DPS Educational Series
FENCE PERMITTING
Jessica Fusillo
Manager, Customer Support & Outreach
Victor Salazar

Zoning, Well & Septic and Code Compliance Division Chief
Project Life

- Application Process
- Plan Review
- Inspection
Customer Service & Support staff will facilitate the processing of your application...

- Check out the department Fence Permit Process page online
  - The Overview and FAQ's contain helpful information

- Submit application using Apply & ePay
  - Fences for Commercial properties are submitted as Commercial Building type permits

- Upload the Site Plan to ePlans and complete task

- Allow three business days for review and permit issuance for most fence permits
DPS Offices are Closed to Walk-in Customers

Due to the outbreak of Coronavirus (COVID-19), DPS Offices are closed to walk-in customers, however DPS is open for business electronically. DPS continues process and issue permits electronically and process license applications. Check the DPS Covid-19 webpage frequently for services and modification updates and the County website for other closures or modifications.

Debido a la expansión rápida del Coronavirus (COVID-19), DPS esta cerrado las oficinas al público, pero estamos abiertos través nuestros servicios en línea. DPS continuara procesando y emitiendo permisos electrónicamente y procesado solicitudes de licencias. Visite la página web DPS Covid-19 con frecuencia para obtener servicios y actualizaciones de modificaciones y la página web del condado para otros cierres y modificaciones.
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- Residential
- Commercial
- Water Resources
- Right of Way
- Fire Protection
- Electrical & Mechanical
Replacement of an existing fence, ORIGINALLY INSTALLED WITH A FENCE PERMIT, with the same kind of fence in the same location at the same height, does not require a fence permit. If an existing fence was not installed with a fence permit, the replacement fence must have a fence permit.

If an existing fence was installed without a permit, you must obtain a permit to replace it.
Submit Application Online/Apply & Pay

Select Permit Type: FENCE

- Apply for a New Permit
- Apply for a Permit Revision
- Make a Payment
- Renew Permit
- My Permits

Special Note for Fences: For commercial fences and retaining walls, please use the Commercial Building application. The permit fee will be calculated by DPS staff during the screening review.

Residential Fence permit must be issued to Property Owner or an MHIC licensed contractor.
Primary Applicant = Property Owner
Submit Application Online

Provide Fence Height in Feet and Inches

Indicate fence location on "Owners Land"

Specify if subject property is served by WSSC for water and sewer

Pay the filing fee - Residential Fence $ 77.87
Fence Details

Please follow the instruction to complete the application. All fields marked with an * are required.

**Fence Details**

Please enter the following fence information.

- **Work Type**: CONSTRUCT
- **Use Code**: FENCE
- **Height Feet**: 6
- **Inches**: 6

- [ ] Property Line
- [x] Owners Land
- [ ] Right of Way

**Brief Description - Scope of Work**

Please provide additional notes about this application here (limited to 100 characters): *

Fence will be 20 ft linear and will be 6ft high

**Property Water and Sewage**

Please indicate the following water and sewage information.

- **Type of Water Supply**: WSSC
- **Sewage Disposal**: WSSC

Please click the Check and Continue button to review and confirm the work information of your Fence Permit application. You may use the Change Basic Info button to go back to make changes.

[Check and Continue] [Start Over (Clear All)] [Change Basic Info]
Finalize Application

- Select and Check and Continue
- Review Application Summary for Accuracy
- Sign and Submit Application
- Use ePay to Pay filing fees online
- You will receive application acknowledgment via email and an ePlans invitation
Temporary Password Information

Email Body

ProjectDox Invitation for Linda’s Test Permit - Assigning Reviews

Invitation
Hello Linda Kobylski:

You have been added to the ProjectDox database and as a new member to the project listed below.

