

Public Hearing

MEMORANDUM

January 11, 2019

TO: County Council

FROM: Jeffrey L. Zyontz, Senior Legislative Analyst *JLZ*

SUBJECT: Zoning Text Amendment 18-12, Setback Exemptions – Fences

PURPOSE: No vote required – public hearing

Zoning Text Amendment (ZTA) 18-12, lead sponsor Councilmember Riemer, was introduced on December 11, 2018. ZTA 18-12 would allow for fences up to 8 feet tall if abutting a master planned right-of-way for a rail line or abutting any service road that provides access to a master planned right-of-way for a rail line.¹

As a general matter, all structures in residential zones must be set back from property lines. The amount of the setback is governed by the standards of the zone. The code provides an exception to the required setback for some fences. Deer fences and fences abutting non-residential zones may be as high as 8 feet tall and be exempt from the setback requirement. All other fences exempt from setback requirements may be no taller than 6.5 feet. ZTA 18-12 would increase the allowable height of a fence that would be exempt from a setback requirement under certain circumstances.

A Planning, Housing, and Economic Development Committee worksession on ZTA 18-12 is tentatively scheduled for January 28, 2019.

This packet contains
ZTA 18-12

© number
1 – 4

¹ Key words: #Fences, #LightRail, #PurpleLine, #RightofWay.

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