



Zoning Text Amendment (ZTA) No. 18-12, Setback Exemption - Fences



Gregory Russ, Planner Coordinator, FP&P, gregory.russ@montgomeryplanning.org, 301-495-2174



Jason Sartori, Acting Chief, FP&P, jason.sartori@montgomeryplanning.org, 301-495-2172

Completed: 1/3/19

Description

ZTA No. 18-12 would revise the standards for an exemption to the building line and setback requirements for certain fences.

Summary

Staff recommends approval of ZTA 18-12, to revise the standards for an exemption to the building line and setback requirements for certain fences.

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 and any other fence that is 8 feet or less in height and located on land that is farmed and agriculturally assessed or fences 8 feet or less in height in a residentially zoned property when the property abuts a non-residentially zoned property in Commercial/Residential, Employment, or Industrial zones). 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 fences up to 8 feet tall also should be allowed without a setback or a variance if it abuts a master planned right-of-way for a rail line or abuts any service road that provides access to a master planned right-of-way for a rail line.

Staff has no objection to ZTA 18-12 given that the relaxation of the height standard could assist in minimizing possible visual and audible obtrusions associated with trains. 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 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) a Commercial/Residential, Employment, or Industrial zone; or
 - (B) a master planned right-of-way for a rail line; or
 - (C) any service road that provides access to a master planned right-of-way for a rail line;
- 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. 18-12 as introduced

ATTACHMENT 1

Zoning Text Amendment No.: 18-12
Concerning: Setback Exemptions –
Fences

Draft No. & Date: 1 – 11/16/18

Introduced: December 11, 2018

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 Riemer

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- revise the standards for an exemption to the building line and setback requirements for certain fences

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 59-6.4 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 not on a property abutting a
18 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
23 zone and] the fence abuts:

24 (A) a Commercial/Residential, Employment, or
25 Industrial zone; or

26 (B) a master planned right-of-way for a rail line; or

- 27 (C) any service road that provides access to a master
28 planned right-of-way for a rail line;
29 d. a rustic fence on a property abutting a national historical park;
30 e. any boundary fence behind the front building line, if the
31 property is located within 100 feet of a parking lot in a national
32 historical park; and
33 f. deer fencing and any other fence that is 8 feet or less in height,
34 if the property is farmed and agriculturally assessed.

35
36 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
37 date of Council adoption.

38
39 This is a correct copy of Council action.

40
41 _____
42 Megan Davey Limarzi, Esq.
43 Clerk of the Council