Login: linda.kobylski@ymail.com  Temporary Password: 4EBBEC2  Project: Linda's Test Permit - Assigning Reviews  Group: Applicant  Project Owner: Linda Kobylski  Owner's Email: Linda.Kobylski@montgomerycountymd.gov  Login to ProjectDox

Contact the Project Owner or a Project Administrator if you have questions regarding this project. Please do not reply to this email.
BASIC SUBMITTAL REQUIREMENTS

- File names must not exceed 20 characters.
- You must complete your task using the eForm in ePlans to submit your information to DPS for review. Please see the ePlans Applicant User Guide or visit our eServices page for more information.
- DRAWINGS must be uploaded into the drawings folder and each sheet must be a separate file. DOCUMENTS must be uploaded into the documents folder.
- CORRECTED information must be uploaded into the original folder using the sheet’s original file name. The REVISIONS folder is only for use after the permit has been issued.
- All drawings and documents must be uploaded within 5 business days of application to avoid possible forfeiture of filing fees and withdrawal of your application.

SPECIFIC SUBMITTAL REQUIREMENTS FOR PLAN(S)

- The fence location on the site plan. The fence must be wholly on the property and not on the property line. DPS will not issue a permit for a fence on the property line.
- The location of the fence must be marked on the plan using the following symbol: XX-XX-XX
- If your plans are part of a commercial building permit please visit the commercial building ePlans submittal requirements.
Upload Files and Complete the ePlans Applicant Upload Task

Tasks are completed by accepting and then completing the eForm by which DPS is notified.
1. After accepting the task your eForm will appear (see the next screen shot). The permit application information is auto-populated from the permitting system providing relevant project information. The eForm also serves as the means of communication between the applicant and DPS for the project.
Mark Beall
Manager, Zoning
DPS Fence Statistics

- Number of Permit Technicians working on processing and issuing fence permits: 2
- Number of Zoning Reviewers reviewing fence permits: 8
- Number of fences applied for each year:
  - 2020: 2808
  - 2019: 2056
  - 2018: 1999
- Number of Zoning Reviews for those fence applications:
  - 2020: 2986
  - 2019: 2198
  - 2018: 2111
Permit Submission Requirements

- The fence should be shown on an accurate survey.
- The fence should be marked entirely on the owner’s property.
- The symbol for a fence on the survey is: X-X-X-X-X-X
- If the property is located in a municipality you will need to upload the municipality approval into the documents for in the ePlans system.
- For corner lots, the first 15’ down each street from the corner of the intersection, the fence cannot be over 3’ in height.
When is a fence required to meet setbacks?

- When a fence is over 6’-6” in height it is not exempt from the setback requirements.
- The fence will need to meet the accessory structure setbacks for the zone in which the property is located.
- Most zones will require that the fence be behind the rear building line (behind the plane of the back wall of the house).
- Some zones require additional setbacks for accessory structures over 24’ in length so this could increase the setback even more.
Permit Exempted Fences

- Fences used for agricultural use on land used for an agricultural use. Example: Fencing installed around pasture or paddock.

- A fence that was previously installed with a permit may be replaced without a permit if it is the same style, material, height and location.
Deer Fence

- **Definition**: Fence, Deer: A fence that is up to 8 feet high and constructed of an open mesh ranging in size from 1.5 x 1.5 inches to 2 x 2.75 inches made of heavy weight, plastic or similar material that allows a clear view through the fence and may be constructed with wood, metal, or fiberglass posts.

- A chain link fence does not meet this definition so it cannot be used as a deer fence.
Other Approvals Needed

- If a fence is located in a County stormdrain easement the applicant will need to contact DPS Land Development Right Of Way Section to apply for a Declaration of Covenant.

- If the fence will be installed within the boundaries of an approved septic area or approved septic easement, the applicant will need to contact the DPS Well & Septic Section. Documentation from the homeowner may be required acknowledging that it may be necessary to remove a portion of the fence located within the septic reserve area if repair or replacement of the existing septic system is necessary. Fences may not be installed over sand mound systems or shallow trench systems, or reserve areas approved for these types of systems.

- If a fence is located in a WSSC easement the applicant will need to obtain approval from WSSC.

- If the fence is located in a Public Utility Easement (PUE) the applicant will need to obtain approvals from the Power Company (PEPCO, Potomac Edison, BGE), Washington Gas and Verizon.

- If a fence is located in a Forest Conservation Easement the applicant will need approval from MNCPPC.

- If a fence is located in a Floodplain the applicant will need to contact DPS Land Development Water Resources Section.

