

O-30-24

Fencing Requirements for Permits Related to Use and Development Standards In the City Zoning Code, Title 21

AMENDMENT 4 – ALD. SAVIDGE

Amendment Summary:

Amendment 4 is a substitute ordinance that modifies the entire existing section, § 21.60.070, and includes a new section, § 21.72.020—Terms, which provides a definition for "privacy fence" and updates "forest" to conform to the state definition.

MOTION:

- 1) ON PAGES 1 THROUGH 2 OF O-30-24, STRIKE IN THEIR ENTIRETY THE LINES BEGINNING WITH 36 ON PAGE 1 AND THROUGH LINE 11 ON PAGE 2.
- 2) ON PAGE 1, STARTING ON LINE 36, INSERT THE FOLLOWING:

Title 21 - PLANNING AND ZONING Division V - Regulation of General Applicability

Section 21.60.070—Fences and walls.

~~Fences and walls as defined by this Title may be erected, placed, maintained, altered or replaced pursuant to a permit issued in accordance with Section 17.34.010 of the Annapolis City Code. The following additional standards apply:~~

- A. ~~If located within the historic district as defined in this Title, all proposed new fences and walls, and all proposed alterations to existing fences and walls, require the review and approval of the Historic Preservation Commission. The Historic Preservation Commission has the authority to grant a waiver or exemption, if necessary, in order to comply with the Historic Preservation Commission Design Guidelines and the Secretary of the Interior's Standards for Rehabilitation.~~
- B. ~~Fences and walls may be installed up to, but not over the property line. It is the responsibility of the property owner to ensure that the proposed fence or wall is not installed on the property of others. All property line disputes are between abutting property owners, and they shall not seek or have any remedy against the City.~~

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- C. ~~Within required bufferyards adjacent to public streets, to the extent practical in order to achieve proper screening, fences and walls shall be located towards the interior edge of the landscape buffer, rather than at the edge of the public right-of-way.~~
- D. ~~Except as permitted by this Title, fences and walls shall not obstruct view cones or sight visibility triangles.~~
- E. ~~Fences and walls shall not be located to unduly obstruct light and air from neighboring properties or public ways.~~
- F. ~~The overall design and materials used for fences and walls shall be in keeping with the character and purpose for which the fence or wall is intended, and shall be compatible with other similar structures in the neighborhood.~~
- G. ~~All fences and walls shall be installed with the finished side facing out, so that posts and lateral supports are not on the side of the fence or wall which faces an adjacent property or public right-of-way, unless such supporting members are exposed on both sides due to the specific design of the fence or wall. Where there are practical difficulties, such as the particular physical surroundings, shape, or topographical conditions of the specific property or other existing conditions where strict compliance with the standard is unreasonable, the Director of Planning and Zoning may waive this requirement.~~
- H. ~~Except in connection with penal and correctional institutions and public utility and service uses, no fence or wall shall consist, in whole or in part, of barbed wire or similar materials designed or customarily utilized to inflict injury upon persons or animals.~~
- I. ~~Standard Maximum Height.~~
1. ~~A. On properties within the R2-NC, R3-NC and R3-NC2 Residential Neighborhood Conservation Districts, the maximum height of a fence or wall shall be six feet, unless the fence or wall is located along a public street, in which case the maximum height of the fence or wall shall not exceed four feet.~~
2. ~~The height limits in Subsection (I)(1) of this section shall also apply to properties within the WME and WMM Maritime Districts as well as the OCD Overlay District, only when a fence or wall is located along a lot line or public street that is contiguous with an adjacent property in the R2-NC District.~~
2. ~~Fences and walls shall not be considered as being located along a public street if they otherwise meet the same minimum front and corner side yard setbacks that would be required for the principal structure on the subject property in the zoning district in which the fence or wall is located.~~
- J. ~~Allowance for Additional Height.~~
1. ~~Up to two additional feet of height is allowed for decorative gates which do not exceed twenty-five feet in width for vehicular gates, or eight feet in width for pedestrian gates.~~
2. ~~In accordance with the procedures for Administrative Adjustments set forth in Chapter 21.18, the Planning and Zoning Director may permit certain fences and walls an additional height allowance of up to four feet above the standard maximum height limit established by this section.~~
3. ~~In addition to the review criteria in Section 21.18.040, the Director of Planning and Zoning shall make additional written findings based on the following:~~

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- ~~a. The subject fence or wall will be compatible with other similar structures in the neighborhood and is required to mitigate impacts from adjacent land uses, the subject property's proximity to public rights of way, or safety concerns.~~
- ~~b. Within the intent and purpose of this Zoning Code, the proposed additional fence or wall height, if granted, is the minimum adjustment necessary to afford relief.~~
- ~~K. Notwithstanding the height limitations in this section, temporary fences and walls, incidental to construction on or development of the premises on which the temporary fences and walls are located, shall be permitted during the time construction or development is actively underway.~~
- ~~L. Lawfully existing fences and walls that do not conform to the bulk or other development or design standards for the district in which the fence or wall is located may be continued, if properly repaired and maintained as provided in Chapter 21.68, Nonconforming Uses and Structures. Nonconforming fences and walls which are structurally altered, relocated, or replaced shall comply immediately with all provisions of this Title.~~

Section 21.60.070 - Fences and walls.

A. Generally. Fences and walls as defined by this Title may be erected, placed, maintained, altered or replaced pursuant to a permit issued in accordance with § 17.34.010, Fence and Wall Permit Requirements.

