDZ	No restrictions		

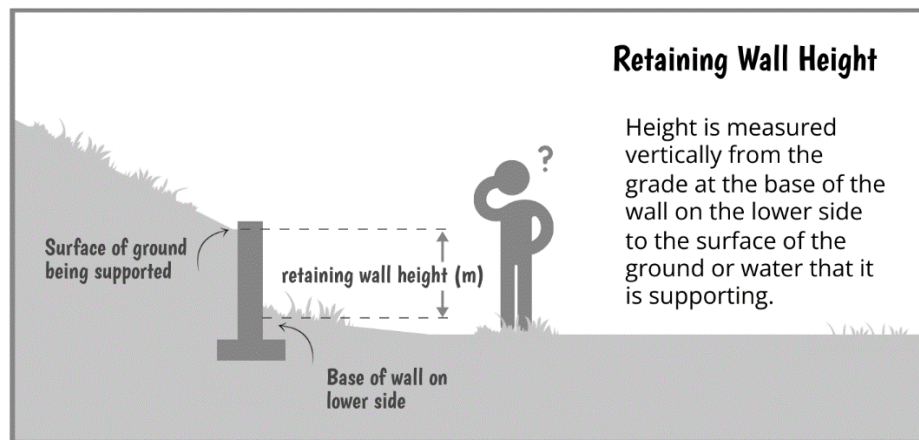
Section 37.2 – Retaining Walls

Maximum allowable height

- (1) Retaining walls located in yards are subject to fence height restrictions in subsection 37.1 (8), whether or not combined with fencing elements, except where authorized on an accepted grading plan within the subdivision process.
- (2) No retaining wall in any location shall be greater than 2 m in height, except where authorized on an accepted grading plan within the subdivision process.

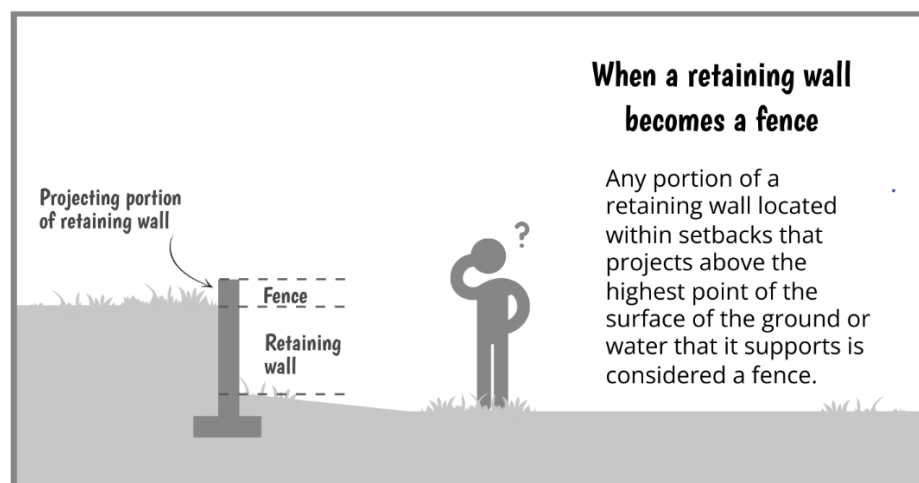
Measuring retaining wall height

- (3) Retaining wall height shall be measured vertically from the grade at the base of the wall on the lower side to the surface of the ground or water it supports.



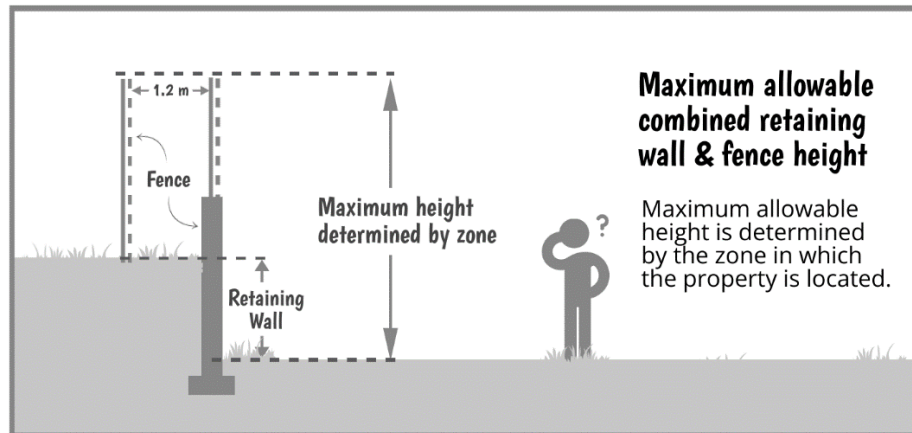
Portion of retaining wall considered as a fence

- (4) Any portion of a retaining wall that projects above the highest point of the surface of the ground or water it supports is considered a fence.