- If a fence is located in an HOA easement the applicant will need to obtain approval from their HOA.
Fence Disputes

• Fences are one of the most complained about permits within DPS.

• Any neighbor-on-neighbor dispute about a fence is a civil matter between neighbors and the county will not get involved.

• Be aware that even if a fence is entirely on the owner’s land, it may have sight distance implications for neighbors pulling in and out of driveways or walking on sidewalks.
Commercial Permit Is Needed

- Fences located on a commercial property will require a commercial building permit.
- Fences on an HOA or subdivision parcel will require a commercial building permit.
Need Help?

- Please contact a Zoning Plan Reviewer if you have any questions about setbacks or what is required for their complete review.

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<tr>
<th>Name</th>
<th>Email</th>
<th>Phone</th>
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<tbody>
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</tr>
<tr>
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<td>(240)777-6261</td>
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<td>(240)777-6369</td>
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Greg Nichols

Manager, Code Compliance
What We Do in Code Compliance

- **Investigate**
  - Permit Documents
  - Plats
  - Prior Permits

- **County Code**
  - Chapter 59 Zoning
  - Chapter 49 Public Right-of-Way

- **Notice of Violation**

- **Citation**
  - Violation Class A
  - Abatement
Ways to Avoid Compliance Issues

- Sales Staff reach out to us with questions
- Recommend Lot Survey prior to installation
- Know lot lines as fence must not be installed on someone else's property
- Know right-of-way (ROW) locations as fence must not be installed within the ROW
- Sight Distance
- Liabilities
Comply With Site Plan
Deer Fence 8' Max
6.5' Max Against Adjacent Property Grade
6.5' Max Against Adjacent Property Grade
Christina Contreras
Manager, Right-of-Way Inspection
Public Right-of-Way and Easement

- The Public Right-of-Way is defined as:
  - The right to pass across lands of another; usually a strip or linear path acquired for or devoted to transportation and public utility purposes.

- An easement is defined as:
  - A right to use of property of another forever or until legally amended.
Chapter 49 - Montgomery County Code

Sec. 49-10. Obstruction of public rights-of-way.

Except as provided in Section 49-11, in the public right-of-way, a person must not:
(a) place, maintain, use, or exercise control over, any object or structure in the public right-of-way;
(b) allow any object or structure owned by the person to occupy, obstruct, or encroach upon the public right-of-way;
(c) perform any reconstruction or maintenance work; or
(d) allow the erection or placement of any structure, fence, post, rock, or other object in the public right-of-way, except:
   (1) mail boxes mounted on a support that will bend or break away on impact by a vehicle;
   (2) individual residential newspaper boxes mounted on a support that will bend or break away on impact by a vehicle;
   (3) street trees placed and maintained under Section 49-33(j);
   (4) ground cover placed and maintained under Section 49-33(k);
   (5) a temporary, removable obstruction or occupation of a right-of-way installed under a permit issued under Section 49-11; or
   (6) as otherwise permitted by law.

Any object placed in the public right-of-way under Section 49-10(d) must not unreasonably impede use of a sidewalk or other right-of-way by pedestrians or persons in wheelchairs, or impede or endanger automobiles or other vehicles. (Mont. Co. Code 1965, § 24-24; CY 1991 L.M.C., ch. 42, § 1; 1996 L.M.C., ch. 4, § 1; 1996 L.M.C., ch. 20, § 1; 1998 L.M.C., ch. 12, § 1; 2000 L.M.C., ch. 23, § 1; 2001 L.M.C., ch. 14, § 1; 2002 L.M.C., ch. 16, § 2; 2007 L.M.C., ch. 8, § 1; 2016 L.M.C., ch. 29, § 1.)

Editor’s note—Section 49-10, formerly Section 49-17, was renumbered and amended pursuant to 2007, ch. 8, § 1. Former Section 49-10 was renumbered Section 49-6 pursuant to 2007, ch. 8, § 1.

See County Attorney Opinion dated 2/27/92 explaining that the Council cannot exercise its authority under the Regional District Act to amend the portion of the County Code governing road rights of way, because those provisions are not contained in the zoning ordinance.

The public right-of-way is public property. Fences are not allowed to be placed within the public right-of-way.