B. Additional Standards. The following additional standards apply:

1. Historic District.

- a.** If located within the historic district as defined in this Title, all proposed new fences and walls and all proposed alterations to existing fences and walls require the review and approval of the Historic Preservation Commission.
- b.** The Historic Preservation Commission has the authority to grant a waiver or exemption, if necessary, to comply with the Historic Preservation Commission Design Guidelines and the Secretary of the Interior's Standards for Rehabilitation.

2. Property Lines.

- a.** Fences and walls may be installed up to, but not over, the property line.
- b.** It is the property owner's responsibility to ensure that the proposed fence or wall is not installed on the property of others.
- c.** All property line disputes are between abutting property owners, and they shall not seek or have any remedy against the City.

3. Buffer Areas. Within required bufferyards adjacent to public streets, to the extent practical to achieve proper screening, fences and walls shall be located towards the interior edge of the landscape buffer rather than at the edge of the public right-of-way.

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4. **Sight Visibility.** Except as permitted by this Title, fences and walls shall not obstruct view cones or sight visibility triangles.
5. **Light and Air Obstruction.** Fences and walls shall not unduly obstruct light and air from neighboring properties or public ways.
 - a. **Fencing Along Forests or Open Spaces.** Fencing installed along areas adjacent to forests or open spaces, with no homes within 50 feet on the applicant's side, must have gaps at or equal to at least 50% of the fence's surface area.
 - b. **Privacy Fences.** Privacy fences shall not be within 10 feet of a facing window on an adjacent property.
 - c. **Fences on Steep Slopes.** Fences located on rising steep slopes greater than 15% on rear or side yard of adjoining residential property may be reduced in height, by the director, to no less than four feet, to alleviate potential obstruction of light and air, especially when there are no homes on the applicant's side of the fence.
6. **Fence Design to Match the Surrounding Neighborhood.** The overall design and materials used for fences and walls shall keep with the character and purpose for which the fence or wall is intended and be compatible with similar structures in the neighborhood.
7. **Placement of the Finished Side of the Fence.**
 - a. All fences and walls shall be installed with the finished side facing out so that posts and lateral supports are not on the side of the fence or wall that faces an adjacent property or public right-of-way unless such supporting members are exposed on both sides due to the specific design of the fence or wall.
 - b. Where there are practical difficulties, such as the particular physical surroundings, shape, or topographical conditions of the specific property or other existing conditions where strict compliance with the standard is unreasonable, the Director of Planning and Zoning may waive this requirement.
8. **Barbed Wire.** Except in connection with penal and correctional institutions and public utility and service uses, no fence or wall shall consist, in whole or in part, of barbed wire or similar materials designed or customarily utilized to inflict injury upon persons or animals.
9. **Standard Maximum Height.**
 - a. On properties within the R2-NC, R3-NC and R3-NC2 Residential Neighborhood Conservation Districts, if the fence or wall is located along a public street, the maximum height of the fence or wall shall not exceed four feet.

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- b. On properties within the WME and WMM Maritime Districts as well as the OCD Overlay Districts, the height limits in this section shall apply only when a fence or wall is located along a lot line or public street contiguous with an adjacent property in the R2-NC District.
- c. Fences and walls shall not be considered as being located along a public street if they otherwise meet the same minimum front and corner-side yard setbacks that would be required for the principal structure on the subject property in the zoning district in which the fence or wall is located.

10. Allowance for Additional Height.

- a. Up to two additional feet of height is allowed for decorative gates that do not exceed 25 feet in width for vehicular gates or eight feet in width for pedestrian gates.
- b. In accordance with the procedures for Administrative Adjustments set forth in Chapter 21.18, the Director of Planning and Zoning may permit certain fences and walls an additional height allowance of up to four feet above the standard maximum height limit established by this section.
- c. In addition to the review criteria in § 21.18.040, the Director of Planning and Zoning shall make additional written findings based on the following:
 - i. The subject fence or wall will be compatible with similar structures in the neighborhood and is required to mitigate impacts from adjacent land uses, the subject property's proximity to public rights-of-way, or safety concerns.
 - ii. Within the intent and purpose of this Zoning Code, the proposed additional fence or wall height, if granted, is the minimum adjustment necessary to afford relief.

11. Temporary Fences. Notwithstanding the height limitations in this section, temporary fences and walls, incidental to construction on or development of the premises on which the temporary fences and walls are located, shall be permitted during the time construction or development is actively underway.

12. Unconventional Fences.

- a. Lawfully existing fences and walls that do not conform to the bulk or other development or design standards for the district in which the fence or wall is located may be continued if adequately repaired and maintained as provided in Chapter 21.68, Nonconforming Uses and Structures.
- b. Nonconforming fences and walls that are structurally altered, relocated, or replaced shall comply immediately with all provisions of this Title.

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City Code Title 21 - PLANNING AND ZONING
Division VI - General Terms and Rules of Measurement
Chapter 21.72 - Terms and Definitions

Section 21.72.020 - Terms

Strike the definition for "Forest" and insert the following:

"Forest" means a biological community dominated by trees and other woody plants, and that has at least one hundred live trees per acre, with at least 50% of those trees having a two-inch or greater diameter at four and one-half feet above the ground and larger.

After "Principal structure" and before "Professional person" insert the following:

"Privacy fence" means a fence constructed primarily of non-translucent materials with minimal openings, designed to completely obstruct external views into a property.

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