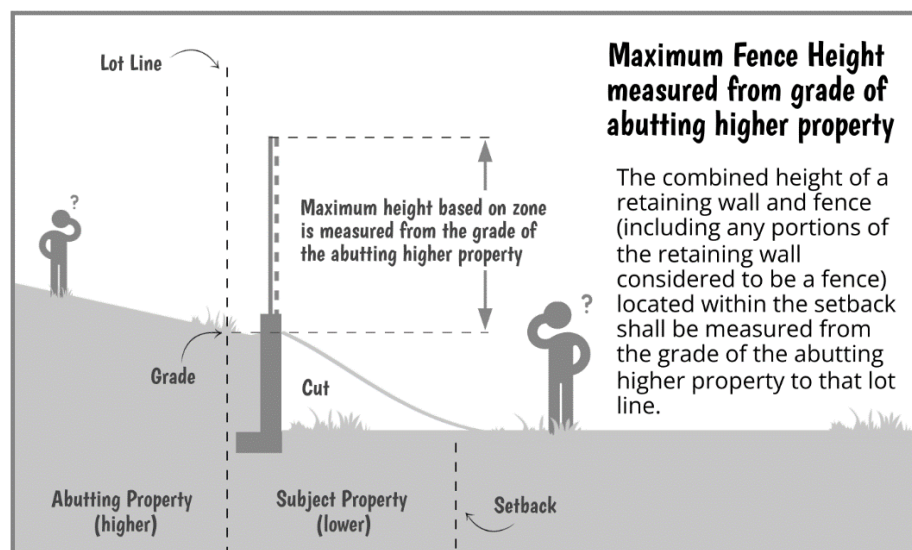
Maximum allowable retaining wall height when combining a retaining wall and fence

- (5) The combined height of a retaining wall and fence (where the fence is located within 1.2 m of that retaining wall), or any portion of a retaining wall considered to be a fence, shall not exceed the applicable maximum allowable fence height as per subsection 37.1 (8), except where the retaining wall is authorized on an accepted grading plan within the subdivision process, in which case the fence component of a combined retaining wall and fence shall be subject to the maximum fence heights specified in subsection 37.1(8).



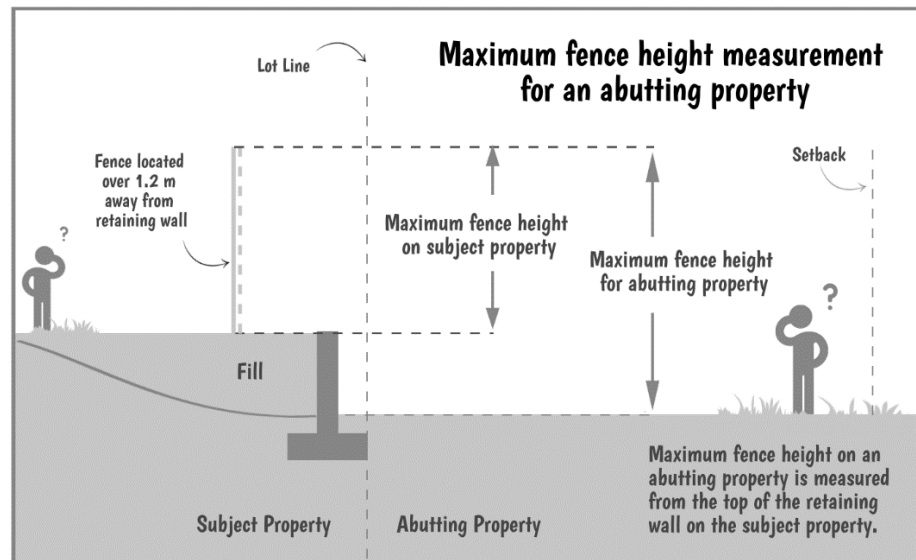
Maximum height measured from grade of higher abutting property

- (6) In the case of a retaining wall constructed in accordance with subsection 37.2 (5), the combined height of a retaining wall and fence (including any portions of the retaining wall considered to be a fence) located within the setback shall be measured from the grade of the abutting higher property to that lot line.