In some cases, a fence can be placed in an easement. The plans reviewer will inform you as to if it may be allowed and if so, what is required.
Public Right-of-Way

- Includes area for sidewalks, signage, storm drainage, lawn panel, curbs and gutter and roadway.
- Rights-of-Way vary in size based on the amount of traffic flow. Residential rights-of-way can vary from about 28 feet to 60 feet or more.
Sight Distance

- DPS receives many complaints and concerns regarding fences.

- Sight Distance concerns are real concerns and should instances happen where the courts are involved, the property owner along with the fence company installing the fence can be liable as a result of placing the fence in the right-of-way.

- Be aware that even if a fence is entirely on the owner’s land, it may have sight distance implications for neighbors pulling in and out of driveways or walking on sidewalks.
Sight Distance

Fences must accommodate for sight distance in zoning and public right-of-way.

In the right-of-way realm, engineered evaluation may need to occur for some residential sites as well as commercial.
Easements

- Fences must accommodate for drainage easements and rights-of-way. Drainage easements can be either overland or with pipes in the ground.
- A fence post through a storm drain pipe (or any pipe) doesn't work.
Right-of-Way Inspections - Find My Inspector

WHAT'S NEW AT DPS

- MCDOT Storm Drain Map - Check out where storm drains are located in your area.
- Typical Residential Deck Details 2018 IRC (Slide Presentation)
- Pathways to Success: A Guide to Solar Installation Setbacks 11.5.2020
- DPS Webinar 2018 IECC (Energy Codes-Commercial)

IN YOUR AREA

For information on road, lane, or sidewalk closures due to commercial building, demolition or right of way permits issued in your area, you may use the link below to access the DPS activities map that shows construction activities in your neighborhood.

MCDOT Storm Drain Map

Need an inspection and are not sure who your inspector is? Find My Inspector

UPCOMING EVENTS

DPS Educational Series: Sediment Control Permitting.

- DPS Educational Series: Sediment Control Permitting (Video)
- Sediment Control PDF of Presentation
Right-of-Way Inspections - Find My Inspector

ONLINE SERVICES

List of Inspectors for an Address

This Data Search will display a list of all inspectors assigned for permits for a specific address. Enter the desired address and permit type, and then click Search.

Note that the Street No*, Street Name*, and Permit Type* are required fields. All other fields are optional.

Street No* | Direction | Street Name* | Suffix
--- | --- | --- | ---
City | Zip

Permit Type*: PUBLIC RIGHT OF WAY

Search

Please note that the inspector assigned to the area/address may not be the inspector to perform an inspection on a particular day. Daily assignments may change due to workload, staff availability and unforeseen events (e.g., severe storm, snow, etc.).
Need Help?

Please contact a Public Right-of-Way Inspector if you have any questions about the public right-of-way including Montgomery County maintained storm drain/drainage easements.

Peggy Urban, Field Supervisor
margaret.urban@montgomerycountymd.gov (301)370-3673

Bethesda- Adam Curtin
adam.curt@montgomerycountymd.gov (301)370-3688

Bethesda- Carl Fowler
carl.fowler@montgomerycountymd.gov (301)370-3698

Silver Spring- Malvin Nicholson
malvin.nicholson@montgomerycountymd.gov (301)370-3685

Silver Spring- Brian Sotero
brian.sotero@montgomerycountymd.gov (240)994-0334

Silver Spring, Ashton, Olney- Ryan Ricketts
ryan.ricketts@montgomerycountymd.gov (240)401-6901

Wheaton- Jairo Munoz
jairo.munoz@montgomerycountymd.gov (240)328-8242

Gaithersburg, Laytonsville, Damascus- Peggy Urban
margaret.urban@montgomerycountymd.gov (301)370-3673

Potomac, Darnestown, Western Montgomery

Chris Cary-
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Clarksburg, Germantown- Brian Earp
brian.earp@montgomerycountymd.gov (240)832-3028

Utilities - Kadidjatou Ayeva
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How Can We Help?

Questions???

Future Educational Series - What topics interest you?

Comments
Thank You for Participating

- Should you have any questions about the presentation today, please contact the following presenters.

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