

Ordinance No.: 18-37  
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: December 5, 2017  
Adopted: January 16, 2018  
Effective: February 5, 2018

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

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Lead Sponsor: Councilmember Leventhal

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**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.*

## OPINION

Zoning Text Amendment No. 17-14 was introduced on October 31, 2017. Currently, the Zoning Ordinance exempts fences and walls from setback requirements if the height of the structure is 6.5 feet or lower. 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 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 variance.

In its report to the Council, the Montgomery County Planning Board recommended approval as introduced. In their opinion, the ZTA would be useful in protecting dwellings from the light and noise of commercial neighbors.

The Council held a public hearing on December 5, 2017. The Planning Board representative was the only speaker.

The text amendment was referred to the Planning, Housing, and Economic Development (PHED) Committee for review and recommendation.

The PHED Committee held a worksession on December 11, 2017 to review the text amendment. After careful review of the materials of record, the Committee recommended that ZTA 07-14 be approved as introduced.

The District Council reviewed Zoning Text Amendment No. 17-14 at a worksession held on January 16, 2018. The Council agreed with the Committee's recommendation to approve ZTA 17-14.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 17-14 will be approved as introduced.

## 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:*

**Sec. 1. ARTICLE 59-6 is amended as follows:**

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

**\* \* \***

**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;

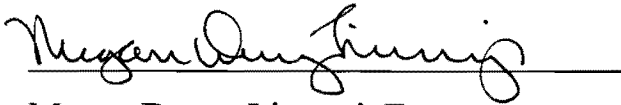
d. a rustic fence on a property abutting a national historical park;

- 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.

\* \* \*

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

This is a correct copy of Council action.

A handwritten signature in cursive script, reading "Megan Davey Limarzi", is written over a horizontal line.

Megan Davey Limarzi, Esq.  
Clerk of the Council