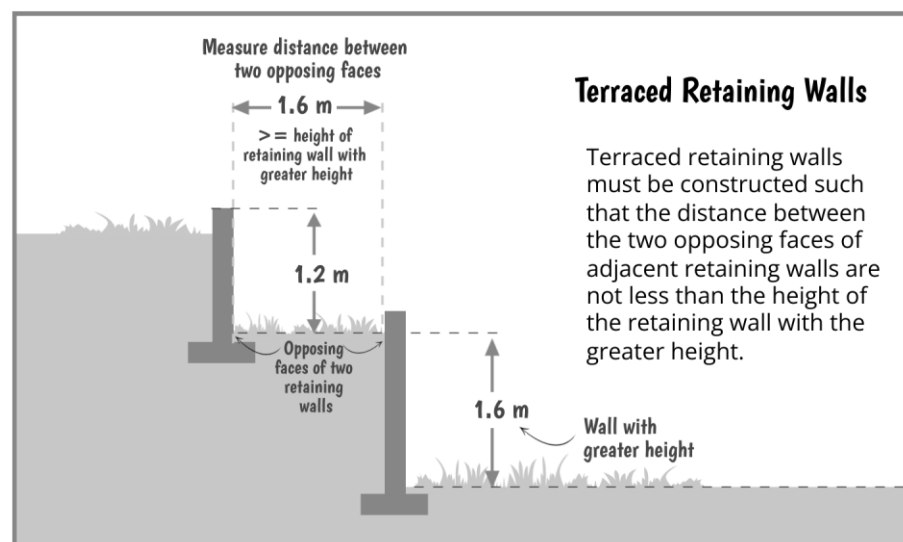
Maximum fence height measurement for an abutting property

- (7) Notwithstanding subsection 37.1 (2) "Measuring Height" and subsection 37.2 (6), where a retaining wall exists on the subject property and is located within 1.2 m of the lot line, the maximum height for a fence located within the setback on the abutting property shall be measured from the top of the retaining wall on the subject property to the top of the fence.



Terraced retaining walls

- (8) Terraced retaining walls must be constructed such that the distance between the two opposing faces of adjacent terraced retaining walls are not less than the height of the retaining wall with the greater height.



The area between the terraced retaining walls

- (9) The backfilled area between terraced retaining walls may include drainage, irrigation, and landscaping, and shall be level and maintained in good condition free of debris, yard waste, graffiti and invasive species.

Adding a guardrail onto a retaining wall

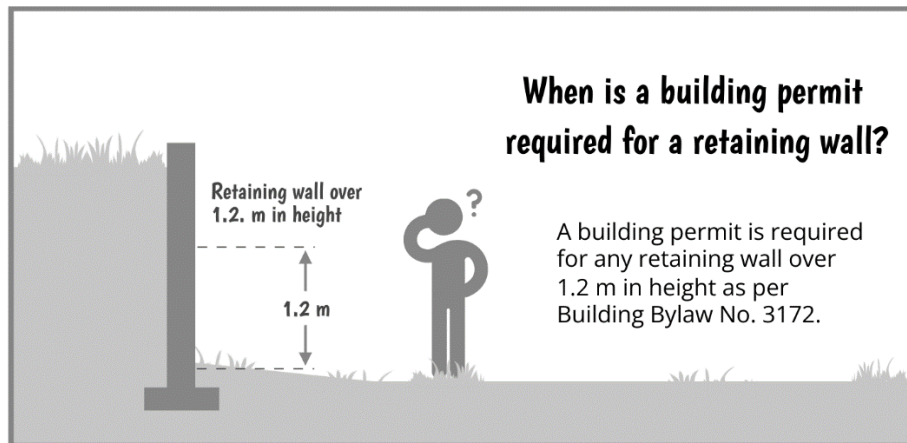
- (10) Guardrails up to a maximum height of 1.07 m located on retaining walls are excluded from the overall maximum allowable retaining wall height.

