



Zoning Text Amendment (ZTA) No. 17-14, Walls and Fences - Setback Exemption

---



Gregory Russ, Planner Coordinator, FP&P, [gregory.russ@montgomeryplanning.org](mailto:gregory.russ@montgomeryplanning.org), 301-495-2174



Pam Dunn, Chief, FP&P, [pamela.dunn@montgomeryplanning.org](mailto:pamela.dunn@montgomeryplanning.org), 301-650-5649

Completed: 11/20/17

---

Description

ZTA No. 17-14 would revise, under certain circumstance, the provisions that allow fences and walls to be exempt from setback standards.

Summary

**Staff recommends approval of ZTA 17-14, to revise, under certain circumstance, the provisions that allow fences and walls to be exempt from setback standards.**

**Background/Analysis**

Currently, the Zoning Ordinance exempts fences and walls from setback requirements if the height of the structure is 6.5 feet or lower. (Exceptions are granted for deer fencing or other fences located in the Agricultural or Rural Residential zones or are 8 feet or less in height and located on land that is farmed and agriculturally assessed). A landowner who wants a higher fence is either required to meet the setback requirement or to apply for a variance. The sponsor believes that when the owner of residentially zoned property abuts a non-residentially zoned property (in Commercial/Residential, Employment, or Industrial zones), an 8-foot fence should be allowed without a setback or a variance.

Staff has no objection to ZTA 17-14 given that the relaxation of the height standard could assist homeowners in residential zones in minimizing possible visual and audible obtrusions associated with adjacent non-residential uses (headlights from larger vehicles, sounds from machinery, etc.). Staff has highlighted the applicable ZTA language below for the Board’s convenience.

**Section 6.4.3. General Landscaping Requirements**

\* \* \*

C. Fences and Walls

\* \* \*

### 3. Exemptions from Building Line and Setbacks

Building line and setback requirements do not apply to:

- a. deer fencing:
  - i. in an Agricultural or Rural Residential zone; or
  - ii. behind the front building line for property in a non-Agricultural or non-Rural Residential zone unless the property adjoins a national historical park.
- b. a retaining wall where changes in street grade, width, or alignment have made such structures necessary;
- c. any other wall or fence that is [6.5 feet or less in height and is] not on a property abutting a national historic park[;] and is:
  - i. 6.5 feet or less in height when not abutting a Commercial/Residential, Employment, or Industrial zone; or
  - ii. 8 feet or less in height when located in a Residential zone and the fence abuts a Commercial/Residential, Employment, or Industrial zone;
- d. a rustic fence on a property abutting a national historical park;
- e. any boundary fence behind the front building line, if the property is located within 100 feet of a parking lot in a national historical park; and
- f. deer fencing and any other fence that is 8 feet or less in height, if the property is farmed and agriculturally assessed.

### Attachments

1. ZTA No. 17-14 as introduced

# ATTACHMENT 1

Zoning Text Amendment No.: 17-14  
Concerning: Walls and Fences -  
Setback Exemption  
Draft No. & Date: 1 – 10/10/17  
Introduced: October 31, 2017  
Public Hearing:  
Adopted:  
Effective:  
Ordinance No.:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

---

Lead Sponsor: Councilmember Leventhal

---

**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- revise, under certain circumstance, the provisions that allow fences and walls to be exempt from setback standards

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

Division 6.4. “General Landscaping and Outdoor Lighting”  
Section 6.4.3. “General Landscaping Requirements”

**EXPLANATION:** ***Boldface** indicates a Heading or a defined term.*  
*Underlining indicates text that is added to existing law by the original text amendment.*  
*[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.*  
*Double underlining indicates text that is added to the text amendment by amendment.*  
*[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.*  
*\* \* \* indicates existing law unaffected by the text amendment.*

## ORDINANCE

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*

1           **Sec. 1. DIVISION 59-1.4 is amended as follows:**

2   **Division 6.4. General Landscaping and Outdoor Lighting**

3   \*   \*   \*

4   **Section 6.4.3. General Landscaping Requirements**

5   \*   \*   \*

6   C.   Fences and Walls

7   \*   \*   \*

8           3.   Exemptions from Building Line and Setbacks

9           Building line and setback requirements do not apply to:

10          a.   deer fencing:

11                  i.   in an Agricultural or Rural Residential zone; or

12                  ii.   behind the front building line for property in a non-  
13                          Agricultural or non-Rural Residential zone unless the  
14                          property adjoins a national historical park.

15          b.   a retaining wall where changes in street grade, width, or  
16                  alignment have made such structures necessary;

17          c.   any other wall or fence that is [6.5 feet or less in height and is]  
18                  not on a property abutting a national historic park[;] and is:

19                  i.   6.5 feet or less in height when not abutting a  
20                          Commercial/Residential, Employment, or Industrial  
21                          zone; or

22                  ii.   8 feet or less in height when located in a Residential zone  
23                          and the fence abuts a Commercial/Residential,  
24                          Employment, or Industrial zone;

25          d.   a rustic fence on a property abutting a national historical park;

- 26 e. any boundary fence behind the front building line, if the
- 27 property is located within 100 feet of a parking lot in a national
- 28 historical park; and
- 29 f. deer fencing and any other fence that is 8 feet or less in height,
- 30 if the property is farmed and agriculturally assessed.

31 \* \* \*

32 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the

33 date of Council adoption.

34

35 This is a correct copy of Council action.

36

37 \_\_\_\_\_

38 Linda M. Lauer, Clerk of the Council