Vision clearance

- (11) Retaining walls are subject to vision clearance provisions of section 36.

Easements, covenants, and rights-of-way

- (12) All retaining walls, or any portion thereof, shall be located entirely on the applicable parcel, and shall not be located within any right-of-way, easement or covenant area, except with the express written permission of the right-of-way holder, easement holder, or covenantee, as the case may be.



- 7 Zoning Bylaw No. 2950, Part 5 [Zones, Division (2)] is hereby amended by striking out the following subsections:

- (1) 53(8)(a) and (b) and (c) of Rural Restricted Zone (A3)
- (2) 55(8)(a) and (b) and (c) of Rural Residential Zone (A5)
- (3) 56(8)(a) and (b) and (c) of Residential Rural Zone (R1)
- (4) 57(8)(a) and (b) and (c) of Residential Restricted Zone (R2)
- (5) 57.1(8)(a) and (b) of Residential Restricted Properties Zone (R2-A)
- (6) 58(8)(a) and (b) and (c) of Residential One and Two-Family Zone (R3)
- (7) 58.1(10)(a) and (b) and (c) of Residential Small Lot Single-Family Zone (R3-S)

- (8) 58.2(13)(e) of Residential Two-Family Detached Zone (R3-CH)
- (9) 58.3(11)(a) and (b) and (c) of Residential Medium Density Multi-Family Zone (R3-MF)
- (10) 59(8)(a) and (b) and (c) of Residential Small Lot Mobile Home Zone (R4)
- (11) 61(11)(a) and (b) and (c) of Residential Townhouse Zone (R6)
- (12) 62(13)(a) and (b) and (c) of Residential Multi-Family Zone (R7)
- (13) 62.1(11)(a) and (b) and (c) of Residential Ground-Oriented Multi-Family Zone (R7-A)
- (14) 63(12)(a) and (b) and (c) of Residential Multi-Family Apartment Zone (R8)
- (15) 80.1(6) and (7) of The Cliffs Comprehensive Development Zone (CD1)
- (16) 80.4(8)(a) of Comprehensive Development Zone – Mixed Family Zone (CD4)
- (17) 80.5(8)(a) of Comprehensive Development Zone – Low Density Family Zone (CD5)
- (18) 80.6(7)(a) and (b) and (c)(i) of Chemainus Artisan Village Comprehensive Development Zone (CD6)
- (19) 80.7(11)(a) and (b) and (c) of Stonehill Comprehensive Development Zone (CD7)
- (20) 80.9(10)(a) and (b) of Multi-Family Comprehensive Development Zone (CD9)
- (21) 80.10(9)(a) and (b) of Urban Medium Density Comprehensive Development Zone (CD10)
- (22) 80.12(13)(c) of Residential Two-Family Comprehensive Development Zone (CD12)
- (23) 80.13(9)(a) and (b) and (c) of Ground-Oriented Urban Residential Comprehensive Development Zone (CD13)
- (24) 80.14(10)(a) and (b) of University Village Mid-Rise Residential Comprehensive Development Zone (CD14)
- (25) 80.15(11)(a) and (b) and (c) of Mixed-Use Residential Zone (CD15)
- (26) 80.17(10)(a) and (b) and (c) of Congregate Housing Comprehensive Development Zone (CD17)
- (27) 80.18(6) and (7) of Kingsview Comprehensive Development Zone (CD18)
- (28) 80.20(12)(a) and (b) of The Commons Comprehensive Development Zone (CD20)

READ a first time on December 21, 2022

READ a second time on December 21, 2022

Resolution to amend the definitions for [1] retaining walls and [2] guardrails; and to update the wording in [3] subsection 37.1(7), [4] subsection 37.2(1), [5] subsection 37.2(2), [6] subsection 37.2(5), [7] subsection 37.2(7), [8] subsection 37.2(13), and [9] subsection 37.2(12) to create height exceptions for fences and retaining walls, was adopted on February 21, 2023.

This bylaw as advertised in the Cowichan Valley Citizen on, January 5, 2023 and January 12, 2023 and the municipality's website and notice board on January 4, 2023

CONSIDERED at a Public Hearing on January 18, 2023

READ a third time on February 21, 2023 as amended

APPROVED by Ministry of Transportation and Infrastructure on March 7, 2023

ADOPTED on

CORPORATE OFFICER

PRESIDING MEMBER